Immigration Violations

414.1 PURPOSE AND SCOPE

This Policy establishes guidelines for interactions involving immigration status, immigration-related detentions, and cooperation with federal immigration authorities, ensuring compliance with federal, state, and local laws, as well as respecting individual rights and community trust.

414.2 POLICY

The Town of DeWitt Police Department is committed to equal enforcement of the law and equal service to all community members. Members shall not engage in enforcement solely for federal immigration laws and shall treat all individuals with dignity and without discrimination based on national origin or immigration status.

414.3 DEFINITIONS

Immigrant: Any non-citizen present in the United States who does not fall under specific non-immigrant categories.

Non-immigrant: A non-citizen with temporary entry for a specific purpose, such as tourism, study, or temporary work.

Alien: Any person not a citizen or national of the United States.

Immigration Detainer: A request by federal immigration authorities to hold an individual for immigration enforcement purposes.

Judicial Warrant: A warrant based on probable cause issued by an Article III federal judge or a federal magistrate judge.

414.4 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 New York State constitutions.

414.5 IMMIGRATION STATUS INQUIRES

1. Officers shall not inquire about an individual's immigration status, including crime victims, witnesses, or individuals seeking assistance, unless necessary for a criminal investigation involving that individual.
2. When investigating criminal activity with an unknown immigration status:
    (a) Obtain legal photographic identification (e.g., driver's license, passport, permanent resident card).

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(b) Conduct appropriate computer checks (Ejustice Portal, NCIC, Chairs2).

414.6 DETENTIONS AND ARRESTS

1. Officers shall not stop, question, detain, investigate, or arrest an individual based solely on actual or suspected immigration or citizenship status or a civil immigration warrant or detainer.
2. Immigration Detainer:
   (a) Officers shall not detain individuals solely based on an immigration detainer unless accompanied by a judicial warrant.
   (b) Detentions may be permitted if:
      i. A judicial warrant accompanies the immigration detainer.
      ii. There is probable cause of illegal re-entry after removal (8 U.S.C. § 1326)
      iii. There is probable cause of terrorist activity.
3. Individuals shall not be detained beyond the authorized period solely due to unresolved immigration status inquiries.

414.6.1 IMMIGRATION DETAINER

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

414.6.2 SUPERVISOR RESPONSIBILITIES

Supervisors shall evaluate and determine appropriate responses when officers detain individuals for suspected criminal immigration violations, including transfers to federal authorities or lawful arrests pursuant to judicial warrants.

414.7 DUE PROCESS PROTECTIONS

1. Individuals in custody shall receive the same booking, processing, release, and transfer procedures regardless of immigration status.
2. Immigration detainer requests shall be provided to the individual or their counsel before compliance, clearly communicating the department's intended response.

414.8 SENSITIVE LOCATIONS

Department personnel shall not engage in immigration enforcement activities at sensitive locations, including schools, healthcare facilities, religious institutions, and courts, except under circumstances involving public safety threats or when required by a judicial warrant.

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414.9 NOTIFICATION AND COOPERATION WITH FEDERAL IMMIGRATION AUTHORITIES

1. Federal requests for assistance shall be directed to a supervisor. The department may provide limited support services (traffic control, peacekeeping).
2. Members shall not prohibit exchanging citizenship or immigration status information with federal authorities (8 USC § 1373)
3. Officers may disclose other information or records, not otherwise prohibited by policy or law, to federal agencies if it is in the interest of the department, community, and public safety.
4. Federal immigration authorities shall not have access to individuals in custody or department facilities for immigration enforcement purposes without presenting a judicial warrant.

414.9.1 LANGUAGE ASSISTANCE

The department shall maintain a Language Assistance Policy, providing interpretation and translation services for individuals with Limited English Proficiency.

Federal immigration officers shall not be used as interpreters during departmental procedures, barring extenuating circumstances.

414.10 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.

414.10.1 LIMITATIONS ON RESOURCE USE

Department resources shall not support federal programs requiring registration based on race, gender, sexual orientation, religion, ethnicity, or national origin.

414.11 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

414.12 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)).

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Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Requests for U or T visas for victims or witnesses shall be promptly referred to the Criminal Investigation Division supervisor, who will determine the appropriate response in coordination with prosecutors.

414.13 TRAINING

The Training Coordinator 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.

414.14 POLICY REVIEW

This policy shall be reviewed annually to ensure compliance with updated federal, state, and local laws and to address evolving community needs.

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