

PRINCETON POLICE DEPARTMENT GENERAL ORDER



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ENFORCEMENT OF IMMIGRATION LAWS

BY THE ORDER OF:

Chief Nicholas Sutter

ACCREDITATION STANDARDS:

EFFECTIVE DATE: November 11, 2013

SUPERSEDES ORDER #: Rev. (November 6, 2017)

PURPOSE:

Local police agencies depend on the cooperation of immigrants in solving all types of crimes and in the maintenance of public order. Without assurances that they will not be subject to an immigration investigation and possible deportation, many immigrants with critical information would not come forward, even when heinous crimes are committed against them or their families. Local police are not charged with the enforcement of federal immigration laws. Immigration enforcement by state and local police would have an adverse effect in community/police relations. It is the intention of the Princeton Police Department to maintain positive relations with all members of the Princeton Community by providing fair, compassionate and unbiased police service to all community members regardless of the community members' immigration status. It should also be noted that given the limited resources and funding the Princeton Police Department has to facilitate law enforcement functions consistent with the department's mission, the Princeton Police Department will not enter into any form of agreement or contract with any agency that will grant federal immigration enforcement authority or powers to the members of this department. To do so would strain local resources and deviate those existing resources from the stated mission of the department.

POLICY:

- I. Limitations on Arrest without a Warrant
 1. Local police agencies must comply with the laws of their own municipalities and states as well as the policies imposed by the police agency. State law may not authorize local police to detain persons for immigration violations.
 2. NCIC alerts to detain individuals recognize the limited authority of the police in these matters and include the qualifiers "If permitted by state and

local law" and "If permitted in your jurisdiction." Federal immigration officers do not face such restrictions, because the federal immigration laws allow them to detain and interrogate a person as to their right to be or remain in the United States under circumstances broader than those permitted to state and local police.

3. Princeton Police Department policy mandates that employees of this department will not detain persons pursuant to an ICE Detainer (DHS I-247D, 247N, 247X <http://www.ice.gov/doclib/secure-communities/pdf/immigration-detainer-form.pdf>) in situations other than those arising from incidents mandated by the New Jersey Attorney General's Directive 2007-3 <http://www.nj.gov/oag/newsreleases07/ag-le-directive-2007-3.pdf> and no departmental resources will be expended to comply with these detainers in situations other than those arising from an inquiry mandated in the aforementioned NJAG directive.

PROCEDURE:

I. NCIC/SCIC HITS:

1. Officers shall not arrest or otherwise detain persons who are entered in the NCIC/SCIC system by U.S. Immigration and Customs Enforcement (I.C.E.) unless the entry is for an actual criminal arrest warrant and only after the hit confirmation process has been completed. An NCIC/SCIC immigration status warning hit is not an arrest warrant and as such, officers have no authority to detain or arrest on the basis of an immigration status warning.
2. Officers shall not engage in racial profiling with regard to any enforcement action as stated in Princeton Police Department General Order 2:9, Racially Influenced Policing. Specifically, officers shall not rely on any person's actual or perceived national origin, immigration status, race, ethnicity, language proficiency, religion, sexual orientation, gender identity, status as a veteran, disability or financial status in deciding to initiate a stop, question, arrest, detain or take any other law enforcement action except when a specific suspect description includes information on the aforementioned categories and that information is used to link a specific person to suspected criminal activity.
3. Officers shall not inquire or request information about or otherwise investigate the citizenship or immigration status of any person unless the inquiry is required by law or other legitimate law enforcement purpose pursuant to an investigation.
4. Officers may accept forms of identification such as a passport, driver's license, Mercer County Community ID or consular issued document for purposes of identification if said documents are determined to be issued legitimately. Presentation of such documents shall not constitute reasonable suspicion for further investigation solely based on the individuals' immigration status.

II. Detainer Vs. Warrant

1. It is important for officers to discern between an I.C.E. Detainer (DHS I-247) and an enforceable judicially issued arrest warrant.

