

How the Immigrant Trust Directive Changes Law Enforcement Practices

Attorney General Directive 2018-6, known as the “Immigrant Trust Directive,” is designed to strengthen trust between New Jersey’s law enforcement officers and the state’s diverse immigrant communities, thereby **ensuring that victims and witnesses feel safe** reporting crimes.

The Directive is intended to draw a clearer distinction between state, county, and local law enforcement officers, who are responsible for enforcing state criminal law, and federal immigration authorities, (including Immigrations and Customs Enforcement, or ICE), who enforce federal civil immigration law. The Directive **limits the types of voluntary assistance** that New Jersey’s 36,000 law enforcement officers may provide to federal immigration authorities and applies to state and local police officers, correctional officers working in state prisons and county jails, and state and county prosecutors.

The Directive goes into effect in March 2019. Under the new rules, except in limited circumstances:

New Jersey’s police officers:

- Cannot stop, question, arrest, search, or detain any individual based solely on actual or suspected immigration status.
- Cannot ask the immigration status of any individual, unless doing so is necessary to the ongoing investigation of a serious offense and relevant to the offense under investigation.
- Cannot participate in ICE’s civil immigration enforcement operations.
- Cannot provide ICE with access to state or local law enforcement resources, including equipment, office space, databases, or property.

New Jersey’s correctional officers:

- Cannot allow ICE to interview individuals detained on criminal charges, unless the detainee is advised of his or her right to a lawyer and signs a written consent form.
- Cannot continue to hold a detained individual arrested for a minor criminal offense, without certain prior convictions,

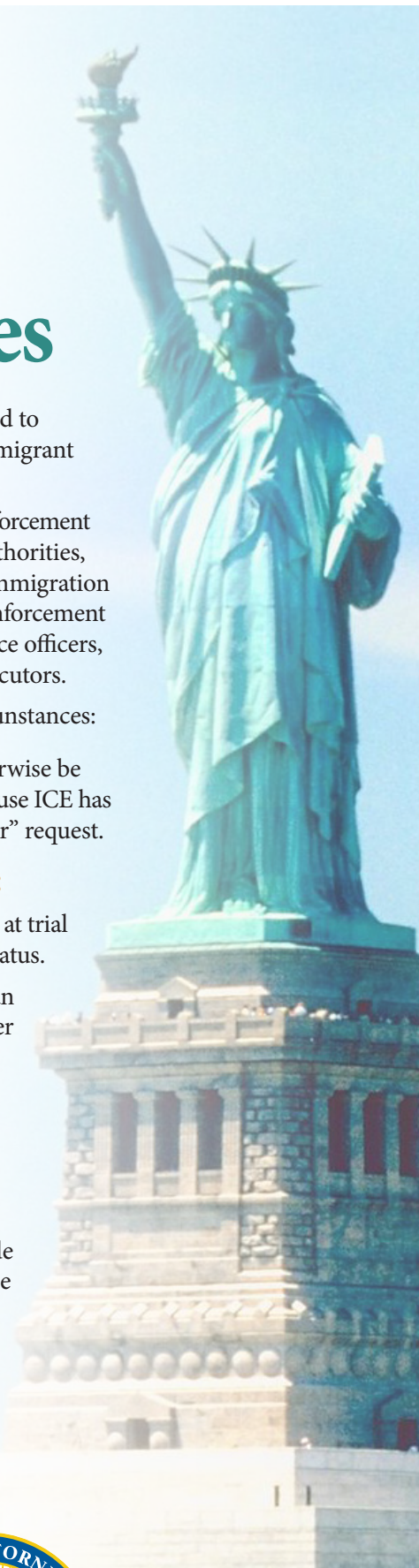
past the time he or she would otherwise be released from custody simply because ICE has submitted an “immigration detainer” request.

New Jersey’s prosecutors:

- Cannot attack a witness’s credibility at trial based on his or her immigration status.
- Cannot seek pretrial detention of an individual based solely on his or her immigration status.

New Jersey’s law enforcement agencies:





- Must develop procedures to assist victims and witnesses applying for T-Visas and U-Visas, which provide special immigration status for those cooperating with law enforcement investigations.
- Must update current policies to comply with this Directive and train all officers before March 2019.



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How the Immigrant Trust Directive **Doesn't Change** Law Enforcement Practices

The Immigrant Trust Directive establishes important new protections for New Jersey's immigrant communities. But it is also important to understand what these policies do not change about the state's law enforcement practices.




- Nothing in the Directive suggests that New Jersey provides "sanctuary" to individuals who commit crimes in the state.
- Nothing in the Directive limits the ability of law enforcement officers to enforce state criminal law.
- Nothing in the Directive restricts officers from complying with the requirements of federal law, including 8 U.S.C. § 1373.
- Nothing in the Directive prevents officers from enforcing valid court orders, including search or arrest warrants signed by state or federal judges.
- Nothing in the Directive stops officers from assisting federal immigration authorities in response to exigent circumstances.
- Nothing in the Directive addresses under what circumstances ICE may enter into contracts with county jails to house individuals detained for federal civil immigration violations.
- Nothing in the Directive requires that prosecutors seek, or decline to seek, a particular charge or sentence in a criminal case.
- Nothing in the Directive limits prosecutorial discretion in reaching a just resolution of a case.
- Nothing in the Directive prevents a prosecutor from making any argument at sentencing.
- Nothing in the Directive mandates that officers provide voluntary assistance to federal immigration authorities, even when the Directive makes clear that officers are permitted to do so.
- Nothing in the Directive prohibits law enforcement agencies from imposing their own additional restrictions on providing voluntary assistance to federal immigration authorities.

Note: This document summarizes relevant provisions of the Immigrant Trust Directive. Readers should review the full text of the Directive, which describes exceptions and exclusions to some of the rules described in this summary.

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