

CAMDEN COUNTY POLICE DEPARTMENT



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ORDER TYPE: STANDARD OPERATING PROCEDURE

SUBJECT: INVESTIGATIONS INVOLVING THE IMMIGRANT COMMUNITY

EFFECTIVE DATE:

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ACCREDITATION STANDARDS:

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REVISION DATE

PAGE #

BY THE ORDER OF:

Chief Gabriel Rodriguez

SUPERSEDES DIRECTIVE: NEW

PURPOSE: The purpose of this directive is to maintain procedures for dealing with the immigrant community in compliance with [New Jersey Attorney General Directive 2018-6](#).

POLICY: It is the policy of the Camden County Police Department to deal with the immigrant community in compliance with *New Jersey Attorney General Directive 2018-6*.

Immigrants are less likely to report a crime if they fear that the responding officer will turn them over to immigration authorities. This fear makes it more difficult for officers to solve crimes and bring suspects to justice.

Law enforcement officers 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.

Although officers should assist federal immigration authorities when required to do so by law, they should also be mindful that providing assistance above and beyond those requirements threatens to blur the distinctions between state and federal actors and between federal immigration law and state criminal law. It also risks undermining the trust between the law enforcement community and the public.

PROCEDURE:

1. Definitions

- 1.1. For purposes of this directive, the following terms are defined:
- 1.1.1. Judicial warrant. Is a warrant issued by a federal or state judge. It is not the same as an immigration detainer (sometimes referred to as a United States Immigration and Customs Enforcement (ICE) detainer) or an administrative warrant, both of which are currently issued not by judges but by federal immigration officers.
 - 1.1.2. 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. 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.
 - 1.1.3. United States Citizenship and Immigration Services (USCIS). Is an agency of the United States Department of Homeland Security that administers the country's naturalization and immigration system.
 - 1.1.4. United States Immigration and Customs Enforcement. Is a federal law enforcement agency under the U.S. Department of Homeland Security. Its mission is to protect the United States from the cross-border crime and illegal immigration that threaten national security and public safety.
 - 1.1.5. Violent or serious offense. Is defined as:
 - 1.1.5.1. Any 1st or 2nd degree offense, as defined in N.J.S.A. 2C:43-1,
 - 1.1.5.2. Any indictable domestic violence offense defined in N.J.S.A. 2C:25-19,
 - 1.1.5.3. N.J.S.A. 2C:12-1 – Assault,
 - 1.1.5.4. N.J.S.A. 2C:12-1.1 – Knowingly Leaving the Scene of a Motor Vehicle Accident Involving Serious Bodily Injury,
 - 1.1.5.5. N.J.S.A. 2C:12-10 – Stalking,
 - 1.1.5.6. N.J.S.A. 2C:12-13 – Throwing Bodily Fluids at Officers,
 - 1.1.5.7. N.J.S.A. 2C:14-3 – Criminal Sexual Contact,
 - 1.1.5.8. N.J.S.A. 2C:16-1 – Bias Intimidation,
 - 1.1.5.9. N.J.S.A. 2C:17-1 – Arson,
 - 1.1.5.10. N.J.S.A. 2C:17-2 – Causing Widespread Injury or Damage,
 - 1.1.5.11. N.J.S.A. 2C:18-2 – Burglary of a Dwelling,

- 1.1.5.12. N.J.S.A. 2C:24-4 – Endangering the Welfare of Children,
- 1.1.5.13. N.J.S.A. 2C:28-5 – Witness Tampering and retaliation,
- 1.1.5.14. N.J.S.A. 2C:29-2b – Eluding a Law Enforcement Officer,
- 1.1.5.15. N.J.S.A. 2C:29-3a(5) – Hindering Apprehension of Another Using Force or Intimidation,
- 1.1.5.16. N.J.S.A. 2C:29-9 – Criminal Contempt (violation of restraining orders, domestic violence orders, etc.),
- 1.1.5.17. N.J.S.A. 2C:40-3B – Aggravated Hazing, and
- 1.1.5.18. Any indictable offense under the law of another jurisdiction that is the substantial equivalent to an offense described in this section.

