

Immigration Violations

428.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the University of California Santa Cruz Police Department for investigating and enforcing immigration laws.

The immigration status of individuals alone is generally not a matter for police action. It is incumbent upon all employees of this department to make a personal commitment to equal enforcement of the law and equal service to the public regardless of immigration status. Confidence in this commitment will increase the effectiveness of the Department in protecting and serving the entire community.

428.2 DEPARTMENT POLICY

The U.S. Immigration and Customs Enforcement (ICE) has primary jurisdiction for enforcement of the provisions of Title 8, United States Code dealing with illegal entry. UCPD, on the other hand, has primary responsibility for preserving and protecting public safety for the University community.

Community trust and cooperation is essential to effective law enforcement on campus and other University property. The limited resources of UCPD should not be diverted from this mission to the enforcement of federal immigration laws; UCPD shall not enforce federal immigration law.

Campus police should avoid actions that create a disincentive to report crime, or to offer testimony as a witness to a crime, such as requesting information about immigration status from crime victims and witnesses.

428.3 PROCEDURES FOR IMMIGRATION COMPLAINTS

Persons wishing to report immigration violations should be advised that immigration enforcement is the responsibility of the federal government.

428.4 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, color or national origin in any way that would violate the United States or California Constitutions.

428.5 BASIS FOR CONTACT, DETENTION, QUESTIONING OR ARREST

Officers shall not contact, detain, question or arrest an individual solely on the basis of suspected undocumented immigration status or to discover the immigration status of an individual.

428.6 NO SWEEPS

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The University of California Santa Cruz Police Department does not independently conduct sweeps or other concentrated efforts to detain suspected undocumented aliens.

When enforcement efforts are increased in a particular area for crime prevention purposes, 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), while discretionary in each case, should not be affected by such factors as race, ethnicity, age, gender, sexual orientation, religion or socioeconomic status.

428.7 ICE REQUEST FOR ASSISTANCE

If a specific request is made by ICE or any other federal agency for assistance with enforcement of Title 8 of the US Code, this department may provide available support services only for purposes such as managing the flow of traffic, peacekeeping, officer safety or as otherwise necessary to prevent injuries or property damage.

Members of this department shall not participate in federal operations as part of any federal immigration detention team. Any detention by a member of this department must be based upon the reasonable belief that an individual is involved in criminal activity in violation of laws other than federal immigration laws. County jail authorities have responsibility for compliance with the California Truth Act and the California TRUST Act should either be required.

428.8 IDENTIFICATION

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

If an individual would have otherwise been released for an infraction or misdemeanor on a citation, the person should be given a reasonable opportunity to verify his/her true identity (e.g., telephone calls). If the person's identity is thereafter reasonably established, the original citation release should be completed without consideration of immigration status.

428.9 ARREST AND BOOKING

Whenever an individual is arrested for a misdemeanor violation, the arresting officer shall process that individual pursuant to California Penal Code § 853.6 and the department's Cite and Release Policy. County jail bookings for misdemeanors should be approved by the watch commander.

Individuals arrested for felony violations should be booked in the County jail according to local policy. Upon booking, County jail authorities have responsibility for any actions required by the California Truth Act and the California TRUST Act.

428.10 REQUIRED NOTIFICATION

Whenever an officer has reason to believe that any person arrested for any offense set forth in the Uniform Controlled Substances Act that is listed in Health & Safety Code §11369[1] may not

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be a citizen of the United States and the individual is not going to be booked into the County Jail, the arresting officer shall cause ICE to be notified as required by Health & Safety Code 11369.

[1] Section 11369 incorporates violations of Sections 11350, 11351, 11351.5, 11352, 11353, 11355, 11357, 11359, 11360, 11361, 11363, 11366, 11368, or 11550 of the Health and Safety Code.

428.11 INFORMATION SHARING

The University of California, Santa Cruz Police Department is concerned for the safety of local citizens and thus detection of criminal behavior is of primary interest in dealing with any person.

The decision to arrest shall be based upon those factors which establish probable cause and not on arbitrary aspects. Race, ethnicity, age, gender, sexual orientation, religion, and socioeconomic status alone are of no bearing on the decision to arrest.

All individuals, regardless of their immigration status, must feel secure that contacting law enforcement will not make them vulnerable to deportation. Members should not attempt to determine the immigration status of crime victims and witnesses or take enforcement action against them absent exigent circumstances or reasonable cause to believe that a crime victim or witness is involved in violating criminal laws.

Nothing in this policy on Immigration Violations is intended to restrict officers from exchanging with ICE information regarding the citizenship or immigration status, lawful or unlawful, of any individual, to the extent such restriction is inconsistent with the requirements of 8 USC § 1373 and 8 USC § 1644.

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428.12 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U); 8 USC §1101(a)(15)(T)). Where UCPD receives a request for assistance with a petition for U-Visa/T-Visa Nonimmigrant Status, if appropriate, the Chief of Police or his or her designee (the department) shall ensure the required declaration/certification documentation is completed in accordance with state law (Penal Code § 679.10; Penal Code § 679.11) and the procedures set forth below.

Any request for assistance in applying for U-Visa/T-Visa status should be forwarded within 24 hours to the Chief of Police or his or her designee assigned to supervise the handling of any related case. The department should ensure the following occurs:

(a) Consult with the assigned detective to determine the current status of any related case and whether further documentation is warranted.

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(b) Review the instructions for completing the declaration/certification if necessary. Instructions for completing Forms I-918/I-914 can be found on the U.S. DHS website.

(c) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the declaration/certification has not already been completed and whether a declaration/certification is warranted.

(d) Address the request and complete the declaration/certification, if appropriate, within the timeframes set forth in state law (Penal Code § 679.10; Penal Code § 679.11.).

(e) Ensure that any decision to complete or not complete the form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed declaration/certification in the case file.

428.12.1 TIME FRAMES FOR COMPLETION

The department, in cases of human trafficking as defined by Penal Code § 236.1, shall ensure the above process is followed and the documents needed for a T visa application are completed within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5). In accordance with Penal Code Section 236.5, where the department finds that certification is inappropriate for a victim of trafficking in persons, the department shall within 15 days provide the victim with a letter explaining the grounds of the denial. If the victim submits additional evidence, the department must reconsider the denial of the certification within one week of the receipt of additional evidence.

The department shall ensure the above process is followed and the documents needed for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 are processed within 90 days of a request from the victim or victim's family related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within 14 days of the request.

428.12.2 REPORTING TO LEGISLATURE

The Chief of Police or authorized designee should ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

428.13 TRAINING

The Training Sergeant shall ensure that all appropriate members receive training on this policy.