

Contact with members of immigrant communities and enforcement prohibitions of federal immigration laws.

413.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Bend Police Department in their interactions with immigrants, immigrant communities and foreign national community members as well as with persons who voluntarily disclose their immigration status. This policy also provides limitations to inquires of immigration status and when uses of immigration status are acceptable. This policy is also intended to offer reassurance to members of our community that we are committed to the standard of equal protection, safety, and enforcement regardless of immigration status.

Bend Police Officers are not trained nor instructed to ask for a person's legal residency status or immigration status and instead are trained and instructed to treat all individuals with respect, fairness, and dignity.

This policy is also intended to reassure immigrant communities that there is no need to fear contact with the Bend Police Department as to a person's immigration or legal residency status does not impact our service to a community member.

413.2 DEFINITIONS

Administrative Removal Warrant – An order signed by a supervisory level administrator of the United States Immigration and Customs Enforcement (ICE) agency and not a judge. The document authorized ICE officers or officers with the United States Enforcement and Removal Operations (ERO) to arrest non-citizens who are alleged or suspected of having committed immigration violations and/or who are alleged to be deportable. Administrative Removal Warrants are not required to be supported by probable cause and only allow ICE and ERO members to detain the named person and do not allow for premise searches.

Detainer Request– A detainer request is typically completed by any federal immigration law enforcement branch of ICE submitting a Federal Form I-247A upon a law enforcement agency that has custody of an individual suspected of violating federal immigration law. The form asks the law enforcement agency for which it is served to contact ICE and agree to secure the transfer of a person into the custody of ICE before their release from custody on state or local criminal charges. This form is only submitted where the law enforcement agency is holding a person on other criminal charges.

Judicial Order – A judicial order or judicial warrant is signed by a federal district court magistrate or judge, or an Oregon state or county judge, that must be executed by law enforcement as a judicial order based on probable cause. Specific to persons, these orders or warrants generally allow for a complete search and seizure of persons, as described in the warrant.

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United States Department of Homeland Security (DHS) – The federal government agency, comprised of various departments and sub-agencies, responsible for enforcing and administering customs and immigration laws, managing natural and man-made disasters, combatting terrorism and other threats to national security, and regulating trade and travel.

- **Enforcement and Removal Operations (ERO)** – The immigration law enforcement branch of ICE, under the United States Department of Homeland Security (DHS) responsible for identifying, detaining, and removing individuals who are alleged to be unlawfully present in the United States.
- **Immigration and Customs Enforcement (ICE)** – The federal law enforcement agency under the United States Department of Homeland Security (DHS) responsible for the enforcement of federal laws governing border control, customs, trade, and immigration.
- **Customs and Border Protection (CBP)** – The federal law enforcement agency under the United States Department of Homeland Security (DHS) responsible for the management of border security, regulation and facilitation of trade and travel, and the enforcement of federal laws governing trade, customs, and immigration.
- **Homeland Security Investigations (HSI)** – The investigative branch of the United States Department of Homeland Security (DHS) responsible for combating criminal organizations illegally exploiting America's travel, trade, financial, and immigration systems. HSI is authorized to investigate criminal activities related to human, drug, and weapons trafficking, cybercrime, transnational gang activity, human rights violations, and other cross-border criminal activity.

413.3 POLICY

The immigration status of individuals alone is generally not a matter for police action. It is incumbent that all members of the Bend Police Department make personal and professional commitments to equal enforcement of the law and equal service and protection to all members of the community regardless of their actual or perceived immigration status or national origin.

The Bend Police Department does not participate in immigration investigation and enforcement activities.

No member shall interview, detain, arrest, initiate an investigation, or take other official police action against an individual solely based on their actual or perceived immigration status or national origin.

413.4 RESOURCE RESTRICTIONS

No member of the Bend Police Department shall use any public facilities, property, money, equipment, technology, or personnel to enforce federal immigration laws. This includes the investigation, detection apprehension, arresting, detaining or holding individuals whose only violation of law is that they are persons of foreign citizenship present in the United States in violation of federal immigration laws.

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413.5 IMMIGRATION INFORMATION

Bend Police Department members shall not make inquiries regarding the immigration or citizenship status of individuals, including when investigating a crime. An exception does exist if the individual's immigration status is relevant to the investigation, such as in cases of human trafficking, hate crimes, etc. If this is the case, the member should communicate to the individual the reason they are being asked the information and the relevance it has to the investigation.

If a member does receive immigration status information of an individual that was either volunteered or inadvertently obtained by other means, members shall not document immigration status information in written police reports, unless the information itself is essential to the investigation being conducted or relates to a legitimate law enforcement purpose, unrelated to the enforcement of federal immigration laws.

A member may exchange information with agencies of DHS to verify the immigration status of a person if the person is arrested for any criminal offense or to request criminal investigation information regarding persons named in records of the DHS.

If an individual appears that they may qualify and meet the need as a victim or witness for a visa or other immigration protections based on cooperation with law enforcement in an investigation of a crime, according to federal temporary immigration benefits and protections rules, then the information may be requested from an individual regarding their immigration status.

413.6 NON-DISCLOSURE OF CERTAIN INFORMATION

Except as required or as allowed by state or federal law, members shall not disclose for the enforcement of federal immigration laws the following information about a person or their known relatives or associates, whether current or otherwise;

- (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.

413.7 ARREST NOTIFICATION TO ICE

Except as required or as allowed by state or federal law, members shall not notify federal immigration officials when booking arrestees at a jail facility or custodial facility. Any required notifications will be handled according to the receiving agency's procedures. An individual who is otherwise ready to be released from custody shall not continue to be detained solely for violation of federal immigration law unless a judicial order or warrant exists ordering that person to be taken into custody. This does not include the existence of an administrative removal warrant.

