

Law Enforcement in Diverse Communities: Policies and Practices of Effective Engagement

Advocacy & Partnerships

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Criminal v. Civil Provisions of Immigration Law

- Immigration law is largely civil in nature – civil violations are handled through an administrative process.
- Criminal provisions are handled through the Federal courts.
- Many of the criminal violations of immigration law are misdemeanor offenses and involve borders – entering the country without being inspected, smuggling, re-entering the country after being deported.
- An officer must have witnessed the misdemeanor or have probable cause to make a warrantless arrest.

Criminal v. Civil Provisions of Immigration Law

- Probable cause = at the time of the arrest, the facts and circumstances within the knowledge of the officer and of which they had reasonably trustworthy information were sufficient to warrant a prudent man in believing that the individual had committed or was committing an offense.
Beck v. Ohio, 379 U.S. 89, 91 (1964).
- **Unlawful presence in the United States is not a criminal offense: it is a civil violation of immigration law.**

Ohio Attorney General Opinion

- In a 2007 Opinion issued by the Ohio Attorney General, the AG concluded that under Ohio law, a law enforcement agency may enforce criminal provisions of federal immigration law, but that it may **NOT** enforce civil provisions of federal immigration law.
- Ohio Op. Atty. Gen. No. 2007-029 (September 6, 2007).

Partnership with Dayton Police Department

- Community-policing oriented; policies consider levels of resources and best crime prevention methods
- Gaining the trust of the community
 - Translations of important documents and flyers
 - Education – Outreach, outreach, outreach!!!
 - Being visible, supportive, and participating in positive community events
- Training & technical support, drafting of policies
- Legal consultations & representation for immigrant victims
 - U visas
 - Collateral immigration issues
 - Direct referrals and expeditious certification issuance

U “Visa” – For victims of certain serious crimes

1. Victim of qualifying crime (that occurred in U.S. or violated U.S. law):
 - Domestic violence, felonious assault, rape/sexual assault, trafficking, incest, involuntary servitude, slave trade, kidnapping, et al; OR
 - attempt, conspiracy, or solicitation to commit any of the above mentioned crimes
2. Suffered “substantial mental or physical abuse”
3. Is being, has been, or is likely to be helpful to the investigation or prosecution of the criminal activity

U Non-immigrant Status

- Applicants must provide a certification from a federal, state, or local law enforcement official, prosecutor, judge, or investigating authority that certified that the U Visa applicant was a victim of a qualifying crime and was helpful
- No extensive investigation by the law enforcement agency or conviction is required, as long as they will certify
- ✓ If approved, granted U visa status and employment authorization for four years
- ✓ May apply for LPR status after 3 years in U visa status
- ✓ Petitions may include certain derivative beneficiaries also

Dayton Police Department (DPD)

- Policies designed to protect immigrants and gain the trust of the immigrant community
 - DPD officers may not to ask victims or witnesses about their immigration status
 - DPD generally does not make a direct referral or call to Immigration and Customs Enforcement (ICE) about a suspect – can only be done by certain supervisors and only in VERY limited circumstances
 - Inclusion of resource lists for immigrants
 - Accessibility for Limited English Proficient individuals

Dayton Police Department (DPD)

- Other policies and procedures:
 - Using professional interpreters to provide meaningful communication with speakers of another language besides English
 - Translating certain important documents into the most common languages spoken in Dayton
 - Recruiting officers who are bilingual or who are members of the immigrant communities that are present in Dayton
 - Incorporating cultural sensitivity training in the academy curriculum

Dayton Police Department (DPD)

- Other policies:
 - Saving police resources and maintaining more officers on the street by encouraging issuance of citations/summons instead initiating arrests for minor violations (some of which affect low-income and immigrant populations disproportionately), such as 1st offense no operator's license
 - To facilitate this, DPD also recognizes the *Matrícula Consular* as a valid form of identification for proving identity and/or residency

Dayton Police Department (DPD)

- Visibility, Transparency, Conciliation
 - Community Liaison Officers and command staff are actively involved in their communities
 - Posting bilingual documents online and providing an online complaint form
 - <http://www.cityofdayton.org/departments/police/OftC/Pages/profstandards.aspx>
 - Mediation/Dispute Resolution Program

Advocacy Outcomes

- 18 policies/procedures adopted in ten local jurisdictions
 - U Visa Certification Policy
 - Policy to accept *Matrícula Consular* as valid form of identification
 - Policy not to ask victims about immigration status
 - Immigration enforcement policies
 - Language access policies
- 2 municipal resolutions to accept *Matrícula Consular*
- Trainings for 3 different police departments

Best Practices

- Do your research
 - Who will you be speaking to?
 - Research department leaders
- Find an ally
 - Someone who compliments your strengths and supplements your weaknesses
- Develop a strategy
 - What will the first 15 seconds of your meeting be?
 - What is your “pitch”?
- Standardizing policies? Responding to events in the area? Providing information?

Best Practices

- Develop Materials
 - Sample policies
 - Interpretation guides
 - Maps to show population data
- Follow Up
 - Continued “encouragement”
 - Trainings
 - Measuring outcomes
 - Connect with other partners or resources

Helpful Resources: Vera Institute of Justice, DOJ Community Oriented Policing Services Office, National Immigration Law Center, ABLE IIP Law Enforcement Resource Guide, University research centers/graduate students

Questions?

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Thank you!



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