CITY OF OAKLAND

Privacy Advisory Commission

October 5, 2017 5:00 PM
Oakland City Hall
Hearing Room 1
1 Frank H. Ogawa Plaza, 3rd Floor
Meeting Agenda

***Commission Members**: **District 1 Representative**: Reem Suleiman, **District 2 Representative**: Vacant, **District 3 Representative**: Brian M. Hofer, **District 4 Representative**: Lou Katz, **District 5 Representative**: Raymundo Jacquez III, **District 6 Representative**: Clint M. Johnson, **District 7 Representative**: Robert Oliver, **Council At-Large Representative**: Saied R. Karamooz, **Mayoral Representative**: Vacant*

Each person wishing to speak on items must fill out a speaker's card. Persons addressing the Privacy Advisory Commission shall state their names and the organization they are representing, if any.

1. 5:00pm: Call to Order, determination of quorum
2. 5:05pm: Review and approval of July 6 meeting minutes
3. 5:10pm: Open Forum
4. 5:15pm: Discussion with the Oakland Police Department regarding the August 16 ICE operation.
5. 5:35pm: Discuss and take possible action on Oakland Police Department Immigration Policy No. 415
6. 5:50pm: Review and take possible action on an ordinance prohibiting City business with vendors that provide services to ICE
7. 6:10pm: Staff status update on Surveillance Equipment Ordinance labor discussions
8. 6:15pm: Staff status update on database review project
9. 6:25pm: Review and discussion of Seattle citywide Privacy Initiative and Privacy Program
10. 7:00pm: Adjournment

CITY OF OAKLAND

Privacy Advisory Commission

July 6, 2017 5:00 PM
Oakland City Hall
Hearing Room 1
1 Frank H. Ogawa Plaza, 3rd Floor
Meeting Agenda

***Commission Members**: **District 1 Representative**: Reem Suleiman, **District 2 Representative**: Vacant, **District 3 Representative**: Brian M. Hofer, **District 4 Representative**: Lou Katz, **District 5 Representative**: Raymundo Jacquez III, **District 6 Representative**: Clint M. Johnson, **District 7 Representative**: Robert Oliver, **Council At-Large Representative**: Saied R. Karamooz, **Mayoral Representative**: Deirdre Mulligan.*

Each person wishing to speak on items must fill out a speaker's card. Persons addressing the Privacy Advisory Commission shall state their names and the organization they are representing, if any.

1. 5:00pm: Call to Order, determination of quorum

Members Present: Suleiman, Hofer, Katz, Jaquez, Oliver, Karamooz. Members Absent: Johnson, Mulligan.

2. 5:05pm: Review and approval of June 1 meeting minutes

The June Minutes were approved.

3. 5:10pm: Open Forum

Brian Geiser spoke about the use of Automated License Plate Readers (ALPRs) by street sweepers and private corporations and hopes the Commission includes this in their review of their uses.

4. 5:15pm: Staff update on Surveillance Equipment Ordinance status

Joe DeVries announced that one official meet and confer had taken place with OPOA and that a follow-up meeting would occur in late July to discuss OPOA operational concerns with the ordinance (that are outside the labor issues that they have). These are related to providing clarity on the reporting requirements, when they can use information shared from a third party, and the approval process before using a piece of technology.

5. 5:20pm: Discuss and take possible action on city attorney feedback regarding Non-Cooperation with Anti-Registry Ordinance

Chairperson Hofer called on several Public Speakers who voiced their support for the ordinance. Two amendments to the current draft were proposed; one to Section 9.68.020 and the other to 9.68.030. The Commission voted unanimously to recommend passage by the City Council of the amended ordinance.

6. 5:30pm: Review take possible action on draft Privacy Advisory Commission Annual Report

Chairperson Hofer presented a draft report for review and comment. The Commission unanimously adopted the draft to be presented to the Public Safety Committee of the City Council.

