

**Communities of Arlington Protected from Abuse by ICE (“CAPA”) Policy**  
*Proposal to Arlington County By ICE Out of Arlington Coalition*

**I. Purpose**

Arlington County recognizes that the County’s ethnic, racial, and linguistic diversity is a key source of our strength. Our vision is to be a welcoming and inclusive community where every person is important, and every person thrives. The County is committed to protecting the rights of all residents, regardless of their immigration or citizenship status, and to ensuring every person in Arlington has an equal opportunity to participate in our community.

It is not an appropriate use of Arlington County resources to facilitate enforcement of federal immigration law, which is the sole responsibility of the Federal government. Our County policies must reaffirm community health, safety, welfare, and security, and provide protection to our immigrant residents who should live without fear of being targeted by federal immigration officials.

Arlington County will prohibit cooperation and collaboration with federal immigration officials for the purposes of immigration enforcement beyond what is required by federal or state law as well as valid and binding court orders, judicial warrants and subpoenas.

**II. Definitions**

**Administrative warrant:** A document issued by an immigration enforcement official, including those from the United States Department of Homeland Security (DHS), United States Immigration and Customs Enforcement (ICE) or an administrative immigration judge (IJ), relating to suspected violations of immigration law. The term includes civil administrative warrants, administrative subpoenas, detainer requests, removal orders, database entries (e.g., from the National Crime Information Center) and any similar civil order for the arrest or detention of an individual or for information. An administrative warrant is not a criminal judicial warrant.

**Department:** All Arlington County government agencies, departments, and other County personnel authorized to act on behalf of the County.

**Citizenship or immigration status:** Citizenship refers to whether a person is a citizen of the United States (including individuals who hold United States citizenship in addition to citizenship of another country) or is solely a citizen of another country (a “non-citizen”). Immigration status refers to the type of authorization a non-citizen has for their presence in the United States (e.g., lawful permanent resident, conditional permanent resident, visa holder, temporary protected status or undocumented, among other types of status). Perceived citizenship or immigration status refers to characteristics that suggest a person may be a non-citizen or of uncertain immigration status, such as actual or assumed place of birth, country of origin, ancestry, native

language, looking or sounding "foreign", any other national origin indicator or absence of a social security number. These characteristics are separate from, and not included in the term "citizenship or immigration status."

**Personal Identifiable Information:** Any information that can be used to distinguish or trace an individual's citizenship, immigration status, national origin, race, ethnicity, language proficiency, religion, sexual orientation, gender identity, disability, age, place and date of birth, marital status, status of domestic violence or as a veteran; and status government identifiers (driver's license, biometric data such as fingerprints and facial features, social security/taxpayer identification/passport/visa numbers), receipt of public assistance/services, housing records or tax records, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. The term also includes information that can be used to identify, contact and/or locate a non-citizen or person of uncertain immigration status, including but not limited to: home/work address, means of contacting someone, and law enforcement information such as release date from incarceration.

**Court order:** An order entered by a state or federal court, not including an order from an administrative immigration court.

**Criminal judicial warrant:** A warrant issued by a state or federal court upon a finding of probable cause to believe a violation of a federal, state, or local criminal law has occurred.

**Employee:** Any person employed by or acting on behalf of the County or a department as defined herein as its employee, agent or representative.

**Household member:** A person's (1) immediate or extended family, (2) domestic partner or partner's immediate or extended family, (3) foster parent or child or the foster parent/child's immediate or extended family, (4) court-appointed legal guardian or the person subject to guardianship or (5) other person who regularly resides in the same residence as the person.

**Immigration and Customs Enforcement (ICE):** The federal law enforcement agency under the United State Department of Homeland Security (DHS) responsible for enforcement of immigration laws in the interior United States and for representation of the United States in administrative immigration proceedings. This definition shall also encompass any subagencies within ICE or successor agency to ICE.

**Federal immigration enforcement officer:** Any federal employee or agent engaged in immigration enforcement operations including but not limited to agents of ICE, United States Customs and Border Protection (CBP), DHS and the United States Department of Justice (DOJ).

### **III. Requesting, Accessing or Disclosing Information Prohibited**

1. ***Personal identifiable information.*** No department or employee shall request, record, access in County records or disclose to any person or entity any personal identifiable information of an individual, unless the action is (a) required by a state or federal law, criminal judicial warrant, court order or subpoena deemed valid and binding by the Office of the County Attorney, or (b) has been authorized by the individual or guardian.
2. ***Exceptions.*** (a) *Protections or benefits:* If personal identifiable information of an individual is required by state or federal law or regulation, an employee or department may notify the person of the relevant requirement and provide them the opportunity to voluntarily disclose their citizenship or immigration status. (b) *Demographic data for program evaluation:* Nothing in this section is intended to prevent the collection and publication of data, other than citizenship and immigration status, useful to program evaluation (e.g. disparity studies), so long as the underlying data is kept confidential and not disclosed outside the County. Nothing herein shall be construed to restrict the sharing of de-identified aggregated data outside the County.