1.2. The following terms are also defined for [T Visas](#) and [U Visas](#):

- 1.2.1. Alien. Any person not a citizen or national of the United States.
- 1.2.2. Asylee. An alien in the United States or at a port of entry who is found to be unable or unwilling to return to their country of nationality or to seek the protection of that country because of persecution or a well-founded fear of persecution. Persecution or the fear thereof must be based on the alien's race, religion, nationality, membership in a particular social group, or political opinion
- 1.2.3. Certifying agency. Includes all authorities responsible for the investigation, prosecution, conviction, or sentencing of a person meeting the qualifying criminal activity, including, but not limited to:
 - 1.2.3.1. Federal, state, and local law enforcement agencies,
 - 1.2.3.2. Federal, state, and local prosecutors' offices,
 - 1.2.3.3. Federal, state, and local judges,
 - 1.2.3.4. Federal, state, and local family protective services,
 - 1.2.3.5. Federal and state departments of labor, and
 - 1.2.3.6. Equal Employment Opportunity Commission.
- 1.2.4. Helpful in the investigation or prosecution. Means the victim was, is, or is likely to be assisting law enforcement in the investigation or prosecution of the qualifying criminal activity of which they are a victim.
 - 1.2.4.1. This includes being helpful and providing assistance when reasonably requested.

- 1.2.4.2. This also includes an ongoing responsibility on the part of the victim to be helpful. Those who unreasonably refuse to assist after reporting a crime will not be eligible for a U Visa. The duty to remain helpful to law enforcement remains even after a U Visa is granted, and those victims who unreasonably refuse to provide assistance after the U Visa has been granted may have the visa revoked by USCIS.
- 1.2.4.3. Officers should contact and inform USCIS of a victim's unreasonable refusal to provide assistance in the investigation or prosecution should this occur.
- 1.2.4.4. A current investigation, filing of charges, prosecution, and/or conviction are not required to sign the law enforcement certification. Many instances may occur when the victim has reported a crime, but an arrest or prosecution cannot take place due to evidentiary or other circumstances. Examples of this include, but are not limited to:
 - 1.2.4.4.1. When the actor has fled or is otherwise no longer in the jurisdiction,
 - 1.2.4.4.2. The actor cannot be identified, and
 - 1.2.4.4.3. Federal law enforcement officials have deported the actor.
- 1.2.4.5. There is no statute of limitations on signing the law enforcement certification. A law enforcement certification can even be submitted for a victim in a closed case.
- 1.2.5. Non-immigrant. An alien who is admitted to the United States for a specific temporary period of time. There are clear conditions for their stay. There are a large variety of non-immigrant categories; each exists for a specific purpose and has specific terms and conditions. Non-immigrant classifications include, but are not limited to:
 - 1.2.5.1. Foreign government officials,
 - 1.2.5.2. Visitors for business and for pleasure,
 - 1.2.5.3. Aliens in transit through the United States,
 - 1.2.5.4. Treaty traders and investors,
 - 1.2.5.5. Students,
 - 1.2.5.6. International representatives,
 - 1.2.5.7. Temporary workers and trainees,
 - 1.2.5.8. Representatives of foreign information media,
 - 1.2.5.9. Exchange visitors,

- 1.2.5.10. Fiancé(e)s of U.S. citizens,
- 1.2.5.11. Intra-company transferees,
- 1.2.5.12. NATO officials, and
- 1.2.5.13. Religious workers.

NOTE: most non-immigrants can be accompanied or joined by spouses and unmarried minor (or dependent) children.

