



**Policy:**

It is the policy of the East Windsor Township Police Department to adhere to the directives issued by the New Jersey Attorney General.

**Purpose:**

The purpose of this policy is to ensure that police department employees are in compliance with Directive 2018-6, issued by the New Jersey Attorney General on November 29, 2018, which requires Strengthening Trust Between Law Enforcement and Immigrant Communities. Directive 2018-6 repeals and supersedes the provisions of AG Directive 2007-3.

**I. Racially-Influenced Policing:**

- A. No East Windsor Police Department officer shall at any time engage in conduct constituting racially influenced policing as defined in Attorney General Law Enforcement Directive No. 2005-1.

**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 East Windsor Police Department 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 East Windsor Police Department 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 state, county, or local 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.
      - i. 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 an East Windsor Police Department officer 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. As noted earlier, 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.
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.

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

- A. **Section 287(g) agreements.** No East Windsor Police Department officer 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. § 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 a state or national emergency.
    - a. No East Windsor Police Department officer shall otherwise exercise federal civil immigration authority outside the context of Section 287(g). Nothing in Section II of this Directive shall apply to law enforcement agencies that are party to an agreement to exercise federal immigration authority pursuant to Section 287(g) when they are acting pursuant to such agreement.
- B. **Intergovernmental Service Agreements.** Nothing in Section II of this Directive shall apply to law enforcement agencies that are currently party to an Intergovernmental Service Agreement (IGSA) to detain individuals for civil immigration enforcement purposes when they are acting pursuant to such an agreement.

### IV. **Notifications and Recordkeeping:**

- A. **Notifications to detained individuals.** East Windsor Police Department officers shall promptly notify a detained individual, in writing and in a language the individual can understand, when federal civil immigration authorities request:
  1. To interview the detainee. (See § II.B.4.)

2. To be notified of the detainee's upcoming release from custody. (See § II.B.5.)
  3. To continue detaining the detainee past the time he or she would otherwise be eligible for release. (See § II.B.6.)
    - a. When providing such notification, law enforcement officials shall provide the detainee a copy of any documents provided by immigration authorities in connection with the request.
- B. *Necessary forms for these notifications.*** Shall be located on the police department server in the Group\_Shared > Departmentwide\_Shared > ICE Forms directory.
- C. *Annual reporting by law enforcement agencies.*** On an annual basis the East Windsor 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:
1. If assistance is provided as described in Sections II.B.1 to II.B.6 during the prior calendar year, the East Windsor Police Department shall submit a report to the County Prosecutor detailing such assistance.
  2. The Attorney General shall post online a consolidated report detailing all instances of assistance by all state, county, and local law enforcement agencies, as submitted to the Attorney General pursuant to Sections VI.B.2 and VI.B.3, during the prior calendar year.

**ATTORNEY GENERAL LAW ENFORCEMENT DIRECTIVE NO. 2018-6**

**APPENDIX A**

**(Issued November 29, 2018)**

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)*

<b>Statute</b>	<b>Description</b>
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