ORDER OF THE COUNTY EXECUTIVE

REGARDING THE SAFETY, SECURITY AND RIGHTS OF RESIDENTS OF NEW CASTLE COUNTY
EXECUTIVE ORDER 17-003

New Castle County is fortunate to have a population that is ethnically, racially and religiously diverse. Our County has vibrant immigrant communities, and we have thrived because of the strength and diversity of these communities. The cooperation of all persons, both those residing here legally and those without documentation, is essential to achieve the County's goals of protecting life and property and improving the quality of life for the people of New Castle County.

Assistance from any person, whether documented or not, who is a victim of, or a witness to, a crime is vital to providing safety to all of our residents. The cooperation of the County's immigrant communities is essential to prevent and solve crimes and maintain public order, safety and security in the entire County. Our police department has, is and will to continue to focus on keeping all communities of New Castle County safe. This order is another step toward achieving that goal.

Moreover, it is fundamental to who we are that all people in New Castle County have equal access to County services, regardless of their citizenship or immigration status.

The purpose of this Order is to establish the County's procedures concerning immigration status and enforcement of federal (civil) immigration laws, and to ensure the County provides an equal level of service to all people within New Castle County.

It is hereby ordered that:

1. **ENFORCEMENT OF IMMIGRATION LAWS**
   No County employee, officer, Department, Division, or other County agency shall stop, question, search, surveil, arrest, detain or continue to detain a person solely based on the suspicion or belief that the person is not present legally in the United States, or that the person has committed a civil immigration violation.

2. **COOPERATION WITH FEDERAL AUTHORITIES**
   No County employee, officer, Department, Division, or other County agency shall:
   - Stop, question, surveil, search or arrest a person based on an immigration detainer or an administrative warrant for a violation of a civil immigration law.
   - Participate or cooperate in the creation or maintenance of any government registry based on religion or national origin.
   - Enter into any contracts, agreements or arrangements that deputize County law enforcement officers to act as immigration agents, such as "287(g) Agreements" or Intergovernmental Service Agreements.

- Participate in any joint operations with United States Immigration and Customs Enforcement ("ICE") or United States Customs and Border Protection ("CBP"), unless for purposes other than immigration enforcement, such as to investigate terrorism or the illegal movement of people and goods (includes crimes such as child exploitation, human trafficking, money laundering, narcotics enforcement, firearms smuggling, etc.).
- Detain or continue to detain a person based on an immigration detainer or an administrative warrant for a violation of a civil immigration law or permit ICE or CBP agents access to a person being detained by, or in the custody of the employee, officer, Department, Division, or other agency, unless:
    - A judicial warrant has been issued for such person;
    - Such person has been convicted of a violent felony as defined by 11 *Del. C.* § 4201(c), or an equivalent offense specified in the laws of any other jurisdiction;
    - Such person is registered as a sex offender pursuant to 11 *Del. C.* § 4120, *et seq.*, or a sex offender registry of any other jurisdiction;
    - There is probable cause to believe that such person has engaged or is planning to engage in an act of terrorism; or
    - ICE or CBP seeks access to such person for purposes other than immigration enforcement, such as to investigate terrorism or the illegal movement of people and goods (includes crimes such as child exploitation, human trafficking, money laundering, narcotics enforcement, firearms smuggling, etc.).