1.2.6. Permanent Resident Card (Form I-551). Also known as a 'green card' or 'alien registration card,' this card is issued by USCIS to aliens as evidence of their lawful permanent resident status in the United States. Form I-9; it is accepted as proof of both identity and employment authorization. Although some permanent resident cards contain no expiration date, most are valid for ten (10) years. Cards held by individuals with conditional permanent resident status are valid for two years.

1.2.7. Qualifying crime. (NOTE: the below list is taken from the Victims of Trafficking and Violence Protection Act (VTVPA) of 2000 and applies to all 50 states and U.S. territories. Some qualifying crimes are not defined in New Jersey statutes, but the closest equivalent crime in New Jersey shall apply. Qualifying crime also includes attempt, conspiracy, or solicitation to commit any of the below and other related crimes):

- 1.2.7.1. Abduction,
- 1.2.7.2. Aggravated assault,
- 1.2.7.3. Aggravated sexual assault,
- 1.2.7.4. Criminal sexual contact,
- 1.2.7.5. Criminal coercion (blackmail),
- 1.2.7.6. Criminal restraint,
- 1.2.7.7. Domestic violence related crimes,
- 1.2.7.8. Extortion,
- 1.2.7.9. False imprisonment,
- 1.2.7.10. Female genital mutilation,
- 1.2.7.11. Human trafficking,
- 1.2.7.12. Kidnapping,
- 1.2.7.13. Incest,
- 1.2.7.14. Manslaughter,

- 1.2.7.15. Murder,
 - 1.2.7.16. Obstruction of justice,
 - 1.2.7.17. Perjury,
 - 1.2.7.18. Prostitution,
 - 1.2.7.19. Sexual assault,
 - 1.2.7.20. Sexual exploitation,
 - 1.2.7.21. Torture, and
 - 1.2.7.22. Witness tampering.
- 1.2.8. Trafficking:
- 1.2.8.1. Sex trafficking. The recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act, or in which the person induced by any means to perform such act has not attained 18 years of age,
 - 1.2.8.2. Labor trafficking. The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- 1.2.9. T Visa. Is an immigration benefit that can be sought by victims who:
- 1.2.9.1. Is or has been a victim of a severe form of trafficking in persons (which may include sex or labor trafficking), and
 - 1.2.9.2. Is in the United States due to trafficking,
 - 1.2.9.3. Has complied with requests for assistance in an investigation or prosecution of the crime of trafficking, and
 - 1.2.9.4. Would suffer extreme hardship involving unusual and severe harm if removed from the United States.
- 1.2.10. U Visa. Is an immigration benefit that can be sought by victims of certain crimes who are currently assisting or have previously assisted law enforcement in the investigation or prosecution of a crime or who are likely to be helpful in the investigation or prosecution of criminal activity.
- 1.2.10.1. A U Visa provides eligible victims with non-immigrant status in order to temporarily remain in the United States while assisting law enforcement.
 - 1.2.10.2. If certain conditions are met, an individual with U non-immigrant status may adjust to lawful permanent resident

status. Congress has capped the number of available U Visas to 10,000 per fiscal year.

- 1.2.11. Visa. A U.S. visa allows the bearer to apply for entry to the U.S. in a certain classification (e.g., student (F), visitor (B), temporary worker (H)). A visa does not grant the bearer the right to enter the United States. The Department of State is responsible for visa adjudication at U.S. Embassies and Consulates outside of the U.S. The Department of Homeland Security, U.S. Customs and Border Protection (CBP) immigration inspectors determine admission into, length of stay and conditions of stay in the U.S. at a port of entry. The information on a non-immigrant visa only relates to when an individual may apply for entry into the U.S.

