



Frequently Asked Questions and Answers Regarding Immigration Enforcement

Q1 What is the difference between the revised policy and the original policy?

A1 The main difference of the revised policy is the stage at which police officers are now required to make citizenship status inquiries. Police officers will now question the citizenship or immigration status of all persons who are under physical custodial arrest for a violation of state or local law. The original policy required officers to question immigration status based on probable cause at any point during a lawful detention.

Q2 If a police officer gives me a summons (ticket), can that officer question my immigration status?

A2 The requirement of asking about immigration status applies to all persons after they are under physical custodial arrest. However, police officers retain the discretion to inquire into immigration status prior to arrest, as appropriate under law. This could include a summons situation. It is also important to note that if a person presents false identification to the police officer, that person may be arrested.

Q3 Is it true that immigrants should be afraid of reporting any crimes to the police because if they do, they may be turned over to Immigration and Customs Enforcement (ICE)?

A3 No. The Police Department hopes and encourages immigrant communities to continue to call us when they need assistance from the police. Immigrants who are victims of crime or have information regarding criminal activity should not fear that the police will call federal immigration agents on them. As a standard practice, crime victims and cooperative witnesses will not be subject to immigration inquiries regardless of their immigration status.

Q4 Will police officers detain me simply because they think I am here illegally?

A4 No. Police officers are not authorized to arrest or detain a person solely on the belief that the person is in the Country illegally. However, if the officer has probable cause to believe that the person has committed or is about to commit a crime, or he/she has presented false identification, that person may be detained and arrested.

Q5 Does the policy require police officers to ask everyone they encounter for proof of legal residence/status?

A5 No. The policy directs police officers to inquire about immigration status after a person is under physical, custodial arrest for a violation of state law or county ordinance.

Q6 Is it true that police officers will arrest any foreign person?

A6 No. Officers are not authorized to detain or arrest a person solely on the basis of their nationality or ethnicity. Officers are only authorized to arrest and detain persons whom they have a reasonable basis to believe have committed a criminal violation.

Q7 If I am driving without a license and get stopped by the police, will I be arrested?

A7 If a person drives without a license and is stopped by the police, that person will be asked to provide valid identification. If the person cannot provide valid identification and the officer cannot verify their identity, the person may be arrested and taken to the magistrate. If the officer has reasonable suspicion to believe the person is in the United States illegally, the officer may document the contact with the individual, and check his/her immigration status.

Q8 Do I have to carry some form of ID with me wherever I go?

A8 No, you are not required to carry identification at all times. However, all people are required by law to present identification under certain circumstances - such as when operating a motor vehicle. It should be noted that presenting false identification is a violation of law for which you can be arrested.

Q9 If I do not have identification, can I be arrested?

A9 No. However, if you have committed a crime or a traffic violation, and cannot provide identification to the officer and the officer cannot verify your identity, the officer has the authority to take you into custody for the violation to establish your true identity.

Q10 What forms of identification will officers accept?

A10 Officers are guided by 46.2-328.1 *Code of Virginia* in determining what forms of identification are sufficient to establish identification and legal presence. Legal presence can be proved using a U.S. birth certificate or U. S. passport. It also can be proved using a variety of other government issued documents such as a Certificate of Citizenship or

Naturalization, Resident Alien Card or a valid foreign passport with a visa, I-94W with a participating country. A valid Virginia driver's license or special identification card (Adult ID card, Child ID card or Hearing Impaired Photo ID card – commonly referred to as a "Walker's ID"), with an ORIGINAL issue date of January 1, 2004 or later, will also serve as proof of legal presence. Documents presented as proof of legal presence must show the full legal name and date of birth. A list of accepted documents is available at: <http://www.dmv.state.va.us/webdoc/pdf/dmv141.pdf>

Q11 If I am a suspect in a crime or the police officer believes that I may be involved in a criminal activity, can he/she ask me for identification?

A11 Yes, the officer is authorized to ask a person who the officer has a reasonable basis to believe has committed or was involved in a criminal incident for identification.

Q12 If the officer stops me for a minor traffic violation, will I be arrested?

A12 If the officer has reason to believe you are likely to disregard the summons, you may be arrested. You will also be arrested if it is confirmed that you are wanted on a criminal charge. As a standard practice, officers check the wanted status of all persons arrested, ticketed, lawfully detained, or jailed. Officers have the discretion to check the wanted status of anyone legally detained, including persons detained on minor traffic violations.

Q13 If the officer stops me for a minor traffic violation, will I be deported?

A13 If a traffic violator is found to be wanted by ICE for failure to appear for a deportation hearing, that status can be used as a factor by the officer in deciding whether to arrest or issue a summons (ticket) to the violator. All immigration charges and deportation decisions are made by ICE and the federal courts.

Q14 If I am wanted on an arrest warrant, will I eventually be deported?

A14 If you have a valid arrest warrant from Prince William County or a surrounding jurisdiction, you are subject to arrest for those charges. If during such arrest, you are also confirmed to have a deportation warrant, a notice that you are a previously deported felon or any other criminal warrant with ICE, the officer will take you to the magistrate and ICE will be contacted. Only ICE can make decisions on deportation matters.

[Reference materials used in the formation of this document were obtained from the Houston, TX Police Department.]