

South Pasadena Police Department
Policy Manual

Immigration Policy

415.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the South Pasadena Police Department when contacting persons who are or may be residing in the United States while undocumented and to reaffirm equal enforcement of the law and equal service to the public regardless of immigration status.

415.2 POLICY

It is the expectation that South Pasadena Police Department members will enforce the law equally and will not engage in law enforcement activities based solely on someone's immigration status. Members of the South Pasadena Police Department shall not contact, stop, detain, investigate or arrest persons exclusively on their immigration status, with the narrow exception of investigations involving national security concerns such as terrorism or transnational criminal activity (e.g. human, drug or weapon trafficking). The South Pasadena Police Department will continue to enforce all applicable local and state laws; however, people living in, working, or visiting our community will not be subject to scrutiny by the South Pasadena Police Department solely based on their immigration status. 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 or national origin.

415.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status or national origin, 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 California Constitutions. All individuals, regardless of immigration status, should feel secure that contacting the South Pasadena Police Department will not make them vulnerable to harassment, arrest or deportation.

415.4 CIVIL VS. CRIMINAL FEDERAL OFFENSES

An individual non-US citizen who enters into the United States without the proper visa or immigration documents has committed a federal misdemeanor (8 USC § 1325(a)). Generally, an individual who initially made a legal entry into the United States but remained beyond the time approved in their documents has committed a federal civil offense. The investigation and prosecution of violations of civil and criminal federal immigration law falls within the authority of the federal government.

Despite the fact that an individual's immigration status may reveal itself during an investigation, it is not the South Pasadena Police Department's duty to determine the immigration status of crime victims, witnesses, suspects or arrestees. The South Pasadena Police Department will not enforce federal civil immigration laws. Unless required by law, or the narrow exception of investigations involving national security concerns such as terrorism or transnational criminal activity (e.g. human, drug or weapon trafficking), the Department shall not investigate, detain, arrest or book any individual solely for federal criminal immigration law even when undocumented status has been revealed.

415.5 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT

Except as may be required by law, it is not the practice of the South Pasadena Police Department to notify Immigration and Customs Enforcement ("ICE") when booking arrestees.

No individual who is otherwise ready to be released should continue to be detained solely for the purpose of making notification to immigration authorities except to the extent required by law.

415.6 ICE REQUESTS FOR ASSISTANCE

Requests by ICE, or other federal agency, for assistance from the Department should be directed to a supervisor. The Department may provide to ICE or other federal agency the same, available, ancillary support services, such as traffic control or peacekeeping efforts, to protect the general public as the Department would provide based upon an incident dispatch made on complaint or request of any member of the public or inter-agency assist. To the maximum extent permitted by law, the Department shall not directly assist ICE in investigating, detaining or arresting individuals solely for violations of federal immigration law. The Department shall cooperate with ICE to the extent required by law and in efforts to investigate and to apprehend individuals in the United States that present national security concerns involving terrorism or transnational criminal activity such as human, drug or weapon trafficking.

415.7 INFORMATION SHARING

Federal law explicitly precludes the South Pasadena Police Department from prohibiting, or in any way restricting, any individual (including any member of the Department) 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, consistent with state or federal legal requirements.

415.7.1 IMMIGRATION HOLDS

Individuals should not be held in custody in the South Pasadena City jail solely for a civil immigration hold under 8 USC § 287.7 unless pursuant to court order.

415.7.2 NOTICE TO INDIVIDUALS

Individuals shall be given a copy of documentation received from Immigration and Customs Enforcement (ICE) regarding a hold, notification or transfer request along with information as to whether the South Pasadena Police Department intends to comply with the request (Government Code § 7283.1).

Unless required by law, the South Pasadena Police Department will not notify ICE that an undocumented person is being released. If the South Pasadena Police Department is required to provide ICE with notification that an undocumented person is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

415.7.3 ICE INTERVIEWS

Before any interview between ICE personnel and an individual in custody for federal civil

immigration violations, the South Pasadena Police Department shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary and that he/she may decline to be interviewed or may choose to be interviewed only with his/her attorney present. The consent form must be available in the languages specified in Government Code § 7283.1.

415.8 U VISA AND T VISA PROTECTION FOR CERTAIN VICTIMS AND WITNESSES

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)). In order for a U visa to be issued, a law enforcement certification should be completed by the Lieutenant assigned to Crimes Against Persons with review by the Criminal Investigations Division Commander, and approval by the Chief of Police.

