

**The Specific Role and Impact on the Westborough Police Department in the  
Enforcement of Federal Immigration Law  
(With the 2015 Priority Enforcement Program)**

Purpose and Scope

The Westborough Police Department recognizes and values the diversity of the community it serves. Many of its residents have emigrated to this community from other countries and some may not be citizens or legal residents of the United States. The Town and the Westborough Police Department are committed to promoting safety and providing proactive community policing services to all who are located in our community. In furtherance of the department's Community Policing philosophy, all community members and stakeholders should know that they are encouraged to seek and obtain police assistance and protection regardless of their specific immigration and/or documentation status.

The specific immigration status (or lack thereof) of an individual or group of individuals in and of itself, is not and shall not be a matter of police concern or subsequent enforcement action. It is incumbent upon all officers and employees of the Westborough Police Department to make an unyielding personal commitment to equal enforcement of the law and equal service to the public regardless of documentation status. Confidence in this valued commitment will not only protect an individual's rights and freedoms from being adversely affected but shall also increase the public's confidence in the police department's effectiveness and efficiency in protecting and serving the members of the entire community.

DHS PRIORITY ENFORCEMENT PROGRAM ("PEP")

The Commonwealth of Massachusetts officially became part of what was previously known as the Federal Secure Communities Program on May 15, 2012. On November 20, 2014 the Federal Secure Communities Program was officially "discontinued" at the direction of the Secretary of Homeland Security Jeh Johnson. The Secretary believed that the "overarching goal of Secure Communities remains valid and an important law enforcement objective, but a fresh start and a new program is necessary." He directed that a new program known as the Priority Enforcement Program ("PEP") which continues to rely on fingerprint-based biometric data submitted during bookings by state and local law enforcement agencies to the Federal Bureau of Investigation for criminal background checks. However ICE should only seek the transfer of an undocumented individual in the custody of state or local law enforcement through this new PEP Program when the undocumented individual has been convicted of an offense based on the NEW Priority Schedule as outlined below:

**PRIORITY 1: (Threats to National Security, Border Security, & Public Safety)**

- (a) Undocumented individuals engaged in or suspected of terrorism or espionage, or who otherwise pose a danger to national security;

- (b) Undocumented individuals apprehended at the border or ports of entry while attempting to unlawfully enter the United States;
- (c) Undocumented individuals convicted of an offense for which an element was active participation in a criminal street gang, as defined in 18 U.S.C. § 52 I(a), or aliens not younger than 16 years of age who intentionally participated in an organized criminal gang to further the illegal activity of the gang;
- (d) Undocumented individuals convicted of an offense classified as a felony in the convicting jurisdiction, other than a state or local offense for which an essential element was the alien's immigration status; and
- (e) Undocumented individuals convicted of an "aggravated felony," as that term is defined in section 101(a)(43) of the Immigration and Nationality Act at the time of the conviction.

#### PRIORITY 2: (Misdemeanants and New Immigration Violators)

Aliens described in this priority, who are also not described in Priority 1, represent the second-highest priority for apprehension and removal. DHS Resources should be dedicated accordingly to the removal of the following:

- (a) Undocumented individuals convicted of three or more misdemeanor offenses, other than minor traffic offenses or state or local offenses for which an essential element was the alien's immigration status, provided the offenses arise out of three separate incidents;
- (b) Undocumented individuals convicted of a "significant misdemeanor," which for these purposes is:

Note: Five (5) of these offenses are in fact Felonies in Massachusetts;

- An offense of Domestic Violence; (Felony – 2nd Offense in MA)
- Sexual Abuse or exploitation; (Felony in Massachusetts)
- Burglary; (Felony in Massachusetts)
- Unlawful possession or use of a Firearm; (Felony in Massachusetts)
- Drug Distribution/Trafficking; (Felony in Massachusetts)
- Driving under the influence;
- If not an offense listed above, one for which the individual was sentenced to time in custody of 90 days or more (the sentence must involve time to be served in custody, and does not include a suspended sentence).

