

**[MUNICIPALITY POLICE DEPARTMENT]
GENERAL ORDER**

Volume: Chapter: #of Pages:

FAIR AND EQUAL POLICING

By the order of: Accreditation Standards:

Effective Date:

Supersedes Order #:

PURPOSE: The [MUNICIPALITY] Police Department's ability to protect our community depends on the trust and cooperation of all residents. The public safety of [MUNICIPALITY] is our department's top priority and our voluntarily assisting in facilitating deportations on behalf of federal immigration authorities alienates members of our community and diminishes the public's willingness to report crimes, act as witnesses, share information, and aid police, even when heinous crimes are committed. This Order clarifies the Department's role in protecting and defending the safety of all community members, furthers our Department's commitment to community policing and the protection of Constitutional rights and liberties, and limits the unnecessary expenditure of critical Department resources.

POLICY:

I. ENFORCEMENT ACTIVITIES

No officer or employee of the [DEPARTMENT] shall expend any time, funds, or resources on facilitating the enforcement of immigration law, except where state or federal law or regulation or directive or court order shall so require. Specifically, the [DEPARTMENT] and its employees, officers and agents shall not:

- A. Enter into any contract, agreement, or arrangement with Immigration and Customs Enforcement that would grant federal immigration enforcement authority or powers to [DEPARTMENT] officers, including but not limited to agreements created under 8 U.S.C. § 1357(g).
- B. Participate jointly in or assist in any civil immigration enforcement operations including but not limited to any immigration enforcement raids, investigations, interrogations, detections, apprehensions, detentions, or requests to establish traffic perimeters. Any such request for cooperation from Immigration and Customs Enforcement ("ICE") or Customs and Border Patrol ("CPB") or United States Citizenship and Immigration Services ("USCIS") agents or representatives should be referred to [the Office of the Public Safety Director/Chief], who shall deny the request;
- C. Undertake any enforcement action, including but not limited to any investigative stops, detentions, questioning or searches, based upon knowledge or belief about an individual's immigration status or national origin or the knowledge or belief that a person has committed a violation of the immigration laws;

- D. Honor immigration detainer requests including I-247D, I-247N and I-247X or ICE/CBP/USCIS administrative warrants or hold any person upon receipt of a detainer request or ICE/CBP/USCIS administrative warrant unless such request or warrant is a valid and properly issued judicial criminal warrant. Any such request received by [DEPARTMENT] should be sent to [OFFICE OF THE PUBLIC SAFETY DIRECTOR/CHIEF] for review. No individual shall be held in [DEPARTMENT] custody due to the receipt of such a request or warrant without the approval of [OFFICE OF THE PUBLIC SAFETY DIRECTOR/CHIEF].

An “administrative warrant” includes an immigration warrant of arrest, order to detain or release aliens, notice of custody determination, notice to appear, removal order, warrant of removal, or any other document issued by ICE/CBP/USCIS that can form the basis for an individual’s arrest or detention for a civil immigration enforcement purpose.

Note: Officers shall not arrest or otherwise detain persons who are entered in the NCIC/SCIC system by ICE/CBP/USCIS unless a properly issued judicial criminal warrant has been issued and presented and the [OFFICE OF THE PUBLIC SAFETY DIRECTOR/CHIEF] has granted approval. An ICE NCIC/SCIC immigration status warning is not a valid and properly issued judicial criminal warrant and officers shall not make any detention or arrest as a result of such a status warning.