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413.8 ARREST AND DETENTIONS

An officer shall not arrest, detain, transport, or investigate, any individual solely for a civil violation of federal immigration laws, Administrative Removal Warrants, or any other administrative document issued by ICE.

An officer or member of the Bend Police Department shall not honor or comply with federal agency immigration detainer requests.

An officer shall have the responsibility and requirement to detain and arrest an individual if they discover that an individual they are already lawfully in contact with is the subject of a valid judicial order or judicial warrant, including if the order or warrant is for immigration-related crimes. If the officer's only authority to take a person into custody and hold them is the existence of a federal judicial order for immigration-related crimes, then the officer may request a federal immigration official to respond to the location to take custody of the detained person.

An officer may arrest any person who is charged by the United States with a criminal violation of federal immigration laws under Title II of the Immigration and Nationality Act or 18 U.S.C. 1015, 1422 to 1429.

An officer shall notify a supervisor as soon as practicable whenever an individual is being detained or arrested for a criminal immigration violation or as ordered by a judicial order or warrant for a criminal immigration violation.

413.9 SUPERVISOR'S RESPONSIBILITIES

When a supervisor is notified that an officer has detained an individual and during that detention, they established reasonable suspicion or probable cause to believe the person has violated a criminal immigration offense, the supervisor should determine whether it is appropriate to;

- (a) Lawfully arrest the person for a criminal offense or pursuant to a judicial order or warrant,
- (b) Transfer the person to federal authorities,

If a supervisor is made aware of a request from any federal immigration officials for assistance, the supervisor shall ensure that information is reported through their chain of command for the Chief of Police, or their designee, to determine the course of action.

413.10 ASSISTANCE TO DEPARTMENT OF HOMELAND SECURITY

Bend Police Department members shall not assist ICE, CBP, or ERO with any enforcement or investigative efforts for federal immigration law violations or immigration enforcement. Any request by federal immigration officials or agency representatives for assistance from the Bend Police Department for assistance for enforcement of federal immigration law violations or immigration enforcement shall be referred to a supervisor. The supervisor shall decline the request, and document the request, and the details of the request, in a memorandum forwarded to the Chief of Police, through their chain of command. This shall be completed within 48 hours of the request.

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The Chief of Police shall review this documentation and ensure that these are archived for monthly reporting to the Oregon Criminal Justice Commission (CJC). If the Bend Police Department does not receive requests that are required to be denied during any calendar month, then there is no requirement to report to the CJC. Monthly reporting shall be in accordance with the requirements for the reporting as identified by the CJC.

Any non-immigration enforcement requests by federal immigration officials or agency representatives for assistance from the Bend Police Department shall be referred to a supervisor. This request shall be communicated to the Chain of Command, and the decision to assist will be made by the Chief of Police or their designee. The Chief of Police or their designee will evaluate the assistance request and limitations depending on the circumstances.

The United States Department of Homeland Security consists of many departments and sub-agencies whose responsibility is to investigate and enforce federal laws other than immigration law. The Bend Police Department will continue to assist and collaborate with federal law enforcement agencies, outside of federal immigration law, in the interest of overall community safety and enforcement of criminal matters.

Members of the Bend Police Department will respond to emergency calls for assistance, such as emergency cover or assistance, injured officers, shots fired calls, and other matters relating to life safety concerns when requested by any federal agency, regardless of their department or sub-agency affiliation.

413.11 U VISA AND T VISA NON-IMMIGRANT STATUS

Under certain limited circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes.

Similarly, immigration protections may be extended to certain qualifying victims of human trafficking known as a T-Visa.

Any request for assistance in applying for U-visa or T-visa status should be forwarded promptly to the Detectives supervisor assigned to oversee the handling of the underlying criminal case or related criminal cases. The Detective Division supervisor should confirm that all requests for certifications are assigned to be reviewed and are consistent with the requirements in Oregon Revised Statutes 147.620 by taking the following actions;

- (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, promptly;.
 - (a) The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.

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- (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, or in the electronic records system for all case reports.
- (e) The Detective supervisor shall ensure the packet is complete and once prepared, present it to the Chief of Police for signature.

Except under circumstances where there is good cause for delay, the Detective Supervisor shall process the certification for the U-Visa and 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.

413.11.1 DENIAL OF U-VISA AND T-VISA CERTIFICATION REQUESTS

If certification is denied, the Detective 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 as prescribed in the ORS.

413.12 RECORD KEEPING AND REPORTING

The Detective supervisor shall collect written documentation regarding the number of certification forms that are;

- (a) Requested by a victim,
- (b) Granted,
- (c) Denied, with the reason for denial.

The Detective supervisor or the authorized designee should ensure that the information collected regarding certification forms is transmitted, promptly upon completion, to the Records Division for annual reporting to the Oregon Criminal Justice Commission.

413.13 CONSULAR NOTIFICATIONS

When any foreign national, such as a nonimmigrant visitor who has volunteered their immigration status, or a person claiming diplomatic, consular, or honorary consular immunity is taken into custody or otherwise could be taken into custody, the arresting member or their supervisor shall refer to the United States Department of State – Bureau of Consular Affairs guidelines pertaining to mandatory consular notification countries to determine if providing notifications to the individual country is required.

The following information may pertain to the situation;

- (a) It is the opinion of the State Department that stops for routine traffic violations and resultant citations do not constitute arrests or detention for the purpose of notifications;
- (b) If a member does take a person into custody, the member shall follow the requirements as attached on the Consular Notification Checklist card;
- (c) All actions taken by the member shall be documented in an appropriate police report.

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