

# LEET TOWNSHIP POLICE DEPARTMENT

## INTERACTIONS WITH IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE)

Policy #4400

Reviewed:

### 01. PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for interactions and cooperation between this department and U.S. Immigration and Customs Enforcement (ICE), ensuring compliance with federal and state law while maintaining public trust, constitutional protections, and our commitment to community-oriented policing.

### 02. POLICY

It is the policy of the Leet Township Police Department that all members will protect the constitutional rights of all individuals, equally enforce the law and service to the public regardless of their national origin or immigration status. Officers will not stop, detain, or arrest individuals solely to determine immigration status or inquire about immigration status unless directly relevant to a criminal investigation.

### 03. DEFINITIONS

#### **Civil Immigration Violation:**

A violation of federal immigration law that is **not** a criminal offense (e.g., unlawful presence).

#### **Immigration Detainer (Form I-247):**

A request from ICE asking a law enforcement agency to hold an individual for up to 48 hours beyond their release time.

#### **Judicial Warrant:**

A warrant signed by a US District Judge or US Magistrate Judge pursuant to the Fourth Amendment.

#### **Administrative Warrant:**

A warrant issued by ICE (Forms I-200 or I-205), it is **NOT** signed by a US District Judge or US Magistrate Judge. It is not based on any judicial determination of Probable Cause and is civil in nature. It **does not** constitute a criminal arrest warrant, does not authorize entry into a private residence without consent and does not require municipal police officers to arrest or detain an individual.

### 04. VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and not in any way that would violate the Constitution of the United States or the Constitution of the Commonwealth of Pennsylvania.

## **05. DETENTIONS**

An officer should not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant. An officer who has a **reasonable suspicion** that an individual already lawfully contacted or detained has committed a **criminal violation** of federal immigration law may detain the person for a reasonable period of time in order to contact federal immigration officials to verify whether an immigration violation is a federal civil violation or a criminal violation.

1. If the violation is a **criminal violation**, the officer may continue to detain the person for a reasonable period of time if requested by federal immigration officials (8 USC § 1357(g)(10)). **No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.**
2. If the officer has facts that establish **probable cause** to believe that a person already lawfully detained has committed a criminal immigration offense, he/she may continue the detention and may request a federal immigration official to respond to the location to take custody of the detained person (8 USC § 1357(g)(10)). An officer is encouraged to not prolong the detention of individual solely on basis of a misdemeanor offense that would normally be handed by summons. An officer should notify the Chief of Police or his/her designee as soon as practicable whenever an individual is being detained for a criminal immigration violation.

### **05.1 SUPERVISOR RESPONSIBILITIES**

When notified that an officer has detained an individual and established **reasonable suspicion or probable cause** to believe the person has violated a criminal immigration offense, the supervisor should determine whether it is appropriate to: (a) Transfer the person to federal authorities. (b) Lawfully arrest the person for a criminal offense or pursuant to a **judicial warrant**.

## **06. ARREST NOTIFICATION TO IMMIGRATION & CUSTOMS ENFORCEMENT**

Normally, an officer should not notify ICE or other federal immigration authorities when arrestees are booked at a jail facility. Any required notification will be handled by jail operation procedures. No individual who is otherwise ready to be released should continue to be detained solely for the purpose of notification.

## **07. FEDERAL REQUESTS FOR ASSISTANCE**

Non-emergency requests by federal immigration officials for assistance from this department should be directed to the Chief of Police or his/her designee. The Department may provide available support services, such as traffic control or peacekeeping efforts.

Nothing within this section shall prevent officers from responding to emergency requests for assistance that require immediate response to aid or assist any law enforcement officer(s) for a lawful purpose, such as prevent an assault on a law enforcement officer, crowd control, scene security, etc.

## **08. INFORMATION SHARING**

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373):

1. Sending information to, or requesting or receiving such information from federal immigration officials;
2. Maintaining such information in department records; or
3. Exchanging such information with any other federal, state, or local government entity.

### **08.1 IMMIGRATION DETAINERS**

**Immigration detainers are requests and do not impose mandatory obligations on local agencies.** No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 unless the person has been charged with a federal crime or the detainer is accompanied by a judicial warrant, affidavit of probable cause, or removal order. No person shall be held beyond the time they would otherwise be released based solely on an immigration detainer or administrative immigration paperwork. Continued custody beyond release time may occur only if the person is otherwise lawfully held on a **criminal basis** under federal or state law or if a judicial warrant signed by a judge authorizes arrest. Notification to the federal authority issuing the detainer should be made prior to the release.

## **09. U VISA AND T VISA NONIMMIGRANT STATUS**

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC §1101(a)(15)(U)). Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)). Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Chief of Police or his/her designee.

The Chief of Police or his/her designee should:

1. Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted;
2. Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or

declaration is warranted;

3. Address the request and complete the certification or declaration, if appropriate, in a timely manner. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website; and

4. Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.

### **09.1 T VISA APPLICATIONS FOR MINORS**

A request for assistance by a victim of human trafficking who is a minor or his/her representative with an application for a T visa shall **not** be denied because the minor is not cooperating with law enforcement (18 Pa.C.S. § 3054).

### **10. TRAINING**

Officers shall receive training on this policy that will include:

1. Identifying civil versus criminal immigration violations;
2. Factors that may be considered in determining whether a criminal immigration offense has been committed;
3. Detainer requests and documentation.

### **11. GOVERNING POLICY**

Any Policy of the Leet Township Police Department in effect at the present time that is in conflict herewith or any parts of a policy in conflict herewith are hereby void and the language in this policy shall govern.