7. 5:45pm: Continue ongoing Database Review with outside entities

The Commission reviewed the list of current databases and asked if there were further databases identified since the list was developed. Tim Birch noted that it will take time to go through each database one by one but there were none he was aware of right now. He also noted that an RFP is being developed for new Crime Analysis Software which could lead to changes in the vendors the City uses and could impact the databases available. No action was taken on this item.

8. 6:10pm: Discuss and take possible action on Oakland Police Department's automated license plate reader policy

The Commission reviewed the OPD Policy on APLRs and discussed some substantive concerns including the potential disparate uses of the technology in certain neighborhoods, the retention of data, the collection of large amounts of data indiscriminately by the technology, and having defined allowable uses. Several commissioners raised the need for specific allowable uses (such as those included in the DAC and FLIR Policies). Determining the Allowable Uses will inform the data retention periods required to meet those needs.

Chairperson Hofer suggested the creation of an ad hoc committee to focus on this issue and develop specific allowable uses. Member Oliver asked to be a part of that committee.

9. 7:00pm: Adjournment

Database or Service	Function	Access	Oakland Administrator	Non-OPD Administrator
BOSS ALPR (Back Office Software System Automated License Plate Reader)	3M Product that stores collected ALPR data	Credentialed OPD employees and FBI Safe Streets Task Force members	OPD Information Technology Unit	
CalPhoto	Provides digital photographs and signatures of persons with California driver licenses and identification cards	Credentialed OPD employees	Information Technology Department	California Department of Justice (Cal DOJ)
CLETS/NCIC (California Law Enforcement Technology Services/ National Criminal Informaction Center)	Data managed by Alameda County that includes wants and warrants and other associated criminal justice databases	Credentialed OPD employees	OPD Communications Division	California Department of Justice (Cal DOJ)
CrimeView Dashboard	OPD crime and mapping data used only in apps -- data CJIS (Criminal Justice Information Services)-compliant, not directly available to other agencies	Credentialed OPD employees	OPD Crime Analysis Section	Tritech (formerly Omega)
CrimeView Desktop	OPD crime and mapping data used only in the apps -- data CJIS-compliant, not directly available to other agencies	Credentialed OPD employees	OPD Crime Analysis Section	Tritech (formerly Omega)
CrimeView crimemapping.com	OPD crime and mapping data used only in the apps -- data CJIS-compliant, not directly available to other agencies	Public (application only, not underlying data)	OPD Crime Analysis Section	Tritech (formerly Omega)
CRIMS (Consolidated Records InforMation System)/ ARIES (Automated Regional Information Exchange System)	Data managed by Alameda County and Contra Costa County and includes information about subjects who have had criminal justice system interaction in Alameda and Contra Costa County	Credentialed OPD employees and other Alameda County and Contra Costa County law enforcement agencies including NCRIC (Northern California Regional Intelligence Center)	OPD Communications Division	Alameda County (CRIMS)/ Contra Costa County (ARIES).

Attachment A

Database or Service	Notes	Who Has Access	Oakland Administrator	Outside Administrator
Field Based Reporting (FBR)	Motorola report writing platform	Credentialed OPD employees and the FBI Safe Streets Task Force	OPD Information Technology Unit	
Hummingbird	OPD used primarily for report generation prior to PRIME	Credentialed OPD employees	Information Technology Department	Information Technology Department
LEAP (Law Enforcement Analysis Portal)	Data CJIS compliant and available to all participating agencies and provides portal to other agency databases	Credentialed OPD employees, other subcriber agencies, and the FBI Safe Streets Task Force	OPD Information Technology Unit interfaces with Forensic Logic (no administrative privileges)	Forensic Logic
LEFTA (Law Enforcement Field Training Application)	Serves as a database for the field training program	Credentialed OPD employees	OPD Field Training Unit	
LRMS (Law Records Management System)	Motorola Product that provides data storage for Oakland Police records including reports	Credentialed OPD employees and the FBI Safe Streets Task Force	OPD Records Division	
Oracle	City of Oakland revenue/ expenditure/ fiscal/ budget/ payroll system	Credentialed OPD employees and other City employees	OPD Fiscal Division	City of Oakland
ParoleLEADS	Provides access to information about individuals on California state parole	Credentialed OPD employees and employees of the CDCR as well as other participating law enforcement agencies	Designated OPD Officer	California Department of Corrections and Rehabilitation (CDCR)
PAS (Personnel Assessment System)	Serves as personnel management and early warning system	Credentialed OPD employees	OPD PAS Administration Unit	OPD
PDB (Personnel DataBase)	Provides OPD with the ability to track personnel assignments.	Credentialed OPD employees	OPD Personnel Section	OPD
PowerDMS (Document Management System)	Houses OPD policies, procedures, training documents, and other related information	Credentialed OPD employees	OPD Research and Planning Section	OPD

