

## Immigration Law

### 428.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Vancouver Police Department relating to immigration laws and interacting with federal immigration officials (RCW 43.10.315).

### 428.2 POLICY

It is the policy of the Vancouver Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this Department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their immigration status.

### 428.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the United States or Washington constitutions.

### 428.4 ENFORCEMENT

The Immigration and Nationality Act provides that the enforcement of the nation's immigration laws is the primary responsibility of the U.S. Bureau of Immigrations and Customs Enforcement (ICE). State and local law enforcement agencies do not have the authority to enforce civil immigration violations. Therefore, VPD shall not undertake immigration-related investigations and shall not routinely inquire into the immigration status of persons encountered during police operations.

A. Officers are committed to providing service and enforcing laws in a fair and equitable manner. Officers do not use race, ethnicity, national origin or immigration status as the sole basis for probable cause or reasonable suspicion or as a motivating factor in making law enforcement decisions.

B. Officers shall not contact, detain or arrest an individual solely because he/she is suspected of violating immigration laws.

C. Requesting adequate identification as part of a criminal investigation is necessary and appropriate. However, officers shall not:

1. Request specific documents relating to someone's civil immigration status such as a passport, alien registration card or "green card", unless the officers are conducting a criminal investigation where the civil immigration status is relevant to the crime under investigation. Officers may also

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use immigration documents if the documents are offered by the person upon a general non-specific request such as, "May I see some identification?"

2. Initiate any inquiry or enforcement action based solely on a person's:

- Civil immigration status, or
- Race, or
- Inability to speak English, or
- Inability to understand the officer.

3. Use stops for minor offenses or requests for voluntary information as an excuse for discovering a person's immigration status.

D. Officers who come into contact with a person who is suspected of being in this country unlawfully as the result of a criminal investigation shall follow the same procedures and afford the person the same rights and privileges as any other criminal suspect.

E. Officers will cooperate with federal immigration officials when requested.

### **428.5 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT**

Generally, an officer will not need to notify immigration officials when booking arrestees at the county jail. Immigration officials routinely interview suspected undocumented aliens who are booked into the county jail on criminal charges. Notification will be handled according to jail operation procedures. No individual who is otherwise ready to be released should continue to be detained solely for the purpose of notification.

### **428.6 ICE REQUEST FOR ASSISTANCE**

Requests by ICE, or any other federal agency, for assistance from this Department should be directed to a supervisor. The Department may provide available support services, such as traffic control or peacekeeping efforts, to ICE or other federal agencies.

### **428.7 INFORMATION SHARING**

No member of this Department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; RCW 2.28.310):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials
- (b) Maintaining such information in Department records
- (c) Exchanging such information with any other federal, state, or local government entity

#### **428.7.1 IMMIGRATION HOLDS**

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 unless the person has been charged with a federal crime or the detainer is accompanied by a

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judicial warrant. Notification to the federal authority issuing the detainer should be made prior to the release.

### **428.8 U VISA AND T VISA NON-IMMIGRANT STATUS**

1. U and T Visa certification requests received by the Department should be in writing and contain a completed unsigned Form I-918B with all relevant police reports and other documentation attached.
2. U and T Visa certification requests under the Washington Safety and Access for Immigrant Victims Act, RCW 7.98.020, shall be forwarded without delay to the Office of the Chief, or authorized designee.
  - (a) The fact of any request for U or T Visa certification and any personal information submitted with such request shall not be disclosed or shared outside of the Vancouver Police Department, City of Vancouver Legal Counsel or Prosecuting Attorney's Office without a court order or judicial warrant, or approval by the Office of the Chief or authorized designee, unless expressly authorized, in writing, by the subject of the request or the subject's guardian, or as otherwise required by law.
  - (b) The Office of the Chief or authorized designee shall review any U or T Visa certification request submitted to the Vancouver Police Department in full and verify all information submitted in support of the certification request using existing records, personal knowledge, or other available evidence. The Office of the Chief, or authorized designee may confer with City of Vancouver Legal Counsel and/or the Prosecuting Attorney's Office to determine whether certification is proper.
  - (c) The Vancouver Police Department shall not leverage U or T Visa certifications as a means to compel any victim or witness to cooperate with their investigations.
3. The Office of the Chief or authorized designee shall process U and T Visa certification requests within 90 days of receipt, except under circumstances requiring a shorter timeframe.
  - (a) Any U or T Visa certification request for a person in federal removal proceedings shall be immediately processed such that the certification, if approved, is executed within 14 days of receiving the request.
  - (b) U or T Visa certifications shall be expedited upon request for any person who will, or whose child(ren) will, reach age 21 before the 90-day processing deadline date and thus will otherwise lose their benefits. In any such instance, the Office of the Chief or authorized designee shall execute the certification, if approved, no later than 14 days before the person or child turns 21 years old.
4. The Office of the Chief or authorized designee shall ensure that all forms that are requested by a victim, signed, denied and/or withdrawn are documented and reported to the Office of Crime Victims Advocacy pursuant RCW 7.98.020.

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NOTE: A U Visa Law Enforcement Resource Guide and instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website and may be used as a reference.

### **428.9 TRAINING**

The Training Unit shall ensure Department members have received training regarding this policy.