

## Immigration Enforcement

### 511.1

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### 511.2 PREAMBLE

In alignment with the City of Lawrence philosophy, the Lawrence Police Department acknowledges the City is an inclusive community that values immigrants and the diversity they bring to the City's cultural fabric, economic growth, and global competitiveness. The Lawrence Police Department is committed to building a welcoming and neighborly atmosphere in our community, where all people, including immigrants, are accepted and able to access Police Department services regardless of their immigration status. It is the intent of all City Departments to comply with local, state, and federal laws while strongly discouraging unlawful discrimination and fostering a welcoming and safe environment for all individuals.

### 511.3 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for officer interactions with the United States Immigration and Customs Enforcement (ICE) with the members of the Lawrence Police Department.

### 511.4 POLICY

It is the policy of the Lawrence Police Department (LPD) 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. No member shall stop, question, arrest, or detain any individual based solely upon actual or suspected citizenship or immigration status.

Generally, immigration enforcement is not a local law enforcement matter. It falls under the jurisdiction of the United States Immigration and Customs Enforcement (ICE). Lawrence Police Department (LPD) officers lack the jurisdiction to enforce federal immigration law. However, there are situations where ICE may request the assistance of the LPD, and such request shall be addressed in department policy.

### 511.5 DEFINITIONS

**Reasonable Suspicion** – A particularized and objective basis, supported by specific and articulable facts, for suspecting a person of criminal activity. A police officer must have a reasonable suspicion to stop a person in a public place. See Black's Law Dictionary (11th ed. 2019)

**Probable Cause** – Reasonable ground to suspect that a person has committed or is committing a crime or that a place contains specific items connected with a crime. Under the Fourth Amendment, probable cause — which amounts to more than a bare suspicion but less than evidence that would justify a conviction — must be shown before an arrest, arrest warrant or search warrant may be issued. *See Black's Law Dictionary (11th ed. 2019)*

**Emergency**- A sudden and serious event or an unforeseen change in circumstances that calls for immediate action to avert, control, or remedy harm; an urgent need for relief or help. *See Black's Law Dictionary (11th ed. 2019)*

**Member**- Any sworn employee of the Lawrence Police Department. This term may be used interchangeably with “LPD” and “officers” throughout this policy.

#### **511.6 VICTIMS AND WITNESSES**

The need for community trust and cooperation is an essential component of effective policing and public safety. In furtherance of this principle, victims and witnesses of crime should not be the focus of immigration inquiries and should be encouraged to cooperate in the reporting and investigation of crime. 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 without regard to race, color, or national origin in any way that would violate the United States or Kansas Constitutions. All persons residing in the United States, documented or undocumented, are protected under the rights outlined in the U.S. Constitution, including the Fourth Amendment right against unnecessary search and seizure.

When identification is requested, Members shall accept presentation of a photo identity document issued by a non-government organization or a verbal statement of the person's full name and date of birth. Members shall not require that a person produce a foreign passport or non-U.S. driver's license as evidence of identity. No such document or statement will be valid proof of identity for the purposes of state law.

Although not required as evidence of identity or citizenship, a driver's license is required for operation of a motor vehicle, regardless of a person's immigration status. Member may request the driver of a motor vehicle to produce a driver's license. The failure of a motor vehicle operator to produce a driver's license upon request after a moving violation or traffic stop may subject the operator to the appropriate charge (i.e. driving without a license).

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

Generally, a member will not need to notify ICE when booking arrestees at the jail. Notification will be handled according the jail operation procedures. No individual who is otherwise ready to be released should continue to be detained solely for the purpose of this notification.

#### **511.8 INTERVIEWS**

The Lawrence Police Department does not conduct suspect interviews for civil immigration violations only. Any suspect that is in police custody and that is being interrogated regardless of immigration status

will be provided with a Miranda warning. Miranda warnings are rooted in fundamental constitutional protections. Their purpose is to protect and preserve a suspect's Fifth Amendment constitutional rights against self-incrimination.

Members will ensure that suspects are advised of which law enforcement agency that they are speaking with prior to the start of any interview conducted by Lawrence Police Department employees and will advise a person in custody if ICE or DHS requests to talk to them.

#### **511.9 ICE REQUEST FOR ASSISTANCE**

Requests by ICE, or any other federal agency, for assistance from this department should be directed to a supervisor. The supervisor may direct available support services, such as traffic control or peacekeeping efforts, to ICE or other federal agencies.

If a member receives a request directly from an ICE employee, the member will immediately contact their on-duty supervisor for guidance.

An on-duty supervisor will contact the requesting ICE employee and determine if the situation is one in which the LPD should be involved. If it is determined that the LPD will provide support in any way, an on-duty supervisor will respond to the scene prior to any assistance being rendered if practical.

If there is probable cause to believe that the individual may be armed, has a history of violence, or presents a danger to ICE agents or to other members of the public, the LPD may respond as backup. In those cases, LPD members will assume non-contact positions, such as securing the perimeter or observational positions, unless a public safety situation occurs.