Attachment A

Database or Service	Notes	Who Has Access	Oakland Administrator	Outside Administrator
PRIME (Performance, Reporting, Information, and Metrics Environment)	Newly developed system that includes a large array of data including use of force, complaints, and many other categories	Credentialed OPD employees	Information Technology Department/ OPD Bureau of Services	
SARANet (Scanning, Analysis, Response, Assessment)	Provides interactive repository for community policing projects primarily for Community Resource Officers	Credentialed OPD employees and RDA staff	Oakland ITD	RDA (Resource Development Associates)
ShotSpotter	Gunshot locater system	Credentialed OPD employees, credentialed Oakland Housing Authority employees, and the FBI Safe Streets Task Force	OPD Information Technology Unit	ShotSpotter
SpeedTrack	Search tool for OPD databases including FBR, LRMS, and LPR	Credentialed OPD employees	OPD Information Technology Unit	
TeleStaff	Provides OPD with the ability to schedule personnel.	Credentialed OPD employees	OPD Personnel Section	
VieVue	Stores body worn camera video	Credentialed OPD employees	OPD Information Technology Unit	

City of Seattle
Privacy Principles

The City of Seattle collects personal information from the public so that we can provide many important services including community and critical infrastructure protection, 911 call response, waste management, electricity delivery and other services.

We work to find a fair balance between gathering information to provide needed services and protecting the public's privacy.

While privacy laws protect some personal information, the information we collect becomes a government record that others can ask to see through public records requests. Therefore, it is important for you to know when and how your personal information is collected, how we use it, how we disclose it and how long we keep it.

The following Privacy Principles guide the actions we take when collecting and using your personal information:

1 We value your privacy…

Keeping your personal information private is very important. We consider potential risks to your privacy and the public's well-being before collecting, using and disclosing your personal information.

2 We collect and keep only what we need…

We only collect information that we need to deliver City services and keep it as long as we are legally required and to deliver those services. Whenever possible, we tell you when we are collecting this information.

3 How we use your information…

When possible, we make available information about the ways we use your personal information at the time we collect it. We commit to giving you a choice whenever possible about how we use your information.

4 We are accountable…

We are responsible for managing your personal information in a manner that is consistent with our commitments and as required by law. We protect your personal information by restricting unauthorized access and by securing our computing resources from threats.

5 How we share your information…

We follow federal and state laws about information disclosure whenever we work with outside governmental agencies and in answering Public Disclosure Requests (PDRs). Business partners and contracted vendors who receive or collect personal information from us or for us to deliver City services must agree to our privacy requirements.

6 Accuracy is important…

We work to maintain and use accurate personal information for City business. When practical, we will work to correct inaccurate personal information. We also direct our partners and contracted vendors to follow the same guidelines.

City of Seattle	Privacy Policy

Purpose

The purpose of this policy is to set forth requirements City departments will observe when information systems or other forms and applications collect the public's personal information or Personally Identifiable Information (PII). This includes the collection of metadata collected from browsing web pages openly available to the public.

