Immigration Violations

413.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Elkton Police Department relating to immigration and interacting with federal immigration officials.

413.2 POLICY

It is the policy of the Elkton 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 national origin or immigration status.

413.3 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 Maryland constitutions.

413.4 DETENTIONS

An officer shall not inquire about a person's citizenship, immigration status, or place of birth during a detention, a search, or an arrest unless doing so is material to a criminal investigation or intended to provide the person legal protection under the law and the person is advised any related disclosure on the person's part is voluntary (e.g., diplomatic or consular protections) (Md. Code CP § 5–104).

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Md. Code CP § 5–104).

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 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, the officer may continue the detention

Copyright Lexipol, LLC 2025/09/12, All Rights Reserved.
Published with permission by Elkton Police Department

and may request a federal immigration official to respond to the location to take custody of the detained person (8 USC § 1357(g)(10)).

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 should notify a supervisor as soon as practicable whenever an individual is being detained for a criminal immigration violation.

413.4.1 SUPERVISOR 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 supervisor should determine whether it is appropriate to:

(a) Transfer the person to federal authorities.

(b) Lawfully arrest the person for a criminal offense or pursuant to a judicial warrant (see Law Enforcement Authority Policy).

413.5 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 will 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.

413.6 FEDERAL REQUESTS FOR ASSISTANCE

Requests by federal immigration officials for assistance from this department should be directed to a supervisor. The Department may provide available support services, such as traffic control or peacekeeping efforts.

413.7 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 federal immigration officials.

(b) Maintaining such information in department records.

(c) Exchanging such information with any other federal, state, or local government entity.

413.7.1 IMMIGRATION DETAINERS

No individual should be held 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

Copyright Lexipol, LLC 2025/09/12, All Rights Reserved.
Published with permission by Elkton Police Department

warrant, affidavit of probable cause, or removal order. Notification to the federal authority issuing the detainer should be made prior to the release.

413.8 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 U visa or T visa status should be forwarded in a timely manner to the Criminal Investigation Unit supervisor assigned to oversee the handling of any related case. The Criminal Investigation Unit supervisor 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.

413.9 TRAINING

The Support Services Commander should ensure officers receive training on this policy.

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.

Copyright Lexipol, LLC 2025/09/12, All Rights Reserved.
Published with permission by Elkton Police Department