

February 8, 2017

Mayor Edward J. Kennedy, Jr.
and
Members of the City Council

Kevin J. Murphy
City Manager
Michael McGovern
Assistant City Manager

REFERENCE: Adoption of a Trust Ordinance

Dear Mayor Kennedy and Members of the City Council:

Attached, please find a copy of a Lowell Police immigration enforcement policy. The General Order #320.07 made effective on April 8, 2015, addresses concerns similar to what is typically outlined in a Trust Ordinance. The below information are highlights of the full policy. The comprehensive policy is and has been an established practice of the Lowell Police Department for nearly the past two years. It is my opinion the City has an established existing policy expressing its support and acceptance of all residents and therefore no further action is required.

The first three items of the policy sets forth the purpose, policy, and procedure of the directive. The opening sentence in the Purpose section is written, "The Lowell Police Department recognizes and values the diversity of the community it serves."

In the Policy section acknowledges that enforcement of the nation's immigration laws is a primary responsibility of the federal government. It is also stated that the Department will not undertake immigration-related investigations and shall not routinely inquire into the immigration status of persons encountered during normal police operations.

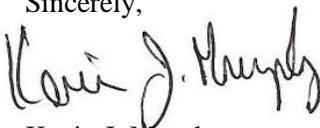
Procedurally, the policy clarifies that, "Race, religion, gender, sexual orientation, age, occupation, immigration status or any other arbitrary characteristic pertaining to any specific individual or population have absolutely no bearing on any decision made by department personnel in the performance of their duties."

In the Formal Inquiries segment, three items are defined:

1. A person's rights to file a police report participate in police-community activities or otherwise benefit from general police services is not and shall not be contingent upon the individual providing proof of citizenship or documented immigration status.
2. Consequently, the officers shall not question any person about his or her specific citizenship or immigration status unless pertinent to local or state criminal activity.
3. Officers shall not request passports, visas, resident alien cards (i.e., green cards) or travel documents in lieu of, or in addition to, driver's licenses and other standard forms of identification. Such documents shall only be requested when standard forms of identification are unavailable or when the officer is proceeding under the below note.

Please feel free to contact me if you have any questions regarding this or any other matter.

Sincerely,



Kevin J. Murphy
City Manager



Lowell Police Department

John F. Kennedy Civic Center
50 Arcand Drive
Lowell, MA 01852

GENERAL ORDER: 320.07

TITLE	EFFECTIVE DATE	PAGES
IMMIGRATION ENFORCEMENT	April 8, 2015	6
CALEA STANDARDS	REEVALUATION DATE	
1.1.4	AS NECESSARY	
SECTION	BY ORDER OF	
PATROL	Superintendent William M. Taylor	

IMMIGRATION ENFORCEMENT

I. PURPOSE

The Lowell Police Department recognizes and values the diversity of the community it serves. The purpose of this policy is to provide specific guidelines for the referral and processing of persons that are suspects in a crime or charged with a criminal offense and who are suspected of being illegal aliens, to the appropriate federal law enforcement agency pursuant to applicable state and federal laws.

II. POLICY

The enforcement of the nation's immigration laws is a primary responsibility of the federal government. Typically, the Department will not undertake immigration-related investigations and shall not routinely inquire into the immigration status of persons encountered during normal police operations, unless immigration status is pertinent. All rules, regulations, policies and procedures of the Department are incorporated by reference.

This prohibition does not preclude the Department from cooperating with and assisting federal immigration officials from the Immigration and Customs Enforcement Agency (ICE) when formally requested, or from notifying those officials in serious situations where a potential threat to public safety or national security is perceived.

III. PROCEDURE

The Department is concerned primarily with the safety and the welfare of all individuals found within the jurisdiction of the City of Lowell. Thus, the detection of criminal behavior is of primary interest and concern. Race, religion, gender, sexual orientation, age, occupation, immigration status or any other arbitrary characteristic pertaining to any specific individual or population have absolutely no bearing on any decision made by department personnel in the performance of their duties.

The immigration status of individuals alone is not, and shall not, be a matter of police concern or subsequent enforcement action. It is incumbent upon all officers and employees of the Department to make an unyielding personal commitment to equal enforcement of the law and equal service to the public regardless of documentation status. Confidence in this valued commitment will not only protect an individual's rights and freedoms, but shall also increase the department's effectiveness and efficiency in protecting and serving all in the City.

IV. DEFINITIONS

A. **United States Citizen** – by definition would include:

1. Any person born in the United States or its possessions (Puerto Rico, U.S. Virgin Islands and Guam).
2. Any person born outside the United States who has been granted U.S. Citizenship through the judicial process.
3. Any person born outside the United States who has derived U.S. Citizenship through their parents.

B. **Alien** – Any person in the United States who is not a United States citizen. There are three major classifications of aliens in the United States:

1. Non-Immigrant: Persons who have been admitted to the United States for a temporary period of time for a specific purpose, i.e., visitors, foreign students, crewmember and foreign diplomats.
2. Immigrant: Persons admitted to the United States for permanent residence. They may reside and work in the United States for an unlimited time. They must be in possession of their "green card" form I-551.
3. Illegal Alien: Persons who are in violation of the immigration laws, i.e., a person who illegally crosses a border of the United States without inspection and/or authorization and persons who stay beyond their authorized time periods.

C. **Alien Registration Card** – This is the document registered under the Immigration and Nationality Act that must be carried by immigrants.

