

**A Resolution Adopting a Policy Governing  
the Solicitation of Immigration Status by Public Servants**

WASHTENAW COUNTY BOARD OF COMMISSIONERS

May 17, 2017

WHEREAS, Washtenaw County seeks to maintain a strong partnership with its immigrant community to preserve public safety and public health; and

WHEREAS, consistent and secure interactions between immigrants and county officials are essential to community security and stability; and

WHEREAS, uncertainty with regards to how county officials will react to a resident's immigration status has contributed to a decrease in immigrants accessing County services and engaging with County law enforcement officers; and

WHEREAS, it is the determination of the Washtenaw County Board of Commissioners that knowing a person's immigration status is immaterial to most County services; and

WHEREAS, under the auspices of the Washtenaw County Sheriff's Office, a multi-agency Immigration Enforcement and Policy and Practice Work Group assesses and communicates to the general public the role of local law enforcement as it relates to immigration enforcement; and

WHEREAS, the Board of Commissioner desires to have and communicate a clear and consistent policy regarding the solicitation of immigration status by its officials, employees and partners; and

WHEREAS, the Washtenaw County Sheriff's Office governs County law enforcement policy and has cooperated in the development of this policy;

NOW BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby adopts the attached policy governing the Solicitation of Immigration Status by Public Servants; and

BE IT FURTHER RESOLVED that the Office of Community and Economic Development shall convene a stakeholder advisory group comprising members of the public and representatives of County departments, offices and agencies at least annually to consider issues related to Washtenaw's immigrant community and make recommendations to the Board of Commissioners for policy improvements or programmatic investments; and

BE IT FURTHER RESOLVED that In May of each calendar year, each County department, office or agency shall submit to the County Administrator a catalog of the specific circumstances in which it enquires about immigration status and the governing law or policy that requires the enquiry; and

BE IT FURTHER RESOLVED that the County Administrator shall maintain a section of the County website that communicates this policy and the compiled circumstances when public servants may enquire about immigration status; and

BE IT FURTHER RESOLVED that the County Administrator communicates these policies and practices to all County elected officials and department heads.

COMMISSIONER	Y	N	A	COMMISSIONER	Y	N	A	COMMISSIONER	Y	N	A
Brabec	X			LaBarre	X			Smith	X		
Deatrick	X			Martinez-Kratz	X						
Jamnack		X		Morgan			X				
Jefferson	X			Ping			X				

CLERK/REGISTER'S CERTIFICATE - CERTIFIED COPY

ROLL CALL VOTE:

6 1 2

STATE OF MICHIGAN )

I, Lawrence Kestenbaum, Clerk/Register of said County of Washtenaw and Clerk of Circuit Court for said County, do hereby certify that the foregoing is a true and accurate copy of a resolution adopted by the Washtenaw County Board of Commissioners at a session held at the County Administration Building in the City of Ann Arbor, Michigan, on May 17<sup>th</sup>, 2017, as it appears of record in my office.

COUNTY OF WASHTENAW)<sup>SS</sup>.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said Court at Ann Arbor, this 18<sup>th</sup> day of May, 2017.

LAWRENCE KESTENBAUM, Clerk/Register

BY: \_\_\_\_\_ Deputy Clerk



Res. No. 17-080

## Washtenaw County Policy

**Title:** Solicitation of Immigration Status by Public Servants

**Enabling Resolution:**

**Supersedes:**

**Effective Date:** 05/18/2017

### I. Purpose

- a. The Washtenaw County Board of Commissioners declares that it is the policy of Washtenaw County to respect the rights of, and provide equal services to all persons regardless of appearance, ethnicity, immigration status, manner of dress, national origin, disabilities, physical characteristics, race, religious beliefs, sexual orientation, gender identity or expression.

### II. Definitions

The following words and phrases, when used in this Policy shall have the meanings respectively ascribed to them by this section:

- a. "*Public servant*" means any elected official of Washtenaw County, any member of any County agency, board, commission, or other voting body, and any appointee, employee, or individual who provides services to Washtenaw County within or outside of its offices or facilities pursuant to a grant or personal services contract.
- b. "*Solicit or Solicitation*" means asking a person, or anyone associated with that person, questions about the person's immigration status. The taking of fingerprints, authorized use of LEIN or questions concerning a person's birth country shall not be considered "solicitation."

### III. Solicitation of Immigration Status

- a. No public servant shall ask about the immigration status of any person or engage in activities designed to ascertain the immigration status of any person while acting within the scope of his or her authority, or employment, as a public servant.
- b. Notwithstanding the prohibitions set forth in subsection (a) of this section, public servants are expressly permitted to engage in the following activities: :
  - i. Solicit information concerning immigration status where specifically required by any federal, state or local law or program as a condition of eligibility for the service sought; or
  - ii. Solicit information concerning immigration status for the purpose of completing I-9 Forms, and, when relevant, in making hiring and payroll withholding decisions, including, but not limited to, completing I-9 Forms, questioning a person to complete the I-9 Form, obtaining documents that support the I-9 Form, and allowing federal authorities to audit an I-9 Form in accordance with applicable law; or
  - iii. Solicit information concerning immigration status in response to a subpoena issued in a criminal proceeding, civil litigation, or for an administrative proceeding to produce County documents or for testimony of a public servant, including where related to immigration issues or other security issues; or

- iv. Solicit information concerning immigration status from the subject of an investigation only when relevant to the investigation or prosecution of a criminal offense or to solicit information concerning the identity of a person charged with a crime or to assess that person's flight risk; or
- v. Determine if consular notification is required or should be offered under the Vienna Convention on Consular Relations for individuals detained or arrested by the Washtenaw County Sheriff or who have died within Washtenaw County; or
- vi. Solicit immigration information to comply with any and all legal obligations of validly issued judicial warrants;
- vii. Nothing in this Policy shall be construed to prohibit, or in any way restrict, any public servant from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual as required by 8 U.S.C. Sec. 1373.

#### **IV. Law Enforcement**

- a. The governing authority for County law enforcement staff is the Washtenaw County Sheriff's Office which has the authority to adopt policies pertaining to his office and the deployment of his personnel.
- b. The Washtenaw County Sheriff's Office generally does not engage in federal immigration enforcement as a primary law enforcement activity except as follows:
  - i. The Washtenaw County Sheriff's Office sometimes supports or assists any federal agency that articulates a need based on a legitimate public safety concern.
  - ii. The Washtenaw County Sheriff's Office attempts to be present during immigration enforcement actions by federal law enforcement agencies for the express purpose of providing support and connection to necessary social and human services, to ensure that the activities are identified as police actions, and to ensure public witnesses during the incident.

#### **V. Documentation Policies**

- a. Except as otherwise required by federal or state law, no Washtenaw County department, office or agency shall retain copies of documentation establishing identity, residency, citizenship or immigration status for a period of more than the minimum time required by law.

#### **VI. County Facilities**

- a. Whenever any federal, state, county or other local law enforcement officers, including the Department of Homeland Security, employees are conducting business on County property or at County facilities, any County employee shall have the right to ask for and review identification from that individual before proceeding further.
- b. If any federal, state, county or other local law enforcement officer requests information which ordinarily would be confidential under federal or state law, that employee after consulting with his/her supervisor may choose to request that the law enforcement officer produce a subpoena for the records before disclosing them.