- E. Permit ICE/CBP/USCIS officers, agents, or representatives access to municipal facilities, property, equipment, or databases absent a valid and properly issued judicial criminal warrant specifying the information or individuals sought. Any attempts or requests for access to such facilities, property, equipment, or databases shall be immediately sent to [OFFICE OF THE PUBLIC SAFETY DIRECTOR/CHIEF]. No permission to access any such facility, property, equipment, or database shall be provided without the express, written approval of [OFFICE OF THE PUBLIC SAFETY DIRECTOR/CHIEF]. Should [OFFICE OF THE PUBLIC SAFETY DIRECTOR/CHIEF] approve access, such access shall be limited in scope and time to the parameters and targets prescribed in the valid and properly issued judicial criminal warrant.
- F. Permit ICE/CBP/USCIS officers, agents, or representatives access to a person being detained by, or in the custody of, the [DEPARTMENT].
- G. Inquire about or request information about or otherwise investigate the citizenship or immigration status of any person unless such inquiry or investigation is required by state or federal law or regulation or directive or court order.
- H. Respond to inquiries about, or disseminate information about, national origin, date of birth, personal contact information, incarceration status or release dates of any individual, except as required by state or federal law or regulation or directive or court order as identified in this Order.
- I. Rely to any degree on an individual’s actual or perceived national origin, or immigration status, race, ethnicity, language proficiency, religion, sexual orientation, gender identity, disability, housing status, financial status, marital status, status as a victim of domestic violence, criminal history, or status as a veteran in deciding to initiate a stop, question, arrest, detain, or take any other law enforcement action against any individual, except when a specific suspect description includes information on the above categories and

that information is taken in conjunction with information or circumstances that link a specific person to suspected criminal activity.

II. IDENTIFICATION PROCEDURES

Should an individual stopped for questioning and asked to provide identification present identity documents other than a state-issued driver's license or identification card, including documents issued by a person's nation-of-origin, such as a driver's license, passport, or consular-issued document, officers shall accept such documentation and shall not subject that person to heightened scrutiny or further questioning, unless reasonable suspicion exists that the documentation is fraudulent or false.

III. U-VISA PROCEDURES – PROTECTING IMMIGRANT VICTIMS OF CRIME

Federal law encourages law enforcement agencies with authority to investigate, prosecute, or sentence criminal activity to adopt a policy governing the issuance of Forms I-918B ("U Visa Certifications") to immigrant crime victims in the community. The below policy and procedures are consistent with the United States Department of Homeland Security's stated policy that implementing U Visa certification practices and policies "strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of persons and other crimes while offering protection to victims of such crimes without the immediate risk of being removed from the country."

- A. [DEPARTMENT] shall be the "certifying entity" and [POLICE CHIEF/PUBLIC SAFETY DIRECTOR] shall be the "certifying official" for the purpose of U Visa certifications. The [POLICE CHIEF/PUBLIC SAFETY DIRECTOR] may designate individuals within the Department with supervisory responsibilities to sign U visa Certifications on behalf of the Department.
- B. For the purpose of U Visa certification, "Qualifying criminal activity" means qualifying criminal activity pursuant to § 101(a)(15)(U)(iii) of the Immigration and Nationality Act which includes, but is not limited to, the following crimes: Rape, Torture, Trafficking, Incest, Domestic Violence, Sexual Assault, Abusive Sexual Contact, Prostitution, Sexual Exploitation, Stalking, Female Genital Mutilation, Being Held Hostage, Peonage, Involuntary Servitude, Slave Trade, Kidnapping, Abduction, Unlawful Criminal Restraint, False Imprisonment, Blackmail, Extortion, Manslaughter, Murder, Felonious Assault, Witness Tampering, Obstruction of Justice, Perjury, or Fraud in Foreign Labor Contracting (as defined in 18 U.S.C. §1351).
- C. "Qualifying criminal activity" or "qualifying crime" includes criminal offenses for which the nature and elements of the offenses are substantially similar to the criminal offenses described in this Section, and the attempt, conspiracy, or solicitation to commit any of those offenses.
- D. The "certifying official" shall certify "victim helpfulness" on Form I-918 Supplement B when a crime victim or family member of a crime victim so requests and that individual was a victim of a qualifying criminal activity and has been helpful, is being helpful, or is likely to be helpful to the detection, investigation, or prosecution of that qualifying criminal activity.