#### **IV. Access to Public Facilities and Resources Prohibited**

1. Employees and departments shall not provide federal immigration authorities with access to any County facility, property surrounding any facility, equipment, records or databases or funds not accessible to the public unless required by a state or federal law, criminal judicial warrant, court order or subpoena specifying the information or individuals sought that is deemed valid and binding by the Office of the County Attorney.

#### **V. Facilitation of Civil Immigration Enforcement Prohibited**

1. Employees and departments shall neither participate in nor facilitate civil immigration enforcement operations, including but not limited to any immigration enforcement raids, investigations, interrogations, detections, apprehensions, detentions, transfers, or requests to establish traffic perimeters. Unless otherwise required by a state or federal law, criminal judicial warrant, court order or subpoena deemed valid and binding by the Office of the County Attorney, any such request for cooperation from federal immigration enforcement officers should be referred to the appropriate department chief who shall deny the request.
2. No employee or department of Arlington County shall use any County funds or resources (including but not limited to facilities, equipment, cell phones, office supplies, radios, emails, databases and employee time while on-duty) to directly or indirectly assist in the enforcement of Federal immigration law, including gathering or disseminating any personal identifiable information or information regarding release status of individuals; giving federal immigration agents access to individuals or allowing them to use County facilities for investigative interviews or any other purposes; permitting immigration enforcement officials access to a person being detained by, or in the custody of, the department; responding to inquiries by ICE or communicating with ICE regarding individuals' incarceration status or

release dates; or otherwise participating in or facilitating any civil immigration enforcement activities, unless such assistance, facilitation, or participation is required by a state or federal law, criminal judicial warrant, court order or subpoena deemed valid and binding by the Office of the County Attorney.

3. Arlington County departments and employees, including its law enforcement employees, shall not, independently or assisting other law enforcement agencies, stop, pursue, interrogate, investigate, arrest, or otherwise detain a person based on their immigration status, perceived immigration status, suspected violations of immigration law, immigration detainer or an administrative warrant.
4. Arlington County departments and employees, including its law enforcement employees, shall not facilitate the detention of noncitizens or individuals suspected of being noncitizens by federal immigration authorities for suspected civil immigration violations. Employees shall not initiate or prolong stops for the purpose of enforcing civil immigration matters, such as suspicion of immigration status, nor shall they prolong stops for the purpose of allowing federal immigration authorities to conduct such investigations.
5. Arlington County departments and employees, including its law enforcement employees, shall not enter into any contract, agreement or arrangement that would grant federal immigration enforcement authority or power to the County or its agents or local law enforcement officers, including but not limited to agreements created under 8 U.S.C. § 1357(g).
6. Arlington County shall not enter into a contract with the federal government or any federal agency or a private corporation, to house or detain in a locked detention facility noncitizens for purposes of civil immigration custody.
7. Within 48 hours of the receipt of an administrative warrant, court order, subpoena or other civil immigration request to detain or provide information about an individual, employees must advise the subject of such request. Where the request is in writing, the subject of the request shall be provided with a copy of the request.

## **VI. Threats or Conditioning Action Based on Citizenship or Immigration Status Prohibited**

1. Employees and departments shall not threaten, coerce, or intimidate anyone based on their citizenship or immigration status, actual or perceived, or the actual or perceived citizenship or immigration status of a member of the person's household. Employees and departments shall not condition the provision of County benefits, opportunities or services on actual or perceived citizenship or immigration status unless required by a state or federal law, criminal judicial warrant, court order or subpoena deemed valid and binding by the Office of the County Attorney.