Affected Departments

- All City departments

Policy

Privacy Principles and Privacy Statement

City departments will adhere to the requirements of the Privacy Principles and Privacy Statement and will be held accountable for compliance to the commitments outlined in these documents. This includes obligations regarding:

- **Notice:** Providing notice about the collection, use and sharing of personal information at the time such information is collected. This includes instructions about opting out of this collection, whenever possible.
- **Retention:** Adhering to the City data retention schedule and disposing of or de-identifying information as outlined in this schedule.
- **Accountability:** Maintaining documentation, available for public review and third-party monitoring, to evidence compliance with our privacy practices.
- **Accuracy:** Providing individuals the opportunity to correct data inaccuracies.

Privacy Toolkit

The Privacy Program Manager and others, as appropriate, will review projects with potential privacy impacts and provide requirements and recommendations to mitigate those impacts. City departments will use the Privacy Toolkit [Insert link] for direction regarding City privacy policies, standards and the privacy review process. The review process includes completion of the following forms, as directed by the Privacy Program Manager:

- The Privacy Threshold Analysis form that documents information systems that handle the public's personal information or Personal Identifiable Information (PII) that are evaluated for potential privacy impacts.
- The Privacy Impact Assessment (PIA) about information systems that are identified through the Intake Form review process as requiring further review by the Privacy Program Manager and others.

Review

The Privacy Program Manager will review this policy annually. Any revisions to this policy will be released in the first quarter of the year.

Direction

This policy will be added to the Department of Information Technology Polices and Standards webpage.

Guidance

- City of Seattle Privacy Principles
- City of Seattle Privacy Statement
- NIST 800-53 R4 (Appendix J: AR-2, AR-5, TR-1)

Exceptions

- Exceptions to this policy, unless expressly covered by separate ordinance, must be submitted via the Exception Process.

Document Control

Owning Organizations: Department of Information Technology, Privacy Program.
Reviewed/ Accepted/ Adopted: By the Technology Board.
Update Cycle: To be reviewed annually by the Privacy Program for possible changes; amendments will be reviewed, accepted and approved by the Technology Board, or considered for change at any time, if requested.

Record of Versions:

Version	Content	Status/Comments
V 1.0	Initial Draft by Ginger Armbruster	Drafted for review July 9, 2015
	Final Version	Date accepted: 7/21/2015

Authorized this 21day of 2015 by:

Michael Mattmiller
Chief Technology Officer
City of Seattle

THE SANCTUARY CITY CONTRACTING AND INVESTMENT ORDINANCE

Whereas, President Trump issued an Executive Order on January 25, 2017 titled "Border Security and Immigration Enforcement" and created heightened fear and insecurity among many immigrant communities in Oakland and across the nation; and

Whereas, the City Council finds that the City of Oakland has a moral obligation to protect its residents from persecution; and

Whereas, the City Council finds that immigrants are valuable and essential members of both the California and Oakland community; and

Whereas, the City Council finds that a registry of individuals identified by religion, national origin, or ethnicity, in a list, database, or registry including that information, could be used by the government to persecute those individuals; and

Whereas, President Trump has repeatedly signaled that he intends to require Muslims to register in a database; and

Whereas, Trump advisors have invoked WWII Japanese-American internment as a precedent for the proposed expansion of the registry; and

Whereas, the Census Bureau turned over confidential information in 1943, including names and addresses, to help the US government identify Japanese Americans during World War II for the purpose of relocation; and

Whereas, President Trump has ordered a sweeping expansion of deportations and assigned unprecedented powers to Immigration and Customs Enforcement (ICE) officers targeting and terrorizing immigrant communities; and

Whereas, President Trump has issued three executive orders banning entry from certain Muslim-majority countries; and

Whereas, the City Council finds that the City of Oakland's Sanctuary City status has caused President Trump to threaten to withhold federal funding from the City of Oakland; and

Whereas, ICE Enforcement Removal Operations issued a Request for Information on August 3, 2017, to obtain commercial subscription data services capable of providing continuous real-time information pertaining to 500,000 identities per month from sources such as State Identification Numbers; real time jail booking data; credit history; insurance claims; phone number account information; wireless phone accounts; wire transfer data; driver's license information; Vehicle Registration Information; property information; pay day loan information; public court records; incarceration data; employment address data; Individual Taxpayer Identification Number (ITIN) data; and employer records; and

