


FAIRFAX COUNTY POLICE DEPARTMENT  GENERAL ORDER	SUBJECT: IMMIGRATION STATUS, CITIZENSHIP, AND NATIONAL ORIGIN		NUMBER: 604
	EFFECTIVE DATE: February 21, 2025	REVIEW: February 2028	
RESPONSIBLE ENTITY: PLANNING AND RESEARCH BUREAU			<input type="checkbox"/> New Directive <input type="checkbox"/> Replaces: <input checked="" type="checkbox"/> Revised: 02-21-25
ACCREDITATION STANDARDS	CALEA: 1.2.3	VLEPSC: ADM.02.02	

I. PURPOSE

The purpose of this General Order is to establish guidelines and procedures for contacts between members of the Fairfax County Police Department (FCPD) and documented and undocumented persons.

II. POLICY

The FCPD is committed to providing the highest level of service and treating all persons with dignity and respect in order to strengthen trust and increase the effectiveness of community policing. In accordance with FCPD [General Order 002](#) (Human Relations), members of the Department shall provide equal services to all community members regardless of known or perceived race, ethnicity, immigration status, citizenship or national origin, except where otherwise required by state or federal law. Officers are obligated to follow the [Fairfax County Trust Policy](#) with regard to all community members.

III. DEFINITIONS

- A. **Administrative Warrant of Removal:** A civil warrant issued by an immigration official for suspected violations of immigration laws. Warrants of Removal are not criminal warrants signed by a judge or magistrate, and shall never be used by officers as the sole basis to either detain or arrest a person.
- B. **Documented and Undocumented Person:** Any person who is not considered to be a citizen of the United States. Includes any person in the United States with documented residency status (i.e., Lawful Permanent Resident, Permanent Resident Alien, Green Card Holder, Student Visa Holder, Visitor Visa Holder, Temporary Work Visa Holder, U Visa Holder, Foreign National, Foreign Government Official, etc.) or any person who is in the United States with undocumented residency status.

- C. **Previously Deported Alien:** Any person who has been denied admission, excluded, deported, removed, or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and enters, attempts to enter, or is found at any time in the United States. Previously deported persons who reenter the United States are in violation of criminal law [unless excepted by federal law](#), and a criminal arrest warrant may be issued for their arrest.
- D. **Previously Deported Felon:** Any person who has been previously convicted of a felony in the United States and was deported or left the United States after conviction. Unauthorized re-entry of a previously deported felon is a crime subject to imprisonment.
- E. **Criminal Arrest Warrant:** A warrant issued by a judge or magistrate supported by probable cause that a specific crime has been committed, and that the person named in the warrant committed the listed crime.
- F. **Criminal Judicial Warrant:** A warrant issued by a judge or magistrate based upon a criminal immigration law violation. Criminal immigration violations for which a criminal arrest warrant may be issued include (1) re-entry into the United States without an exemption by a previously deported alien and (2) the unauthorized re-entry of a previously deported felon.

IV. CONTACTS WITH DOCUMENTED AND UNDOCUMENTED PERSONS

- A. **General Contacts:** All contacts with individuals shall be in accordance with applicable Department policies, procedures, and training, to specifically include FCPD [General Order 002](#) (Human Relations). Officers shall never question witnesses or victims of a crime about their citizenship or immigration status, and identifying information for victims and witnesses should only be obtained and recorded for law enforcement investigatory purposes.
- B. **Queries:** Officers shall only conduct queries of a person's information in a law enforcement database for criminal justice purposes, and only as prescribed by law and within the specific regulations of the system being utilized. Officers are strictly prohibited from conducting database searches to inquire solely as to a person's immigration status.
- C. **Civil Enforcement Prohibited:** Officers shall not participate in the enforcement of federal civil statutes (i.e., immigration laws). This does not preclude officers from responding to an incident to ensure public safety, however, officers have no legal authority as local law enforcement officers to enforce federal civil immigration laws.

V. OUTSTANDING ADMINISTRATIVE WARRANTS OF REMOVAL OR ARREST

- A. **Administrative Warrants of Removal or Arrest:** "Outstanding Administrative Warrants of Removal" and/or "Outstanding Administrative Warrants of Arrest for Immigration Violations" are civil administrative warrants and do not constitute grounds for either detainment or arrest. Officers do not have legal authority to enforce these civil warrants, regardless of whether or not the warrant is accompanied by a final order of removal or deportation or any other civil immigration document that is not accompanied by a **criminal** warrant. Officers who receive administrative warrant hits through NCIC's Immigration Violators File that read "Outstanding Administrative Warrant of Removal" shall not use that alone as a basis for further law enforcement action.
- B. **DPSC Procedures:** The Fairfax County Department of Public Safety Communications (DPSC) Teletype section will not confirm a return on an Outstanding Administrative Warrant of Removal. Any request from an officer to confirm such a warrant will be promptly directed to the attention of the Police Liaison Commander for review with the acting Duty Officer.