2. General

- 2.1. Nothing in this directive or New Jersey Attorney General Directive 2018-6 limits officers from enforcing state law, and nothing in this directive or New Jersey Attorney General Directive 2018-6 should be construed to imply that the State of New Jersey provides sanctuary to those who commit crimes in this state. Any person who violates New Jersey's criminal laws can and will be held accountable for their actions, no matter of their immigration status.
- 2.2. Nothing in this directive or New Jersey Attorney General Directive 2018-6 restricts officers from complying with the requirements of federal law or valid court orders, including judicially issued arrest warrants for individuals, regardless of immigration status.
- 2.3. Nothing in New Jersey Attorney General Directive 2018-6 prohibits this agency from imposing its own additional restrictions on providing assistance to federal immigration authorities, so long as those restrictions do not violate federal or state law or impede the enforcement of state criminal law. This directive or New Jersey Attorney General Directive 2018-6 does not mandate that officers provide assistance in any particular circumstance, even when, by the terms of New Jersey Attorney General Directive 2018-6, they are permitted to do so.
- 2.4. 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.
- 2.5. Annually, the Chief of Police or their designee shall report to the Camden County Prosecutor's Office, in a manner to be prescribed by the New Jersey Attorney General, any instances in which the agency provided assistance to federal civil immigration authorities for the purpose of enforcing federal civil immigration law in the previous calendar year (New Jersey Attorney General Directive 2018-6, Section VI.B, pg. 9).

3. Enforcement of Federal Civil Immigration Law

- 3.1. Except pursuant to subsections 3.3 and 3.4 below, no officer shall:
 - 3.1.1. Stop, question, arrest, search, or detain any individual based solely on:
 - 3.1.1.1. Actual or suspected citizenship or immigration status, or

- 3.1.1.2. Actual or suspected violations of federal civil immigration law.
- 3.1.2. Inquire about the immigration status of any individual unless doing so is:
 - 3.1.2.1. Necessary to the ongoing investigation of an indictable offense by that individual, and
 - 3.1.2.2. Relevant to the offense under investigation, or
 - 3.1.2.3. Necessary to comply with the requirements of the Vienna Convention on Consular Relations (see this department's directive on Consular Notification and Access).
- 3.2. Except pursuant to subsections 3.3 and 3.4 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:
 - 3.2.1. Participating in civil immigration enforcement operations,
 - 3.2.2. Providing any non-public Personally Identifiable Information (PII) regarding any individual,
 - 3.2.3. Providing access to any state, county, or local law enforcement equipment, office space, database, or property not available to the general public,
 - 3.2.4. Providing access to a detained individual for an interview unless the detainee signs a written consent form that explains:
 - 3.2.4.1. The purpose of the interview,
 - 3.2.4.2. That the interview is voluntary,
 - 3.2.4.3. That the individual can decline to be interviewed, and
 - 3.2.4.4. That the individual can choose to be interviewed only with their legal counsel present.
 - 3.2.5. Providing notice of a detained individual's upcoming release from custody unless the detainee:
 - 3.2.5.1. 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 in subsection 1.1.4 of this directive, or
 - 3.2.5.2. In the past five years, has been convicted of an indictable crime other than a violent or serious offense, or
 - 3.2.5.3. 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.

- 3.2.6. Continuing the detention of an individual past the time they would otherwise be eligible for release from custody based solely on a civil immigration detainer request, unless the detainee:
 - 3.2.6.1. 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 in section 1.1.4 of this directive, or
 - 3.2.6.2. In the past five years, has been convicted of an indictable crime other than a violent or serious offense, or
 - 3.2.6.3. 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.
 - 3.2.6.4. Any such detention can last only until 2359hrs on the calendar day on which the person would otherwise have been eligible for release.
- 3.2.7. Officers must notify a detained individual, in writing and in a language the individual can understand, when federal civil immigration authorities request:
 - 3.2.7.1. To interview the detainee,
 - 3.2.7.2. To be notified of the detainee's upcoming release from custody,
 - 3.2.7.3. To continue detaining the detainee past the time, they would otherwise be eligible for release,
 - 3.2.7.4. When providing such notification, officers shall provide the detainee a copy of any documents provided by immigration authorities in connection with the request.
- 3.3. Nothing in subsections 3.1 or 3.2 shall be construed to restrict, prohibit, or in any way prevent an officer from:
 - 3.3.1. Enforcing the criminal laws of this state,
 - 3.3.2. Complying with all applicable federal, state, and local laws,
 - 3.3.3. 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,
 - 3.3.4. Participating with federal authorities in a joint law enforcement taskforce the primary purpose of which is unrelated to federal civil immigration enforcement,
 - 3.3.5. Requesting proof of identity from an individual during the course of an arrest or when legally justified during an investigative stop or detention,

