

PROVIDENCE POLICE DEPARTMENT

HEADQUARTERS

COLONEL OSCAR L. PEREZ

CHIEF OF POLICE

<b>TYPE OF ORDER</b>	<b>NUMBER/SERIES</b>	<b>ISSUE DATE</b>	<b>EFFECTIVE DATE</b>
General Order	510.01	1/18/2024	1/22/2024
<b>SUBJECT TITLE</b>		<b>PREVIOUSLY ISSUED DATES</b>	
Immigration Policies and Procedures		4/6/2021; 12/5/2017; 2/3/2017; 11/16/2016; Supersedes: General Order 510.01 - U-Visa Certification Requests of 12/12/2011; Memo #3 Series 2011 – Immigration and Customs Notifications of 1/24/2011; Memo #18 Series 2008 – INS Alien Query of 7/11/2008	
<b>REFERENCE</b>		<b>RE-EVALUATION DATE</b>	
CALEA 55.2.2		12/5/2027	
<b>SUBJECT AREA</b>		<b>DISTRIBUTION</b>	
Community Relations & Services		All Personnel	

### **PURPOSE**

The purpose of this policy is to communicate the Department's positions regarding its participation or non-participation in various immigration-related law enforcement activities.

### **POLICY**

It is the policy of the Providence Police Department to constantly seek new ways of reducing crime and the fear of crime in our city so as to create a safer community. As declared in our Mission Statement, we remain dedicated to both protecting human rights and apprehending criminals in a manner that is consistent with the law. The Department strives to incorporate the latest crime-fighting tools and techniques available to law enforcement into its daily operations, but will only do so when human rights are not infringed.

### **DISCUSSION**

Lawmakers have recognized that a victim's cooperation, assistance, and safety are essential to the effective detection, investigation, and prosecution of crimes. It is virtually impossible for officials who work in law enforcement, justice systems, or with other government enforcement agencies to punish and hold accountable perpetrators of crimes against non-citizens if criminals can avoid prosecution because their victims are

far less likely to come forward to report crimes or to fully cooperate and assist in criminal investigations due to the fear of being deported.

In early 2011, the Department adopted positions on immigration issues that have been deemed as being favorable to encouraging the positive participation of non-citizens in the criminal justice system for the betterment of society as a whole. These positions manifested themselves in the Department's decision to forego utilization of the Immigration and Naturalization Service's Alien Query system and to eliminate the practice of faxing daily arraignment sheets to Immigration and Customs Enforcement (ICE) officials. The Department shall continue to stand by its positions and decisions pertaining to these issues.

Nothing in this directive prohibits or restricts any official from sending to, or receiving from federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.

## **PROCEDURE**

### **I. GENERALLY**

- A. Officers may not inquire about an individual's immigration status.
- B. Any valid identification issued by a foreign government including but not limited to consular identification, foreign driver's license, or passport, shall be considered acceptable identification to the same extent as identification issued by a domestic government agency.
- C. Officers are not permitted to comply with requests by other agencies to support or assist in operations conducted solely for the purpose of enforcing federal civil immigration law, including but not limited to requests to establish traffic perimeters related solely to immigration enforcement.

### **II. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) WARRANTS**

- A. Upon seizing a subject who has an ICE warrant that is in NCIC, Channel 4 will confirm the warrant and advise whether the warrant is a criminal warrant or an administrative detainer.
  - 1. If the warrant is an administrative detainer, the Department will neither arrest nor hold the subject based exclusively on the administrative detainer.
  - 2. If the warrant is a criminal warrant, the Department shall arrest and hold the subject and notify ICE for custody transfer.

### **III. THE U-VISA CERTIFICATION PROGRAM**

Congress has provided a specific avenue through which non-citizen victims of "qualifying criminal activity" and/or their qualifying family members who cooperate with law enforcement can obtain temporary lawful immigration status and

protection against deportation – The U-Visa Certification Program. The Department began its participation in this program in late 2011 and is committed to continuing its participation into the future.

The list of “qualifying criminal activity”, as defined in Section 8 of United States Code 1184 (p), includes the commission, attempt to commit, conspiracy to commit, or solicitation to commit any of the following crimes or any similar activity:

Abduction	Incest	Rape
Abusive Sexual Contact	Involuntary Servitude	Sexual Assault
Blackmail	Kidnapping	Sexual Exploitation
Domestic Violence	Manslaughter	Slave Trade
Extortion	Murder	Torture
False Imprisonment	Obstruction of Justice	Trafficking
Felonious Assault	Peonage	Perjury
Unlawful Criminal Restraint	Female Genital Mutilation	Witness Tampering
Being Held Hostage	Prostitution	

- A. The law requires that a person who is eligible for U-Visa certification must:
1. Have suffered substantial physical or mental abuse as the result of having been a victim of a qualifying criminal activity.
  2. Possess information concerning such criminal activity.
  3. Have been helpful, be helpful, or be likely to be helpful in the investigation or prosecution of such criminal activity.
  4. Have been the victim of a qualifying criminal activity that occurred in the United States or violated the laws of the United States.
- B. A supervisory officer within the Department’s Administrative Division will be designated as the reviewing officer for all U-Visa certification requests.
- C. When processing a Form I-918, Supplement B (a request for U-Visa certification), the reviewing officer will assess the following criteria:
1. If the non-citizen victim or qualifying family member was or is/are:
    - a. A victim of a qualifying criminal activity that took place in the United States or its territories or occurred outside the United States but violates U.S. extraterritorial law;
    - b. The spouse or under-21-year-old child of a victim who is deceased because of murder or manslaughter, or who is incompetent or incapacitated; or
    - c. The parent(s) or unmarried under-18-year-old sibling(s) of an under-21-year-old victim who is either deceased because of

murder or manslaughter or who is incompetent or incapacitated.

2. If the non-citizen victim has been, is being, or is likely to be helpful to the investigation. This will be ascertained and verified when:
  - a. A determination is made that there is a law enforcement and/or prosecutorial need to have the presence of the victim;
  - b. The victim possesses information about a qualifying criminal activity; and
  - c. The victim demonstrates cooperation during the detection and investigation of that criminal activity, even if the investigation is not completed.
  
- D. After consulting with the United States District Attorney's Office for the District of Rhode Island, the following additional criteria will be assessed during the processing of a U-Visa certification request:
  1. The victim having suffered substantial physical or mental abuse as the result of a qualifying criminal activity;
  2. The timeliness of the request for U-Visa certification relative to the commission of the qualifying criminal offense;
  3. The actual or likelihood of apprehension and prosecution of the perpetrator;
  4. The criminal history of the applicant making the certification request.
  
- E. The Providence Police Department may elect to include additional criteria, including consultation with other governmental agencies, as part of the assessment of any U-Visa certification request.
  1. A consultation with the RI Office of the Attorney General shall become a part of the assessment criteria for any U-Visa certification requests pertaining to criminal cases that have been submitted for prosecution.
  
- F. Subsequent to the assessment of all criteria, the U-Visa certification request will be forwarded to the Chief of Police with a recommendation for or against certification.
  1. It should be noted that a law enforcement agency is not required to certify any U-Visa certification requests.

**APPROVED:**

A handwritten signature in black ink, appearing to read 'Oscar L. Perez', written in a cursive style.

**COLONEL OSCAR L. PEREZ  
CHIEF OF POLICE**