




ARLINGTON COUNTY POLICE DEPARTMENT DIRECTIVE MANUAL

Chapter: 5 Procedures	Effective Date: February 15, 2022	Amends/Supersedes: July 1, 2020 April 24, 2017 February 1, 2012 August 15, 2011 August 12, 2010 January 1, 2008	By Authority of the Chief of Police  Charles A. Penn
Accreditation Standard(s): ADM.02.05, ADM.02.04			

523.04 Immigration Status and Access to Police Services

I. Policy

The Arlington County Police Department is committed to protecting the rights of all residents and visitors, regardless of their immigration or citizenship status. A person’s right to file a police report, participate in police-community activities, or otherwise benefit from police services is not contingent upon citizenship or immigration status.

The enforcement of the nation’s immigration laws is the responsibility of the federal government. Therefore, the Arlington County Police Department does not conduct immigration enforcement investigations.

II. Definitions

- A. T Visa – A visa that protects victims of human trafficking and allows victims to remain in the United States to assist in an investigation or prosecution of human trafficking.
- B. U Visa - A visa that is set aside for victims of certain crimes who have suffered mental or physical abuse and are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity.

III. Procedure

A. Immigration Status and Police Interactions

1. As required by the [Code of Virginia §19.2-11.02](#), officers shall not, in connection with the report, investigation, or prosecution of a criminal violation of state or local law, inquire into the immigration status of any person who is a victim of a crime, the parent or guardian of a minor victim of a crime, a witness in the investigation of a crime, or the parent or guardian of a minor witness to a crime.

§19.2-11.02 does not a prohibit an inquiry into the immigration status of a parent or guardian of a minor victim when that parent or guardian has been arrested for, charged with, or is being investigated for a crime against the minor victim.

2. A person's right to file a police report, participate in police-community activities, or otherwise benefit from police services is not contingent upon their immigration status. Consequently, officers shall not question any person about their immigration status unless that person is reasonably believed to be involved in one or more of the activities identified in subsection 6 below.
3. Officers shall request identification documents only for the purpose of establishing a person's identity. Officers shall not request identification documents for the purpose of establishing a person's immigration status or for immigration enforcement purposes.
4. Officers shall not contact, detain, or arrest a person solely for a suspected immigration violation.
5. Officers may not detain or arrest a person based solely on federal administrative or civil immigration warrants or detainers. Any enforcement of such warrants or detainers is prohibited. Officers must carefully evaluate NCIC entries to ensure their actions are in compliance with this subsection.
6. Except as otherwise prohibited in this manual section, officers who develop reasonable suspicion of a person's status as an undocumented immigrant while conducting a criminal investigation may contact federal immigration authorities under the circumstances listed below. Officers contacting federal immigration authorities under this subsection may not extend a criminal investigative detention ("Terry stop") for the purpose of making such contact.

Officers contacting federal immigration authorities under this subsection shall document in a Case Report or Case Supplement the name of the federal immigration authority contact they spoke to, that person's position and/or rank, and that person's phone number.

Additionally, officers contacting federal immigration authorities under this subsection shall notify the Office of Professional Responsibility (OPR) by email at ACPDInternalAffairs@arlingtonva.us of such contact prior to the end of their shift. OPR will maintain a log of federal immigration authority contacts for tracking purposes and shall publish such data annually.

The circumstances under which officers may contact federal immigration authorities are:

- a. An undocumented immigrant is being arrested for a violent felony.
- b. An undocumented immigrant is being arrested for a non-violent felony where circumstances indicate notification to federal immigration authorities is prudent to maintain community safety. Such circumstances must be based on specific, articulable facts that clearly establish a threat to the community. Notifications to federal immigration authorities made under this subsection require section commander approval before notification.

- c. Probable cause exists to arrest an undocumented immigrant under the [Code of Virginia §19.2-81.6](#). Before making an arrest under §19.2-81.6, officers must notify a supervisor of their intention to initiate such an arrest.
- d. An undocumented immigrant is being arrested for a terrorism or human trafficking offense or is reasonably suspected of participation in terrorism or human trafficking activity.
- e. An undocumented immigrant is being arrested for a criminal street gang offense or is identified as a member of a criminal street gang by meeting the criteria set forth in the [Code of Virginia §52-8.6](#). Officers must contact the Gang Unit before making notification to federal immigration authorities under this subsection.

B. T and U Visas

1. The forms, qualifications, and special instructions for both a T Visa ([Form I-914, Supplement B, Declaration of Law Enforcement Officer for Victim of Trafficking in Persons](#)) and a U Visa ([Form I-918, Supplement B, U Nonimmigrant Status Certification](#)) are available online at the [United States Citizenship and Immigration Services](#) website.
2. All requests for law enforcement certification of a T or U Visa will be forwarded to OPR for review and assignment to the CIS Commander, who is the designated certifying official.
3. These forms shall be completed by the CIS Commander and returned to OPR for tracking purposes. Under [Code of Virginia §9.1-1501 **Certifications for victims of qualifying criminal activity**](#), the CIS Commander shall respond to a T or U Visa request within 120 days, unless the requestor agrees to an extension in writing.
4. Requests for expedited review of a T or U Visa request must be made in writing. These requests must establish eligibility for expedited review under one of the following circumstances:
 - a. The requestor is seeking certification. In this circumstance, the CIS Commander shall complete the response no later than 90 business days after the request is received.
 - b. The requestor seeking recertification has a deadline to respond to a request for evidence from federal immigration authorities. In this circumstance, the CIS Commander shall complete the response no later than 21 business days after the request is received.
 - c. The requestor is in federal immigration removal proceedings or detained. In this circumstance, the CIS Commander shall complete the response no later than 21 business days after the request is received.
 - d. The twenty-first birthdate of the requestor's children or the eighteenth birthdate of the requestor's sibling is within 120 days of the date of the

request. In this circumstance, the CIS Commander shall complete the response no later than 30 days after the request is received.

- e. The requestor's children, parents, or siblings under section b would become ineligible for benefits under 8 U.S.C. § 1184(p) and 1184(o) in less than 21 business days of receipt of the certification request. In this circumstance, the CIS Commander shall complete the response no later than seven business days after the request is received.
5. If an applicant does not meet the criteria set forth in either form, or it cannot be determined whether the applicant meets the criteria, the CIS Commander can refuse to endorse the certification and shall return the form to OPR with a memo outlining the reason(s) for their actions. OPR shall then provide a written explanation to the person or the person's representative
6. If, after completion of a certification form, the CIS Commander later determines that the requestor was not the victim of qualifying criminal activity or the victim unreasonably refused to assist in the investigation or prosecution of the qualifying criminal activity of which they are the victim, the CIS Commander may notify federal immigration authorities in writing. A copy of any such notification shall be forwarded to OPR.
7. Completion of a certification form by a certifying official merely verifies factual information relevant to the federal immigration benefit sought, including information relevant for federal immigration officials to determine eligibility for a T or U Visa. Completion of a certification form shall not be considered sufficient evidence that an applicant for a T or U Visa has met all eligibility requirements for that Visa. Completion of a certification form shall not be construed to guarantee that the requestor will receive federal immigration relief. It is the exclusive responsibility of federal immigration officials to determine whether a person is eligible for a T or U Visa.
8. The immigration status of a victim or person requesting a certification form shall not be disclosed, except to comply with federal or state law or a legal process or if authorized by the victim or person requesting a certification form.