

CHATHAM TOWNSHIP POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



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SUBJECT: Immigrant Trust					
BY THE ORDER OF: Chief of Police Chief Thomas Miller			ACCREDITATION STANDARDS:		
Effective Date: 3/15/2019			SUPERSEDES ORDER #:		
REVISION DATE		SECTION		REVISION DATE	
10/11/2019		Section III, A			

PURPOSE The purpose of this standard operating procedure is to strengthen trust between the Chatham Township Police Department and members of the immigrant communities that its Officers may encounter on a day to day basis.

POLICY No law enforcement officer shall at any time engage in conduct constituting racially-influenced policing as defined in Attorney General Law Enforcement Directive No. 2005-1. Furthermore, the policy of the Chatham Township Police Department shall be to protect the public by investigating state criminal offenses and enforcing state criminal law, leaving the enforcement of civil immigration law to Federal law enforcement officials, except in narrowly defined circumstances as defined below, and specified in Attorney General Directive No. 2018-6.

DEFINITIONS OF TERMS

Non-Public Personally Identifying Information – 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. May also include address, telephone number or email address for an individual’s home, work or school. See N.J.S.A. 47:1A-1.1, N.J. Court Rule 1:38-7(a).

Judicial Warrant – An order issued by a federal state or judge. It is not the same as an immigration detainer (ICE Detainer) or administrative warrant, both of which are issued by federal immigration officers.

PROCEDURES

- I. **Racially-Influenced Policing** - No Chatham Township Police Officer shall at any time engage in conduct constituting racially-influenced policing as defined in Attorney General Law Enforcement Directive No. 2005-1

- II. **Enforcement of Federal Civil Immigration Law**
 - A. ***Use of immigration status in law enforcement activities.*** Except pursuant to Sections IIC and III below, no member of this agency shall:
 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 IIC and III below, this agency shall not provide the following types of assistance to federal immigration authorities when the sole purpose of that assistance is to enforce federal civil immigration law:
 1. Participating in civil immigration enforcement operations.

2. Providing any non-public personally identifying information regarding any individual.
 - a) Non-public personally identifying information includes a 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. See N.J.S.A. 47:1A-1.1, N.J. Court Rule 1:38-7(a). 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.
3. Providing access to any state, county, or local law enforcement equipment, office space, database, or property not available to the general public.
4. Providing 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. Providing notice of a detained individual's upcoming release from custody, unless the detainee:

- a) Is currently charged with, has ever been convicted of, or has ever been adjudicated delinquent for a violent or serious offense, as that term is defined in Appendix A;
 - 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. Continuing 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, or has ever been adjudicated delinquent for a violent or serious offense, as that term is defined in Appendix A;
 - 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 Sections IIA or IIB shall be construed to restrict, prohibit, or in any way prevent the employees of this agency 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.
 - a) As noted earlier, a “judicial warrant” is one issued by a federal or state judge. It is not the same as an immigration detainer (sometimes referred to as an ICE detainer) or an administrative warrant, both of which are currently issued not by judges but by federal immigration officers. Under federal and state law, local law enforcement agencies are not required to enforce civil administrative warrants or civil detainers issued by federal immigration officers.
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. Inquiring about a person’s place of birth on a correctional facility intake form and making risk-based classification assignments in such facilities.

8. Providing federal immigration authorities with information that is publicly available or readily available to the public in the method the public can obtain it.
9. When required by exigent circumstances, providing federal immigration authorities with aid or assistance, including access to non-public information, equipment, or resources.
10. 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.

III. **Agreements with the Federal Government**

- A. **Section 287(g) agreements.** This agency shall not enter into, modify, renew, or extend any agreement to exercise federal immigration authority pursuant to Section 287(g) of the Immigration and Nationality Act, 8 U.S.C. § 1357(g), and they shall not exercise any law enforcement authority pursuant to a preexisting Section 287(g) agreement.
- B. **Intergovernmental Service Agreements.** Nothing in Section II of this Directive shall apply to law enforcement agencies that are currently party to an Intergovernmental Service Agreement (IGSA) to detain individuals for civil immigration enforcement purposes when they are acting pursuant to such an agreement.

IV. **Requests for T and U Nonimmigrant Status Certifications**

- A. **Establishing Certification Procedures** – It is the policy of this Department that all applications and requests for U and T visas shall be processed in

accordance with federal law (8 U.S.C. 1101(a)(15)(T) and 1101(a)(15)(U) and New Jersey Attorney General Directive 2018-6.

- B. ***T-visa certifications*** – A temporary immigration benefit that enables certain victims of a severe form of human trafficking to remain in the United States for up to 4 years if they have assisted law enforcement in an investigation or prosecution of human trafficking. T non-immigrant status is also available for certain qualifying family members of trafficking victims.

- C. ***U-visa certifications***. A temporary immigration benefit set aside for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity.

- D. All applications or request for U and T visas shall be immediately forwarded directly to the Chief of Police. Only the Chief of Police, or designee, may complete U and T visa applications for the Chatham Township Police Department.

