

ATTACHMENT C

428.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Pasadena Police Department when contacting persons who are or may be residing in the United States while undocumented and to reaffirm equal enforcement of the law and equal service to the public regardless of immigration status.

428.2 POLICY

It is the expectation that Pasadena Police Department members will enforce the law equally and will not engage in law enforcement activities based solely on someone's immigration status. Members of the Pasadena Police Department shall not contact, stop, detain, investigate or arrest persons exclusively on their immigration status, with the narrow exception of investigations involving national security concerns such as terrorism or transnational criminal activity (e.g. human, drug or weapon trafficking). The Pasadena Police Department will continue to enforce all applicable local and state laws; however, people living in, working, or visiting our community will not be subject to scrutiny by the Pasadena Police Department solely based on their immigration status. 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 or national origin.

428.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status or national origin, 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. All individuals, regardless of immigration status, should feel secure that contacting the Pasadena Police Department will not make them vulnerable to harassment, arrest or deportation.

428.4 CIVIL VS. CRIMINAL FEDERAL OFFENSES

An individual non-US citizen who enters into the United States without the proper visa or immigration documents has committed a federal misdemeanor (8 USC § 1325(a)). Generally, an individual who initially made a legal entry into the United States but remained beyond the time approved in their documents has committed a federal civil offense. The investigation and prosecution of violations of civil and criminal federal immigration law falls within the authority of the federal government.

Despite the fact that an individual's immigration status may reveal itself during an investigation, it is not the Pasadena Police Department's duty to determine the immigration status of crime victims, witnesses, suspects or arrestees. Unless required by law, or the narrow exception of investigations involving national security concerns such as terrorism or transnational criminal activity (e.g.

human, drug or weapon trafficking), the Department shall not investigate, detain, arrest or book any individual solely for federal criminal or civil immigration law even when undocumented status has been revealed.

428.5 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT

Except as may be required by law, it is not the practice of the Pasadena Police Department to notify Immigration and Customs Enforcement ("ICE") when booking arrestees.

No individual who is otherwise ready to be released should continue to be detained solely for the purpose of making notification to immigration authorities except to the extent required by law.

428.6 ICE REQUESTS FOR ASSISTANCE

Requests by ICE, or other federal agency, for assistance from the Department should be directed to a supervisor. The Department may provide to ICE or other federal agency the same, available, ancillary support services, such as traffic control or peacekeeping efforts, to protect the general public as the Department would provide based upon an incident dispatch made on complaint or request of any member of the public or inter-agency assist. To the maximum extent permitted by law, the Department shall not directly assist ICE in investigating, detaining or arresting individuals solely for violations of federal immigration law. The Department shall cooperate with ICE to the extent required by law and in efforts to investigate and to apprehend individuals in the United States that present national security concerns involving terrorism or transnational criminal activity such as human, drug or weapon trafficking.

428.7 INFORMATION SHARING

Federal law explicitly precludes the Pasadena Police Department from prohibiting, or in any way restricting, any individual (including any member of the Department) from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373):

- a) Sending information to, or requesting or receiving such information from ICE;
- b) Maintaining such information in department records;
- c) Exchanging such information with any other federal, state or local government entity.

428.7.1 IMMIGRATION HOLDS

Individuals should not be held in custody in the Pasadena City jail solely for a civil immigration hold under 8 USC § 287.7 unless pursuant to court order.

428.7.2 NOTICE TO INDIVIDUALS

Individuals shall be given a copy of documentation received from Immigration and Customs Enforcement (ICE) regarding a hold, notification or transfer request along with information as to whether the Pasadena Police Department intends to comply with the request (Government Code § 7283.1).

If the Pasadena Police Department is required to provide ICE with notification that an undocumented person is being, or will be, released on a certain date, the same notification shall be

provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

428.7.3 ICE INTERVIEWS

Before any interview between ICE personnel and an individual in custody for federal civil immigration violations, the Pasadena Police Department shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary and that he/she may decline to be interviewed or may choose to be interviewed only with his/her attorney present. The consent form must be available in the languages specified in Government Code § 7283.1.

428.8 U VISA AND T VISA PROTECTION FOR CERTAIN VICTIMS AND WITNESSES WHO ARE UNDOCUMENTED

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)). In order for a U visa to be issued, a law enforcement certification should be completed by the Lieutenant assigned to Crimes Against Persons with review by the Criminal Investigations Division Commander, and approval by the Chief of Police.

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(U)). In order for a T visa to be issued, a law enforcement declaration should be completed by the Lieutenant assigned to Crimes Against Persons with review by the Criminal Investigations Division Commander, and approval by the Chief of Police.

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Lieutenant assigned to Crimes Against Persons. This Lieutenant shall:

- 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.
 1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
 2. Form I-918 Supplement B certification shall be completed if the victim qualifies under Penal Code § 679.10 (multiple serious offenses). Form I-914 Supplement B certification shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (Human Trafficking).
- 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.
- e) Inform the victim liaison of any requests and their status.

428.8.1 TIME FRAMES FOR U VISA AND T VISA APPLICATION COMPLETION

Officers and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and submit the T visa application to the Lieutenant assigned to Crimes Against Persons within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Officers and their supervisors shall complete the above process and the documents needed for a U visa or T visa application to the Lieutenant assigned to Crimes Against Persons pursuant to Penal Code § 679.10 and Penal Code § 679.11 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.

428.8.2 REPORTING TO LEGISLATURE

The Custodian of Records or the 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).

428.9 TRAINING

The Training Sergeant and the Jail Administrator shall ensure that all appropriate members receive immigration training.