

PALMYRA POLICE DEPARTMENT POLICY & PROCEDURE MANUAL

VOLUME: 6	CHAPTER: 16	# OF PAGES: 7	REVISION DATE	PAGE #
SUBJECT: IMMIGRATION TRUST				
EFFECTIVE DATE: March 14, 2019		Accreditation Standards:		
Scott Pearlman CHIEF OF POLICE		General Order # 2019-02	Reference:	

The Written Directives developed by the Palmyra Police Department are for internal use only, and do not enlarge an officer's civil or criminal liability in any way. They should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of Written Directives can only be the basis of a complaint by this Department, and then only in an administrative disciplinary setting.

I. Purpose

The purpose of this Policy is to establish guidelines to promote and strengthen the bond between Law Enforcement and immigrant communities. To delineate between the responsibility of State, County and Local Law Enforcement officers who are responsible for enforcing state criminal law, and federal immigration authorities who enforce federal civil immigration law.

II. Policy

It shall be the policy of the Police Department to protect the public by investigating state criminal offenses and enforcing state criminal law, not enforcing civil immigration violations except in narrowly defined circumstances. Civil immigration violations fall under the federal government and those operating under its authority. This policy does not imply that New Jersey provides "sanctuary" to those who commit crimes in this state. It shall be the policy of the Police Department to hold accountable any person who violates New Jersey's criminal laws no matter their immigration status.

III. Procedure

A. 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 2005-1, and Palmyra Police Department Policy & Procedure V6 C11.

B. Enforcement of Federal Civil Immigration Law

1. Use of immigration status in law enforcement activities, except pursuant to Sections B3, and C below, no member of this agency shall
 - a. Stop, question, arrest, search, or detain any individual based solely on
 - (1) actual or suspected citizenship or immigration status;, or
 - (2) actual or suspected violations of federal civil immigration law
 - b. Inquire about the immigration status of any individual, unless doing so is:
 - (1) necessary to the ongoing investigation of an indictable offense by that individual; and
 - (2) relevant to the offense under investigation
2. Limitations on assisting federal immigration authorities in enforcing federal civil immigration law. Except pursuant to sections B3 and C below, no member of this agency 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:
 - a. Participating in civil immigration enforcement operations
 - b. Providing any non-public personally identifying information regarding any individual
 - (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 numbers of any person.
 - (2) 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. Providing access to any state, county, or local law enforcement equipment, office space, database, or property not available to the general public.
 - d. Providing access to detained individuals for an interview, unless the detainee signs a written consent form that explains:
 - (1) the purpose of the interview
 - (2) that the interview is voluntary
 - (3) that the individual may decline to be interviewed; and
 - (4) that the individual may choose to be interviewed only with his or her legal counsel present.
 - e. Provide notice of a detained individual's upcoming release from custody, unless the detainee:

- (1) 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:
- (a) Any first or second degree offense, as defined in N.J.S.A. 2C:43-1
 - (b) Any indictable domestic violence offense defined in N.J.S.A. 2C:25-19
 - (c) Any other indictable offense listed
 - 2C:12-1 Assault
 - 2C:12-1.1 Knowing Leaving the Scene of a MVA Involving serious Bodily Injury
 - 2C:12-10 Stalking
 - 2C:12-13 Throwing Bodily Fluids 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 (Violations of Restraining Orders, Domestic Violence Orders, Etc.)
 - 2C:40-3B Aggravated Hazing
- (2) in the past five years, has been convicted of an indictable crime other than a violent or serious offense.
- (3) 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.
- f. 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
- (1) 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:
- (a) Any first or second degree offense, as defined in N.J.S.A. 2C:43-1
 - (b) Any indictable domestic violence offense defined in N.J.S.A. 2C:25-19
 - (c) Any other indictable offense listed
 - 2C:12-1 Assault
 - 2C:12-1.1 Knowing Leaving the Scene of a MVA Involving serious Bodily Injury
 - 2C:12-10 Stalking
 - 2C:12-13 Throwing Bodily Fluids 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 (Violations of Restraining Orders, Domestic Violence Orders, Etc.)
2C:40-3B	Aggravated Hazing

(2) in the past five years, has been convicted of an indictable crime other than a violent or serious offense.

(3) 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 2359 hours on the calendar day on which the person would otherwise have been eligible for release.

3. Exceptions and exclusions: Nothing in the previous sections shall be construed to restrict, prohibit, or in any way prevent a member of this agency from:

- a. enforcing the criminal laws of this state
- b. complying with all applicable federal, state and local laws
- c. 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.
 - (1) Judicial Warrant-issued by a federal judge or state judge,
 - (2) Note an Immigration detainer (ICE Detainer) or administrative warrants are currently issued not by judges but by federal immigration officers and do not apply.
- d. Participating with federal authorities in a joint law enforcement task force with the primary purpose of which is unrelated to federal civil immigration enforcement.
- e. requesting proof of identity from an individual during the course of an arrest or when legally justified during an investigative stop or detention.
- f. 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.
- g. Inquiring about a person's place of birth on a correctional facility intake form and making risk-based classification assignments in such facilities
- h. Providing federal immigration authorities with information that is publicly available or readily available to the public in the method the public can obtain it.
- i. When required by exigent circumstances, providing federal immigration authorities with aid or assistance, including access to non-public information, equipment, or resources.
- j. Sending to, maintaining, or receiving from federal immigration authorities information regarding the citizenship or immigration status, lawful or unlawful, or any individual.