## **VII. Participation in Federal Registries Prohibited**

1. No County resources may be used 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.

## **VIII. Identification**

1. Unless required by law, in order to provide County services or benefits, employees shall accept a combination of documents to verify an individual's identification and an address or other information sufficient to reasonably demonstrate the individual's residence or address, including but not limited to:
  - a. Driver's license, driver privilege card or identification card, with security features, issued by a U.S. state, U.S. territory or foreign country (temporary documents are not accepted);
  - b. Foreign passport;
  - c. Employment Authorization Document (EAD);
  - d. Consular identification document issued by country of citizenship;
  - e. U.S. Permit to Reenter Travel Document (I-327);
  - f. U.S. B1/B2 Visa Border Crossing Card;
  - g. Refugee Travel Document (I-571);
  - h. U.S. Active Duty/Retiree/Reservist/Dependent Military ID card (DD-2 or Common Access card);
  - i. Transportation Workers Identification Credential (TWIC);
  - j. U.S. Merchant Mariner's card;
  - k. U.S. Customs and Border Protection FAST card; and
  - l. Veteran identification card issued by Virginia Department of Motor Vehicles.
2. In the absence of a government-issued identification document, employees may consider other documents, alone or in combination, to verify identity and residence, including any library card, utility or rent bill, community organizational membership card, student ID, church ID, or other forms of identification that include the individual's name and address.
3. Such documents shall be considered sufficient for identification purposes even if expired.
4. Presentation of alternate form of ID shall not subject the person to a higher level of scrutiny or different treatment than if the person had provided a driver's license or state identification card, including but not limited to determining whether to issue a summons rather than arrest an individual pursuant to Va. Code Ann. § 19.2-74.

5. Arlington County Police Department's policies governing what documents police officers shall accept to establish an individual's identity and address for the purpose of issuing a ticket or summons in lieu of arrest must conform with this Section.

## **IX. Compliance**

1. **Department heads** shall:
  - a. ensure Department wide implementation and compliance for this procedure with this Policy;
  - b. utilize appropriate disciplinary actions for any violations of this Policy;
  - c. review all forms used in relation to Arlington County benefits, opportunities, or services, including law enforcement services and actions, for compliance with the confidentiality requirements of this Policy. Within 90 days of the policy's effective date, (a) any questions regarding citizenship, immigration status or country of birth, other than those required by state or federal law, shall be deleted and (b) questions regarding other confidential personal information shall be deleted or modified to conform to this policy;
  - d. refer all Policy related administrative or judicial warrants, court orders and subpoenas received by their department to the Office of the County Attorney for determination on whether compliance is required;
  - e. contact the Office of the County Attorney with any legal questions about whether information requested under this Policy should be provided; and
  - f. conduct a review every month to ensure that their department employees are following the terms of this Policy.
2. **The Office of the County Attorney**, when asked by a Department head or employee, will determine if the County's compliance with the presented request is mandatory under this Policy, in order to comply with federal or state law or regulation, criminal judicial warrant, court order or subpoena specifying the information or individuals sought. Information release pursuant to a regulation shall be granted only if Office of the County Attorney determines the regulation was issued within the issuer's scope of authority. Information release based upon a judicial warrant, court order, or subpoena shall be limited to the scope and parameters of the document directing release. Otherwise, the County will initiate proceedings to quash the request or take other appropriate action to protect the information.
3. **The County Manager** shall:
  - a. review Departmental actions and confirm compliance with this Policy to the Arlington County Board within 90 days of the Policy's effective date;
  - b. publish on the County's website any directives issued by Departments to ensure compliance with this Policy;
  - c. prepare and make available on the County's website a quarterly report concerning the use of County resources for immigration enforcement. The report shall include:

- i. Anonymized and individualized records of every instance that an Arlington County law enforcement inquires into the immigration status of any individual. Such records should include a documented reason for the stop or the arrest, the reason for the inquiry into immigration status, the race and ethnicity of the person detained or arrested, a confirmation that the person was informed of their rights, the number of unduplicated officers involved, and the general location, such as the zip code of the incident.
- ii. All Arlington County resources used on immigration law enforcement assistance, and a justification for the use of those resources in relation to Arlington County's budget or legal requirement. Examples of immigration enforcement assistance include, at a minimum: contacting an immigration law enforcement agency to provide the agency information about a resident, transferring custody of an individual to an immigration law enforcement agency, responding to an immigration law enforcement agency's request for information, providing backup for an immigration law enforcement agency operation, engaging in joint operations with an immigration law enforcement agency, and facilitating immigration arrests or interrogations of individuals in conjunction with an immigration law enforcement agency. The report should include the number of employees that assisted immigration law enforcement; the amount of time those employees were involved in such assistance; the financial resources and human resources dedicated to such assistance; the number of individuals arrested as a result of immigration law enforcement assistance, if known; the number of these arrestees charged with criminal offenses, if known; and the number of arrestees taken into federal immigration custody for alleged civil immigration violations, if known.
- iii. Information regarding requests from federal immigration enforcement agency for assistance from an Arlington County department or employee. The information provided in the report should be anonymized and aggregated. The information provided shall include, at a minimum, the nature of the request, the name of the requesting agency, response from the Arlington County department or employee, how many records were shared, what kind of records were shared, and with whom the records were shared.

## **X. Severability**

The provisions of this policy are severable. If any section, provision or phrase of the policy is held invalid by a court of competent jurisdiction, the declared invalidity shall not affect the remainder. The County intends that this policy would have been adopted had such invalid component not been included.