

## **Policy 428**

### **Immigration Status Policy**

#### **428.1 PURPOSE AND SCOPE**

The purpose of this policy is to provide guidelines to members of the CSU Police Department, San Luis Obispo related to the actual or perceived immigration status of suspects, victims of crimes, witnesses in investigations, or other related police operations. The California State University is proud of the diversity of its students and employees and strives to foster a campus community where all members of our university community are not hesitant or afraid to come forward or interact with The University Police department for fear of intervention by U.S. Immigration and Customs Enforcement (ICE). The University Police Department is committed to providing an environment in which all students and employees can pursue their studies, careers, and professional development successfully.

#### **428.2 POLICY**

It is the policy of the CSU Police Department, San Luis Obispo 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 campus community and recognizing the dignity of all persons, regardless of their immigration status.

Primary jurisdiction for enforcement of federal immigration laws concerning unlawful entry into the United States rests with U.S. Immigration and Customs Enforcement (ICE), not with the University Police. The University Police will not enter into agreements with state or local law enforcement agencies, ICE, or any other federal agency for the enforcement of federal immigration law, except as consistent with California Government Code §§7282 *et seq.* or as required by law.

The University Police Department will not honor ICE immigration hold requests, unless doing so is consistent with California Government Code § 7282.5 or as required by law.

Individuals will not be contacted, detained, questioned, or arrested solely on the basis of being or suspected of being an undocumented immigrant, except as required by law.

The University Police Department should not be diverted from the critical mission of keeping the campus safe by participating in enforcement of federal immigration law or by assisting federal immigration authorities, unless required by law or for officer safety needs and preservation of peace.

#### **428.3 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 lead to immigration inquiry and/or deportation.

All individuals, regardless of their immigration status, must feel secure that contacting law enforcement during times of crisis or to report suspicious or criminal activity will not make them vulnerable to deportation. Members shall treat all individuals equally and without regard to immigration status in any way that would violate the United States or California Constitutions. Members should avoid actions that create a disincentive to report crime, or to offer testimony as a witness to a crime. Members should not attempt to determine the immigration status of crime victims and witnesses. When determining the identity of a crime victim or witness, the investigating officer should take reasonable steps to determine the person's identity through valid identification or other reliable sources. The University Police recognize the university-issued PolyCard as a reliable source of identification when able to verify through university records such as Poly Profile. Members shall not record any information regarding an individual's immigration status, citizenship status or country of birth, including when interviewing victims or witnesses except as related to U-VISA/T-VISA Nonimmigrant Status unless such information is relevant evidence in a criminal case.

#### **428.4 PROCEDURES FOR IMMIGRATION COMPLAINTS**

Individuals will not be contacted, detained, questioned, or arrested solely on the basis of being or suspected of being an undocumented immigrant, except as required by law. An officer should not detain any individual, for any length of time, solely for a civil violation of federal immigration laws (e.g., unauthorized entry or visa expiration) or a related civil warrant.

The Department does not conduct or participate in enforcement "sweeps" or other concentrated efforts related to immigration status, other than maintaining campus safety and order or for officer safety needs.

Unless immigration status is relevant to another criminal offense or investigation as required by law (e.g., harboring, smuggling, terrorism), the fact that an individual is suspected of being an undocumented immigrant shall not be the basis for contact, detention, or arrest.

Nothing in this policy is intended to restrict officers from exchanging legitimate law enforcement information, not related to immigration status, with any other federal, state or local government entity (8 USC § 1373; 8 USC § 1644).

#### **428.5. IDENTIFICATION**

Whenever an individual is reasonably suspected of a criminal violation (infraction, misdemeanor or felony) other than a civil violation of federal immigration laws (e.g., unauthorized entry or visa expiration) or a related civil warrant, the investigating officer should take reasonable steps to determine the person's identity through valid identification or other reliable sources. The University Police recognize the university-issued PolyCard as a reliable source of identification when able to verify through official University records such as Poly Profile.

##### **428.5.1 RECORDS**

UPD will not maintain a database or aid federal efforts to create a registry regarding individual's immigration status, citizenship status, country of birth or based on any other protected characteristics of victims, witnesses or suspects of crimes unless required by law.

