

## Immigration Status

### 414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Suffolk County Police Department for making inquiries as to immigration status and for effecting proper referrals regarding arrests of suspected undocumented persons for misdemeanor and/or felony offenses.

### 414.2 POLICY

It is the policy of the Suffolk County 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.

### 414.3 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 without regard to race, ethnicity or national origin in any way that would violate the United States or New York State constitutions.

Officers shall not inquire of any victim, witness, potential witness or person receiving police assistance as to his/her immigration status. Consistent with constitutional mandates as well as basic principles of effective policing, victims, witnesses and other persons requesting police assistance should not be discouraged from approaching police officers out of fear of inquiry into their immigration status. An exception to this requirement shall exist if any of the following situations occur:

- (a) The person has been arrested for a crime.
- (b) As may be otherwise legally required during a criminal proceeding.

### 414.4 ENFORCEMENT

Arrestees shall not be detained solely pursuant to a request from Immigration and Customs Enforcement (ICE) to hold the arrestee or on the basis of an ICE administrative warrant. Detention/ custody of an arrestee shall only be pursuant to criminal charge(s) filed against the arrestee by a member of this Department or other law enforcement agency other than ICE. Arrestees shall not be detained pursuant solely to an ICE administrative warrant. ICE administrative warrants are not enforceable by local law enforcement officers. Detention for immigration violations shall only be conducted pursuant to a judicial warrant. If an arrestee is eligible to be released pursuant to an appearance ticket, an Immigration Status Inquiry Response requesting a hold on the arrestee

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shall not be a factor in the determination of whether or not an arrestee is released pursuant to an appearance ticket.

#### **414.4.1 IMMIGRATION CHECKS OF ARRESTEES**

The Department is responsible for alerting federal immigration officials, the prosecuting attorney and the judiciary when an undocumented person is arrested for a criminal offense. Additionally, the Department will notify federal immigration officials to evaluate whether immigration enforcement proceedings should be initiated if the undocumented person is engaged in criminal activity.

When processing an arrest for a felony or misdemeanor (including a Field Appearance Ticket issuance for a misdemeanor arrest), the arresting officer shall query the arrestee regarding the arrestee's citizenship and birthplace. If an arrestee indicates that he/she was born outside of the United States, or he/she is not a United States citizen, or if his/her answer does not provide the arresting officer sufficiently detailed or reliable information for the officer to determine the arrestee's place of birth, the officer shall attempt to determine the arrestee's status.

See procedure for further guidance: [DETERMINING ARRESTEE'S IMMIGRATION STATUS](#)

#### **414.4.2 SUPERVISOR RESPONSIBILITIES**

Supervisors reviewing arrests shall ensure the appropriate immigration/customs inquiries and referrals are made.

#### **414.5 FEDERAL LAW ENFORCEMENT REQUESTS FOR ASSISTANCE**

Non-emergency requests by ICE or any other federal law enforcement agency for assistance 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.

##### **414.5.1 ACCESS TO NEW YORK STATE DEPARTMENT OF MOTOR VEHICLES PHOTO SYSTEM INFORMATION**

There are prohibitions against conducting generalized searches, sharing data with outside agencies, use of DMV records for civil immigration purposes and disclosing DMV information to agencies that primarily enforce immigration law. See the Protected Information Policy for information.

#### **414.6 IMMIGRATION DETAINERS**

No individual should be held based solely on a non-criminal federal immigration detainer under 8 CFR 287.7 or an ICE administrative warrant.

#### **414.7 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 must be completed by an officer who is designated by the Police Commissioner as a designated certifying official in order for a U visa to be issued.

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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)). A law enforcement declaration for a T visa must be completed by an officer who is designated by the Police Commissioner as a designated certifying official 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 appropriate designated certifying official. For U visas, the request shall be submitted via the Commanding Officer of the Hate Crimes Unit. For T visas, the request shall be submitted via the Commanding Officer of the Technical Investigations Bureau.

The designated certifying official shall:

- (a) Initiate an investigation to determine that the applicant is the victim of a qualifying crime and is cooperating in the investigation as per United States Department of Homeland Security (DHS) Form I-918 Supplement B for U visa applicants and Form 914 Supplement B for T visa applicants.
- (b) The assigned detective shall 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. The assigned detective shall complete a draft of DHS Form I-918 Supplement B or DHS Form I-914 Supplement B, as applicable, including attaching a copy of the IRS report, medical records and appropriate statements. The completed draft of the supplemental package shall be forwarded to the appropriate designated certifying official.
- (c) The designated certifying official shall review the draft, and upon approval, shall complete and submit Supplement B and return the completed Supplement B to the applicant.

### **414.8 TRAINING**

The Commanding Officer of the Police Academy Bureau shall ensure that all appropriate members receive training regarding this policy.