


<b>DELAWARE TOWNSHIP POLICE DEPARTMENT</b>					
<b>VOLUME: 06</b>	<b>CHAPTER: 21</b>	<b># OF PAGES: 6</b>			
<b>SUBJECT: Immigrant Trust Policy</b>					
<b>EFFECTIVE DATE:</b> March 8, 2019	<b>ACCREDITATION STANDARDS:</b>	<b>REVISION DATE</b>	<b>PAGE #</b>		
<b>BY THE ORDER OF:</b> Phillip C. Cane Chief of Police					
<b>SUPERSEDES ORDER #:</b>					

**PURPOSE:**

The purpose of this standard operating procedure is to provide all the Delaware Township Police Officers with notice of Attorney General Law Enforcement Directive 2018-6 (“Directive 2018-6”) (Appendix A), which becomes operational on March 15, 2019, and repeals and supersedes Attorney General Law Enforcement Directive 2007-3. By 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. Directive 2018-6 sec. VIII A.

**POLICY:**

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policy, rule, order, or regulation that conflicts with Directive 2018-6 or this Standard Operating Procedure is rescinded.

## **I. Introduction**

A. The purpose of Directive 2018-6 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. See Directive 2018-6 sec. II C and III. 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. Directive 2018-6 Introduction.

B. Attorney General Law Enforcement Directive 2005-1 prohibiting racially influenced policing remains in effect. Directive 2018-6 sec. I.

## **II. Enforcing Federal Civil Immigration Law**

A. Except in certain circumstances (see Directive 2018-6 sec. II A(2), C, and III), no county or local law enforcement agency or officer shall:

1. Use a person's immigration status in conducting law enforcement activities. Directive 2018-6 sec. II A.
2. Assist federal immigration authorities when the sole purpose is to enforce federal civil immigration law. Directive 2018-6 sec. II B.
  - a. Exceptions. Directive 2018-6 sec. II B(5) and (6); see *Attorney General Directive No. 2018-6 Appendix A*.

## **III. Agreements with the Federal Government**

A. Except in certain circumstances (see Directive 2018-6 sec. III A), 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). Directive 2018-6 sec. III A.

- 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. Directive 2018-6 sec. II B.

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

- A. It is the policy of the Delaware Township Police Department to foster positive relationships and trust with all members of diverse immigrant communities. The Department will fairly, objectively, and expeditiously review and process all requests for T- and U-visa certification requests for which it is responsible.

- B. The Delaware Township Police Department has adopted policy and procedures for accepting requests for T and U Nonimmigrant Status Certifications. The Department will fairly, objectively, and expeditiously review and process all requests for T and U Visa certification requests for which it is responsible. Refer to Volume 03 Chapter 17 U and T Visa Certifications.

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 agency's or municipality's website if posted, and that their procedures were effective before March 15, 2019. Directive 2018-6 sec. IV A and VIII A.

- C. 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. Directive 2018-6 sec. IV D; see 8 U.S.C.S. sec. 1373, 1644.

**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 DELAWARE TOWNSHIP POLICE DEPARTMENT – Immigrant Trust Policy- Page 3 of 5

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. Directive 2018-6 sec. V B.
- 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 shall be construed to limit prosecutorial discretion to require any particular charge or sentence, or to prevent any argument at sentencing. Directive 2018-6 sec. V D.

#### VI. **Notifications and Recordkeeping**

- A. The Delaware Township Police Department Officers 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. Directive 2018-6 sec. VI A; see Directive 2018-6 sec. II B(4), (5), and (6). See *Appendix B ICE Interview Consent Form and Appendix C Notification to Defendants of ICE Actions*.
- B. Every calendar year the Delaware Township Police Department 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. Directive 2018-6 sec. VI B(1); see Directive 2018-6 sec. II B(1) to (6). 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. Directive 2018-6 sec. VI B(2); see Directive 2018-6 sec. VI B(1); this SOP sec. VI B.

VII. **Training**

Before March 15, 2019, the Delaware Township Police Department 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. Directive 2018-6 sec. VIII B.

- B. By July 13, 2019, the Hunterdon County Prosecutor's Office will report to the Attorney General on these public outreach and education efforts. Directive 2018-6 sec. VIII B.