


# Commonwealth of Virginia

## COUNTY OF FAIRFAX

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COMMONWEALTH'S ATTORNEY

COMMONWEALTH'S ATTORNEY PROCEDURE MEMORANDUM	
Policy No. 20.015 [updated]	Date: 3/23/2021 [original: 12/17/2020]
Policy Title: Prohibition on Assisting with Civil Immigration Enforcement	
Summary: To improve community safety, promote confidentiality, restore trust, and ensure all have equal protection of the law, employees of the Fairfax County Commonwealth's Attorney's Office shall not assist federal agents with civil immigration enforcement.	
Authorizing Signature:	

Fairfax County is a diverse community. Three in ten residents of the county are immigrants. Accordingly, it is important that our immigrant community has the ability to engage with county agencies, including the criminal justice system, without fear that the information they provide might be used to assist in federal civil immigration enforcement.

The cooperation of all persons—citizens, documented residents, and those without documentation—is essential to the safety of the community. Trust and cooperation between immigrant communities and the criminal justice system diminishes when immigrants see local law enforcement voluntarily assisting federal agents with civil immigration enforcement. Immigrants become less likely to report crimes, act as witnesses in criminal investigations and prosecutions, and provide intelligence to law enforcement. Moreover, when communities are reluctant to seek out law enforcement help due to fear of deportation/removal, those communities become high-value, low-risk targets. Given that approximately 85% of immigrants live in mixed status households, the distrust of law enforcement extends well beyond those who are undocumented. The chilling effect is only amplified at the judicial stage as victims, witnesses, and other parties often are reluctant to go to the courthouse due to the fear of federal immigration agents patrolling the area. Civil arrests of individuals with business at the Fairfax County courthouse substantially disrupts court operations and compromises public safety.

Therefore, to improve community safety, promote confidentiality, restore trust, preserve limited resources, and ensure all have equal protection of the law, employees of the Fairfax County Commonwealth's Attorney's Office shall not assist federal agents with

civil immigration enforcement.<sup>1</sup>

The prohibition on assisting federal agents with civil immigration enforcement includes, but is not limited to, the following:

- No employee shall knowingly participate in or facilitate civil immigration enforcement operations by disclosing to any federal, state, or local government entity, law-enforcement officer, or law-enforcement agency any confidential personal information.<sup>2</sup>
- No employee shall knowingly expend county resources (including but not limited to facilities, equipment, cell phones, office supplies, emails, records, databases, and employee time during regular business hours) or allow such agent or officer to directly or indirectly access such resources, to assist with or facilitate civil immigration enforcement.

This policy does not prevent cooperation with federal, state, or local agencies in connection with any action intended for a legitimate law enforcement purpose unrelated to the facilitation of civil immigration enforcement efforts. Nor does this policy prohibit employees from taking any action necessary to fulfill the mission or obligations of this office. Moreover, this office will continue to comply with all applicable state and federal laws, court orders, and criminal warrants subject to the limitations in footnote 1.

Nothing herein shall prevent the provision of information or assistance in connection with a U, T, or S visa application under federal law when assistance is requested by the beneficiary of such an application. Further, if information or assistance is requested that is relevant to other protections or benefits accorded to an individual under state or federal law, or required by an international treaty, an employee of this office may voluntarily provide the relevant information or assistance requested by the beneficiary if otherwise allowed by law.

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<sup>1</sup> An "Outstanding Administrative Warrant of Removal" and an "Outstanding Administrative Warrant of Arrest for Immigration Violations" are civil administrative warrants. Any cooperation in the enforcement of these civil warrants is prohibited, regardless of whether or not the administrative warrant is accompanied by a final order of removal or deportation, or any other civil immigration document that is not accompanied by a criminal judicial warrant.

<sup>2</sup> Confidential personal information is personal information that could be useful in identifying and/or locating a non-citizen or person of uncertain immigration status, including but not limited to: (1) contact information (e.g., current location, home/work address, telephone numbers, social media contacts or other means of contacting someone); (2) law enforcement information (e.g., arrest, summons, court date, judicial ruling, release date from incarceration, confinement in a jail or criminal history); (3) personal identifiers and status (e.g., citizenship, immigration status, national origin, race, ethnicity, language proficiency, religion, sexual orientation, gender identity, disability, age, place and date of birth, marital status, status as a victim of domestic violence or status as a veteran); (4) information that can be used to distinguish or trace personal identifiers and status, and (5) government identifiers (e.g., biometric data, license plate, driver's license, social security/taxpayer identification/passport/visa numbers, receipt of public assistance or services, housing records or tax records).

In addition to the foregoing, no employee of the Fairfax County Commonwealth's Attorney's Office shall question any witness or victim of a crime about their citizenship or immigration status unless such information is needed for prosecution of a criminal case, such as when an immigrant is targeted and intentionally victimized because of their immigration status.

No employee may expend any county resources to assist in the investigation or enforcement of any federal program requiring registration of individuals based on citizenship, immigration status, race, national or ethnic origin, language proficiency, gender, gender identity, sexual orientation, religion, disability or age.

Employees of this office shall maintain privacy with respect to an identifiable individual's confidential personal information. Employees shall not request, access, or disclose to any outside person or entity an identifiable individual's confidential personal information unless it is necessary to fulfill the mission or obligations of this office.

All forms created and used by this office shall be periodically reviewed to confirm compliance with this policy.

Employees shall monitor current and future federal grants and contracts, as well as contracts with private data brokers, to the extent any such contracts exist, that request disclosure of an identifiable individual's confidential personal information to confirm compliance with this policy.