

MOUNT LAUREL POLICE DEPARTMENT GENERAL ORDER



General Order: GO-19-01	Revision #: 1	Distribution: A
Subject: IMMIGRATION		
By order of: Stephen T. Riedener, Chief of Police		Rules and Regulations: N/A
Issued: March 15, 2019	Revised: October 15, 2019	Accreditation Standards: N/A

I. Purpose/Policy

- A. The purpose of this policy is to establish guidelines for officer participation in federal immigration enforcement actions.
- B. It is the policy of the Mount Laurel Police Department to comply with the mandates of the New Jersey Attorney General Directive No. 2018-6 v2.0.

II. Definitions

- A. Administrative warrant. *See* immigration detainer.
- B. Alien. *See* immigrant.
- C. Civil immigration enforcement operations. Any law enforcement operation relating to federal civil immigration law.
- D. Federal civil immigration law. *See* Immigration and Nationality Act, [8 C.F.R. § Section 1101 et seq.](#)
- E. Final Order of Removal. An order made by an immigration judge to deport an immigrant from the country. *See* [8 C.F.R. § 1241.1](#).
- F. Human Trafficking: *See* [N.J.S.A. 2C:13-8](#) Immigrant. Any person who is not a citizen or national of the United States, except those classes of people identified in [8 C.F.R. § Section 1101](#).
- G. Immigration and Customs (ICE) detainer. *See* immigration detainer.
- H. Immigration detainer. A request by an immigration officer (not a judge) for police to advise their agency about the impending of an alien, so that they may arrange to assume custody. *See* [8 C.F.R. § 287.7](#).

- I. Personally Identifiable Information (PII). Information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. PII includes social security number, credit card number, unlisted telephone number, driver's license number, vehicle plate number, insurance policy number, and active financial account number of any person. It may also include the address, telephone number, or email address for an individual's home, work, or school, if that information is not readily available to the public. *See* [N.J.S.A. 47-1A-1.1](#), [N.J. Court Rule 1:38- 7\(a\)](#).
- J. Qualifying Criminal Activity. Any similar activity in violation of Federal, State, or local criminal law: 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; fraud in foreign labor contracting (as defined in section 1351 of title 18); or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes or offenses in which the nature and elements of the offenses are substantially similar. *See* [8 U.S.C. §1101\(a\)\(15\)\(U\)\(iii\)](#) and [8 C.F.R. § 214.14\(a\)\(9\)](#).
- K. Racially-influenced policing. Using the race or ethnicity of a person as a factor in drawing inferences or conclusions about their involvement in criminal activity or as factor in exercising officer discretion. *See* [Prohibition of Biased Based Policing](#) General Order. *See also* [Attorney General Law Enforcement Directive No. 2005-1](#).
- L. Violent or serious offense.
 - 1. Any first or second degree offense, as defined in N.J.S.A 2C:43-1;
 - 2. Any indictable domestic violence offense defined in N.J.S.A. 2C:25-19, as well as any domestic violence assault defined in N.J.S.A. 2C:25-19A(2).
 - 3. Any other indictable offense listed below; or
 - i. 2C:12-1, Assault
 - ii. 2C:12-1.1, Knowingly leaving scene of motor vehicle accident involving serious bodily injury
 - iii. 2C:12-10, Stalking
 - iv. 2C:12-13, Throwing bodily fluid at officers
 - v. 2C:14-3, Criminal sexual contact
 - vi. 2C:14-4B, Exposing genitals to minors under the age of 13 and other vulnerable populations
 - vii. 2C:16-1, Bias intimidation
 - viii. 2C:17-1, Arson
 - ix. 2C:17-2, Causing widespread injury or damage
 - x. 2C:18-2, Burglary of a dwelling
 - xi. 2C:24-4, Endangering the welfare of children

- xii. 2C:28-5, Witness tampering and retaliation
 - xiii. 2C:29-2B, Eluding a law enforcement officer
 - xiv. 2C:29-3A(5), 3B(2), 3B(3), Hindering apprehension or prosecution

 - xv. 2C:29-9, Criminal contempt (violation of restraining orders, domestic violence orders, etc.)
 - xvi. 2C:39-3, 39-5, 39-7, 39-9, Manufacture, transportation or possession of weapons
 - xvii. 2C:40-3B, Aggravated hazing
4. Any indictable offense under the law of another jurisdiction that is the substantial equivalent to an offense described in paragraphs II.L.1 through II.L.3.

