

STANHOPE POLICE DEPARTMENT STANDARD OPERATING PROCEDURES



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SUBJECT: IMMIGRATION LAW ENFORCEMENT

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ACCREDITATION STANDARDS:

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PURPOSE: To establish guidelines for contact with subjects who are not U.S. citizens and who are not in the U.S. legally. To foster a trust between law enforcement and undocumented aliens and to set guidelines for sharing immigration information with I.C.E.

POLICY: One of the Stanhope Police Department's primary missions is to deter criminal acts, apprehend criminals involved in criminal acts, protect victims and witnesses, and to collect intelligence to achieve the two aforementioned goals. The Stanhope Police Department will adhere to Attorney General Law Enforcement Directive 2018-6.

I. Racially-Influenced Policing

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.

II. Enforcement of Federal Civil Immigration Law

A. Use of immigration status in law enforcement activities. Except pursuant to Sections II.C and below, no state, county or local law enforcement agency or official 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 II.C and III below, no state, county, or local law enforcement agency or official shall 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.¹
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 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.

¹ 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.

- C. Exceptions and exclusions. Nothing in Sections II.A or II.B shall be construed to restrict, prohibit, or in any way prevent a state, county, or local law enforcement agency or official 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.²
 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 investigation 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 authority's information regarding the citizenship or immigration status, lawful or unlawful, of any individual. See 8 U.S.C. §§ 1373, 1644.
 11. Complying with V3 C24 Diplomatic and Consular Immunity.
 12. Complying with V3 C25 Arrest of Foreign Nationals, when contacting foreign consular officials.

² 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.

IV. Requests for T and U Nonimmigrant Status Certifications

- B. T-visa certifications. For T-visa certification requests, shall include a determination of whether, pursuant to the standards set forth in federal law and instructions to USCIS Form 1-914 Supplement B, the requester:
1. Is or has been a victim of a severe form of trafficking persons; and
 2. Has complied -with requests for assistance in an investigation or prosecution of the crime of trafficking.
- C. U-visa certifications. For U-visa certification requests, shall a determination whether, pursuant to the standards set forth in federal law and instructions to USCIS Form 1-918 Supplement B, the applicant;
1. Is a victim of a qualifying criminal activity; and
 2. was, is, or is likely to be, helpful in the investigation or prosecution of that activity.
- D. Inquiry into and disclosure of immigration status. Notwithstanding any provision in Section II, state, county, and local law enforcement agencies and officials 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 Tor 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 a state, county, or local law enforcement agency or official from sending to, maintaining, or receiving from federal immigration authority's information regarding the citizenship or immigration status, lawful or unlawful, of any individual. See 8 U.S.C. §§ 1373, 1644.
- E. Resources:

Further Information may be found at:

http://www.dhs.gov/xlibrary/assets/dhs_u_vis_a_certification_guide.pdf

Form for T and U Visa

Interview consent forms for ICE

VI. Notifications and Recordkeeping

- A. Notifications to detained individuals. State, county, and local law enforcement agencies and officials 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.

ATTORNEY GENREAL LAW ENFORCEMENT DIRECTIVE NO. 2018-6

APPENDIX A

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.

Chart of Additional Violent & Serious Offenses

(Referenced in Paragraph 3 Above)

Statute	Description
2C:12-1	Assault
2C:12-1.1	Knowingly Leaving Scene of Motor Vehicle Accident Involving 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
2:17-2	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