- E. The Chief of Police or designee shall review each request for a U or T visa consistent with federal law and the Department of Homeland Security U and T Visa Law Enforcement Resource Guide. Review shall include a determination of the following:
 - 1. For U visa certifications: whether, pursuant to the standards set forth in federal law and instructions to USCIS Form I-914 Supplement B, the requester:
 - a. Is a victim of a qualifying criminal activity; and
 - b. Was, is, or is likely to be, helpful in the investigation or prosecution of that activity.

 - 2. For T visa certifications: whether, pursuant to the standards set forth in federal law and instructions to USCIS Form I-914 Supplement B, the requester:

- 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.
- F. Requests for U and T visa certifications from victims of crime or human trafficking, or their families, shall be processed within 120 days of the request being made.
- G. The U and T visa can be a key tool to support a criminal case, can help certain crime victims feel safer reporting crimes, and make them willing to work with police even if they do not have lawful immigration status. Employees may also encounter victims who could qualify for a U or T visa but do not know about it. Providing them with information about the U or T visa may enable them to feel more comfortable working with police. As such, employees of this Department are authorized to do the following:
 - 1. Provide information to victims and their family members on the U and T visa programs. This may include the Department of Homeland Security U and T Visa Immigration Relief for Crime Victims Overview.
 - 2. Accept application for U and T visas and forward them directly to the Chief of Police for review.
- H. Subject to New Jersey Attorney General Directive 2018-6, employees may ask any questions necessary to complete a U or T visa certification. They may generally not disclose the immigration status of a person requesting a U or T visa certification except to comply with state or federal law or legal process, or if authorized by the visa applicant. However, nothing in this order shall be construed to restrict, prohibit, or in any way prevent a state, county, or local law enforcement agency or official 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.

V. **Notifications and Recordkeeping**

- A. ***Notifications to detained individuals.*** This agency shall promptly notify a detained individual, in writing and in a language the individual can understand, when federal civil immigration authorities request:

1. To interview the detainee. (See § II.B.4.)
2. To be notified of the detainee's upcoming release from custody. (See § II.B.5.)
3. To continue detaining the detainee past the time he or she would otherwise be eligible for release. (See § II.B.6.)

When providing such notification, law enforcement officials shall provide the detainee a copy of any documents provided by immigration authorities in connection with the request.

B. ***Annual reporting by law enforcement agencies.*** On an annual basis, each state, county, and local law enforcement agency shall report, in a manner to be prescribed by the Attorney General, any instances in which the agency provided assistance to federal civil immigration authorities for the purpose of enforcing federal civil immigration law described in Sections II.B.1 to II.B.6. Each year:

1. This agency shall submit a report to the Morris County Prosecutor detailing any such assistance described in Sections IIB.1 to IIB6 during the prior calendar year.

C. **Morris County Prosecutor's Office Procedural Mandate**

1. The Chatham Township Police Department shall immediately notify the Morris County Prosecutor's Office Intelligence Unit/Homeland Security Unit any time that federal civil immigration authorities make an inquiry concerning any issue within our jurisdiction, or anytime a county or local law enforcement agency operating in Morris County desires to communicate with federal civil immigration authorities.

- a. The Morris County Prosecutor's Office Intelligence Unit/Homeland Security Unit can be contacted during business hours (8:30 am – 4:30

pm). After hours, weekends and holidays, contact the Morris County Communications Center at 973-285-2900 and request the On-Call Detective from that Unit to contact this agency.

- b. Regardless of the degree of involvement with federal civil immigration authorities, this agency shall memorialize any incident on a report and forward the same to the Morris County Prosecutor's Office Chief of Investigations.

ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2018-6
APPENDIX A
(Issued November 29, 2018)

For the purposes of Sections II.B.5 and II.B.6, the term “violent or serious offense” is defined as follows:

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;
3. Any other indictable offense listed in the chart below; *or*
4. Any indictable offense under the law of another jurisdiction that is the substantial equivalent to an offense described in paragraphs 1-3 above.

2C:12-1	Assault
2C:12-1.1	Knowingly Leaving Scene of Motor Vehicle Accident Involving Serious Bodily Injury
2C:12-10	Stalking
2C:12-13	Throwing Bodily Fluid at Officers
2C:14-3	Criminal Sexual Contact
2C:16-1	Bias Intimidation
2C:17-1	Arson
2C:17-2	Causing Widespread Injury or Damage
2C:18-2	Burglary of a Dwelling
2C:24-4	Endangering the Welfare of Children
2C:28-5	Witness Tampering and Retaliation
2C:29-2B	Eluding a Law Enforcement Officer
2C:29-3A(5)	Hindering Apprehension of Another Using Force or Intimidation
2C:29-3B(2)	Hindering Apprehension of Oneself Using Force or Intimidation
2C:29-9	Criminal Contempt (Violation of Restraining Orders, Domestic Violence Orders, Etc.)
2C:40-3B	Aggravated Hazing