ICE may issue civil detainers or administrative warrants for people believed to be in violation of United States immigration laws.

In order for members of the LPD to detain, arrest, or transport an individual, they must be wanted on a criminal warrant issued by a court or there must be underlying probable cause for criminal charges.

Validity of warrants will be verified prior to a service attempt if practical.

Through routine patrol, officers may also encounter individuals with immigration warrants. To verify if a warrant is civil, administrative, or criminal in nature, LPD members will have Dispatch contact the ICE Law Enforcement Support Center at the phone number listed on the NCIC hit or by calling (802) 872-6050. The ICE Law Enforcement Support Center is available 24 hours a day, seven (7) days a week, and 365 days a year. If the immigration warrant is for a criminal violation and has been issued by a federal judge or magistrate, members will honor this warrant and handle it in the same manner as any other criminal warrant.

The Lawrence Police Department does not enter immigration status information into the NCIC data base, except as required by law.

Members will notify a supervisor if they are not already on the scene and assistance has been rendered to ICE or another federal agency.

Incidents of assistance that are not documented in a crime report will be documented in the call notes or as directed by the on-duty supervisor.

## **511.10 SUPERVISOR RESPONSIBILITIES**

The on-duty supervisor should respond to the scene, and is expected to:

- a. Contact the requesting ICE or other federal agent and determine if and what assistance the Lawrence Police Department may provide.
- b. Ensure that notification is made to the Public Affairs Office when LPD has provided assistance to ICE, when notification can be done without interfering with an ongoing federal law enforcement action.
- c. Ensure that officers properly document their assistance in call notes, or when applicable an incident report.

## **511.11 INFORMATION SHARING**

This policy is to be construed in accordance with 8 U.S.C. §1373(a) which provides "Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual". This does not create a responsibility for any law enforcement officer or any other government entity or official to collect immigration information.

This policy is also to be construed in accordance with 2022 Kansas House Bill 2717, which states that: "No municipality shall enact, implement or enforce an ordinance, resolution, rule or policy that prohibits or in any way restricts a law enforcement officer, local official or local government employee, from taking the following actions with regard to information of the citizenship or immigration status, lawful or unlawful, of an individual: (1) Communicating or cooperating with federal officials: (2) sending to or receiving information from the United States Department of Homeland Security: (3) obtaining or maintaining information: or (4) exchanging information with another federal, state, or local government entity"; "A municipality shall not limit or restrict the enforcement of federal immigration laws"; and "A municipal identification card shall not be used to satisfy any requirement of state law for proof of identity".

## **511.12 U VISA AND T VISA NON-IMMIGRANT 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)). A law enforcement certification for a U visa may be completed by an officer, victim, or victim's attorney in order for a U visa to be issued. The following should be considered when deciding on providing a signature for a U visa:

- Is a victim of a qualifying criminal activity; and
- Was, is or is likely to be helpful in the investigation or prosecution of that activity

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)). A law enforcement declaration for a T visa may be completed by an officer, victim, or victim's attorney in order for a T visa to be issued. The following should be considered when deciding on providing a signature for a T visa:

- Is or has been a victim of a severe form of trafficking in person; and
- Has complied with requests for assistance in an investigation or prosecution of the crime of trafficking.

The Chief of Police or designee shall make the final determination on whether to approve certification status of a U visa or T visa for signature based upon the evidentiary facts presented within the documentation presented along with any other supporting documentation.

The Chief of Police shall complete a memorandum to the City Manager containing the number of U and T visa's received for signature and those approved for certification status each calendar year no later than January 31<sup>st</sup> of the following calendar year.

#### **511.13 TRAINING**

Officers will participate in annual review on this policy in order to demonstrate their knowledge and understanding of it.

#### **511.14 VIOLATIONS OF POLICY 414**

Violations of Policy 414 or retaliation against anyone reporting a violation of this policy will be investigated in accordance with department policy and practice based on the alleged violation.

#### **511.15 PUBLIC NOTICE**

If ICE or another federal agency contacts the department for assistance while working on civil immigration matters which would result in contact with any individual or individuals within the City, the Public Affairs Office shall provide an alert to the public, as soon as possible without violating state or federal law. The Chief of Police or designee should consult with the involved agency to ensure the alert does not jeopardize a criminal investigation or judicial process. Such alert shall be followed by a publicly available report created in the Office of Public Affairs.

The public report shall detail the following:

- a. The agency requesting assistance from the Lawrence Police Department.
- b. The assistance requested.
- c. The assistance that was provided.

The report shall be available within 48 hours of the resolution of the request or activity or once the request or communication has been completed. The report shall be posted on the department website and available upon request.

#### **511.16 PUBLIC NOTICE OF POLICY REVISION**

The Lawrence Police Department shall provide public notice of and make publicly available any revisions to this policy prior to the effective date of such policy change. The Chief of Police or designee may temporarily change or modify this policy by general order, provided however, that notice of such temporary change or modification and any formal updates to the applicable policies are made without unreasonable delay.