Whereas, ICE presently has a $1.6 million contract with Thomson-Reuters, maker of popular law firm software products such as WestLaw and PeopleMap, for the above services; and

Whereas, ICE presently has a $41 million contract with Palantir Technologies for the development of an intelligence system called Investigative Case Management, intended to be capable of providing information pertaining to an individual's schooling, family relationships, employment information, phone records, immigration history, foreign exchange program status, personal connections, biometric traits, criminal records, and home and work addresses; and

Whereas, the Department of Homeland Security published a new rule on September 18, 2017, authorizing the collection of social media information on all immigrants, including permanent residents and naturalized citizens; and

Whereas, IBM provided census tabulating card machines (Dehomag Hollerith D-11) and punch cards to Hitler's Third Reich, and custom-designed specialized applications at each major concentration camp throughout Germany and greater Europe enabling the Nazi Party to automate identification and persecution of Jews and others during the Holocaust; now therefore

THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

Section 1. Title

This ordinance shall be known as the Sanctuary City Contracting and Investment Ordinance.

Section 2. Prohibition on Use of City Resources

1) No officer, employee, department, board, commission, City Council, City Administrator, or other entity of the City shall provide any City resources of any type to any person, entity, or vendor that provides ICE with any services, unless the City Council makes a specific determination that no reasonable alternative exists, taking into consideration the following:
    a) The intent and purpose of this ordinance;
    b) The availability of alternative services, goods and equipment; and
    c) Quantifiable additional costs resulting from use of available alternatives.
2) All public works, construction bids, requests for information, requests for proposals, or any other solicitation issued by the City shall include notice of the prohibition listed above.
3) For the purpose of determining which person, entity, or vendor provides ICE with any services, the City Administrator shall rely on:
    a) Information published by reliable sources
    b) Information released by public agencies
    c) A declaration under the penalty of perjury executed by the person, entity, or vendor, affirming that they do not provide services to ICE

d) Information submitted to the City Administrator by any member of the public, and thereafter duly verified

4) Any person, entity, or vendor identified as a supplier of services to ICE and potentially affected by this section shall be notified by the City Administrator of the determination. Any such person, entity, or vendor shall be entitled to a review of the determination by appeal to the City Administrator. Request for such review shall be made within thirty (30) days of notification, or seven (7) days of the date of a City solicitation or notice of a pending contract or purchase, of interest to the person, entity, or vendor seeking review. Any person, entity, or vendor so identified may appeal the City Administrator's determination to the City Council, within fifteen (15) days of the determination.
5) Any existing contract, purchase agreement, or other obligation shall not be renewed or extended if the person, entity, or vendor continues to provide services to ICE.

Section 3. Prohibition on Investment

1) The City of Oakland shall not make any investment in stocks, bonds, securities, or other obligations issued by any provider of services to ICE.
2) Within two years after the effective date of this section, the City of Oakland shall divest itself of all investments (including pension funds) in any provider of services to ICE, unless the City Administrator reports and substantiates to the City Council at a public hearing, that such divestment would result in substantial and immediate loss of investment income; such divestment shall then occur at the earliest opportunity.
3) The City Council shall adopt a plan with respect to pension fund investments and shall implement such a plan consistent with the intent of this act.

Section 4. Investigation And Reporting

(a) The City Administrator, or his or her designee, shall review compliance with Sections 2-3. The City Administrator may initiate and receive complaints regarding violations of Sections 2-3. After conducting an investigation, the City Administrator shall issue findings regarding any alleged violation. If the City Administrator finds that a violation occurred, the City Administrator shall, within 30 days of such finding, send a report of such finding to the City Council, the Mayor, and the head of any department involved in the violation or in which the violation occurred. All officers, employees, departments, boards, commissions, and other entities of the City shall cooperate with the City Administrator in any investigation of a violation of Sections 2-3.
(b) By April 1 of each year, each City department shall certify its compliance with this ordinance by written notice to the City Administrator. By May 1 of each year, the City Administrator shall submit to the Privacy Advisory Commission a written, public report regarding the department's compliance with Sections 2-3 over the