- a. DHS I-247 Detainer

Any authorized immigration officer may at any time issue a Form I-247, Immigration Detainer Notice of Action, to any Federal, State or Local law enforcement agency. A detainer serves to advise another law enforcement agency that I.C.E. seeks custody of the individual in the custody of that agency for the purpose of further investigation or for actual removal of that person. A detainer is a **request** from I.C.E. and not a court issued order.

- b. Enforceable Judicial Arrest Warrant

An Arrest warrant is a legal order issued by a court that directs all sworn law enforcement officers to deliver a specific individual by means of arrest before the appropriate court. Police Officers have no discretion in deciding whether to arrest said individual and must take the named person into custody on a validly issued arrest warrant.

III. Assistance to Federal Immigration Authorities:

1. The Princeton Police Department shall provide the appropriate level of assistance to federal immigration authorities **when requested.**
2. When an officer receives a request from Immigration Customs Enforcement (I.C.E.) for police assistance, the request shall be referred to a shift commander.
3. The shift commander in consultation with a Superior Officer and/or the Chief of Police shall review the request and direct the appropriate police action based on prevailing policy and public safety concerns. The Princeton Police Department will not participate in any civil actions taken by any agency not necessitating a public safety need for assistance or enforcement of a judicially mandated action. All requests for assistance shall be assessed with the safety of Princeton residents as the primary goal.
4. Officers shall not enter a structure to arrest, or interview, or otherwise participate inside of any location during an immigration action, but shall only provide a police presence outside in case of a disturbance or other public safety concern that may arise as a result of the immigration enforcement action
5. Upon completion of any detail, the shift commander shall ensure that an Operations Report is completed that shall include, at a minimum, the location and target of the I.C.E. action, the names of the I.C.E. Agents, and their agency/office phone number as well as a full account of the incident and resources (officers, equipment) expended.

6. Officers will provide assistance in the form of information, referrals and any other basic need or social service a resident may require as a result of the action. Additionally, the Executive Director of Princeton Human Services should be provided the names and contact information of any adversely effected individuals so that assistance may be provided.
7. Requests for information from the public or press shall be directed to the Public Information Officer of the police department.
8. This directive will be reviewed by the Chief of Police at least annually for updating purposes.

IV. U VISA PROCEDURES

1. The U nonimmigrant status (U visa) is 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. Congress created the U nonimmigrant visa with the passage of the Victims of Trafficking and Violence Protection Act (including the Battered Immigrant Women's Protection Act) in October 2000. The legislation was intended to strengthen the ability of law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault, trafficking of aliens and other crimes, while also protecting victims of crimes who have suffered substantial mental or physical abuse due to the crime and are willing to help law enforcement authorities in the investigation or prosecution of the criminal activity. The legislation also helps law enforcement agencies to better serve victims of crimes. <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status>.
2. For the purpose of U Visa certification, "Qualifying criminal activity" means qualifying criminal activity pursuant to § 101(a)(15)(U)(iii) of the Immigration and Nationality Act which includes, but is not limited to, the following crimes: 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, or Fraud in Foreign Labor Contracting (as defined in 18 U.S.C. §1351) . "Qualifying criminal activity" or "qualifying crime" includes criminal offenses for which the nature and elements of the offenses are substantially similar to the criminal offenses described in this Section, and the attempt, conspiracy, or solicitation to commit any of those offenses.
3. After reviewing the relevant investigation related to the U-Visa request and verifying the qualifying criminal activity and the helpfulness and/or cooperation of the victim with the investigation and/or prosecution, the certifying official shall process the Form I-98b as soon as practicably possible. If the request is denied, the department will notify the applicant in writing.

V. RECORD KEEPING AND TRANSPARENCY

The Department will publish on a quarterly basis:

1. The number of requests from ICE/CBP/USCIS to participate in or assist in any immigration enforcement activities or operations.
2. The number of immigration detainer requests, including I-247D, I-247N and I-247X, or administrative warrants received from ICE/CBP/USCIS to detain or share information about any person wanted in relation to immigration enforcement activities or operations.
3. All requests for records relating to immigration actions or related issues will be handled in accordance with all applicable public records laws.