- 3.3.6. 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,
 - 3.3.7. Providing federal immigration authorities with information that is publicly available or readily available to the public in the method the public can obtain it,
 - 3.3.8. When required by exigent circumstances, providing federal immigration authorities with aid or assistance, including access to non-public information, equipment, or resources,
 - 3.3.9. 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).
- 3.4. This agency 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:
- 3.4.1. The Attorney General grants written approval, or
 - 3.4.2. 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.
 - 3.4.3. This agency shall not otherwise exercise federal civil immigration authority outside the context of Section 287(g).
 - 3.4.4. Nothing in this directive or New Jersey Attorney General Directive 2018-6 shall apply if this agency is a party to an agreement to exercise federal immigration authority pursuant to Section 287(g) when they are acting pursuant to such agreement.
 - 3.4.5. Nothing in this directive or New Jersey Attorney General Directive 2018-6 shall apply if this agency is 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.

4. U Visas and T Visas

- 4.1. Notwithstanding any provision in section 3 of this directive, officers can ask any questions necessary to complete a T Visa or U Visa certification.
 - 4.1.1. Generally, officers cannot 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.
 - 4.1.2. However, nothing in this section shall be construed to restrict, prohibit, or in any way prevent officers from sending to, maintaining, or receiving from federal immigration authorities any information regarding the citizenship or immigration status, lawful or unlawful, of any individual (see 8 U.S.C. §§ 1373, 1644).

- 4.2. Non-citizens may be eligible for a U Visa if:
 - 4.2.1. They are the victims of qualifying criminal activity,
 - 4.2.2. They have suffered substantial physical or mental abuse as a result of having been a victim of criminal activity,
 - 4.2.3. They have information about criminal activity,
 - 4.2.4. They were helpful, are helpful, or are likely to be helpful to law enforcement in the investigation or prosecution of the crime,
 - 4.2.5. The crime occurred in the United States or violated U.S. laws.
 - 4.2.6. They are admissible to the United States. If not admissible, an individual may apply for a waiver on [Form I-192](#), Application for Advance Permission to Enter as a Non-Immigrant.
 - 4.2.7. If the person is under the age of 16 or unable to provide information due to a disability, a parent, guardian, or friend may assist law enforcement on your behalf.
 - 4.2.8. NOTE: Given the complexity of U Visa petitions, petitioners often work with a legal representative or a victim advocate.
- 4.3. If an individual believes they may qualify for a U Visa, then they or their representative will complete a USCIS [Form I-918](#), Petition for U Non-immigrant Status (Form I-918) and submit it to U.S. Citizenship and Immigration Services (USCIS) with all relevant documentation, including a USCIS [Form I-918B](#) U VISA Law Enforcement Certification.
- 4.4. This department's responsibilities are limited to certifying that an alien, who is or was the victim of a qualifying crime in the City of Camden, is, has, or will cooperate with the investigation and/or prosecution of such crime. Most queries will be referred to this department from the Camden County Prosecutor's Office.
- 4.5. Aliens or their representatives seeking certification for a U Visa or the Camden County Prosecutor's Office seeking information about a U Visa shall be referred to the Chief of Police or their designee. The Chief of Police or their designee will cause an inquiry into the matter to determine if the alien has been:
 - 4.5.1. A victim of a qualifying crime under the jurisdiction of this department,
 - 4.5.2. Has specific knowledge and details of crime, and
 - 4.5.3. Has been, is being, or is likely to be helpful to law enforcement in the detection, investigation, or prosecution of the qualifying crime.
- 4.6. Aliens or their representatives seeking certification for crimes occurring outside the jurisdiction of the Camden County Police Department shall be referred to the local jurisdiction or the county prosecutor's office in which the crime occurred.

