

# PRINCETON POLICE DEPARTMENT GENERAL ORDER



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## ENFORCEMENT OF IMMIGRATION LAWS

BY THE ORDER OF:

CAPTAIN NICHOLAS SUTTER

ACCREDITATION STANDARDS:

EFFECTIVE DATE: November 11, 2013

SUPERSEDES ORDER #:

### 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. Because many families with undocumented family members also include legal immigrant members, this would drive a potential wedge between police and large portions of the legal immigrant community as well.

### Policy:

Local police are not charged with the enforcement of federal immigration laws. The federal government and its agencies are the authorities responsible for enforcement of immigration law. With this authority, the federal government has enacted laws, such as the Immigration and Naturalization Act (I.N.A.) that regulate a person's entry into the United States, his or her ability to remain in the country, and numerous other aspects of immigration.

#### Criminal versus Civil Violations:

1. Immigration laws differ from the criminal laws local police officers deal with most regularly in that immigration laws contain both civil and criminal aspects.
2. Immigration law is extremely complex, and is constantly changing. There are criminal and civil violations of immigration law. **Civil violations** include, for example, illegal presence and failure to depart after the expiration of a temporary visa. **Criminal violations** include illegal entry, re-entry after

deportation, and failure to depart after an order of removal. To make matters more complicated, those in this last category are committing a criminal offense only if the government can show that they “willfully” failed to depart; but most removal orders are entered in absentia. If failure to depart is not “willful” (if, for example, the person was not aware that there was a removal order entered against them), the offense is a civil violation.

3. State and local police have no authority to arrest and detain a person for a civil violation. There are federal agencies specifically charged with the enforcement and application of the complex immigration laws and regulations. These agents do not handle street disorder, robberies, murders, traffic problems, and a host of other issues facing state and local officers. These federal agencies are designed, and their agents are specifically trained, to enforce these immigration laws.

## **PROCEDURE:**

### **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 and this is recognized by the federal agencies as shown by the language of some of the civil detention notices currently being placed on the NCIC system.
2. These NCIC alerts to detain 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 without a warrant.
3. Princeton Police Department policy mandates that employees of this department will not detain persons pursuant to an ICE Detainer (DHS I-247 <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.

### **II. Possible Effects on Immigrant Cooperation:**

1. Immigration enforcement by state and local police would have an adverse effect in community/police relations. It is the intention of the Princeton Police 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.

## 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.

### II. Detainer Vs. Warrant

1. It is important for officers to discern between an I.C.E. Detainer (DHS I-247) and an 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. 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 authorities **when requested.**
2. When an officer receives a request from I.C.E. for police assistance in an arrest raid, 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 proper police assistance based on prevailing policy. Only **when requested** by I.C.E. for

tactical and safety reasons officer(s) will be assigned to accompany the federal agents to the location of the enforcement activity, but shall not take an active role in the immigration enforcement action.

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 the 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.
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.