

<b>IMMIGRATION ENFORCEMENT</b>	
<input type="checkbox"/> <b>new:</b>	
<input type="checkbox"/> <b>rescinds:</b>	
<input checked="" type="checkbox"/> <b>amends: All previous</b>	
<b>effective date:</b> April 1, 2017	<b>amend date:</b> June 05, 2019
<b>cross-reference:</b> This policy adapted from SUNY Central Administration's approved policy	
<b>accreditation standards:</b> NYSLEAP Standard(s)	

**I. POLICY OVERVIEW**

This policy details the SUNY Cortland University Police Department rules for responding to requests from federal immigration officials.

CBP: Customs and Border Patrol, a Division of the U.S. Department of Homeland Security (<https://www.cbp.gov/>).

ICE: U.S. Immigrations and Customs Enforcement, a Division of the U.S. Department of Homeland Security (<https://www.ice.gov/>).

**II. POLICY**

**A. ENFORCEMENT ACTIONS AND COMMUNITY INTERACTIONS.**

1. University Police personnel shall not stop, question, interrogate, investigate, or arrest an individual based solely on any of the following:
  - Actual or suspected immigration or citizenship status; or
  - A "civil immigration warrant," administrative warrant, or an immigration detainer in the individual's name, including those identified in the National Crime Information Center (NCIC) database.
2. University Police personnel shall not inquire about the immigration status of an individual, including a crime victim, a witness, or a person who calls or approaches the police seeking assistance, unless necessary to investigate criminal activity by that individual.
3. University Police personnel shall not perform the functions of a federal immigration officer or otherwise engage in the enforcement of federal immigration law--whether pursuant to Section 1357(g) of Title 8 of the United States Code or under any other law regulation, or policy.

## B. ICE OR CBP DETAINER REQUESTS

1. University Police personnel do not detain individuals for extended periods. To the extent any request is made regarding an individual in the custody of the University Police, University Police personnel will **not** respond affirmatively to a "civil immigration detainer" from ICE or CBP to detain or transfer an individual for immigration enforcement or investigation purposes. **Amended 06/05/2018**

**Note: Section changed after a 2018 Francis Decision.**

## C. ICE OR CBP REQUESTS FOR CERTAIN NON-PUBLIC, SENSITIVE INFORMATION OR CBP DETAINER REQUESTS.

1. University Police personnel may respond affirmatively to an ICE or CBP request for non-public information about an individual--including but not limited to non-public information about an individual's release, home address, or work address--**ONLY IF** the request is accompanied by a judicial subpoena or judicial warrant:
2. **EXCEPT THAT** nothing in this policy prohibits University Police Command Level staff in coordination with Campus Counsel from:
  - Sending to or receiving from any local, state, or federal agency--as per 8 U.S.C. § 1373--(i) information regarding an individual's country of citizenship or (ii) a statement of the individual's immigration status; or
  - Disclosing information about an individual's criminal arrests or convictions, where disclosure of such information about the individual is otherwise permitted by state law or required pursuant to a subpoena or court order; or
  - Disclosing information about an individual's juvenile arrests or delinquency or youthful offender adjudications, where disclosing such information about the individual is otherwise permitted by state law or required pursuant to subpoena or court order.
  - All review and responses to requests for information from ICE or CBP shall be handled by University Police Command Level personnel in coordination with Campus Counsel.
  - University Police shall limit the information collected from individuals concerning immigration or citizenship status to that necessary to perform agency duties and shall prohibit the use or disclosure of such information in any manner that violates federal, state, or local law.

## D. ACCESS TO INDIVIDUALS IN UNIVERSITY POLICE CUSTODY.

1. Absent a lawfully issued judicial warrant, University Police personnel shall not provide ICE or CBP with access to an individual in their custody or the use of agency facilities to question or interview such individual if ICE or CBP's sole purpose is enforcement of federal immigration law.

E. COLLECTION OF IMMIGRATION-RELATED INFORMATION AND NONDISCRIMINATORY ACCESS TO SERVICES.

1. University Police personnel shall not inquire about or request proof of immigration status or citizenship when providing services or benefits, except where the receipt of such services or benefits is contingent upon one's immigration or citizenship status or where inquiries are otherwise lawfully required by federal, state, or local laws.

F. RECORDKEEPING

1. University Police shall record, solely to create the reports described in subsection (ii) below, the following for each immigration detainer, notification, transfer, interview, or interrogation request received from ICE or CBP:
  - The subject individual's race, gender, and place of birth;
  - Date and time that the subject individual was taken into University Police custody;
  - The location where the individual was held, and the arrest charges;
  - Date and time of the receipt of the request;
  - The requesting agency;
  - Immigration or criminal history indicated on the request form if any;
  - Whether the request was accompanied by any documentation regarding immigration status or proceedings, e.g., a judicial warrant;
  - Whether a copy of the request was provided to the individual and, if yes, the date and time of notification;
  - Whether the individual consented to the request;
  - Whether the individual requested to confer with counsel regarding the request;
  - University Police response to the request, including a decision not to fulfill the request;
  - If applicable, the date and time that ICE or CBP took custody of, or was otherwise given access to, the individual; and
  - The date and time of the individual's release from University Police custody.
2. University Police shall provide within two weeks of an immigration detainer, reports to the Commissioner for University Police, with a copy to Campus Counsel, regarding the information collected in subsection (a) above in an aggregated form that is stripped of all personal identifiers so that the Office of the Commissioner may monitor compliance with applicable law.

## G. DEFINITION OF KEY TERMS

1. "Civil Immigration Detainer" (also called a "civil immigration warrant") means a detainer issued pursuant to 8 C.F.R. ~ 287.7 or any similar request from ICE or CPB for the detention of a person suspected of violating civil immigration law. See DHS Form I-247D ("Immigration Detainer—Request for Voluntary Action") (5/15), available at <https://www.ice.gov/sites/default/files/documents/Document/2016/I-247D.PDF>
2. "Judicial warrant" means a warrant based on probable cause and issued by an Article III federal judge or a federal magistrate judge that authorizes federal immigration authorities to take into custody the person who is the subject of the warrant. A judicial warrant does not include a civil immigration warrant, administrative warrant, or other document signed only by ICE or CBP officials.
3. "Probable Cause" means more than mere suspicion or that something is at least more probable than not. "Probable cause" and "reasonable cause," as that latter term is used in the New York State criminal procedure code, are equivalent standards.
4. "Local Law Enforcement Agencies" or "LEAs" include, among others, local police personnel, sheriffs' department personnel, local corrections, and probation personnel, school safety or resource officers, and school police

BY ORDER OF

*Mark T. DePaull*

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*Chief of Police*