



Policies and Procedures

Immigration Enforcement Policy

I. Policy Statement

This policy supports ESF's mission to provide a safe and welcoming environment on campus. The policy is based upon rulings from the United States Supreme Court, holding that it is not a crime for an immigrant to remain in the United States without authorization. Instead, this is a civil violation that is not policed by the University Police Department.

The purpose of this policy is to detail procedures for responding to requests from Federal immigration officials. This policy provides guidance to the University Police Department regarding rare circumstances when officers may interact with Federal immigration officials, including but not limited to U.S Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). Further, this policy reinforces the pre-existing practice of the University Police Department wherein officers do not stop, question, interrogate, investigate, or arrest an individual based solely on their actual or suspected immigration or citizenship status.

II. Enforcement Actions and Community Interaction

- A. University Police shall not stop, question, interrogate, investigate, or arrest an individual based solely on any of the following:
 - (i) Actual or suspected immigration or citizenship status; or
 - (ii) 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. University Police shall not inquire about the immigration status of an individual, including a crime victim, a witness, or a person who calls or approaches the police seeking assistance, unless necessary to investigate criminal activity by that individual.
- C. University Police 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.

III. Federal Immigration Detainer Requests

- A. ESF does not detain individuals for extended periods of time. To the extent any request is made regarding an individual in the custody of University



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Police, University Police 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 a brief time period ONLY IF the request is accompanied by a judicial warrant,

- (i) EXCEPT THAT University Police may detain a person for a brief time period 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 and the individual has been convicted at any time of a specifically enumerated set of:
 1. 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
 2. Federal crimes or crimes under the law of another state that would constitute a predicate felony conviction, as defined under the New York Penal Law, for any of the preceding felonies; or
 3. There is probable cause to believe that the individual has or is engaged in terrorist activity.

III. Federal Immigration Requests for Certain Non-Public, Sensitive Information or Detainer Requests

- A. 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 subpoena or judicial warrant:
 - (ii) EXCEPT THAT nothing in this law prohibits University Police Command Level staff in coordination with Campus Counsel from:
 - (a) Sending to or receiving from any local, state, or federal agency, as per 8 U.S.C. § 1373, any of the following:



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1. Information regarding an individual's country of citizenship or a statement of the individual's immigration status; or
2. 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
3. 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.

(iii) All review and response to requests for information from ICE or CBP shall be handled by Command Level personnel in coordination with Campus Counsel.

- B. University Police shall limit the information collected from individuals concerning immigration or citizenship status to that 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.

IV. Access to Individuals in University Police Custody

- A. Absent a lawfully issued judicial warrant, University Police shall not provide ICE or CBP with access to an individual in their custody or the use of agency facilities to question or interview such individual if ICE or CBP's sole purpose is enforcement of federal immigration law.

V. Collection of Immigration Related Information and Nondiscriminatory Access to Services

- A. 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.



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VI. Recordkeeping

- A. University Police shall record, solely to create the reports described in subsection B below, the following for each immigration detainer, notification, transfer, interview, or interrogation request received from ICE or CBP:
- (i) The subject individual's race, gender, and place of birth;
 - (ii) Date and time that the subject individual was taken into University Police custody;
 - (iii) The location where the individual was held, and the arrest charges;
 - (iv) Date and time of University Police's receipt of the request;
 - (v) The requesting agency;
 - (vi) Immigration or criminal history indicated on the request form, if any;
 - (vii) Whether the request was accompanied any documentation regarding immigration status or proceedings, e.g., a judicial warrant;
 - (viii) Whether a copy of the request was provided to the individual and, if yes, the date and time of notification;
 - (ix) Whether the individual consented to the request;
 - (x) Whether the individual requested to confer with counsel regarding the request;
 - (xi) University Police's response to the request, including a decision not to fulfill the request;
 - (xii) If applicable, the date and time that ICE or CBP took custody of, or was otherwise given access to, the individual; and
 - (xiii) The date and time of the individual's release from University Police custody.
- B. The University Police shall provide within two weeks of an immigration detainer, reports to the Commissioner for University Police, with copy to Campus Counsel, regarding the information collected in subsection (a) above in an aggregated form that is stripped of all personal identifiers in order that the Office of the Commissioner may monitor compliance with applicable law.

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