



Donald L. Carcieri
Governor

Frequently Asked Questions Concerning Executive Order 08-01

1. What is the purpose of the Governor's Executive Order that everyone is talking about?

The purpose of the Executive Order is to take some limited measures to control illegal immigration.

2. When did the Governor issue this Executive Order?

Governor Carcieri signed the Executive Order on March 27, 2008.

3. When will the Executive Order go into effect?

The Executive Order is in effect once the Governor signs it. However, it will take several weeks to implement the order as the State Police and Department of Corrections enter into agreements with Immigration and Customs Enforcement, and the State of Rhode Island and those who contract with the State connect to the E-Verify system.

4. Where can I find a copy of the Executive Order?

You can read the Executive Order by going to this web address:

www.governor.ri.gov/documents/Immigration_Exec_Order_08-01.pdf. This is a link from the Governor's Website (www.governor.ri.gov).

5. What does the Executive Order mandate?

The Executive Order mandates five things:

1. That the State use the Federal E-Verify system to ensure that all people who work for the state are authorized to work in the United States.
2. That all companies who do business with the State of Rhode Island use the Federal E-Verify system to ensure that all people who work for them are authorized to work in the United States.

3. That the Parole Board and the Department of Corrections work cooperatively with Immigration and Customs Enforcement (ICE) to provide for the parole and deportation of criminal aliens.
4. That the State Police receive training and work cooperatively with Immigration and Customs Enforcement to enable them to assist ICE personnel in the enforcement of federal immigration laws.
5. That all departments of the State of Rhode Island notify any person whose identity has been improperly used to receive any benefit (i.e., to protect individuals against identity fraud).

6. Why did the Governor issue this Executive Order?

The Governor issued this Executive Order for three reasons:

1. The U.S. Congress has failed to pass comprehensive immigration legislation. Because of that, problems surrounding the presence of people who are in the United States illegally remain unresolved. The problems caused by the presence of illegal immigrants are:
 - a. Depression of wages for authorized workers.
 - b. Loss of jobs for authorized workers.
 - c. Increase in the cost of uncompensated care at hospitals. This is a cost to the health providers themselves, to people who pay insurance premiums, and to the State of Rhode Island that has to reimburse hospitals for uncompensated care.
 - d. Increase in the cost of maintaining prisons.
 - e. Strain on educational systems, charitable and social service agencies, and housing.
2. A system that encourages the presence of illegal immigrants keeps many thousands of people living at the margins of society with their uncertain status. It opens the possibility for unscrupulous people to exploit those who are here illegally. Setting controls on illegal immigration will at least stop the growth of the number of people who are living so tenuously and limit the activity of those who would take advantage of them.
3. Unless immigration laws are enforced and the public can be confident that immigrants in Rhode Island are here legally, unfair scrutiny and treatment will, unfortunately, be more common. The status and potential of legal immigrants are enhanced by the enforcement of immigration laws.

7. How does this Executive Order affect legal immigrants?

The Governor's Executive Order only speaks about **illegal** immigrants. It does not say anything about people in the United States legally, be they citizens, legal residents, or people here under asylum or protected status. In fact, there are protections in laws and regulations to keep people from being victims of discrimination, profiling, or false accusations. The Executive Order does nothing to reduce or contradict these protections.

8. Will local police departments be involved in enforcing immigration laws?

Although the Executive Order urges state and local law enforcement agencies to take steps to support the enforcement of Federal immigration laws, the Executive Order has no authority over the police departments of cities and towns. They are free to enter their own partnerships with ICE, but they are not involved in this Executive Order and will not be doing anything differently as a result of it.

9. Will State Police be stopping motorists to ask about their immigration status? Will State Police be conducting any searches or raids for illegal immigrants?

No. State Police will not be making any traffic stops specifically to ask individuals about their immigration status or conduct any out of the ordinary raids or operations as a result of this Executive Order. They will do what they always have done: enforce the law. If a person has been arrested for an underlying offense, the Memorandum of Understanding entered into with Immigration and Customs Enforcement as a result of the Executive Order will allow the State Police to act more easily and swiftly to cooperate with ICE and to get offenders who are illegal immigrants into ICE custody.

10. Will State Police ask motorists for immigration papers?

The State Police ask every motor vehicle operator for license, registration, and proof of insurance. They ask passengers for identification only when there is reasonable suspicion that the occupants of the vehicle could possibly be involved in some type of criminal activity. This happens for everyone. If satisfactory identification is obtained, there is no further request for documentation.

11. What is the agreement between the State Police and ICE designed to do?

This program (usually referred to as the 287(g) program because that is the number of the section in the Federal Law that authorizes this program) is designed to enable state law enforcement personnel, incidental to a lawful arrest and during the course of their normal duties, to question and detain individuals for potential removal from the United States. The State Police is concentrating on the detection and removal of criminal aliens.

12. What is the agreement between the State Police and ICE NOT designed to do?

The 287(g) program is not designed to allow state agencies to perform random street operations. It is not designed to impact issues such as excessive occupancy and day laborer activities. In outlining the program, ICE representatives have repeatedly emphasized that it is designed to identify individuals for potential removal, who pose a threat to public safety, as a result of an arrest and/or conviction for state crimes.

13. Will the police conduct raids looking for illegal immigrants?

Police can only use 287(g) authority when people are suspected of violating state or local criminal law. Police cannot randomly ask for a person's immigration status or conduct investigative immigration enforcements – such as worksite enforcement. Any suspected abuse of immigration enforcement authority should be reported to the officer's agency and to ICE for investigation. (see questions #16 and #26)

14. Will victims of crimes or witnesses to crimes who go to the State Police for help be asked about their immigration status?