#### POLICY

The enforcement of the nation's civil immigration laws are the primary responsibility of the federal government. Accordingly, the Westborough Police Department shall not undertake immigration-related investigations and shall not routinely inquire into the specific immigration status of any person(s) encountered during normal police operations.

This prohibition does not preclude the Westborough Police Department from cooperating and assisting with federal immigration officials from the DHS Immigration and Customs Enforcement (ICE) Agency when formally requested as part of an on-going criminal investigation, or from notifying those federal officials in serious situations where a potential threat to public safety or national security is perceived.

## PROCEDURE

### (1) Inquiries into Immigration Status:

- (a) A person's right to file a police report; participate in any police-community activities (i.e., Community Action Team Meetings, Neighborhood Watch, National Night Out, etc); or otherwise benefit from general police services shall not be contingent upon the individual providing proof of citizenship or any type of documented immigration status.
- (b) Consequently, officers shall not question any person about his or her specific citizenship or immigration status unless that person is reasonably believed to be involved in one or more of the activities identified in Subsection (B) below.
- (c) Officers shall not request passports, visas, resident alien cards (i.e., "green cards"), or travel documents in lieu of, or in addition to, driver's licenses and other standard forms of identification. Such documents shall only be requested when standard forms of identification are unavailable, or when the officer is proceeding under Subsection (B) below.

### (2) Notification to Federal Immigration Authorities:

In furtherance of the department's community policing philosophy and continued engagement and outreach efforts, Westborough Police Officers shall not participate in any federal civil immigration related investigations of any immigrant or foreign national, except when the immigrant or foreign national:

- (a) Is arrested for any violent felony by WPD Personnel including but not limited to:
  - Murder,
  - Assault with intent to Murder,
  - Assault & Battery by means of a Dangerous Weapon,
  - Assault by means of a Dangerous Weapon,
  - Armed Burglary,
  - Rape, (or any Sex Offense)
  - Mayhem, or

- Armed Robbery;
- (b) When the WPD acquires reliable information that the individual in Westborough Police custody has been convicted in a court of competent jurisdiction of any violent felony;
- (c) Is arrested by WPD Personnel for any terrorism-related offense, or is otherwise reasonably suspected of involvement in any terrorist and/or subversive activities;

Note: The FBI Joint Terrorism Task Force (JTTF) shall also be contacted forthwith

- (d) Is arrested for any offense involving the entry or fraudulent assimilation or trafficking of individuals into the United States, or is reasonably suspected of participating in an organized venture to bring or fraudulently assimilate undocumented foreigners in this country; or
- (e) Is suspected based upon the legal standard of probable cause (basis of knowledge and veracity) of participating in criminal street gang activity involving violence and/or distribution of illegal drugs.
- (3) Immigration and Customs Enforcement (ICE) Requests for Assistance:
- (a) The U.S. Bureau of Immigrations and Customs Enforcement has primary jurisdiction for enforcement of the provisions to Title 8, U.S. Code dealing with illegal entry into the United States by foreign nationals.
- (b) Westborough Police Officers shall not directly participate in any such ICE tactical operations solely for the civil enforcement of federal immigration laws as part of any Detention or Arrest Team unless:
- It is in direct response to a request for immediate assistance on a temporary basis for "Officer Safety" purposes; or
  - For the assistance in the apprehension of any individual who is also wanted on a Massachusetts issued Warrant Management System Criminal Warrant (WMS) which remains in full force and effect at the time of the request.
- (c) Any detention by a member of the Westborough Police Department during the request for assistance by ICE should be based upon a reasonable belief that the detained individual is either involved in criminal activity other than a civil violation of federal immigration laws or is wanted by the Commonwealth of Massachusetts on a WMS Active Warrant.

The above is the summary of the full policy, for the full policy click on the following link  
[http://town.westborough.ma.us/Public\\_Documents/WestboroughMA\\_Manager/ManagerDocuments/Westborough%20PD%20Diversity.pdf](http://town.westborough.ma.us/Public_Documents/WestboroughMA_Manager/ManagerDocuments/Westborough%20PD%20Diversity.pdf)