



CITY COUNCIL REPORT

DATE: November 15, 2017
TO: Mayor and Councilmembers
FROM: Police Chief Kevin Treadway, Legal Advisor Marianne Sullivan
CC: Josh Copley, Shane Dille, Leadership Team
SUBJECT: Challenges presented in recognizing a municipal identification card as valid form of identification in police contacts



This report is in response to a request for further information on the applicable laws and policy currently in place that define the types of identifications that are accepted by law enforcement entities.

Identifications can be accepted by law enforcement when they stop a vehicle only if they meet the requirements of A.R.S. 28-1595(B) which states:

“B. After stopping as required by subsection A of this section, the operator of a motor vehicle who fails or refuses to exhibit the operator's driver license as required by § 28-3169 or a driver who is not licensed and who fails or refuses to provide evidence of the driver's identity on request is guilty of a class 2 misdemeanor. The evidence of identity that is presented shall contain all of the following information:

1. The driver's full name.
2. The driver's date of birth.
3. The driver's residence address.
4. A brief physical description of the driver, including the driver's sex, weight, height, and eye and hair color.
5. The Driver's signature.”

Therefore, if the Municipal ID card has the above information on it then it would be an acceptable form of identification to show an officer when they have stopped a vehicle. However, if it does not contain the above listed information an identification issued by the City will not be able to be used by an individual for identification with the police department.

Policy 420 of the Flagstaff Police Department sets forth the requirements to cite a release an individual for a misdemeanor crime as opposed to making a full in custody arrest and booking an individual in jail for that misdemeanor violation. The policy encourages officers to cite and release individuals for misdemeanor crimes unless other factors come into play one of those is being able to properly identify someone. The policy specifically states that an officer should

make a full custody arrest where:

“The person refuses or fails to provide satisfactory evidence of personal identification or a verifiable address. Satisfactory evidence of personal identification means documentary evidence bearing a likeness and name of the person, date of birth and physical description matching the individual issued by a governmental agency.”

The Police Department policy is in line with the Arizona Revised statute cited above in that it also requires the identification shown to have a likeness of the person, their name date of birth and physical description. This is also best practice to protect individuals from identify theft in the event they provide false information to the police. It is not uncommon for people to provide valid information of another person such as a sibling or other family member to avoid the police learning their true identity. When this occurs, it is highly probable a warrant will eventually be issued for the person falsely identified by the suspect, resulting in the potential for an in custody arrest of that innocent party and a criminal record established under the innocent parties name.

The policy does require that the identification be issued by a government entity, however unless the municipal identifications issued by the City contain the information as required by the laws and policy cited above and are issued based upon reliable proof of identity then the Police Department will not be able to accept them as a valid form of identification.

To get an Arizona state identification card or driver’s license a person must show two forms of proof of identity from a primary and secondary list. One must come from the primary list. Types of proof of identity on the primary list are as follows: Enhanced Driver’s license or state identification from any state in the U.S., Original or certified Birth Certificate, U.S. Passport, etc. The secondary list does not have to include a date of birth on the identification, and includes the following: Social Security Card, U.S. Military ID Card, etc. A person is also required to provide their social security number to obtain a State ID card or driver’s license.

You can find this information online at the link below:

<https://azdot.gov/docs/default-source/mvd-forms-pubs/96-0155.pdf?sfvrsn=16>

So it will be necessary to have some way to verify the person is who they say they are in issuing a municipal identification card in order for the Police Department to accept it as valid identification. This is to ensure they are not using the identity of another person in getting the card and thereby drawing the City into enabling this type of crime to occur.

Additionally, Policy 429 of the Police Department addresses immigration enforcement and states:

If the detainee presents one of the following types of identification, it is presumed that the detainee is lawfully present in the U.S. No further investigation into the person's status is necessary, unless there are additional facts that cast doubt on the person's lawful presence:

- (a) A valid Arizona driver license,
- (b) A valid Arizona non-operating identification license,
- (c) A valid tribal enrollment card or other form of tribal identification, or
- (d) If the entity requires proof of legal presence in the U.S. before issuance, any valid U.S. federal, state or local government issued identification.”

Under the Police Department's immigration policy a municipal Identification will only be presumptive proof of residency if the issuing agency requires proof of legal presence in the United States prior to the issuance of the identification. This definition of "presumptive identification" comes directly from the state law established under SB1070.

This report is for information only.