Not typically. However, if, in the course of an investigation, the State Police learns or there is a self-disclosure that could impact the case, the State Police will notify ICE and request requisite consideration allowing their status. This is not an uncommon practice.

15. How will the Executive Order change what the State Police is doing now regarding illegal immigrants?

The change is minimal for the State Police. However, troopers will be more educated on issues with increased sensitivity to the complexities of illegal immigration, and they will have access to the ICE database.

16. If someone is a victim of ethnic or racial profiling or suspects that has taken place, how can they have this addressed?

On the State Police web site, at <http://www.risp.ri.gov/standards/>, there is a citizen's complaint form in English and Spanish that can be submitted to the Professional Standards Unit. This has been the case for several years. The telephone number for the Professional Standards Unit is (401) 444-1004.

17. Will the Executive Order change the way Hospitals or Medical Providers operate?

No. The Executive Order says nothing about health care providers. They will do things in the same way they always have.

18. Will the Department of Human Services, the Department of Health, or any other State Department be reporting illegal immigrants to U.S. Immigration and Custom Enforcement?

No. The Executive Order only mandates that the State Police, the Department of Corrections and the Parole Board work with ICE.

19. What is E-Verify and how does E-Verify work?

E-Verify is a system mandated by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA) that allows employers to confirm the legal status of newly hired employees to see if they are authorized to work in the United States by comparing social security number data and information in the Department of Homeland Security with the Form I-9 information provided by the employee. The Internet-based system sends a response in three to five seconds.

Once employers submit the information from an employees I-9 form to the E-Verify Web Site, the E-Verify system will give one of three results:

- "Employment Authorized"- the employee is employment authorized

- "SSA Tentative Non-Confirmation" – the Social Security Administration database is showing the employee's name and social security number are not matching
- "DHS Verification in Process" – The Department of Homeland Security will send a notice within 24 hours that the person is "Employment Authorized" or "DHS Tentative Non-Confirmation"

If a worker is "employment authorized" the employer records the verification number on the Form I-9.

Employers must post information about this process as well as anti-discrimination notices and instructions.

20. Which employees would be verified through the system?

As a participant in E-Verify, employers are required to verify all newly hired employees, both U.S. citizens and non-citizens. Employers may not verify selectively and must verify all new hires while participating in the program. The program may not be used to prescreen applicants for employment, go back and check employees hired before the company signed the MOU, or re-verify employees who have temporary work authorization.

The earliest the employer may initiate a query is after an individual accepts an offer of employment and after the employee and employer complete the Form I-9. The employer must initiate the query no later than the end of three business days after the new hire's actual start date. An employer may initiate the query before a new hire's actual start date; however, it may not pre-screen applicants and may not delay training or an actual start date based upon a tentative non-confirmation or a delay in the receipt of a confirmation of employment authorization. An employee should not face any adverse employment consequences based upon an employer's use of E-Verify unless a query results in a final non-confirmation. In addition, an employer cannot use an employment authorization response to speed up an employee's start date. This would be unfair treatment to use E-Verify results to accelerate employment for this employee compared to another who may have received a tentative non-confirmation.

Employers must verify employees in a non-discriminatory manner and may not schedule the timing of queries based upon the new hire's national origin, citizenship status, race, or other characteristic that is prohibited by U.S. law.

21. Suppose someone who is authorized to work in the United States (a citizen or legal resident) is wrongly identified as being unauthorized by the E-Verify system?

If an employer gets a "tentative non-confirmation", the employer must give that information to the employee immediately and tell him or her how to contest the results and correct the information with the Social Security Administration or Department of Homeland Security. The employee has eight days to resolve the issue and may continue to work until the problem is resolved. If the employee does not contest the finding of the E-Verify system, the employer can terminate his employment.

22. Where can I learn more about the system?

You can go to the U.S. Citizenship and Immigration website to read more about E-Verify (www.dhs.gov/e-verify).

23. Is there any cost associated with the technology for the E-Verify system?

An employer's participation in E-Verify is voluntary and is currently free to employers. Users may connect to the web-based access methods using any Internet-capable Windows-based personal computer and a web browser of Internet Explorer 5.5 or Netscape 4.7 or higher (with the exception of Netscape 7.0). If employers do not have these computer capabilities, they would contract with a company that would offer this service at an agreed upon price. Even if companies have the computer capability themselves, they may choose to outsource the E-Verify work for other reasons.

24. Is there training involved? If so, is there any cost involved? How extensive is the training?

To participate, an employer must register online and accept the electronic **Memorandum of Understanding (MOU)** that details the responsibilities of SSA, DHS, and the employer. Before using the E-Verify system, the employer must complete a free tutorial; a User Manual is also provided.

25. How accurate is the E-Verify system? What are the common problems/ glitches with the E-Verify system? What can business people do to be better prepared so that these problems do not occur?

92% of records submitted to the E-Verify system receive an "Employment Authorized" answer instantaneously. Of the other 8%, some are illegal workers and some are people who changed names (due to marriage, divorce, adoption, etc.) but did not notify the Social Security Administration (SSA). Some of the 8% are naturalized citizens about whose naturalization the SSA has not been notified. The Department of Homeland Security is fixing this particular problem; this solution will reduce an already low error rate. There is a process to correct these errors.

The most common problem for a false return is data entry error; this can be easily corrected by re-entering correct data. Businesses can work very closely with U.S. Immigration to complete the proper training and to ensure that they are complying with all the rules and guidelines of Immigration in the implementation of the E-Verify system.

26. What can employees do who feel they have been subject to discrimination?

Employers may not fire, suspend, withhold pay or infringe in any way on the person's employment if that person contests a result of the E-Verify system. If someone feels he or she has been discriminated against through an employer's use of E-Verify, he or she should call the Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration Related Unfair Employment Practices: 1-800-255-7688.