



# HADDON HEIGHTS POLICE DEPARTMENT

## POLICY 2022-004

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### OBLIGATION TO REVIEW POLICY AND SEEK ASSISTANCE AS NEEDED

It is the policy of the Haddon Heights Police Department that all officers and applicable employees will thoroughly review and fully familiarize themselves with the attached policy and will adhere to the procedures as described in this policy. Any employee shall request assistance from their supervisor if they should be in need of further explanation or training regarding this policy.

### CONTINGENCIES AND UNFORESEEN CIRCUMSTANCES

Officers are occasionally confronted with situations where no written guideline exists and supervisor advice is not readily available. As it would be impossible to address all possible situations with written guidelines, considerable discretion is given to the officer handling the situation.

Faced with the need to make decisions or take an action where no guidelines exist, officers should rely on their experience and training, and the following resources;

1. NJ Attorney General & Camden County Prosecutor's guidelines, memorandums, and directives
2. Departmental General Order, Special Orders, and Training Bulletins
3. New Jersey Title 39 and 2C
4. Current Search and Seizure Directives

The written directives developed by the Haddon Heights 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.



## Purpose

The purpose of this policy is to provide procedures, and restrictions on involvement with Federal Immigration Law Enforcement; when conducting police operations or investigations, in compliance with New Jersey Attorney General Directive No. 2018-6.

The Haddon Heights Police Department makes very clear to our immigrant communities something that may seem obvious to those of us in law enforcement: there is a difference between 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*.

## Policy

Officers will protect the public by investigating state criminal offenses and enforcing state criminal laws. They are not responsible for enforcing civil immigration violations except in narrowly defined circumstances. Such responsibilities instead fall to the federal government and those operating under its authority. However, the Haddon Heights Police Department will assist federal immigration authorities when required to do so by law.

## Procedure

### I. Bias Free Policing

- A. **All Haddon Heights Police Employees will perform their duties Bias free and in accordance with the CCPO Memo #15-28, and this departments Anti-Profilng General Order.**

### II. Enforcement of Federal Civil Immigration Law

A. ***Use of immigration status in law enforcement activities.*** Except pursuant to Sections II.C and III below, no Officer 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 Officer 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.
  - a. 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.

3. Providing access to any 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 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.
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.

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.



- a. 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.
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 investigative 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.
  - a. **Nothing in this policy shall restrict Haddon Heights Police Officers from providing emergency assistance to both state and federal law enforcement (including Immigration and Customs Enforcement) officers, whenever exigent circumstances arise and the safety of fellow officers or the public is in jeopardy.**
10. Sending to, maintaining, or receiving from federal immigration authorities’ information regarding the citizenship or immigration status, lawful or unlawful, of any individual. *See* 8 U.S.C. §§ 1373, 1644.
  - a. Direct notification to federal immigration officials is not necessary, as information is now transmitted directly via LIVESCAN fingerprint system.

### III. Agreements with the Federal Government

- A. The Haddon Heights Police Department has not and will not enter into 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:
  1. The Attorney General grants written approval; or
  2. The agreement is necessary to address threats to the public safety or welfare of New Jersey residents arising out of a declaration of state or national emergency.

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

- A. The Haddon Heights Police Officer assigned to a relevant investigation, will process requests for T- and U-visa certifications (*see* 8 U.S.C. §§1101(a)(15)(T) and 1101(a)(15)(U)) from potential victims of crime or human trafficking within 120 days of the request being made. Information about these procedures has been posted on the Borough of Haddon Heights website.
- B. ***T-visa certifications.*** For T-visa certification requests, the standards set forth in federal law and instructions to USCIS Form I-914 will be followed, and it will be determined if the requester:
1. Is or has been a victim of a severe form of trafficking in persons; *and*
  2. Has complied with requests for assistance in an investigation or prosecution of the crime of trafficking.

T-visa applications may be accessed at <https://www.uscis.gov/i-914>

- C. ***U-visa certifications.*** For U-visa certification requests, the standards set forth in federal law and instructions to USCIS Form I-918 Supplement B will be followed, and it will be determined if 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.

U-visa applications may be accessed at <https://www.uscis.gov/i-918>

- D. ***Inquiry into and disclosure of immigration status.*** Notwithstanding any provision in Section II, Officers or Agents 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 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.

#### V. Notifications and Recordkeeping

- A. ***Notifications to detained individuals.*** Officers shall promptly notify a detained individual, in writing using "NOTIFICATION TO DETAINED INDIVIDUAL OF ACTIONS BY IMMIGRATION & CUSTOMS ENFORCEMENT ("ICE") when federal civil immigration authorities request:
1. To interview the detainee. (*See Section II.B.4.*)
  2. To be notified of the detainee's upcoming release from custody.  
(*See Section II.B.5.*)
  3. To continue detaining the detainee past the time he or she would otherwise be eligible for release. (*See Section II.B.6.*)



When providing notification, Officers shall check off the appropriate circumstance on the form, and provide the detainee a copy of the form, and any documents provided by federal immigration authorities in connection with the request.

B. Anytime a Haddon Heights Police Officer is involved or assists with a Federal Immigration investigation, the Officer shall do a detailed investigation report in the Records Management System (RMS), and shall utilize the report tracking code, "***Federal Civil Immigration Assistance.***"

C. ***Annual reporting by law enforcement agencies.*** On an annual basis the Haddon Heights Police Department shall report, in a manner to be prescribed by the Attorney General, any instances in which the agency provided assistance to federal civil immigration authorities for the purpose of enforcing federal civil immigration law described in Sections II.B.1 to II.B.6. Each year the following will be reported:

1. Any assistance described in Sections II.B.1 to II.B.6 during the prior calendar year shall submit a report to the Camden County Prosecutor detailing such assistance.

## VI. Training

A. The Haddon Police Department shall ensure that all Officers are trained in the requirements of this policy, and any other training on the topic of Attorney General Directive 2018-6, as directed by the New Jersey Attorney General or the Camden County Prosecutor.

## 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 Serious 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
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 (Violation of Restraining Orders, Domestic Violence Orders, Etc.)
2C:40-3B	Aggravated Hazing