- D. Detainer** – A notice to another law enforcement entity or penal facility that the Immigration and Customs Enforcement (ICE) Service has an interest in the subject of such detainer for the purpose of enforcement of the provisions of the Immigration and Nationality Act (INA). A detainer serves as request for the custodial agency to notify ICE in advance of the release of the alien. It may also serve as a request to hold an alien for a brief period of time until ICE can arrange to assume custody of an alien.
- E. Crime Involving Moral Turpitude** – Generally, moral turpitude has been described as anything done to the contrary to justice, honesty, principle or good morals. Moral turpitude involves crimes against persons and crimes against property, i.e. Murder, Voluntary Manslaughter, Sexual Assault, Indecent Assault, Assault with a Dangerous Weapon, Aggravated Battery, Arson, Shoplifting, Larceny, Forgery, Fraud, etc.
- F. Deportable Offenses** – Offenses that ICE can initiate deportation proceedings to include but not limited to: narcotics violations, weapons violations, aggravated felonies, crimes involving moral turpitude and administrative violations (violations of the INA such as entering the U.S. without being inspected, staying beyond authorized period of time, working without authorization, etc.).
- G. Law Enforcement Service Center (LESC)** – A national, single point of contact, law enforcement center that provides timely immigration status and identity information to law enforcement agencies. The LESL provides real-time 365 days a year, 24 hours a day, 7 days a week assistance with information gathered from Department of Homeland Security (DHS) immigration and other databases, the National Crime Information Center (NCIC), the Interstate Identification Index (III) and state criminal history indices.

V. FORMAL INQUIRIES

A. Inquiries into Immigration Status:

1. A person's rights to file a police report participate in police-community activities or otherwise benefit from general police services is not and shall not be contingent upon the individual providing proof of citizenship or documented immigration status.
2. Consequently, the officers shall not question any person about his or her specific citizenship or immigration status unless pertinent to local or state criminal activity.
3. Officers shall not request passports, visas, resident alien cards (i.e., green cards) or travel documents in lieu of, or in addition to, driver's licenses and other standard forms of identification. Such documents shall only be requested when standard forms of identification are unavailable or when the officer is proceeding under the below note.

Note: An exception to the above could occur if an operator of a lawfully stopped motor vehicle presents what appears to be a valid foreign country's driver's license (not an international license), in which the license is valid in this state for only one year and requires the operator to produce proof to the investigating officer of last admission date to the United States (i.e., Form I-94 or Passport with entry stamp).

B. Notification to Federal Immigration Authorities:

1. Officers shall cooperate with federal immigration authorities relevant to the whereabouts or behavior of any immigrant or foreign national, **especially** when the immigrant or foreign national is arrested or sought for arrest for any violent felony including but not limited to:
 - Murder
 - Assault with intent to murder
 - Assault & Battery by Means of a Dangerous Weapon
 - Assault by Means of a Dangerous Weapon
 - Armed Burglary
 - Rape (or any sex offense)
 - Mayhem
 - Armed Robbery
2. Notification will be made when the Department has information that an individual has been convicted in a court of competent jurisdiction of any felony, regardless of whether the felony involved violence.
3. Notification will be made when the person is arrested for any terrorism-related offense, or is otherwise *reasonably suspected* of involvement in any terrorist and/or subversive activities.
4. Notification will be made when the individual is arrested for any offense involving the entry or fraudulent assimilation or trafficking of undocumented foreigners into the United States, or is reasonably suspected of participating in an *organized venture* to bring or fraudulently assimilate undocumented foreigners in this country.
5. Notification will be made when the person is reasonably suspected based upon probable cause (basis of knowledge and veracity) of participating in criminal street gang activity involving violence and/or distribution of illegal drugs.

6. The most effective way to obtain immigration status information after hours is to contact the ICE-LESC in Williston, VT utilizing NLETS, (802) 872-6050 or via the NLETS Administrative Message (AM) to VTINSO7SO.

C. Immigration and Customs Enforcement (ICE) Requests for Assistance:

1. The U.S. Bureau of Immigrations and Customs Enforcement (ICE) has primary jurisdiction for enforcement of the provisions to Title 8, U.S. Code dealing with illegal entry into the United States by foreign nationals.
2. If a specific request for assistance is made by an ICE Officer/Agent or any other officer/agent from any federal agency, the Department shall provide any available support services deemed necessary to ensure officer safety or to prevent a breach of the peace such as traffic control or keeper of the peace efforts during the duration of the federal operation as requested.
3. Lowell Police officers shall not directly participate in any such ICE tactical operations solely for the civil enforcement of federal immigration laws such as part of any detention or arrest teams unless:
 - It is in direct response to a request for assistance on a temporary basis, and approved by the Commanding Officer, Officer in Charge or Platoon Commander.
 - For the assistance in the apprehension of any individual who is also wanted on a Massachusetts issued Warrant Management System warrant (WMS) which remains in full force and effect at the time of the request.
4. Any detention by a member of the Lowell Police Department during the request for assistance by ICE should be based upon a reasonable belief that the detained individual is either involved in illegal activity or is wanted by the Commonwealth of Massachusetts on an active warrant.

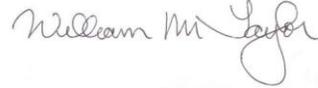
D. Investigation/Charges involving legal/illegal aliens or any foreign national:

1. Any Foreign National involved in a criminal investigation that is arrested or detained must be provided all consular notification and access requirements in accordance with the International Treaties (Refer to General Order #340.08 entitled, Consular Notification).
 - The United States State Department should be contacted pursuant to any questions or concerns regarding consular notification requirements. The US State Department Publication “Consular Notification and Access” can also be consulted for relevant information and guidance.

VI. Conclusion

In the event the reader needs clarification on any subject matter contained herein, he/she shall request said clarification from a superior officer, forthwith.

By order of:

A handwritten signature in cursive script, appearing to read "William M. Lopez".

Superintendent of Police