VI. INFORMATION SHARING AND FIELD OPERATION REQUEST FORMS

- A. **Accessing and Sharing Information:** FCPD employees are permitted to access information from any databases available to them (i.e., NCIC/VCIN, DMV queries etc.) whenever necessary for criminal justice purposes. Employees are required to abide by the [Fairfax County Trust Policy](#).
- B. **Field Operation Request Forms:** In order to track and document requests for personal identifying information of documented or undocumented persons, officers are encouraged to submit an [Information Sharing and Field Operation Request Form](#).
- C. **Federal Law:** Nothing in this policy shall be construed to prohibit, or in any way restrict, any FCPD employee from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual in accordance with [federal law](#).
- D. **Information Requests:** FCPD employees who receive a request for information regarding a documented or undocumented person's personal identification information are encouraged to complete the [Information Sharing and Field Operation Request Form](#). Completed forms shall be immediately forwarded through the employee's chain of command.

- E. **Tracking:** All completed [Information Sharing and Field Operation Request forms](#) shall be forwarded to the Department's Special Investigations Unit for proper tracking.

VII. FIELD OPERATIONS

- A. **Civil Immigration Investigations:** Officers have no authority as local law enforcement officers to enforce civil immigration violations.
- B. **Task Force Responsibilities:** FCPD employees who are members of any task force that receives a request from Immigration and Customs Enforcement (ICE) requesting either information or assistance for any reason are encouraged to complete the [Information and Field Operations Request Form](#).
- C. **Detentions:** Officers are strictly prohibited from extending any detention of a person solely for the purpose of enforcement of civil immigration statutes as this would constitute a violation of the person's rights as guaranteed by the Fourth Amendment to the United States Constitution.

VIII. ARRESTS OF DOCUMENTED OR UNDOCUMENTED PERSONS

- A. **Arrest Procedures:** Arrests of any documented or undocumented person shall be conducted in strict accordance with FCPD [General Order 601](#) (Arrest Procedures). Officers are strictly prohibited from basing their decision on whether to release a person on a Virginia Uniform Summons solely on the basis of any person's known or perceived race, ethnicity, national origin, citizenship, or immigration status. Officers are reminded to use all reasonable means to establish community ties in an effort to release a person on a uniform summons per the [Code of Virginia](#).
- B. **Behavioral Health Incidents:** Where any officer reasonably believes that a person is likely to harm themselves or any other person, they shall respond in accordance with FCPD [General Order 609](#) (Emotionally Distressed Persons).
- C. **Previously Deported Aliens:** Officers are permitted to take a [Previously Deported Alien](#) or Previously Deported Felon into lawful custody pursuant to criminal arrest or criminal judicial warrants that have been issued for that person upon confirmation that the warrant is still active.
- D. **Warrantless Arrests of Previously Deported Felons:** In accordance with the [Code of Virginia](#), officers may arrest individuals without a criminal warrant based upon a "Previously Deported Felon" NCIC return only when:

1. The officer has reasonable suspicion to believe that the person has committed or is committing a crime, **and**
2. ICE has confirmed that the person is illegally present in the United States, has previously been convicted of a felony in the United States, and was either deported or left the United States after conviction.

Note: Officers are required to first take the person immediately before a magistrate and place appropriate state or local charges.

IX. CONSULAR NOTIFICATION REQUIREMENTS

- A. **Consular Notifications:** Officers who effect custodial arrest of a documented or undocumented person shall inquire as to their citizenship in order to determine whether or not mandatory reporting is required. This inquiry shall only occur after the person has been placed under arrest, and any information received is for the sole purpose of notifying the consular office from which the person purports to claim citizenship.
- B. **Mandatory Consular Notifications:** Where mandatory notification is required, the arresting officer shall contact the consular office from the country of which the documented or undocumented person claims citizenship. This required notification shall be made by the arresting officer without delay and as soon as possible after completing the detention or arrest process. Notifications can be made via phone or fax, and officers shall use the Department of State's [Consular Notification and Access Manual](#) for guidance. Officers shall also make mandatory consular notifications regarding:
1. The death or serious injury of a documented or undocumented person.
 2. Any wreck or crash (within Fairfax County) involving a ship or aircraft registered in a foreign country.
- C. **Non-Mandatory Consular Notifications:** Where mandatory notification is not required, arresting officers shall inquire whether the person wishes the officer to contact the consular office from the country of which they claim citizenship. Where the person requests to have the consular office notified, that notification shall be made by the arresting officer without delay and as soon as possible after completing the detention or arrest process. Notifications can be made via phone or fax, and officers shall use the Department of State's [Consular Notification and Access Manual](#) for guidance.
- D. **Documentation:** Officers shall document all arrests of documented or undocumented persons in an incident report in the Department's current

Records Management System, including the following information as applicable:

1. The offer by the arresting officer to contact the consulate office from which the person claims citizenship.
2. The specific country's consulate office contacted by the officer and by what means (i.e., phone or fax).
3. For non-mandatory notification cases, the fact that the person declined the offer to contact their consulate office.