III. Racially-Influenced Policing

- A. No officer shall engage in racially-influenced policing as defined in [Attorney General Law Enforcement Directive No. 2005-1](#) or the [Prohibition of Biased Based Policing](#) General Order

IV. Enforcement of Federal Civil Immigration Law

- A. *Use of immigration status in law enforcement activities.* Except pursuant to Sections IV.C and V, officers shall not:
- 1. Stop, question, arrest, search, or detain any individual based solely on:
 - a. actual or suspected citizenship or immigration status; or
 - b. actual or suspected violations of federal civil immigration law.
 - 2. Inquire about the immigration status of any individual, unless doing so is:
 - a. necessary to the ongoing investigation of an indictable offense by that individual; and
 - b. relevant to the offense under investigation.
- B. *Limitations on assisting federal immigration authorities in enforcing federal civil immigration law.* Except pursuant to Sections IV.C and V, officers shall not with the sole purpose of assisting in the enforcement of federal civil immigration law provide the following types of assistance to federal immigration authorities:
- 1. Participate in civil immigration enforcement operations.
 - 2. Provide any non-public personally identifying information (PII) regarding any individual.
 - 3. Provide access to any state, county, or local law enforcement equipment, office space, database, or property not available to the general public.
 - 4. Provide access to a detained individual for an interview, unless the detainee signs a written consent form that explains:
 - a. the purpose of the interview;
 - b. that the interview is voluntary;
 - c. that the individual may decline to be interviewed; and

- d. that the individual may choose to be interviewed only with his or her legal counsel present.
5. Provide notice of a detained individual's upcoming release from custody, unless the detainee:
 - a. is currently charged with, has ever been convicted of, has ever been adjudicated delinquent for, or has ever been found not guilty by reason of insanity of, a violent or serious offense;
 - b. in the past five years, has been convicted of an indictable crime other than a violent or serious offense; or
 - c. is subject to a Final Order of Removal that has been signed by a federal judge and lodged with the county jail or state prison where the detainee is being held.
6. Continue the detention of an individual past the time he or she would otherwise be eligible for release from custody based solely on a civil immigration detainer request, unless the detainee:
 - a. is currently charged with, has ever been convicted of, has ever been adjudicated delinquent for, or has ever been found not guilty by reason of insanity of, a violent or serious offense, as that term is defined in Section II. L of this policy;
 - b. in the past five years, has been convicted of an indictable crime other than a violent or serious offense; or
 - c. is subject to a Final Order of Removal that has been signed by a federal judge and lodged with the county jail or state prison where the detainee is being held.

Any such detention may last only until 11:59 pm on the calendar day on which the person would otherwise have been eligible for release.

- C. Exceptions and exclusions. Nothing in Section IV of this policy shall be construed to restrict, prohibit or in any way prevent officers from:
1. Enforcing the criminal laws of this state.
 2. Complying with all applicable federal, state, and local laws.
 3. Complying with a valid judicial warrant or other court order, or responding to any request authorized by a valid judicial warrant or other court order.
 4. Participating with federal authorities in a joint law enforcement taskforce the primary purpose of which is unrelated to federal civil immigration enforcement.
 5. Requesting proof of identity from an individual during the course of an arrest or when legally justified during an investigative stop or detention.
 6. Asking an arrested individual for information necessary to complete the required fields of the LIVESCAN database or other law enforcement fingerprinting database, including information about the arrestee's place of birth and country of citizenship.
 7. Providing federal immigration authorities with information that is publicly available or readily available to the public in the method the public can obtain it.
 8. When required by exigent circumstances, providing federal immigration authorities with aid or assistance, including access to non-public information, equipment or resources.
 9. Sending to, maintaining, or receiving from federal immigration authorities information regarding the citizenship or immigration status, lawful or unlawful, of any individual. *See* [8 U.S.C. § 1373](#) and [8 U.S.C. § 1644](#).

V. Notifications to Detained Individuals

- A. Officers shall promptly notify detained individuals, in writing and in a language the individual can understand, when federal civil immigration authorities request:
 - 1. To interview the detainee. *See* IV.B.4.
 - 2. To be notified of the detainee's upcoming release from custody. *See* IV.B.5.
 - 3. To continue detaining the detainee past the time he or she would otherwise be eligible for release. *See* IV.B.6.
- B. The above notification shall also include providing the detainee with copies of any documents provided by immigration authorities in connection with their request.

