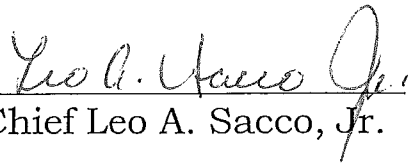


# FEDERAL IMMIGRATION ENFORCEMENT

<b>POLICY &amp; PROCEDURE NO. 2018-01</b>	ISSUE April 16. 2018 DATE: _____
MASSACHUSETTS POLICE ACCREDITATION STANDARDS REFERENCED:	EFFECTIVE April 16, 2018 DATE: _____   Chief Leo A. Sacco, Jr.
	REVISION Annual Review DATE: _____

## I. PURPOSE:

The Medford Police Department recognizes and values the diversity of the community it serves. Many of its residents have emigrated to this country from other countries and some may not be citizens or legal residents of the United States. The City of Medford and the Police Department are committed to promoting safety and providing proactive community policing services to all who are located in our community. All community members and stakeholders should know that they are encouraged to seek and obtain police assistance and protection regardless of their specific immigration and/or documentation status.

The Medford Police Department relies upon the cooperation of all persons, documented citizens and residents as well as those without a specific documentation status, to achieve our important goals of protecting life and property, investigating and preventing crime, as well as resolving recurring neighborhood issues. Assistance from the many various immigrant populations is especially important when an immigrant, whether documented or not, is the victim or witness to a crime. It is absolutely essential that these individuals do not feel

apprehensive or intimidated in coming forward with the requisite information and general firsthand knowledge to aid in the investigation of a particular crime. This type of mutual trust and spirit of cooperation is absolutely crucial in preventing and solving crime incidents, as well as maintaining public order, safety, and security in the entire community.

We as duly sworn police officers are responsible for providing effective police services to everyone in the City of Medford in an equal, fair, and just manner. The Medford Police Department is concerned primarily for the safety and welfare of all individuals found within the territorial jurisdiction of the City of Medford. Thus, detection of criminal behavior is of primary interest and concern in dealing with any subject suspected of violating the law. Race, religion, gender, sexual orientation, age, occupation, immigration status, or any other arbitrary characteristic pertaining to any specific individual have absolutely no bearing on any decision for a Medford Police Officer to effectuate a stop or detention of an individual or effect an arrest.

The specific immigration status (or lack thereof) of an individual or group of individuals in and of itself 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 Medford Police 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 from being adversely affected but will also increase the public's confidence in the Police Department's effectiveness and efficiency in protecting and serving the members of the entire community.

## II. DEFINITIONS

**“Immigration and Customs Enforcement” (ICE)** - The agency within the U.S. Department of Homeland Security with primary responsibility to investigate and enforce immigration law.

**“ICE detainees” also known as: “immigration holds,” “ICE holds,” “immigration detainees”** – requests made by federal immigration officials, including but not limited to those authorized under Section 287.7 of Title 8 of the Code of Federal Regulations, to local law enforcement or courts to voluntarily maintain custody of an individual once that individual is released from local custody, and to notify ICE at least 48 hours before a person is to be released from local custody.

**“Administrative Warrant”** – a warrant, notice to appear, removal order, warrant of deportation, or other ICE custody document (I-200, I-203, I-205 or another listed in the National Crime Information Database [NCIC]) issued by a federal immigration official, not a judicial officer, and not based on a finding of probable cause for an alleged criminal law violation.

**“Arrest Warrant”** – an order in writing in the name of the Commonwealth, issued by an authorized court official, upon a showing that probable cause exists to believe that the individual whom is the subject of the warrant has committed a criminal offense; and directs officers authorized to serve criminal process, to bring the individual named therein before the court.

**“Probable Cause”** - Reasonable and trustworthy information that is sufficient for a person of ordinary or reasonable prudence and caution to believe that the person being arrested is committing, or has committed a crime for which the arrest is being made.

**“Reasonable Suspicion”** – Specific, articulable facts and reasonable inferences drawn therefrom, to suspect that an individual has committed, is committing, or is about to commit a crime.

**“released from local custody”** – released from custody shall have the following meaning; an individual has been released from the custody of a law enforcement agency upon the occurrence of any of the following conditions:

- (a) All criminal charges against the individual have been dropped or dismissed;
- (b) The individual has been acquitted of all charges filed against him or her;
- (c) The individual has served the time required for his or her sentence;
- (d) The individual has posted a bail or bond, or has been released on their own recognizance;
- (e) The individual has been referred to pre-trial diversion services;
- (f) The individual has been sentenced to an alternative to incarceration, including a rehabilitation facility;
- (g) The individual is otherwise eligible for release under state or local law.

### III. POLICY

The enforcement of the nation’s civil immigration laws is the primary responsibility of the federal government. Accordingly, the Medford

Police Department shall not undertake immigration-related investigations and shall not routinely inquire into the specific immigration status of any person(s) encountered during normal police operations.