previous calendar year. At minimum, this report must (1) detail with specificity the steps the department has taken to ensure compliance with Sections 2-3, (2) disclose any issues with compliance, including any violations or potential violations of this Ordinance, and (3) detail actions taken to cure any deficiencies with compliance. After receiving the recommendation of the Privacy Advisory Commission, if any, the City Administrator shall schedule and submit the written report to the City Council for review.

Section 5. Enforcement

(a) Cause of Action. Any violation of this Ordinance constitutes an injury, and any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce this Ordinance.
(b) Damages and Civil Penalties. If the City is found liable in a cause of action brought by an individual under section (a) above, the City shall be liable for (1) the damages suffered by the plaintiff, if any, as determined by the court, and (2) a civil penalty no greater than $5,000 per violation, as determined by the court. In determining the amount of the civil penalty in any action filed pursuant to Section 5, the court shall consider whether the violation was intentional or negligent, and any other prior violations of Sections 2-3 by the City department that committed the violation.
(c) Attorney's Fees and Costs. A court shall award a plaintiff who prevails on a cause of action under subsection (a) reasonable attorney's fees and costs.
(d) Limitations on Actions. Any person or entity bringing an action pursuant to Section 4 must first file a claim with the City pursuant to Government Code 905 or any successor statute within four years of the alleged violation.
(e) Any person, entity, or vendor, knowingly or willingly supplying false information in violation of Section 2 (3)(c), shall be guilty of a misdemeanor and up to a $1,000 fine.

Section 6. Severability

The provisions in this Ordinance are severable. If any part of provision of this Ordinance, or the application of this Ordinance to any person or circumstance, is held invalid, the remainder of this Ordinance, including the application of such part or provisions to other persons or circumstances, shall not be affected by such holding and shall continue to have force and effect.

Section 7. Construction

The provisions of this Ordinance are to be construed broadly to effectuate the purposes of this Ordinance.

Section 8. Effective Date

This Ordinance shall take effect on [DATE].

Immigration

415.1 PURPOSE AND SCOPE

The purpose of this immigration policy is to provide guidance and direction to the members of the Oakland Police Department (OPD) on Federal, State, and local immigration laws.

The responsibility for enforcement of immigration laws rests solely with the U.S. Immigration and Customs Enforcement agency (ICE) under the direction of the United States Department of Homeland Security (DHS), and not with local or state law enforcement agencies. OPD is committed to equal enforcement of the law and equal service to the public regardless of a person's immigration status. This commitment increases our effectiveness in protecting and serving the entire community.

415.2 DUE PROCESS RIGHTS OF ALL PERSONS

OPD shall not provide federal immigration agencies access to individuals solely for the purpose of immigration enforcement.

If OPD receives a federal immigration detainer request for an individual in OPD custody, Officers shall provide the individual with a copy of the request.

Officers shall not inquire or request proof of immigration status or citizenship when providing services or benefits except where the receipt of such benefits or services is contingent upon one's immigration status, such as in the processing of a U visa or T visa.

Individuals with limited English proficiency must be given access to translation or interpretation and must receive documents in their native language if available.

415.3 FEDERAL LAW

The responsibility for enforcement of immigration laws rests solely with ICE, under the direction of DHS.

Immigration detainers or requests, sometime called "ICE holds," are not compulsory. Instead, they are merely requests enforceable at the discretion of the agency holding the arrestee. Federal regulations define immigration detainers as "requests" rather than commands.[1] Courts have also held that ICE detainers are voluntary requests that "do not and cannot compel a state or local law enforcement agency to detain suspected aliens subject to removal."[2] Thus, local agencies are "free to disregard [an] ICE detainer."[3]

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[1] 8 C.F.R. § 287.7(a).
[2] *Galarza v. Szalczyk*, 745 F.3d 634 (3rd Cir. 2014); *see also Flores v. City of Baldwin Park*, No. CV 14-9290-MWF, 2015 WL 756877, at *4 (C.D. Cal. Feb. 23, 2015) ("federal law leaves compliance with immigration holds wholly within the discretion of states and localities").
[3] *Galarza*, 745 F.3d at 645.

