

**DEPARTMENT RULES AND REGULATIONS/POLICIES AND PROCEDURES**

<b>HOLLAND TOWNSHIP POLICE DEPARTMENT</b>	<b>EFFECTIVE DATE: 03/15/2019</b>	REVISION DATE:	PAGE #:	SECTION:	APROVED	<b>VOLUME VI</b>
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ACCREDITATION STANDARD(S):	REFERENCE: <b>V06C10</b>					<b>CHAPTER 10</b>
SUBJECT: <b>Immigrant Trust Policy</b>						<b>DISTRIBUTION 1 2</b>
ISSUING AUTHORITY  <b>Chief Sean P. Gutsick</b>						
ATTORNEY GENERAL, PROSECUTOR'S OFFICE REFERENCE						<b>Evaluation Date: 02/2027</b>

**PURPOSE:**

The purpose of this standard operating procedure is to provide Holland Township Police officers with notice of Attorney General Law Enforcement Directive 2018-6 and 2018-6 V2.0, which went into effect on March 15, 2019, and repeals and supersedes Attorney General Law Enforcement Directive 2007-3. Effective March 15, 2019, all county and local law enforcement agencies must adopt a policy, standard operating procedure, rule, order, or regulation consistent with both Directive 2018-6 and this Standard Operating Procedure, or revise their current policies, standard operating procedures, rules, orders, or regulations to be consistent with that Directive and this Standard Operating Procedure.

**POLICY:**

It is the policy of the Holland Township Police Department to continue building trust between law enforcement agencies in the County and the diverse immigrant communities that live here. All county and local law enforcement agencies and their officers shall adhere to Directive 2018-6 and 2018-6 V2.0, this Standard Operating Procedure, and their own such standard operating procedures, policies, rules, orders, or regulations. Any standard operating procedure, policy, rule, order, or regulation that conflicts directive or this Standard Operating Procedure is rescinded.

## I. Introduction

- A. The purpose the directive is to ensure effective policing, protect the safety of all New Jersey residents, and direct limited state, county, and local law enforcement resources toward enforcing the state's criminal laws. It provides that New Jersey law enforcement officers are not responsible for enforcing civil immigration violations (administrative warrants or immigration detainers issued by federal immigration officers), although they should assist federal immigration authorities when the law so requires. Nothing in the Directive, however, limits law enforcement from enforcing state law or from complying with federal law or valid court orders, nor should it be read to imply that New Jersey provides "sanctuary" to those committing crimes.
- B. Attorney General Law Enforcement Directive 2005-1 prohibiting racially influenced policing remains in effect.

## II. Enforcing Federal Civil Immigration Law

- A. Except in certain circumstances, no county or local law enforcement agency or officer shall:
  - 1. Use a person's immigration status in conducting law enforcement activities.
  - 2. Assist federal immigration authorities when the sole purpose is to enforce federal civil immigration law.
    - a. Exceptions. Directive 2018-6 sec. II B(5) and (6).

## III. Agreements with the Federal Government

- A. Except in certain circumstances, no county or local law enforcement authority shall 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.S sec. 1357(g).
- B. Nothing in Directive 2018-6 sec. II (enforcement of federal civil immigration law) applies to law enforcement agencies that currently are party to an Intergovernmental Service Agreement to detain individuals for civil immigration enforcement purposes when acting pursuant to such agreement.

## IV. Requests for T- and U- Visa Nonimmigrant Status Certifications

- A. Definitions:
  - 1. T Nonimmigrant Status (T Visa) – provides immigration protection to victims of trafficking. The T Visa allows victims to remain in the United States and assist law enforcement authorities in the investigation or prosecution of human trafficking cases.
  - 2. U Nonimmigrant Status (U Visa) – provides immigration protection to crime victims who have suffered substantial mental or physical abuse as a result of a crime.

The U Visa allows victims to remain in the United States and assist law enforcement authorities in the investigation or prosecution of the criminal activity.