- E. In determining helpfulness, there shall be a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection, investigation, or prosecution of the qualifying criminal activity if the victim has not refused or failed to provide information and assistance reasonably requested by law enforcement.
- F. [DEPARTMENT] shall process a Form I-918B within 45 days of request, unless the victim is in removal proceedings, in which case the certification shall be processed within 14 days of request. If the request is denied, the Department will also notify the applicant in writing of the basis for the denial and the process for appealing the denial (“Department denial letter”).
- G. Within 90 days of the date of the Department denial letter, an applicant appealing a denial of a request for a U visa certification must mail a letter to the Department’s designated U certification appeals office as specified by the Department denial letter. The applicant’s letter must state the basis for appeal and include a copy of the Department denial letter. Within 90 days of receiving an applicant’s letter appealing a denial, the Department will send a letter to the applicant’s designated return mailing address notifying the applicant that the appeal: (i) is rejected and the initial denial is upheld; or (ii) is granted and the Department will issue a U certification.
- H. Neither a current investigation, the filing of charges, a prosecution nor a conviction is required to sign the certification, and there is no statute of limitations on signing the certification.
- I. [DEPARTMENT] shall make this policy and procedures for requesting certification publicly available on the [DEPARTMENT] website and shall be disseminated throughout the [DEPARTMENT]. All relevant [DEPARTMENT] employees will receive a copy of the policy annually and will be periodically trained about the policy and procedures described here.

IV. RECORD-KEEPING AND TRANSPARENCY

The [DEPARTMENT] shall publish on its public-facing website on a quarterly basis:

- A. The number of requests from ICE/CBP/USCIS to participate in or assist in any immigration enforcement activities or operations, including any raids, investigations, interrogations, detections, apprehensions, detentions, or requests to establish traffic perimeters;
- B. The number of immigration detainer requests, including I-247D, I-247N and I-247X, or administrative warrants received from ICE/CBP/USCIS to detain or share information about any person wanted in relation to immigration enforcement activities or operations;
- C. The date on which any requests of the type enumerated in Sections A-B of this Subsection were received;
- D. The responses from the [DEPARTMENT] to any requests of the type enumerated in Sections A-B of this Subsection;
- E. The number of times the [DEPARTMENT] shared or reported information to ICE/CBP/USCIS with regard to information about any person in the [DEPARTMENT’s] custody.

- F. The number of times the [DEPARTMENT] provided ICE/CBP/USCIS access to municipal facilities, property, equipment, information, databases, or to persons in [DEPARTMENT] custody, including the location, nature and characteristics of such access and demographic information about the person(s) in [DEPARTMENT] custody to whom ICE/CBP/USCIS was provided access.
- G. The number of U visa certifications requested, how many certifications were granted, how many certifications were denied, and the average length in days between a request and certification or denial of certification.

The [DEPARTMENT] shall consider all records relating to ICE/CBP/USCIS access to facilities and information, including all communications with ICE, to be public records for purposes of the Open Public Records Act (“OPRA”) (N.J.S.A. 47:1A-1 et seq.). The [DEPARTMENT] shall provide all relevant records upon request and requests shall be handled under the usual procedures for receipt of OPRA requests.

V. STATE AND FEDERAL LAW

Nothing in this Order shall be construed to require [DEPARTMENT] to violate state or federal law, regulation, directive, or court order.

New Jersey Attorney General Directive 2007-3 establishes guidelines for when “local, county, and State law enforcement agencies and officers shall interact with federal immigration authorities.” Certain information-sharing requirements established by federal law, such as 8 U.S.C. § 1373, also remain in effect. This Order does not alter [DEPARTMENT’s] obligations under these authorities.

VI. ENFORCEMENT

Any person who alleges a violation of this Order may file a complaint for investigation with the [OFFICE OF INTERNAL AFFAIRS/OFFICE OF PROFESSIONAL STANDARDS].