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The mere fact that an individual is unlawfully in the United States is not a criminal offense.[4] Thus, unlawful presence in the United States, by itself, does not justify continued detention beyond that of an individual's normal release date. This applies even where ICE or United States Customs and Border Protection (CBP) provide an OPD officer with administrative forms that use the terms "probable cause" or "warrant." A lawful detention under the Fourth Amendment must be supported by probable cause that a person has committed a crime.[5]

415.4 CITY POLICY

Members of OPD shall not:

- Enforce or assist ICE in the enforcement of violations of civil immigration laws
- Initiate investigations or use personnel or resources where the only objective is to discover whether an individual is in violation of a civil immigration law
- Detain individuals for a violation of civil immigration law[6]

415.5 REQUESTS FOR ASSISTANCE FROM DHS OR ICE

Unless the circumstances present an imminent danger to officer or public safety, requests by DHS or ICE for any operational assistance from OPD (including but not limited to ICE detainer requests), shall immediately be directed to the watch commander on duty for approval, who in turn shall immediately notify the Chief of Police, or the Chief's designee.

In the event a determination needs to be made about whether an ICE detainer request should be fulfilled, the Chief of Police, or the Chief's designee, shall consider the merits of each request carefully. In making this determination, the Chief, or Chief's designee, shall comply with the California TRUST Act,[7] assess whether the individual poses a risk to public or officer safety, and consider the availability of OPD personnel and resources necessary to comply with the request.

415.6 INFORMATION SHARING

OPD does not collect or maintain any information regarding a person's immigration status, unless the information is gathered specifically for the purposes of completing U visa or T visa documents.

Officers shall not share non-public information about an individual's address, upcoming court date, or release date with ICE or CBP. Officers shall respond to an ICE or CBP request for non-public information only when a judicial warrant accompanies the request.

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[4] *Arizona v. United States*, 567 U.S. 387, 132 S. Ct. 2492, 2505 (2012); *Melendres v. Arpaio*, 695 F.3d 990, 998, 1000 (9th Cir. 2012).

[5] *Gerstein v. Pugh*, 420 U.S. 103, 120 (1975).

[6] *See* November 29, 2016, Oakland City Council "Resolution Denouncing Tactics Used to Intimidate Immigrants Residing in Oakland and Re-affirming the City's Declaration as a City of Refuge" (Resolution No. 86498).

[7] *See* Gov't Code, §§ 7282, 7282.5. The TRUST Act limits the discretion of law enforcement officials to detain an individual pursuant to a federal immigration detainer request, should an agency choose to do so, unless two conditions are met. First, the continued detention must "not violate any federal, state, or local law, or any local policy," and second, the detainee must have a qualifying criminal history as enumerated in Government Code section 7282.5(a) or be the subject of an outstanding federal felony arrest warrant.

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415.7 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. Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking.

Any request for assistance in applying for a U visa or T visa should be forwarded in a timely manner to the Special Victims Section (SVS) Lieutenant for review and endorsement. The SVS Lieutenant may consult with the assigned investigator to confirm the applicant is cooperative with the investigation.

The SVS Lieutenant or their designee shall approve or deny the request and complete the certification or declaration, if appropriate, within the time frame required under Penal Code § 679.10(h).[8] The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website and under Penal Code § 679.10.

The OPD website has information regarding the U visa or T visa application process as well as a non-profit organization that can assist with the application process.

[8] "A certifying entity shall process an I-918 Supplement B certification within 90 days of request, unless the noncitizen is in removal proceedings, in which case the certification shall be processed within 14 days of request." Penal Code § 697.10(h).

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