C. Agreements with the Federal Government

1. Section 287(g) agreements-The Chief of Police 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) unless:
 - a. The Attorney General grants written approval; or
 - b. The agreement is necessary to address threats to the public safety or welfare of New Jersey residents arising out of a declaration of a state or national emergency.

No member of this agency shall otherwise exercise federal civil immigration authority outside the context of section 287(g). Nothing in Section B of this policy shall apply to law enforcement agencies that are party to an agreement to exercise federal immigration authority to pursuant to Section 287(g) when they are acting pursuant to such agreement.

D. Requests for T and U Nonimmigrant Status Certifications

1. **Processing of T-Visa and U-Visa Requests:** The Burlington County Prosecutor's Office receives and processes T-Visa and U-Visa requests. As part of that process the Palmyra Police Department may be asked to certify certain elements victim's likelihood of cooperation in the investigation and/or prosecution of certain crimes. Should an employee of the Palmyra Police Department receive any application communication or correspondence, it shall be given to a member of the police department Command Staff who will, in turn, provide it to the prosecutor's office.
2. **T-Visa Certifications** For T-Visa certification requests, this agency's certification procedure shall include a determination of 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 specific knowledge and details of the crime; and
 - c. Has, is, or is likely to comply with requests for assistance in an investigation or prosecution of the crime of trafficking.
3. **U-Visa Certifications** For U-Visa certifications requests, this agency's procedure shall include a determination of whether, pursuant to the standards set forth in federal law and instructions to USCIS Form I-918 Supplement B, the applicant:
 - a. Is a victim of a qualifying criminal activity; and
 - b. Has specific knowledge and details of the crime; and

- c. Was, is, or is likely to be, helpful in the investigation or prosecution of that activity.
4. Inquiry into and disclosure of immigration status – Notwithstanding any provisions in Section B, 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 T or U Visa certification except to comply with state, federal law or legal process, or if authorized by the visa applicant. However, nothing in this sections 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 immigrations status, lawful or unlawful of any individual.

E. Notifications and Recordkeeping

1. Notifications to detained individuals- Members of this Agency shall promptly notify a detained individual, in writing and in a language the individual can understand, when federal civil immigration authorities request:
 - a. To interview the detainee
 - b. to be notified of the detainee's upcoming release from custody
 - c. to continue detaining the detainee past the time he or she would otherwise be eligible for release

When providing such notification, Members of this Agency shall provide the detainee a copy of any documents provided by immigration authorities in connections with the request.

2. This Chief of Police or his designee shall on an annual basis, report, in a manner to be prescribed by the Attorney General, and instances which the agency provided assistance to federal civil immigration authorities for the purpose of enforcing federal civil immigration law described in section B 2a and f each year to the Burlington County Prosecutor's Office.
 - a. If this agency provided assistance described in section B2a and f during the prior calendar year shall submit a report to the Burlington County Prosecutor detailing such assistance.
 - b. Each County Prosecutor shall compile any reports submitted by local or county law enforcement agencies pursuant to this section and submit a consolidated report to the Attorney General detailing the agencies' assistance.
 - c. The New Jersey State Police and all other state law enforcement agencies that provided assistance described in section B 2a and f during the prior calendar year shall submit a report to the Attorney General detailing such assistance.
 - d. The Attorney General shall post online a consolidated report detailing instances of assistance by all state, county, and local law enforcement agencies as submitted to the AG during the calendar year.

3. Consular Notifications

- a. When foreign nationals from most countries are arrested or detained, they may, upon request, have their consular officers notified without delay of their arrest or detention, and may have their communications to their consular officers forwarded without delay. In addition, foreign nationals must be advised of this information without delay. See *attachment Consular Notification Form for list of Countries*.
- b. For foreign nationals of some countries, consular officers must be notified of the arrest or detention of a foreign national even if the foreign national does not request or want notification.
- c. Consular officers are entitled to communicate with and to have access to their nationals in detention, and to provide consular assistance to them, including arranging for legal representation.
- d. When law enforcement or other government official becomes aware of the death, serious injury, or serious illness of a foreign national, consular officers must be notified.
- e. When a guardianship or trusteeship is being considered with respect to a foreign national who is a minor or an incompetent adult, consular officer must be notified.
- f. When a foreign ship wrecks or a foreign aircraft crashes in U.S. territory, consular officers must be notified.
- g. Supervisors shall complete the required notifications regarding this section by following the guidelines explained in the attachment *Consular Notification Form*.

G. Training

1. The Division of Criminal Justice has developed training available through the NJ Learn System. All members are required to complete the NJ Learn Training titled "Police Officer Training on Immigration Directive 2018-6".
2. Annual refresher training shall be completed by each member of the agency.

Attachment: AG Directive 2018-6
Consular Notification Process Form
BCPO Procedures