3. **OBTAINING AND SHARING OF IMMIGRATION STATUS INFORMATION**

- No County employee, officer, Department, Division, or other County agency shall:
    - Respond affirmatively to an ICE or CBP request for non-public information about a person, including any information about a person's release, court dates, home address, and work address, unless:
        - A judicial warrant has been issued for such person;
        - Such person has been convicted of a violent felony as defined by 11 *Del. C.* § 4201(c), or an equivalent offense specified in the laws of any other jurisdiction;
        - Such person is registered as a sex offender pursuant to 11 *Del. C.* § 4120, *et seq.*, or a sex offender registry of any other jurisdiction;
        - There is probable cause to believe that such person has engaged or is planning to engage in an act of terrorism; or
        - ICE or CBP seeks access to such person for purposes other than immigration enforcement, such as to investigate terrorism or the illegal movement of people and goods (includes crimes such as child exploitation, human trafficking, money laundering, narcotics enforcement, firearms smuggling, etc.).
- No County employee, officer, Department, Division, or other County agency shall:
    - Inquire about, investigate or request information on the citizenship or immigration status of any person, or assist with any such inquiries, investigations or requests.
    - Disclose information on the citizenship or immigration status of any person without the person's consent, or assist with any such disclosures.

- However, nothing in this Executive Order shall prohibit any County employee, officer, Department, Division, or other County agency from:
    - Maintaining, sending to or receiving from any local, state, or federal agency, or requesting from the Immigration and Naturalization Service- as per 8 U.S.C. § 1373- information regarding a person's country of citizenship or a statement of the person's immigration status;
    - Disclosing information about a person's criminal arrests or convictions, where disclosure of such information about the person is otherwise permitted by state law or required pursuant to subpoena or court order;
    - Disclosing information about a person's juvenile arrests or delinquency adjudications, where disclosure of such information about the person is otherwise permitted by state law or required pursuant to subpoena or court order; or
    - Inquiring about, investigating, requesting information on, or disclosing information on the citizenship or immigration status of a person, or assisting with such inquiries, investigations, requests, or disclosures if:
        - The action is necessary for compliance with a properly issued subpoena;
        - The action is necessary in relation to actual or potential litigation or an administrative proceeding;
        - The action is necessary to determine eligibility for a service, program, benefit, or employment for which state or federal law, or state or federal program guidelines, condition eligibility on immigration or citizenship status;
        - The action is necessary for assessing the risk of flight at a bail hearing; or
        - The action is necessary for the completion of a U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services Form I-9 Employment Eligibility Verification.
- All applications, questionnaires and interview forms used in relation to New Castle County services, programs, or benefits shall be promptly reviewed by the pertinent agencies and any questions regarding citizenship or immigration status shall be deleted, unless such questions are permitted pursuant to the above-mentioned criteria.
- With the exception of the permitted disclosures specified above, the confidentiality of immigration status information in the possession of or known to County employees, officers, Departments, Divisions, or other County agencies shall be maintained to the fullest extent permitted by the laws of the United States and the State of Delaware.

4. <u>ACCESS TO SERVICES</u>

- No County employee, officer, Department, Division, or other County agency shall:
    - Condition the provision of County government benefits, programs, or services on matters related to citizenship or immigration status, except when specifically required to do so by state or federal law, or by state or federal program guidelines.
- Where presentation of a state-issued driver's license or identification card is accepted as adequate evidence of identity, presentation of a photo identity document issued by the person's

nation of origin, such as a driver's license, passport, or matricula consular (consulate-issued document), shall be accepted and shall not subject the person to a higher level of scrutiny or different treatment than if the person had provided a state-issued driver's license or identification card, except when federal or state law or regulation requires specific forms of identification as a condition of access to a service, program, or benefit.

5. ENFORCEMENT

- Complaints regarding violations of this Executive Order shall be reviewed by the appropriate General Managers.
- Violations of this Executive Order by a County employee or officer may result in disciplinary action.

6. PURPOSE OF EXECUTIVE ORDER

- As this Executive Order directs the behavior of County employees, officers, Departments, Divisions, and other County agencies only, nothing in this Executive Order is intended to create any right, entitlement, privilege, or interest in any third party.
- Nothing in this Executive Order is intended to create a private cause of action for violations of this Executive Order.
- Nothing in this Executive Order is intended to, nor shall be interpreted to create additional expectations of privacy or procedural rights regarding detention and arrest, or as they may relate to police search and seizure operations of any kind.

So ordered on this 24th day of May 2017.

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Matthew Meyer
County Executive