VI. Reporting

- A. Each year, in a manner prescribed by the Attorney General, the Office of Professional Standards will report all instances where officers provided assistance to federal civil immigration authorities for the purpose of enforcing federal civil immigration law.
 - 1. Any assistance provided as described in Section IV.B.1 to IV.B.6 during the prior calendar year shall be detailed in a report submitted to the Burlington County Prosecutor's Office.

VII. Training

- A. By March 15, 2019, all officers shall complete the course entitled "Police Officer Training on Immigration Directive 2018-6" on the NJLearn system.

VIII. Agreements with the Federal Government

- A. The Mount Laurel Police Department will not enter into any agreement exercising federal immigration authority pursuant to [Section 287\(g\)](#) of the Immigration and Nationality Act, [8 U.S.C. § 1357\(g\)](#).

IX. Requests for T and U Nonimmigrant Status Certifications

- A. Immigrants who are victims of certain crimes may be eligible to obtain legal status in the United States by application to the United States Citizenship and Immigration Services (USCIS), a federal agency of the Department of Homeland Security. These visas, referred to as a T-Visa or U-Visa, allow the recipient, as well as certain family members, to obtain legal status and remain in the United States for a period of up to four years to assist law enforcement in the prosecution of criminal activity. In certain circumstances, a visa may be renewed or may serve as a basis for an application for permanent legal status.
- B. Prior to submitting an application to the United States Citizenship and Immigration Services, certain documentation must be submitted to the Burlington County Prosecutor's Office for review.

1. Visa Eligibility and Declaration

a. Nonimmigrant T-Visas

i. Eligibility

- A) Is, or has been, a victim of a severe form of trafficking in persons; and
- B) Has complied with requests for assistance in an investigation or prosecution of the crime of trafficking.

ii. Declaration

- A) An applicant for a T-Visa must prove to the USCIS that he or she has satisfied the eligibility requirements as set forth above. In order to do so, the individual may obtain a signed statement, known as a “declaration,” from the law enforcement agency investigating or prosecuting the case. The declaration, titled [“Declaration of Law Enforcement Officer for Victim in Trafficking of Persons” \(USCIS Form I-914B\)](#).
- B) In Burlington County, the Burlington County Prosecutor, or his designee, is the only individual authorized to sign a declaration for a T-Visa.

b. Nonimmigrant U-Visas

i. Eligibility

- A) Is the victim of qualifying criminal activity; and
- B) Was, is, or is likely to be helpful in the investigation or prosecution of that activity.

ii. Certification

- A) An applicant for a U-Visa must prove to the United States Citizenship and Immigration Services that he or she has satisfied the eligibility requirements as set forth above. To do so, the individual must obtain a signed statement, known as a “certification,” from the law enforcement agency investigating or prosecuting the case. The certification, titled [“Supplement B, U Nonimmigrant Status Certification” \(USCIS Form I-918\)](#), is required. The USCIS will not consider an application for a U-Visa without the certification.
- B) In Burlington County, the Burlington County Prosecutor, or his designee, is the only individual authorized to sign the certification.

2. Visa Application Process

a. Obtaining a Declaration or Certification

- i. Individuals who satisfy the eligibility requirements set forth above may submit a completed Declaration of Law Enforcement Officer for Victim in Trafficking of Persons Form (T-Visa), or Supplement B, Nonimmigrant Status Certification Form (U-Visa), directly to the Burlington County Prosecutor’s Office for consideration.
- ii. That decision to issue a declaration or certification is the sole discretion of the Prosecutor or his designee. A decision shall be rendered within 120 days from the date of submission.
- b. Time for Application. An application for a T- or U-Visa may be submitted at any time during the pendency of, or subsequent to, the investigation or prosecution of the criminal activity. There are no time limitations to file an application.

3. Inquiry Into and Disclosure of Immigration Status.

- a. Notwithstanding any provision in Section IV, officers may ask any questions necessary to complete a T- or U-visa certification. They may generally not disclose the immigration status of a person requesting T- or U-visa certification except to comply with state or federal law or legal

process, or if authorized by the visa applicant. However, nothing in this section shall be construed to restrict, prohibit, or in any way prevent officers from sending to, maintaining, or receiving from federal immigration authorities information regarding the citizenship or immigration status, lawful or unlawful, of any individual. See [8 U.S.C. §§ 1373, 1644](#).

X. Closing

- A. All police procedures or policies heretofore employed by this department, which conflict with this order, are hereby rescinded.
- B. All Commanders and Supervisors shall be held accountable for the application and enforcement of this order. All members of the Mount Laurel Police Department are required to follow this order as applicable