Comment [TLH1]: Chief Miller, please advise whether these are the appropriate titles for SPPD in this capacity.

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)). In order for a T visa to be issued, a law enforcement declaration should be completed by the Lieutenant assigned to Crimes Against Persons with review by the Criminal Investigations Division Commander, and approval by the Chief of Police.

Comment [TLH2]: Same comment as above.

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Lieutenant assigned to Crimes Against Persons. This Lieutenant shall:

Comment [TLH3]: Same comment as above.

- (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.
 2. Form 1-918 Supplement B certification shall be completed if the victim qualifies under Penal Code § 679.10 (multiple serious offenses). Form 1-914 Supplement B certification shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking).
- (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.
- (e) Inform the victim liaison of any requests and their status.

4115.8.1 TIME FRAMES FOR U VISA AND T VISA APPLICATION COMPLETION

Officers and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and submit the T visa application to the Lieutenant assigned to Crimes Against Persons within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Comment [TLH4]: Same comment as above.

Officers and their supervisors shall complete the above process and the documents needed for a U visa or T visa application to the Lieutenant assigned to Crimes Against Persons pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 90 days of a request from the victim or victim's family related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within 14 days of the request.

Comment [TLH5]: Same comment as above.

415.8.2 REPORTING TO LEGISLATURE

The Custodian of Records or the authorized designee should ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

428.9 TRAINING

The Training Sergeant shall ensure that all appropriate members receive immigration training, consistent with this Policy.

RESOLUTION NO. 7491 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, AFFIRMING THE CITY OF SOUTH PASADENA'S COMMITMENT TO DIVERSITY AND TO SAFEGUARDING THE CIVIL RIGHTS, SAFETY AND DIGNITY OF ALL OF OUR RESIDENTS

WHEREAS, the City of South Pasadena believes that diversity of backgrounds, perspectives, and experiences of the American people – native and immigrant – makes our nation, communities, bond between neighbors, and economies richer and stronger; and

WHEREAS, the City of South Pasadena is committed to protecting the civil rights and liberties of all of our residents, partnering with our community leaders to foster a positive dialogue and to speak against human injustices and abuses, and welcoming immigrants to our community; and

WHEREAS, the City of South Pasadena values all of its residents and recognizes the rights of individuals to live their lives with dignity, free of discrimination and intimidation because of their race, color, religion, national origin, sex, gender identity, immigration status, disability, housing status, economic status, or other social status; and

WHEREAS, the City Council stands firm with all our residents and will work with community to protect against acts of violence, intimidation and discrimination that are rooted in fear, ignorance, prejudice, and hate; and

WHEREAS, fostering a relationship of trust, respect, and open communication between City officials and residents is essential to the City's mission of delivering efficient public services in partnership with our community which ensures public safety, a prosperous economic environment, opportunities for our youth, and a high quality of life for all residents.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The City of South Pasadena declares it the public policy of the City to be inclusive and to respect the inherent worth of every person, without regard to a person's race, color, religion, national origin, sex, gender identity, immigration status, disability, housing status, economic status, political affiliation, or cultural practices.

SECTION 2. The City Clerk of the City of South Pasadena shall certify to the passage and adoption of this resolution and its approval by the City Council and shall cause the same to be listed in the records of the City.

PASSED, APPROVED AND ADOPTED ON this 21st day of December, 2016.

I HEREBY CERTIFY the foregoing resolution was duly adopted by the City Council of the City of South Pasadena, California, at a regular meeting held on the 21st day of December, 2016, by the following vote: AYES: JOE, KHUBESRIAN, MAHMUD, SCHNEIDER, AND MAYOR CACCIOTTI NOES: NONE

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA RELATING TO THE CITY'S PROCEDURES CONCERNING SENSITIVE INFORMATION AND THE ENFORCEMENT OF FEDERAL IMMIGRATION LAW

WHEREAS, the City of South Pasadena believes that diversity of backgrounds, perspectives and experiences of the American people—native and immigrant—makes our nation, communities, bonds between neighbors, and economies rich and strong; and

WHEREAS, the City of South Pasadena is committed to protecting the civil rights and liberties of all our residents, partnering with our community leaders to foster a positive dialogue and to speak against human injustices and abuses, and welcoming immigrants to our community; and

WHEREAS, fostering a relationship of trust, respect, and open communication between City officials and residents is essential to the City's mission of delivering efficient public services in partnership with our community, which ensures public safety, a prosperous economic environment, and opportunities for our youth, and a high quality of life for residents.