This prohibition does not preclude the Medford Police Department from cooperating and assisting with federal immigration officials from ICE when formally requested as part of an ongoing criminal investigation, or from notifying those federal officials in serious situations where a potential threat to public safety or national security is perceived.

## **IV. PROCEDURE**

### **A. Inquiries into Immigration Status**

1. A person's right to file a police report, participate in any police-community activity, or otherwise benefit from general police services shall not be contingent upon the individual providing proof of citizenship.
2. Consequently, officers shall not question any person about their specific citizenship or immigration status unless such information is required by law.
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 documentation shall only be requested when standard forms of identification are unavailable.

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 and the license is valid in the Commonwealth for only one (1) year and requires the operator to produce proof to the investigating officer of the most recent admission date to the United States (e.g., Form I-94 or passport with the entry stamp) so as to effectively toll the one year time period.

### **B. Immigration and Customs Enforcement (ICE) Request for Assistance**

1. U.S. Immigration and Customs Enforcement (ICE) has primary jurisdiction for enforcement of the provisions to Title 8 of the U.S. Code of Federal Regulations dealing with illegal entry into the United States by foreign nationals.
2. Medford Police Officers shall not directly participate in any ICE tactical operations solely for the civil enforcement of federal immigration laws as part of any Detention or Arrest Team unless it is in direct response to a request for immediate assistance on a temporary basis for "Officer Safety" purposes or for assistance in the apprehension of an individual for whom there is an active arrest warrant issued by the Commonwealth of Massachusetts at the time of the request.

Note: M.G.L. c. 276 Sect. 23A delineates the procedure for all Commonwealth of Massachusetts arrest warrants to be entered into a computer system known as the Warrant Management System (WMS). All warrants appearing in the WMS are accessible through the Criminal Justice Information System (CJIS).

3. No funds, resources, facilities, property, equipment, or personnel of the Department shall be used for any federal immigration custody or detainment or other enforcement purpose, except incidental use, such as fingerprints, that may be acquired by ICE or other federal agencies in the ordinary course of the Department's operations.
4. Any detention of an individual by a member of the Department during a request for assistance by ICE should be based upon a reasonable belief that the detained individual is either involved in criminal activity other than a civil violation of federal immigration laws or is wanted by the Commonwealth of Massachusetts on an active arrest warrant.
5. Consistent with the 2017 Supreme Judicial Court's decision in *Commonwealth v. Lunn*, officers of the Department do not have the legal authority to arrest or hold a person solely based on an ICE detainer request. If the Department receives an ICE detainer for an individual in Department custody, that request shall be placed in the individual's file and a copy shall be given to them, but no further action shall be taken on the detainer. Once the person is released

from local custody, the Department shall not continue to hold the person based solely on the ICE detainer.

6. No police officer or civilian employee of the Department shall make any information in its databases or other record-keeping systems available to any entity for enforcement of any federal statute or program which requires registration of persons on the basis of race, gender, sexual orientation, gender identity, religion, national or ethnic origin, or political or social beliefs.

### **C. Arrests**

1. Any person who is arrested by the Department shall be booked in accordance with preexisting policy. If, in the course of standard processing procedures, ICE files an immigration detainer with the Department, the arrestee shall be made aware of the detainer and provided a copy. The arrestee shall also be made aware that the Department will not hold them in custody on the ICE detainer if they post bail or are released on their own recognizance.
2. While the Department is prohibited from detaining persons on ICE detainers, it is not prohibited from detaining an arrestee, regardless of immigration status, for any lawful reason such as a judicial arrest warrant.
3. The Department shall keep a record of all arrestees who have been the subject of an ICE detainer after having been arrested by the Department. Included in the record shall be the following:
  - a. The person's name
  - b. The charge or other grounds on which the person was arrested
  - c. Whether a decision was made not to proceed with prosecution and the person was released
  - d. The amount of bail set by the bail commissioner after arrest
  - e. Whether the person was released from the Department after booking or whether they were transferred to court

### **D. U Visas**

In furtherance of the US Victims of Trafficking and Violence Prevention Act, City of Medford law enforcement shall consider and sign a U Visa certification request if an individual:

- i. Is the victim of a qualifying crime
- ii. Has been, is being, or will likely be helpful in the investigation /prosecution of that crime

**E. Deputizing of local officials**

The Department will not enter into a contract that allows Department officers to perform the functions of a federal immigration officer, whether pursuant to federal regulation, 8 U.S.C. Sect. 1357(g), or any other law, regulation, or policy, whether formal or informal.

**F. Compliance with federal law**

Nothing in this Section shall be construed to violate any valid federal law, or to prohibit the Department from providing another law enforcement agency citizenship or information status, consistent with federal regulation, 8 U.S.C. Sect 1373.