- B. It is the policy of the Holland Township Police Department to foster positive relationships and trust with all members of the Township's diverse immigrant communities. The Office will fairly, objectively, and expeditiously review and process all requests for T- and U-visa certification requests for which it is responsible.
- C. Before March 15, 2019, all county and local law enforcement agencies must adopt procedures for processing T- and U-visa certification requests from potential crime or human trafficking victims. Each agency responsible for responding to these requests must process them within 120 days of their submission, and every police department must post information about its visa procedures either on its website or on the municipality's website when feasible.

Each agency must notify the Hunterdon County Prosecutor's Office in writing that their T- and U-visa certification procedures are in place, where they can be found on the agencies or municipality's website if posted, and that their procedures were effective before March 15, 2019.

- D. Notwithstanding Directive 2018-6 sec. II, county and local law enforcement agencies and officials may ask any questions necessary to complete a T- and U-visa certification.

#### V. Considerations for Prosecutors

- A. At defendant's initial court appearance, the prosecutor shall confirm that defendant is or has been advised on the record that potential charges and convictions may carry immigration consequences, and that defendant may have rights to consular notification pursuant to the Vienna Convention on Consular Relations. Directive 2018-6 sec. V A; Padilla v. Kentucky, 559 U.S. 356 (2010); see State v. Gaitan, 209 N.J. 339 (2012); State v. Blake, 444 N.J. Super.285 (App. Div.), certif.denied, 226 N.J. 213 (2016).
- B. The prosecutor shall make an individualized assessment based on each case's specific facts when determining whether to seek pretrial detention, and shall not assume that a non-citizen presents a flight risk.
- C. Evidence of a defendant's immigration status is typically irrelevant to the crime charged or to a witness' credibility. Directive 2018-6 sec. V C; State v. Sanchez-Medina, 231 N.J. 452 (2018).
- D. Prosecutors should consider potential collateral consequences when reaching a just resolution in a case. Nothing in Directive 2018-6 or 2018-6 V2.0 shall be construed to limit prosecutorial discretion to require any particular charge or sentence, or to prevent any argument at sentencing.

## VI. Notifications and Recordkeeping

- A. County and local law enforcement agencies and officials shall promptly notify a detained individual, in writing and in a language he or she understands, when federal civil immigration authorities request to interview the detainee, to be notified of the detainee's upcoming release from custody, and to continue detaining the individual past his or her eligible release date. A copy of any documents federal immigration authorities provide to county or local law enforcement agencies and officials shall be provided to the detainee.
- B. Every calendar year each county and local law enforcement agency shall submit to the Hunterdon County Prosecutor's Office a written report, as prescribed by the Attorney General, detailing any instances when the agency assisted federal civil immigration authorities in enforcing federal civil immigration law. The report concerning the calendar year will be due by January 31 of the following year.
- C. Every calendar year the Hunterdon County Prosecutor's Office shall compile any reports of assistance submitted by county and local law enforcement agencies, and submit a consolidated report to the Attorney General detailing such assistance.

## VII. Training

Before March 15, 2019, all county and local law enforcement agencies shall provide training to all officers on Directive 2018-6. Directive 2018-6 sec. VII. This training is available on NJ LEARN - "Police Officer Training on Immigration Directive 2018-6" and "Correctional Officer Training on Immigration Directive 2018-6." The Attorney General's Office expects to have these two courses posted as "Resources" on NJ LEARN in a narrated PowerPoint format. By April 15, 2019, each law enforcement agency shall notify the Hunterdon County Prosecutor's Office in writing that all officers in their agency have been so trained.

## VIII. Community Relations and Outreach

- A. The Hunterdon County Prosecutor's Office will conduct outreach to educate the public about the Directive's provisions, with a focus on strengthening trust between law enforcement and immigrant communities.
- B. By July 13, 2019, the Hunterdon County Prosecutor's Office will report to the Attorney General on these public outreach and education efforts.

## APPENDICES

### Appendix A: Attorney General Directive No. 2018-6 v2.0