

TOWN OF BROOKLINE

Immigration and Customs Enforcement and Other Immigration Related Police Policies

1. Federal Immigration Enforcement

Vote of the Board of Selectmen

_____, 2017

Question of Approving a General Order on Federal Immigration Enforcement and Related Matters.

The Board of Selectmen of the Town of Brookline (the “Board”), in consultation with the Brookline Police Chief (the “Chief”) and pursuant to authority granted under Massachusetts General Laws, c. 41, §97 relative to the making of suitable regulations governing the police department and the officers thereof, including for regulating the involvement of the Brookline Police Department (the “Department”) in the enforcement of federal immigration laws and related matters, hereby adopts the following regulation to be issued as a General Order of the Chief:

POLICY:

It Shall be the Policy of the Town of Brookline and the Department that:

1. All persons coming into contact with police officers or other personnel of the Department shall be afforded all of the civil and human rights and due process and equal protection safeguards available under the Constitution and laws of the United States and the Commonwealth of Massachusetts and the Town of Brookline and treaties of the United States, as applicable, irrespective of their immigration status.
2. No police officer or other employee of the Department shall inquire about a person's immigration status, nor shall they take any policing action against a person based solely on the person's real or suspected immigration status, except in limited circumstances specifically identified by the Chief and approved by the Board in public session as not inconsistent with this Policy. All persons shall have the right to file police reports and serve as witnesses to crimes, participate in police-community activities, and otherwise benefit from general police services without fear of having their immigration status being used against them or made available to federal or state officials who may use such status against them.
3. No funds, resources, facilities, property, equipment, or personnel of the Department shall be used for any federal immigration enforcement purpose, except incidental use, such as fingerprints, that may be acquired by Immigration and Customs Enforcement or other federal agencies in the ordinary course of the Department's operations.
4. No police officer or civilian employee of the Department shall make any information in its databases or other record-keeping systems available to any entity for enforcement of any federal program requiring registration of persons on the basis of race, gender, sexual orientation, gender identity, religion, national or ethnic origin, or political or social beliefs.

5. Any person who is arrested by the Department shall be booked in accordance with pre-existing policy. If, after transmitting an arrestee's fingerprints to the Massachusetts State Police Identification Unit, who transmits said fingerprints to the Federal Bureau of Investigation, Immigration and Customs Enforcement files an immigration detainer, the arrestee shall be made aware of the detainer and provided a copy. The arrestee shall also be made aware that the Brookline Police Department will not hold them in custody on the Immigration and Customs Enforcement detainer if they post bail or are released on their own recognizance.
6. No person shall be held in custody by the Department based solely on the existence of an Immigration and Customs Enforcement detainer or any other administrative warrant. The Department shall adhere to General Order 3.0 pertaining to the arrest of persons.
7. While the Department is prohibited from detaining persons on ICE detainers, it is not prohibited from detaining an arrestee, regardless of their immigration status, for any lawful reason such as a judicial arrest warrant.
8. The Department shall keep a record of all arrestees who have been the subject of an Immigration and Customs Enforcement detainer after arrest by the Brookline Police Department. Included in the record shall be the following:
 - a. The person's name.
 - b. The charges or other grounds on which the person was arrested.
 - c. Whether a decision was made not to proceed with prosecution and the person was released.
 - d. The bail set by the bail commissioner after arrest.
 - e. Whether the person was released from the Department after booking or whether they were transferred to court.
9. The Department shall provide a copy of the General Order pertaining to this policy and training on the procedures related to such General Order, to all police officers employed by the Brookline Police Department.
10. The Chief may issue Procedures to implement this Policy that shall be included in the Department's "Rules and Regulations – Policies and Procedures" Manual and shall be kept up-to-date on the Department's public website.

2. General Regulations – All Personnel

Vote of the Board of Selectmen
_____, 2017

Question of Approving a Policy Governing the Promulgation of Special Orders and General Orders of the Brookline Police Department.

The Board of Selectmen of the Town of Brookline (the “Board”), in consultation with the Brookline Police Chief (the “Chief”) and pursuant to authority granted under Massachusetts General Laws, c. 41, §97 relative to the making of suitable regulations governing the police department and the officers thereof, including for the issuance of General Orders and Special Orders of the Brookline Police Department (the “Department”), hereby adopts the following regulation to be issued as a General Order of the Chief.

POLICY:

It Shall be the Policy of the Town of Brookline and the Department that:

1. General Orders shall be issued by the Chief to the Department as regulations authorized and approved by the Board. General Orders shall be prepared by the Chief in consultation with the Board and Town Counsel and once approved made a part of the Department’s “Rules and Regulations – Policies and Procedures” Manual (the “Manual”). General Orders may also be initiated by the Board. Special Orders shall be issued by the Chief, after review by Town Counsel and notification of the Board, and made a part of the Manual. General Orders and Special Orders shall be kept up-to-date on the Department’s public website. Provisions in the Manual that are inconsistent with this Policy shall be updated as necessary.
2. Special Orders that relate to matters that are properly confidential under the Public Records Law shall be included in the Manual by Special Order number and any identification description that does not compromise its confidential nature. Members of the Board who are aware of the content of confidential Special Orders shall be subject to the requirements for maintaining confidentiality as provided in the General Laws.
3. General Orders Defined. General Orders are permanent written orders prepared by the Chief and presented to the Board for their review and approval and thereafter become regulations of the Board issued as General Orders of the Chief to the Department, outlining policy matters that affect the entire Department. A General Order is the most authoritative written order the Chief issues, and may be used to amend, supersede or cancel any previous order. General Orders remain in full effect until amended, superseded, or canceled by the Chief, with the approval of the Board.
4. Special Orders. Special Orders are temporary written orders issued by the Chief outlining instructions covering situations of a temporary or unique nature. Special Orders, including confidential Special Orders, shall be presented to Town Counsel for review for consistency with Board Policies and with the General Orders of the Department and the Town bylaws. The Chief shall notify the Board of a Special Order

by delivering it to the Town Administrator who shall notify the Board and make it available for review by members of the Board. Special Orders shall be automatically canceled when their objective is achieved. Once a Special Order is canceled the Board of Selectmen shall be notified and the cancelation noted in the Manual.

**3. Statement on Communication with Immigration and Naturalization Service
8 USC §1373**

Vote of the Board of Selectmen
_____ __, 2017

Question of Approving a Statement of the Board of Selectmen Concerning Communications with the Immigration and Naturalization Service.

The Board of Selectmen (the “Board”) of the Town of Brookline, pursuant to its authority as the executive body of the Town hereby adopts the following Statement concerning 8 U.S.C. §1373.

1. No government official or department of the Town of Brookline shall be prohibited or in any way restricted from sending to or receiving from the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful of any individual.
2. Notwithstanding the foregoing paragraph, no government official or department of the Town of Brookline shall be authorized by this statement to collect any information regarding the citizenship or immigration status, lawful or unlawful of any individual if such information is not required to be collected by the laws of the Commonwealth of Massachusetts, the Bylaws of the Town of Brookline, or the policies or regulations of the Brookline Police Department.