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

It is the policy of the CSU Police Department, San Luis Obispo, that the Department shall not notify ICE of individuals who are taken into custody, except as required by law.

If an arrested person meets Department criteria to be transported and booked into the San Luis Obispo County Jail, that person may be subject to County Jail procedures related to the immigration enforcement and notifications according to County Jail operation procedures, which University Police do not control or influence.

##### **428.6.1 ICE REQUESTS FOR ACCESS TO CAMPUS**

Any request by immigration agents for access to campus records and facilities for enforcement or investigation shall be initially denied and immediately forwarded to the Chief of Police or Deputy Chief of Police and Campus General Counsel for review and legal consideration.

Should an immigration agent request access to a campus facility or record, UPD will verify legal authority and a warrant signed by a federal or state judge describing the purpose for which they request entry and will consult with CSU or campus Office of General Counsel before allowing entry or record.

ICE will not be permitted to use campus facilities for immigration enforcement purposes unless mandated by court order or to provide emergency safety needs.

##### **428.7 ICE REQUESTS FOR ASSISTANCE**

Requests by ICE, or any other federal agency enforcing federal immigration law, for assistance from this department shall be immediately forwarded to the Police Chief or Deputy Chief of Police unless an emergency lifesaving or officer safety situation exists. In this situation notification will be made as soon as possible. The Chief or Deputy Chief will act as a liaison with on-site officials, and will coordinate with CSU or campus Office of General Counsel to provide guidance, references and resources available.

If the request for assistance is approved by the Police Chief in consultation with General Counsel, assistance will be limited as follows (or on a more limited basis as specified): The Department may provide officer safety and available support services, such as traffic control or peacekeeping efforts, solely for campus safety and to avoid disruption of University programs and services. Members of this department should not participate in such federal operations as part of any detention team unless it is for emergency campus and/or officer safety needs. Any detention by a member of this department should be based upon the reasonable belief that an individual is involved in criminal activity other than civil violation of federal immigration laws (e.g., unauthorized entry or visa expiration) or a related civil warrant.

## **428.8 ICE REQUESTS FOR INFORMATION**

Any request by immigration agents for information regarding a student or employee shall be denied and immediately forwarded to the Police Chief or Deputy Chief of Police, who will act as a liaison with on-site officials, and will coordinate with CSU or campus Office of General Counsel to provide guidance, references and resources available while also keeping with an individual's rights under the Family Educational Rights and Privacy Act (FERPA).

### **428.8.1 ICE REQUESTS FOR IMMIGRATION HOLDS**

The California Attorney General has concluded that civil immigration detainers are voluntary requests to local law enforcement and compliance is not mandatory. No written state or federal law mandates that local colleges/universities assist ICE in the enforcement of immigration laws. In addition, local law enforcement agencies may be liable for improperly detaining an individual who is otherwise eligible for release based on a civil immigration detainer. Therefore, the Department will not honor ICE immigration hold requests, or the request of any other law enforcement agency enforcing federal immigration law, unless doing so is required by law or unless the individual:

- a) Has been convicted of a serious or violent felony (California Government Code § 7282) or other offenses specified in California Government Code § 7282.5.
- b) Has been charged with offenses specified in Government Code § 7282.5 after a court has determined probable cause supports the charge.
- c) Is a sex or arson registrant.

## **428.9 U VISA AND T VISA NONIMMIGRANT 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)). Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

A declaration/certification for a U-Visa/T-Visa from the U.S. Citizenship and Immigration Services may be completed on the appropriate U.S. DHS Form supplements (I-918 or I-914) by law enforcement and must include information on how the individual can assist in a criminal investigation or prosecution in order for a U-Visa/T-Visa to be issued.

Any request for assistance in applying for U visa or T visa status should be forwarded as soon as possible to the Chief of Police or Deputy Chief of Police. If any other department member is tasked with reviewing/completing U/T Visa application only those whom have received training in the process and procedures will do so.

The required time frames for completing the documents are described in Penal Code § 236.5 (T Visa application) and Penal Code § 679.10 (U Visa application).

## **428.10 TRAINING**

The Training Sergeant shall ensure that all members receive immigration status training on how to implement this policy.