

Immigration Violations

417.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Bellingham Police Department regarding enforcement of immigration laws.

417.2 POLICY

It is the policy of the Bellingham 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.

417.3 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 city law enforcement will not result in city enforcement of federal civil immigration laws. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to civil immigration status, race, religion, creed, national origin, or lack of proficiency in speaking the English language. Members shall treat all individuals in a manner consistent with the United States and Washington Constitutions.

417.3.1 DETERMINATION OF IMMIGRANT STATUS

Determination of immigration status is within the jurisdiction and responsibility of the U.S. Customs and Border Patrol and/or ICE. Members shall not request documents relating to a person's civil immigration status or inquire into the immigration status of an individual unless necessary to investigate criminal activity. Members may continue to confirm identity under state law which lists valid forms of identification related to drivers' licenses and permit requirements [RCW 46.20.035](#).

417.4 ENFORCEMENT

Absent a judicial warrant, An officer should not detain any individual, for any length of time, if the purpose for the detention is solely for a civil violation of federal immigration laws or a related civil warrant.

Unless immigration status is relevant to another criminal offense or investigation (e.g., harboring, smuggling, terrorism), the fact that an individual is suspected of being an undocumented alien shall not be the sole basis for contacting, stopping, questioning, interrogating, investigating, detaining or arresting an individual.

Officers shall not use any city funds or resources solely to enforce civil or administrative federal immigration laws. "Enforce" includes stopping, questioning, interrogating, investigating or arresting an individual.

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417.4.1 SWEEPS AND FAIR/IMPARTIAL POLICING CONSIDERATIONS

The Bellingham Police Department does not conduct sweeps or other concentrated efforts to detain suspected individuals who are in violation of civil federal immigration laws.

When enforcement efforts are increased in a particular area, equal consideration should be given to all suspected violations and not just those affecting a particular race, ethnicity, age, gender, sexual orientation, religion, socioeconomic status or other group.

The disposition of each contact (e.g. warning, citation, arrest), should not be affected by such factors as race, ethnicity, age, gender, sexual orientation, religion or socioeconomic status.

417.4.2 IDENTIFICATION

Whenever any individual is reasonably suspected of an infraction or criminal violation (misdemeanor or felony), the investigating officer should take reasonable steps to determine the person's identity through valid identification or other reliable sources.

Arrests, Identifications, and Bookings of persons of questionable immigration status shall be conducted in the same manner as those for any other person and in accordance with Policy 413 (Citation Releases Policy), and without regard to immigration status.

417.4.3 CIVIL VS. CRIMINAL FEDERAL OFFENSES

An individual who is unlawfully present in the United States is not subject to criminal penalties solely for being undocumented. Rather, such offenses are punishable by civil penalties enforced by ICE and Customs and Border Patrol. Enforcement regarding improper entry into the United States, which is subject to criminal penalties under section [8 USC § 1325\(a\)](#) is also the responsibility of ICE and Customs and Border Patrol.

417.4.4 IDENTIFICATION CONFIRMATION

If a circumstance requires verification of someone's identity via immigration and naturalization service forms, for example to investigate a crime or to confirm identity in connection with drivers' licenses and permit requirements, and the individual cannot provide the forms or provided forms need to be confirmed, then identification may be determined through any of the following sources:

- (a) A law enforcement officer who is authorized by the federal government under [8 USC § 1357](#) to verify or ascertain an individual's immigration status (sometimes referred to as a 287(g) certified officer)
- (b) Immigration and Customs Enforcement (ICE)
- (c) U.S. Customs and Border Protection (CBP)

417.5 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT

The Bellingham Police Department does not operate its own jail but rather uses the Whatcom County jail as its primary correctional facility. Immigration officials may seek to interview suspected undocumented persons who have been booked into jail on criminal charges. The Whatcom County jail determines its notification policies and procedures. Bellingham Police Departments

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members shall not detain individuals who are otherwise ready to be released solely for the purpose of notification of Customs and Border Patrol or ICE.

417.6 ICE REQUEST FOR ASSISTANCE

Requests by ICE, or any other federal agency, for assistance from this department shall be directed to a supervisor. The supervisor, or his or her designee, will act as a liaison in order to coordinate available support services, such as traffic control or peacekeeping efforts, to ICE or other federal agencies and to communicate the parameters of department involvement.

Any person detained for civil immigration matters during such enforcement efforts by ICE should be handled only by ICE. During such enforcement efforts, members of the department shall not engage in direct enforcement of civil immigration matters, including stopping, questioning, interrogating, investigating, or arresting persons based on civil or administrative immigration status.

417.7 U VISA AND T VISA NON-IMMIGRANT STATUS

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\(a\)\(15\)\(U\)](#)). A law enforcement certification for a U visa may be completed by an officer in order for a U visa to be issued.

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking ([8 USC § 1101\(a\)\(15\)\(T\)](#)). A law enforcement declaration for a T visa may be completed by an officer in order for a T visa to be issued.

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.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.
 1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
- (d) U visa and T visa application materials, and supporting documents, shall be reviewed by the Chief of Police for approval or denial of the application.
- (e) 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.

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417.8 TRAINING

The Administrative Services Sergeant shall ensure that all appropriate members receive policy review through training bulletins.