- 4.7. The Chief of Police or their designee shall assign the inquiry a case number in CAD/RMS.
- 4.8. Upon determining that the alien has satisfied the above requirements, the Chief of Police or their designee shall execute Form I-918, [Supplement B](#), U Non-immigrant Status Certification.
- 4.9. The completed form shall be forwarded to the Chief of Police or their designee for signature.
 - 4.9.1. The original fully executed form shall be returned to the applicant or their representative or the Camden County Prosecutor's Office, and
 - 4.9.2. The Chief of Police or their designee shall forward a copy to the records bureau to be maintained in the case file.
- 4.10. The Chief of Police or their designee may withdraw or disavow [Form I-918B](#) at any time if a victim stops cooperating. The Chief of Police or their designee must notify the USCIS Vermont Service Center in writing (including as an email attachment) at:
LawEnforcement_UTVAWA.vsc@uscis.dhs.gov, or mail to

USCIS - Vermont Service Center
ATTN: Division 6
75 Lower Welden Street
St. Albans, VT 05479
- 4.11. If the Chief of Police or their designee determines that USCIS should know something particular about a victim's criminal history, that information can be cited on the certification or with an attached report or statement detailing the victim's criminal history with that law enforcement agency or their involvement in the crime.
- 4.12. Such written notification regarding withdrawal or disavowal must include:
 - 4.12.1. This department's name and contact information (if not included in the letterhead),
 - 4.12.2. The name and date of birth of the individual certified,
 - 4.12.3. The name of the individual who signed the certification and the date it was signed,
 - 4.12.4. The reason the department is withdrawing/disavowing the certification, including information describing how the victim's refusal to cooperate in the case is unreasonable,
 - 4.12.5. The signature and title of the official who is withdrawing/ disavowing the certification, and
 - 4.12.6. A copy of the signed initial certification.
- 4.13. Non-citizens may be eligible for a T Visas if:

- 4.13.1. Is or has been a victim of a severe form of trafficking in persons (which may include sex or labor trafficking), and
 - 4.13.2. Is in the United States due to trafficking,
 - 4.13.3. Has complied with requests for assistance in an investigation or prosecution of the crime of trafficking, and
 - 4.13.4. Would suffer extreme hardship involving unusual and severe harm if removed from the United States.
- 4.14. The T Visa declaration is supplementary evidence of a victim's assistance to law enforcement that an official can complete for a T Visa applicant. The declaration must be provided on Form I-914, [Supplement B](#), and instructions are available on the USCIS website at <https://www.uscis.gov/i-914>.
- 4.15. The Chief of Police or their designee will process T VISAS in the same way as U Visas.

OTHER PROVISIONS

All personnel are responsible for adhering to the requirements of this written directive until rescinded or amended by written order of the Chief of Police. Employees have an ongoing and continuous responsibility to seek guidance and verify their understanding of this and all directives including orders, policies, procedures, and rules. This directive shall take effect 7/21/2023 and remain in force and effect unless and until it is repealed, amended, or superseded by Order of the Chief of Police. All directives not expressly altered by this order remain in full force and effect.

The provisions of this directive shall be severable. If any phrase, clause, sentence or provision of this directive is declared by a court of competent jurisdiction to be invalid, the remainder of the directive shall not be affected.

Non-enforceability by third parties. This Directive is issued pursuant to the Chief of Police's authority to ensure the uniform and efficient enforcement of the laws and administration of criminal justice by department members. This Directive imposes limitations that may be more restrictive than the limitations imposed under the United States and New Jersey Constitutions, and federal and state statutes and regulations. Nothing in this Directive shall be construed in any way to create any substantive right that may be enforced by any third party.