

Immigration Violations

412.1 PURPOSE AND SCOPE

The purpose of this policy is to provide direction to members of the Duluth Police Department when investigating crimes where a suspect is in violation of federal immigration laws.

412.2 POLICY

It is the policy of the Duluth Police Department 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, regardless of their immigration status.

412.3 VICTIMS AND WITNESSES

The Duluth Police Department is a victim centered organization. We encourage crime reporting and cooperation in the investigation of all criminal activity. Individuals, regardless of their immigration status, must feel secure in contacting members of law enforcement. 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 Minnesota Constitutions. If language barriers exist, contact the communication center or the watch commander for interpreter services. If a victim or witness requests assistance with immigration status, see 412.6.

412.4 ENFORCEMENT

If during the course of a criminal investigation of any state or federal laws, unrelated to an immigration violation, it is determined that reasonable suspicion exists that an individual who is subject of the criminal investigation, entered the United States illegally, federal authorities shall be notified as soon as possible. Duluth Police shall continue the course of their criminal investigation independent of any immigration investigation. An officer should not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant.

412.4.1 CIVIL VS. CRIMINAL FEDERAL OFFENSES

An individual who enters into the United States illegally has committed a misdemeanor (8 USC § 1325(a)). Generally, an alien who initially made a legal entry into the United States but has remained beyond what is a legal period of time has committed a federal civil offense.

412.4.2 IMMIGRATION Status

Immigration status may be determined through either of the following sources:

- (a) Immigration and Customs Enforcement (ICE)
- (b) U.S. Customs and Border Protection (CBP)

412.5 INFORMATION SHARING

No member of this department will 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 ICE
- (b) Maintaining such information in department records
- (c) Exchanging such information with any other federal, state or local government entity

412.6 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 in order for a U visa to be issued.

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 in order for a T visa to be issued.

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Major Crimes Unit lieutenant assigned to oversee the handling of any related case. The Major Crimes Unit lieutenant should:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.
 - 1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.