

Arlington’s Commitment to Strengthening Trust with Our Immigrant Communities  
*Adopted by the County Board on July 19, 2022*

I. Purpose

Arlington County (the “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 economy.

We believe it is important to improve community health, safety, welfare, and security and build trust by ensuring that immigrant residents can be assured of access to County benefits and services without fear that the information they share, or immigration status (actual or perceived) will be disclosed to federal immigration officials. It is not an appropriate use of Arlington County resources to engage in the enforcement of federal immigration law, which is the sole responsibility of the Federal government.

The County and its police department will comply with all applicable federal or state regulations mandating cooperation with Immigration and Customs Enforcement (ICE) and other federal immigration officials, as well as judicial warrants and subpoenas mandating County cooperation or action, as set forth in Arlington County Police Department Directive Manual Policy 523.04 (described in Section II.B of this document), but will otherwise restrict sharing of personally identifiable information that could be used to further immigration enforcement efforts.

II. Standards to Protect Confidentiality and Enhance Public Trust

A. Requesting, Accessing or Disclosing Information Prohibited

1. *Citizenship or immigration status.* No County employee shall request, record, access in County records or disclose to any person or entity the citizenship or immigration status of an individual, unless the action is:

(a) required by applicable state or federal law or regulation, judicial warrant, court order or subpoena or complies with 8 U.S.C. § 1373(a), which states that “[n]otwithstanding any other provision of Federal,

State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from the Department of Homeland Security information regarding the citizenship or immigration status, lawful or unlawful, of any individual”;

(b) authorized by the individual or a legal guardian of the individual.

2. *Other personally identifiable information.* No County employee shall request, record, access in County records or disclose to any person or entity any personal identifiable information unless the action is:

(a) required by state or federal law or regulation, judicial warrant, court order, or subpoena;

(b) authorized by the person or legal guardian; or

(c) is required to fulfill the mission or obligations of County departments/agencies and disclosure is limited to the recipients necessary to fulfill such mission or obligations. The determination of necessity shall be made in accordance with department/agency specific directives and subject to supervisory approval.

3. Nothing in this Trust Policy shall be construed to conflict with federal law.

## B. Law Enforcement

Arlington County acknowledges that enforcement of federal immigration law is the sole responsibility of the Federal government and that the use of Arlington County resources in such enforcement is inappropriate as is cooperation with civil administrative immigration enforcement.

As set forth in Arlington County Police Department Directive Manual 523.04, the Arlington County Police Department (ACPD) is committed to protecting the rights of all residents and visitors, regardless of their immigration or citizenship status.

Furthermore:

1. The right of all persons to file a police report, participate in police-community activities or otherwise benefit from police services is not contingent upon citizenship or immigration status. Consequently, officers shall not question any person about their immigration status;

2. Arlington County shall not monitor, detain, interview, or investigate a person solely for the purpose of determining immigration status;
3. Arlington County shall not enforce Federal Immigration law;
4. As required by the Code of Virginia §19.2-11.02, police officers shall not, in connection with a 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. Section 19.2-11.02 does not 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;
5. Police 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. Failure to provide identification shall not constitute a criminal offense;
6. Police 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; and
7. ACPD may initiate contact with federal immigration authorities only under the following circumstances, as set forth in Arlington County Police Directive Manual 523.04, after receiving the approval of either the on-duty Watch Commander or any supervisor with the rank of Lieutenant or above:
  - (a) An undocumented immigrant who is arrested for a violent felony.
  - (b) An undocumented immigrant who is 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.
  - (c) Probable cause exists to arrest an undocumented immigrant under the Code of Virginia §19.2-81.6.

- (d) An undocumented immigrant who is arrested for a terrorism or human trafficking offense or is reasonably suspected of participation in terrorism or human trafficking activity.
  - (e) An undocumented immigrant who is 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 Code of Virginia §52-8.6. The approving supervisor shall ensure the Gang Unit is consulted before making notification to federal immigration authorities under this subsection.
8. Arlington County police officers contacting federal immigration authorities under Section II.B.7 shall document the name of the federal immigration authority contact they spoke to, that person's position and/or rank, and that person's contact information. Additionally, officers contacting federal immigration authorities under this section shall notify the Office of Professional Responsibility (OPR) of such contact. OPR will maintain a log of federal immigration authority contacts for tracking purposes and shall publish such data annually.

#### C. Use of County Resources for Civil Immigration Enforcement Prohibited

Employees shall not utilize County resources (including, but not limited to, facilities, equipment, cell phones, office supplies, radios, emails, databases and employee time while on-duty) to provide access to any personal identifiable information to immigration enforcement officials, unless the employee's action is expressly authorized by this Trust Policy and in accordance with the Arlington County Police Directive Manual 523.04 as outlined above.

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

Employees 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 shall not condition the provision of County benefits, opportunities or services on actual or perceived citizenship or immigration status unless required by state or federal law or regulation or court order.

#### E. Facilitation of Civil Immigration Enforcement

Employees shall neither participate in nor facilitate civil immigration enforcement operations, unless otherwise required by an applicable state or federal law, criminal judicial warrant, court order or subpoena deemed applicable by the County Attorney.

#### F. Participation in Federal Registries Prohibited

No County resources shall 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. The County may collect and aggregate information about all of the above for the purpose of providing certifications to applicable state/federal agencies in order to qualify for grants, certify compliance with grant conditions and/or agreements but such certifications shall not identify specific individuals or divulge personally identifiable information.

### IV. Access to Public Services

Arlington County will provide equitable access to public services and facilities to all residents.

Arlington County does not and will not require any resident to provide proof of legal presence in the United States in order to access county government services unless required by Federal or State law, including, but not limited to: local police, fire, emergency medical services, parks, recreation, libraries, Arlington aging and disability services, emergency financial assistance, Arlington health, mental health, healthcare, food, shelter, educational or substance abuse services. Some federally funded programs and services require legal documentation to meet eligibility requirements.

### V. Compliance and Accountability

The County Board directs the County Manager to ensure all Arlington County departments and agencies comply with this policy. To ensure uniform application of this policy, all warrants, court orders, and subpoenas related to the scope of this Trust Policy received by County departments or agencies (other than ACPD who will refer to the Arlington County Police Directive Manual 523.04) shall be reviewed by the Office of the County Attorney for determination on whether compliance is required.

All alleged violations of this Trust Policy shall be promptly reported to the respective County department and agency heads. In the case of alleged violations by police department personnel, these complaints may be directed to the Community Oversight Board who shall investigate the actions in accordance with Arlington County Ordinance Chapter 69. All alleged violations shall be investigated, and logged for tracking purposes by the respective department/agency overseeing the complaint. The County department and agency heads shall report their investigative findings to the County Manager, who shall provide findings to the County Board.

In order to conduct appropriate oversight of this Trust Policy, the County Manager will receive a report listing federal immigration authority contacts initiated by ACPD as described in Section II.B.7 of this Trust Policy and the County Manager shall provide findings to the County Board.

The County Board will also request annual data regarding the contact and engagement with ICE from the Arlington County Sheriff's Office for transparency and informational purposes.

The police department will notify the County Manager of any substantive changes to Arlington County Police Directive 523.04 prior to implementing the updated policy.

This Trust Policy supersedes all administrative policies and directives.