

# Immigration Violations

## 428.1 PURPOSE AND SCOPE

**Best Practice**

The purpose of this policy is to provide guidelines to members of the Cottage Grove Police Department relating to immigration and interacting with federal immigration officials.

## 428.2 POLICY

**Federal**

It is the policy of the Cottage Grove 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 national origin or immigration status.

## 428.3 VICTIMS AND WITNESSES

**Best Practice** **MODIFIED**

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 this agency will not 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 Oregon constitutions.

## 428.4 DETENTIONS

**State** **MODIFIED**

This department does not participate in routine immigration investigation and enforcement activities (ORS 181A.820).

An officershall not detain any individual, for any length of time, for violations of federal immigration laws or a related civil warrant.

An officer ~~shall forgo detentions made solely on the basis of a misdemeanor offense when time limitations, availability of personnel, issues of officer safety, communication capabilities, or the potential to obstruct a separate investigation outweigh the need for the detention.~~ may exchange information with a federal immigration official in order to request criminal investigation information with reference to persons named in records of the federal immigration authority. ORS 181A.820(4).

No individual who is otherwise authorized for release shall continue to be detained unless the department receives a warrant issued by a federal magistrate for the individual's arrest for a criminal violation of federal immigration laws prior to release. ORS 181A.820(5).

An officer may arrest any person who is the subject of an arrest warrant issued by a federal magistrate for a criminal violation of federal immigration laws (ORS 181A.820(5)).

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An officer shall notify a supervisor as soon as practicable whenever an individual is being arrested for a criminal immigration warrant. [The supervisor shall make arrangements to promptly transfer custody to federal immigration authorities.](#)

#### 428.4.1 SUPERVISOR RESPONSIBILITIES

**Best Practice** **MODIFIED**

When notified that an officer has arrested an individual who is the subject of an arrest warrant issued by a federal magistrate, the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Lawfully arrest the person for a criminal offense or pursuant to a judicial warrant (see the Law Enforcement Authority Policy).

#### 428.4.2 IMMIGRATION INQUIRIES PROHIBITED

**State** **MODIFIED**

An officer shall not inquire into an individual's immigration status, citizenship status, or country of birth except where required by law [\(e.g., when the information is needed to further a local or state criminal investigation\)](#) (ORS 181A.823).

#### 428.4.3 INDIVIDUAL RIGHT NOTIFICATION

**State** **MODIFIED**

To ensure compliance with all treaty obligations, including consular notification and state and federal laws, an officer should ensure individuals who are detained receive an explanation in writing, with interpretation into another language if requested, of the following (ORS 181A.823 [\(3\)](#)):

- (a) The individual's right to refuse to disclose the individual's nationality, citizenship, or immigration status.
- (b) That the disclosure of the individual's nationality, citizenship, or immigration status may result in a civil or criminal immigration enforcement, including removal from the United States.

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

**Federal** **MODIFIED**

Officers shall not notify federal immigration officials when booking arrestees at a jail facility. [Unless as required by a judicial subpoena or otherwise permitted by ORS 181A.823 an officer shall not notify federal immigration officials when booking arrestees at a jail facility. Any required notification will be handled according to jail operation procedures.](#) No individual who is otherwise ready to be released shall continue to be detained solely for the purpose of notification.

#### 428.6 FEDERAL REQUESTS FOR ASSISTANCE

**Federal** **MODIFIED**

Requests by federal immigration officials for assistance from this department shall be directed to a supervisor. The Department may provide available support services (unrelated to immigration enforcement), such as peacekeeping efforts (ORS 181A.826).

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### 428.6.1 FEDERAL IMMIGRATION ENFORCEMENT REQUESTS AND DOCUMENTATION

State MODIFIED

Any requests from federal immigration officials for assistance relating to immigration enforcement (other than a judicial subpoena) shall be declined and the communication or request shall be documented. The documentation shall be forwarded to the Chief of Police or the authorized designee. The Chief of Police or the authorized designee should ensure the documentation is forwarded to the Oregon Criminal Justice Commission (OCJC) as prescribed by the OCJC (ORS 181A.826).

### 428.7 INFORMATION SHARING

Federal MODIFIED

Nothing in this policy restricts sharing information as required under Oregon State Law.

#### 428.7.1 IMMIGRATION DETAINERS

State MODIFIED

No individual shall be held based solely on a federal immigration detainer under 8 CFR 287.7 unless the person has been charged with a federal crime and the detainer is accompanied by a [warrant issued by a federal magistrate](#) judicial warrant (ORS 181A.820(5)).

#### 428.7.2 NON-DISCLOSURE OF CERTAIN INFORMATION

State MODIFIED

Except as required by state or federal law, members shall not disclose for the purpose of enforcement of federal immigration laws the following information about a person or ~~thier~~ ~~his/her~~ known relatives or associates, whether current or otherwise (ORS 180.805(2)):

- (a) The person's address
- (b) The person's workplace or hours of work
- (c) The person's school or school hours
- (d) The person's contact information, including telephone number, email address, or social media account information
- (e) The identity of known associates or relatives of the person
- (f) The date, time, or location of a person's hearings, proceedings, or appointments with the Department that are not matters of public record

In keeping with this prohibition, members shall not use federal immigration officials for language interpretation or any other type of assistance that could grant them access to the above information.

### 428.8 U VISA AND T VISA NONIMMIGRANT STATUS

Federal

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

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Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Investigation Unit supervisor assigned to oversee the handling of any related case. The Investigation Unit supervisor should:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner (ORS 147.620).
  - 1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

#### 428.8.1 DENIAL OF CERTIFICATION

##### **State**

If certification is denied, the Investigation Unit supervisor shall inform the petitioner in writing regarding the reason for the denial as provided in ORS 147.620. A copy of the notice shall be kept for a minimum of three years and in accordance with the established records retention schedule (ORS 147.620).

#### 428.8.2 TIME FRAME FOR COMPLETION

##### **State**

Except under circumstances where there is good cause for delay, the Investigation Unit supervisor shall process the certification for the U visa or T visa within 90 days of the request, unless the victim is in federal immigration removal proceedings, in which case the certification shall be executed within 14 days after the request is received (ORS 147.620).

#### 428.9 TRAINING

##### **Best Practice**

The Captain should ensure officers receive training on this policy.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration offense has been committed.