
Immigration Violations

415.1 PURPOSE

The purpose of this policy is to describe the department's policies and procedures regarding immigration violations.

415.2 BACKGROUND

This policy was written consistent with University Statements dated November 22, 2016, and the New York State Attorney General Eric T. Schneiderman's January 19, 2017 guidance concerning local authority participation in immigration enforcement as well as Tompkins County Resolution No. 20017-21, adopted February 21, 2017.

This department concurs with the following statement from Attorney General Scheniderman's guidance:

"...[B]y protecting the rights and well-being of immigrant families, we build trust in law enforcement and other public agencies, thus enhancing public safety for all. As you know, justice cannot be served when a victim of domestic violence or a witness to a shooting does not call the police because she fears that doing so will attract the attention of officials who wish to deport her family members...

The United States Supreme Court recognized in *Arizona v. United States*, "[a]s a general rule, it is not a crime for a removable alien to remain present in the United States." In addition, undocumented aliens—like other New Yorkers—are afforded certain rights by the New York State and United States Constitutions ...local law enforcement agencies ("LEAs") retain significant discretion regarding whether and how to participate in federal immigration enforcement. LEAs nonetheless must adhere to the requirements and prohibitions of the New York State and United States Constitutions and federal and state law in serving the public, regardless of whether an individual is lawfully present in the U.S."

- Guidance Concerning Local Authority Participation in Immigration Enforcement Provisions, NY Att.y Gen., 2 (2017).

Members of CUPD are expected to perform duties in a professional manner and in the spirit of the Country Resolution and the Attorney General's guidance, as detailed in the following policy.

415.3 POLICY

Members of the Cornell University Police should not engage in certain activities solely for the purpose of enforcing federal immigration law.

- (a) Sworn members shall not stop, question, interrogate, investigate, or arrest an individual based solely on any of the following:
 - 1. Actual or suspected immigration or citizenship stats; or

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2. A "civil immigration warrant," administrative warrant, or an immigration detainer in the individual's name, including those identified in the National Crime Information Center (NCIC) database.
- (b) Sworn members shall not inquire about or collect the immigration or citizenship status of an individual, including a crime victim, a witness, or a person who calls or approaches the police seeking assistance, unless necessary to perform official duties and shall prohibit the use or disclosure of such information in any manner that violates local, state, or federal law.
- (c) Sworn members shall not perform the functions of a federal immigration officer or otherwise engage in the enforcement of federal immigration law—whether pursuant to Section 1357(g) of Title 8 of the United States Code or under any other law, regulation or policy.

415.4 DETAINER REQUESTS

Absent a judicial warrant, Cornell University Police should honor ICE or CBP detainer requests only in limited, specified circumstances.

- (a) Sworn members may respond affirmatively to a "civil immigration detainer" from Ice or CBP to detain or transfer an individual for immigration enforcement or investigation purposes for up to 48 hours **ONLY IF** the request is accompanied by a judicial warrant,
 1. **EXCEPT THAT** sworn members may detain a person for up to 48 hours on a "civil immigration detainer" in the absence of a judicial warrant **IF**:
 - (a) there is probable cause to believe that the individual has illegally re-entered the country after a previous removal or return as defined by 8 U.S.C. § 1326 or
 - (b) the individual has been convicted at any time of (i) a specifically enumerated set of serious crimes under the New York Penal Law (e.g., Class A felony, attempt of a Class A felony, Class B violent felony etc.) or (ii) a federal crime or crime under the law of another state that would constitute a predicate of felony conviction, as defined under the New York State Penal Law, for any of the preceding felonies; or there is probable cause to believe that the individual has or is engaged in terrorist activity.

415.5 INFORMATION SHARING

Absent a judicial warrant, Cornell University Police should not honor ICE or CBP requests for certain non-public, sensitive information about an individual.

- (a) The Cornell University Police may respond affirmatively to an ICE or CBP request for non-public information about an individual—including but not limited to non-public information about an individual's release, home address, or work address—**ONLY IF** the request is accompanied by a judicial warrant,
 1. **EXCEPT THAT** nothing in this law prohibits any local agency from:

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- (a) sending to or receiving from any local, state, or federal agency—as per 8 U.S.C. § 1373—(i) information regarding an individual's country of citizenship or (ii) a statement of the individual's immigration status; or
 - (b) disclosing information about an individual's criminal arrests or convictions, where disclosure of such information about the individual is otherwise permitted by state law or required pursuant to subpoena or court order; or
 - (c) disclosing information about an individual's juvenile arrests or delinquency or youthful offender adjudications, where disclosure of such information about the individual is otherwise permitted by state law or required pursuant to subpoena or court order.
2. The Cornell University Police shall limit the information collected from individuals concerning immigration or citizenship status to that which is necessary to perform agency duties and shall prohibit the use or disclosure of such information in any manner that violates federal, state, or local law.

415.6 ACCESS TO INDIVIDUALS IN CORNELL POLICE CUSTODY

The Cornell Police should not provide ICE or CBP with access to individuals in their custody for questioning solely for immigration enforcement purposes.

- (a) The Cornell University Police shall not delay bail and/or release from custody upon posting of bail solely because of
 1. an individual's immigration or citizenship status,
 2. a civil immigration warrant, or
 3. an ICE or CBP request—for the purposes of immigration enforcement—for notification about, transfer of, detention of, or interview or interrogation of that individual.
- (b) Upon receipt of an ICE or CBP detainer, transfer, notification, interview or interrogation request, Cornell University Police shall provide a copy of that request to the individual named therein and inform the individual whether this department will comply with the request before communicating its response to the requesting agency.
- (c) Individuals in the custody of this agency shall be subject to the same booking, processing, release, and transfer procedures, policies, and practices of this agency, regardless of actual or suspected citizenship or immigration status.

415.7 DATA COLLECTION

Cornell University Police resources should not be used to create a federal registry based on race, gender, sexual orientation, religion, ethnicity, or national origin.

- (a) The Cornell University Police may not use agency or department monies, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation or enforcement of any federal program requiring registration of individuals on the basis of race, gender, sexual orientation, religion, ethnicity, or national origin.

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Cornell University Police should limit the collection of immigration-related information and ensure nondiscriminatory access to benefits and services.

- (a) Cornell University Police personnel shall not inquire about or request proof of immigration status or citizenship when providing services or benefits, except where the receipt of such services or benefits are contingent upon one's immigration or citizenship status or where inquiries are otherwise lawfully required by federal, state, or local laws.
- (b) Refer to the Limited English Proficiency Services policy for translator and other assistance for individuals with Limited English Proficiency.