

# Immigration Violations

## 413.1 PURPOSE AND SCOPE

**Best Practice**

The purpose of this policy is to provide guidelines to members of the Salem Police Department relating to immigration and interacting with federal immigration officials.

## 413.2 POLICY

**Federal**

It is the policy of the Salem 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.

## 413.3 VICTIMS AND WITNESSES

**Best Practice**

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 not in any way that would violate the United States or Oregon constitutions.

## 413.4 DETENTIONS

**State** **MODIFIED**

This department does not participate in routine immigration investigation and enforcement activities (ORS 181A.820).

A member should not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant.

A member may arrest any person who is the subject of an arrest warrant issued by a federal magistrate for a criminal violation of federal immigration laws (ORS 181A.820).

### 413.4.1 IMMIGRATION INQUIRIES PROHIBITED

**State** **MODIFIED**

A member shall not inquire into an individual's immigration status, citizenship status, or country of birth except as allowed by law (ORS 181A.823).

### 413.4.2 INDIVIDUAL RIGHT NOTIFICATION

**Agency Content**

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To ensure compliance with all treaty obligations, including consular notification and state and federal laws, members should ensure individuals who are detained receive an explanation in writing, with interpretation into another language if requested, of the following (ORS 181A.823):

- (a) The individual's right to refuse to disclose the individual's nationality, citizenship, or immigration status.
- (b) That the disclosure of the individual's nationality, citizenship, or immigration status may result in a civil or criminal immigration enforcement, including removal from the United States.

#### **413.5 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT**

Federal MODIFIED

Generally, members should not notify federal immigration officials when booking arrestees at a jail facility. Any required notification will be handled according to jail operation procedures. No individual who is otherwise ready to be released should continue to be detained solely for the purpose of notification.

#### **413.6 FEDERAL REQUESTS FOR ASSISTANCE**

Federal MODIFIED

Requests by federal immigration officials for assistance from this department should be directed to the Shift Commander. Any requests from federal immigration officials for assistance relating to immigration enforcement other than a judicial subpoena shall be directed to the SShift Commander. The Shift Commander will decline the request and document the request in a memorandum, to the Deputy Chief of the Investigations Division. The Deputy Chief of the Investigations Division will notify the Chief of Police and ensure the documentation is forwarded to the Oregon Criminal Justice Commission (OCJC) as required by the OCJC (ORS 181A.826).

#### **413.7 NON-DISCLOSURE OF CERTAIN INFORMATION**

State

Except as required by state or federal law, members should not disclose for the purpose of enforcement of federal immigration laws the following information about a person or his/her known relatives or associates, whether current or otherwise (ORS 180.805):

- (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

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#### **413.8 U VISA AND T VISA NONIMMIGRANT STATUS**

Federal MODIFIED

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)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Domestic Violence Response Team (DVRT) Program Coordinator. The DVRT Program Coordinator should:

- (a) Consult with the assigned investigator if necessary to determine the current status of any related case and whether further documentation is warranted.
- (b) Address the request and complete the certification or declaration, if appropriate, in a timely manner (ORS 147.620).
  1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security website.

Any decision to complete, or not complete, a certification or declaration form is made by the Deputy Chief of the Investigations Division. All requests and required documents are maintained with the DVRT Program Coordinator.

The DVRT Program Coordinator will provide an annual report to the OCJC. <https://www.oregon.gov/cjc/pages/u-visa.aspx>

##### **413.8.1 DENIAL OF CERTIFICATION**

State

If certification is denied, the Criminal Investigations Section 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 (ORS 147.620).

##### **413.8.2 TIME FRAME FOR COMPLETION**

State MODIFIED

Except under circumstances where there is good cause for delay, the DVRT Program Coordinator shall process the certification for the U visa or 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 (ORS 147.620).

#### **413.9 TRAINING**

Best Practice MODIFIED

The Professional Standards and Training Lieutenant should ensure members receive annual review and training as needed on this policy as it complies with state law.

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