

# How the Immigrant Trust Directive Changes Law Enforcement Practices

In November of 2018, the Attorney General issued Directive 2018-6, known as the “Immigrant Trust Directive (ITD).” This directive was then revised in 2019 and has been in place in our state since then. As a reminder, the ITD was 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 draws 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 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.

Under the ITD, with limited exceptions:

## 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,

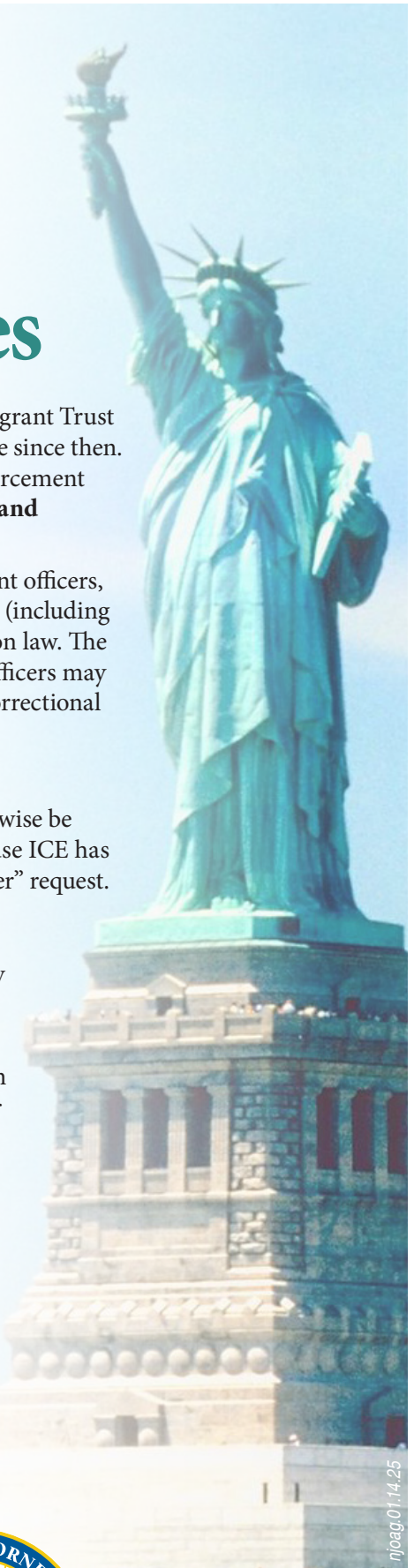
past the time he or she would otherwise be released from custody simply because ICE has submitted an “immigration detainer” request.

## 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:





- Pursuant to the Directive, in 2019, all NJ law enforcement agencies were required to 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.



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

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




- Nothing in the Directive suggested that New Jersey provides “sanctuary” to individuals who commit crimes in the state.
- Nothing in the Directive limited the ability of law enforcement officers to enforce state criminal law.
- Nothing in the Directive restricted officers from complying with the requirements of federal law, including 8 U.S.C. § 1373.
- Nothing in the Directive prevented officers from enforcing valid court orders, including search or arrest warrants signed by state or federal judges.
- Nothing in the Directive stopped officers from assisting federal immigration authorities in response to exigent circumstances.
- Nothing in the Directive addressed under what circumstances ICE may enter into contracts with county jails to house individuals detained for federal civil immigration violations.
- Nothing in the Directive required that prosecutors seek, or decline to seek, a particular charge or sentence in a criminal case.
- Nothing in the Directive limited prosecutorial discretion in reaching a just resolution of a case.
- Nothing in the Directive prevented a prosecutor from making any argument at sentencing.
- Nothing in the Directive mandated 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 prohibited 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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