

## Immigration Violations

### 414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members relating to the Department's role and responsibilities in immigration matters and how members should interact with federal immigration officials.

### 414.2 POLICY

It is the policy of the Fargo Police Department that all persons receive fair and equal treatment under the law. This cornerstone of Constitutional policing will increase the effectiveness of the Department in terms of protecting and serving the entire community while recognizing the dignity of all persons, regardless of their national origin or immigration status.

### 414.3 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 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 North Dakota constitutions.

### 414.4 DETENTIONS

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

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of federal immigration law may detain the person for a reasonable period of time in order to contact federal immigration officials to verify whether an immigration violation is a federal civil violation or a criminal violation. If the violation is confirmed to be a criminal violation, the officer may continue to detain the person for a reasonable period of time if requested by federal immigration officials (8 USC § 1357(g)(10)). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has committed a criminal immigration offense, they may continue the detention and may request a federal immigration official to respond to the location to take custody of the detained person (8 USC § 1357(g)(10)). If a federal immigration official is unable to respond to the location of a person confirmed to have a criminal immigration law violation in a timely fashion, member's may convey the person to the county jail. Member's conveying a criminal immigration violator to county jail shall ensure they document the order to hold and all relevant information on an "Assist Other

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Agency" report and provide jail personnel with all necessary contact and investigative information for the federal authorities.

An officer is encouraged to forgo detentions made solely on the basis of a misdemeanor offense when time limitations, availability of personnel, issues of officer safety, communication capabilities, or the potential to obstruct a separate investigation outweigh the need for the detention.

An officer shall notify their shift or unit commander as soon as practicable whenever an individual is being detained for a criminal immigration violation.

### **414.4.1 SHIFT COMMANDER RESPONSIBILITIES**

When notified that an officer has detained an individual and established reasonable suspicion or probable cause to believe the person has violated a criminal immigration offense, the Shift Commander shall determine whether it is appropriate to:

- (a) Transfer the person to federal authorities or county jail for later pick up by federal authorities.
- (b) Lawfully arrest the person for a criminal offense or pursuant to a judicial warrant (see the Law Enforcement Authority Policy 100)

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

Generally, an officer should not notify federal immigration officials when booking arrestees at a jail facility. Any required notification shall 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.

### **414.6 FEDERAL REQUESTS FOR ASSISTANCE**

Field requests by federal immigration officials for assistance from the Department shall be directed to the Shift Commander. The Department may provide available support services, such as traffic control or peacekeeping efforts.

Investigative or intelligence related requests shall be forwarded to the Criminal Investigations Division (CID) commander.

### **414.7 INFORMATION SHARING**

No member of the Department shall prohibit, or in any way restrict, any other member 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 federal immigration officials.
- (b) Maintaining such information in department records.
- (c) Exchanging such information with any other federal, state, or local government entity.

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### **414.7.1 IMMIGRATION DETAINERS**

No individual should be held in jail custody based solely on a federal immigration detainer under 8 CFR 287.7 unless the person has been charged with a federal crime or the detainer is accompanied by a warrant, affidavit of probable cause, or removal order. Notification to the federal authority issuing the detainer should be made prior to the release.

### **414.8 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)). Any request for assistance in applying for a U-Visa or T-Visa status shall be forwarded in a timely manner to the CID commander pursuant to the Victim Assistance Policy (318).

### **414.9 TRAINING**

The Training and Development Unit (TDU) should ensure officers receive periodic training on this policy as appropriate.

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration offense has been committed.

### **414.10 REVISION DATE 02/24/2026**