WHEREAS, the City of South Pasadena seeks to continue to foster trust between City officials and residents to protect limited local resources, to encourage cooperation between residents and City officials, including law enforcement officers and employees, and to ensure public safety and due process for all.

WHEREAS, in recognition of the City's continued commitment to the equal, respectful, and dignified treatment of all people, the City Council, on December 21, 2016, adopted Resolution No. 7491 affirming the City of South Pasadena's commitment to diversity and safeguarding the civil rights, safety and dignity of all its residents, whether native or immigrant. In further implementation of this policy, the City wishes to enact specific procedures consistent with Resolution No. 749 and the City's commitment to social justice and inclusion.

THE CITY COUNCIL OF THE CITY OF SOUTH PASADENA DOES ORDAIN AS FOLLOWS:

SECTION 1. A new Section 2.20 ("Requesting, Maintaining or Disclosing Sensitive Information Prohibited") is added to Article III ("City Manager") of Chapter 2 ("Administration") to read as follows:

2.20 Requesting, maintaining or disclosing sensitive information prohibited.

(a) No city agency, department, officer, employee, or agent shall request or maintain information about sensitive information about any person except as provided in this ordinance.

"Sensitive information" for purposes of this section is defined as any information that may be considered sensitive or personal by nature, including a person's status as a victim of domestic abuse or sexual assault; status as a victim or witness to a crime generally; citizenship or immigration status; status as a recipient of public assistance; sexual orientation; biological sex or gender identity; or disability.

(b) No City agency, department, officer, employee, or agent shall disclose sensitive information about any person except as provided in this ordinance.

SECTION 2. A new Section 2.21 ("Exceptions to Prohibitions") is added to Article III ("City Manager") of Chapter 2 ("Administration") to read as follows:

2.21 Exceptions to prohibitions.

The prohibitions in section 2.20 shall not apply where the individual to whom such information pertains provides his or her consent (or if such individual is a minor, the consent of that person's parent or guardian), where the information or disclosure is necessary to provide a city service or employment benefit or as necessary in the discharge of law enforcement responsibilities or where otherwise required by state or federal law or judicial decision.

SECTION 3. A new Section 2.22 ("Use of City Resources Prohibited") is added to Article III ("City Manager") of Chapter 2 ("Administration") to read as follows:

2.22 Use of city resources prohibited.

No city agency, department, officer, employee, or agent shall use city funds, resources, facilities, property, equipment, or personnel to assist in the enforcement of federal immigration law, unless such assistance is required by any valid and enforceable federal or state law or is contractually obligated. Nothing in this section shall prevent the city, including any agency, department, officer, employee, or agent of the city, from lawfully discharging his or her duties in compliance with and in response to a lawfully issued judicial warrant or subpoena, or from participating in investigations involving national security concerns such as terrorism or transnational criminal activity (such as, but not limited to human, drug or weapon trafficking). Judicial warrants shall be forwarded to the police department for processing; subpoenas shall be forwarded to either the City Clerk or the police department for processing.

SECTION 4. Ordinance Not to Conflict with Federal Law. Nothing in this ordinance shall be construed or implemented to conflict with any valid and enforceable duty and obligation imposed by a court order or any federal or applicable law, including, but not limited to compliance with 8 U.S.C. § 1373.

SECTION 5. No Private Right of Action. This ordinance does not create or form the basis of liability on the part of the City, its agencies, departments, officers, employees, or agents. It is not intended to create any new rights for breach of which the City is liable for money or any

other damages to any person who claims that such breach proximately caused injury. The exclusive remedy for violation of this ordinance shall be through the City's disciplinary procedures for employees under applicable City regulations, unless the agency, department, officer, employee, or agent of the City is lawfully discharging his or her duties.

SECTION 6. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of South Pasadena hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions were to be declared invalid or unconstitutional.

SECTION 7. Effective Date. This ordinance shall become effective thirty (30) days after its adoption and pursuant to California Government Code Section 36937.

SECTION 8. Certification by Clerk. The Clerk of the Council shall certify the adoption of this ordinance and shall cause the same to be published as required by law.

ADOPTED this _____ day of _____. 2017.

Michael A. Cacciotti, Myor

ATTEST:

APPROVED AS TO FORM:

By: _____
Evelyn G. Zneimer, City Clerk
(Seal)

Teresa L. Highsmith, City Attorney

Date: _____