

This section applies to suspected violators and not to victims or witnesses. The stop, detention or arrest must be based on reasonable suspicion or probable cause of a criminal or civil violation or the violation of a local ordinance.

An officer has the authority to have a voluntary contact with any person without implicating constitutional rights. This statute does not expand or restrict that authority in the context of immigration enforcement. However, officers must understand that actions motivated by race or national origin will be subject to close scrutiny under the law.

*...where reasonable suspicion exists that the person is an alien and is unlawfully present in the United States...*

The focus here is on reasonable suspicion that a person is an alien and unlawfully present in the U.S., not reasonable suspicion of criminal activity. Officers must be able to list the specific facts and circumstances that lead them to suspect that the person is unlawfully present. It is the totality of the circumstances that determines whether there is reasonable suspicion.

In all lawful stops in which there is reasonable suspicion/probable cause of a civil traffic or criminal violation (includes drivers of vehicles stopped for traffic violations; does not include passengers unless they have committed a separate violation), the first step the officer should take is to ask for identification. If the person presents presumptive identification (see discussion below), the issue of whether he or she may be unlawfully present in the United States is resolved and no further immigration inquiry is necessary in the absence of additional facts or an arrest requiring verification.

In establishing whether reasonable suspicion exists that the person is an alien and unlawfully present, the officer may consider all relevant facts and circumstances, including:

**FACTORS WHICH MAY BE CONSIDERED, AMONG OTHERS, IN DEVELOPING REASONABLE SUSPICION OF UNLAWFUL PRESENCE**

- Lack of identification (if otherwise required by law)
- Possession of foreign identification
- Flight and/or preparation for flight
- Engaging in evasive maneuvers, in vehicle, on foot, etc.
- Voluntary statements by the person regarding his or her citizenship or unlawful presence  
Note that if the person is in custody for purposes of *Miranda*, he or she may not be questioned about immigration status until after the reading and waiver of *Miranda* rights.
- Foreign vehicle registration
- Counter-surveillance or lookout activity
- **In company of other unlawfully present aliens**
- Location, including for example:

A place where unlawfully present aliens are known to congregate looking for work

A location known for human smuggling or known smuggling routes

- Traveling in tandem
- Vehicle is overcrowded or rides heavily
- Passengers in vehicle attempt to hide or avoid detection
- Prior information about the person
- **Inability to provide his or her residential address**
- Claim of not knowing others in same vehicle or at same location
- Providing inconsistent or illogical information
- **Dress**
- **Demeanor** – for example, unusual or unexplained nervousness, erratic behavior, refusal to make eye contact
- **Significant difficulty communicating in English**

In the context of applying these new laws, reasonable suspicion exists when an officer is aware of specific, articulable facts which, when considered with objective and reasonable inferences, form a basis for particularized suspicion that the person is an unlawfully present alien. The requirement of particularized suspicion encompasses two elements. First, the assessment must be based upon the totality of the circumstances. Second, that assessment must arouse a reasonable suspicion that the particular person is unlawfully present in the United States.

Officers shall not consider race or color in determining reasonable suspicion that a person is unlawfully present in the United States. If an officer does not have reasonable suspicion without reliance on race or color, then reasonable suspicion does not exist.

*...a reasonable attempt shall be made, when practicable, to determine the immigration status of the person, except if the determination may hinder or obstruct an investigation...*

If reasonable suspicion of unlawful presence exists and it is practicable (see below), call ICE, CBP or a 287g certified officer to determine the immigration status of the person. If ICE, CBP or a 287g certified officer advises that a person is unlawfully in the U.S., officers should ask whether there is any record that the person has ever completed an alien registration document and whether the person has any other authorization from the federal government to remain in the United States. Officers should then ask the person for his or her alien registration document. If the person does not produce an alien registration document, or ICE, CBP, or a 287g certified officer advises the officer that there is no record that the person has ever completed such a document and that the person is not otherwise authorized to remain in the U.S., the officer may consider this information in an investigation for a violation of A.R.S. § 13-1509 (see below).

*...when practicable...*