X. DIPLOMATIC IMMUNITY

A. **General:** Documented or undocumented persons who are designated as diplomatic agents, their household and family members, members of their administrative and technical staff, and members of their service staff are granted various levels of immunity from arrest, detention, or prosecution. Diplomats of all levels are subject to the following:

1. **Lack of Identification:** Diplomats or consular officers who are unable to produce proper identification in situations that would normally warrant arrest or detention, shall be informed that they will be detained until their identity can be confirmed by the United States Department of State.
2. **Traffic Summons:** Officers are permitted to issue a traffic summons to any diplomat or consular officer whenever warranted under the circumstances, however, individuals shall not be taken into custody for refusal to sign the summons. The summons shall then be processed in accordance with standard Department procedures, and the cited person is not required to appear in court. The Department of State may elect to suspend an individual's privilege to drive in the U.S. at their discretion.
3. **Driving While Intoxicated:** Diplomats and consular officers who are found to be operating a motor vehicle while intoxicated shall not be permitted to continue driving and alternate arrangements shall be made for transportation. Sobriety tests may be offered, but may not be required or compelled.
 - a. Removal of Vehicles: Officers shall make all reasonable efforts to have the person's vehicle removed by making arrangements with either the detained person or through the appropriate embassy via the Department of State. If the vehicle presents an immediate hazard or is obstructing traffic, it may be moved off the roadway. Vehicles may be

impounded in accordance with established procedures if all other reasonable efforts to secure the vehicle fail.

4. **Criminal Offenses:** Criminal offenses involving diplomats must be developed and documented precisely and in detail. Although physical arrests cannot be made, the Department of State may seek approval for prosecution or termination of immunity for unusual cases to ensure successful prosecution.
 5. **Obtaining Warrants:** Officers may elect to obtain arrest warrants. Although they cannot be served, warrants can be entered into the records of United States immigration authorities and thus serve to bar any subsequent issuance of a United States visa permitting that person to re-enter the United States.
 6. **Imminent Danger:** Police authorities may intervene, to the extent reasonably necessary, to halt criminal activities in those circumstances where public safety is in imminent danger or a [serious criminal offense](#), to include [some felony drug offenses](#) and assault on law enforcement, may otherwise be committed.
 7. **Searches of Private Property:** In addition to personal immunity, the private residence, automobile or other property of a diplomat or property of a diplomat's family member(s) is inviolable and cannot be searched or seized. However, in circumstances where public safety is in imminent danger or it is apparent that a serious crime may be committed, officers may intervene to the extent reasonably necessary to halt such activity.
- B. **Points of Contact:** Where question(s) arise concerning a person's diplomatic immunity, status of vehicle registration, license plates, operator's license or what law enforcement actions are appropriate under the circumstances, the Department of State Office of Foreign Missions Command Desk (202-647-3417) shall be notified during normal business hours, **or** the Operations Command Center (571-345-3146) shall be notified after hours, on weekends, and/or holidays.
- C. **Other Notifications:** The Department of State reviews all incidents, including traffic crashes, summonses, and criminal complaints involving a diplomat or consular officer. The Office of Foreign Missions shall be notified via email (OFMDMVEnforcement@state.gov) or fax (202-895-3646) of any incident involving resident foreign officials or diplomats, their families, or their properties within 24 hours of such an incident. Notifications shall include a copy of any issued summons and the incident/crash report. The officer's incident report shall reflect that the Department of State was notified.

XI. LEGAL REFERENCES

- A. [United States Constitution](#)
- B. [8 U.S.C. § 1326, Reentry of Removed Aliens.](#)
- C. [8 U.S.C. § 1373, Communications between government agencies and the Immigration and Naturalization Service.](#)
- D. [Va. Code Ann. § 19.2-74.](#) Issuance and service of summons in place of warrant in misdemeanor case; issuance of summons by special conservators of the peace.
- E. [Va. Code Ann. § 19.2-81.6](#) Authority of law enforcement officers to arrest illegal aliens.
- F. [U.S. v. Chindawongse](#), 771 F.2d 840 (4th Cir. 1985).
- G. [Vienna Convention on Consular Relations](#) (1963).
- H. [Vienna Convention on Diplomatic Relations](#) (1961).
- I. [Diplomatic and Consular Immunity: Guidance for Law Enforcement and Judicial Authorities](#) (United States Department of State)
- J. [Fairfax County Trust Policy](#)

General Order 604 becomes effective on the above date and hereby rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:

APPROVED BY:

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