



PRINCE WILLIAM COUNTY, VIRGINIA

**Prince William County, Virginia
Internal Audit
Police Department
ICE Reporting**

December 14, 2015





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The Audit Committee of
Prince William County, Virginia
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Pursuant to the request by Prince William County, Virginia (the “County”), we were engaged to perform procedures related to processes of the Prince William County Police Department’s (“PWC Police”) communication and reporting to the U.S. Immigration and Customs Enforcement (“ICE”) as well as confirm the PWC Police’s internal investigation report and understand the reportable population.

We conducted interviews with the appropriate PWC Police representatives, which included sworn members, Internal Affairs, and the Police Chief. These interviews allowed us to obtain a thorough understanding of the background, history, and PWC Police’s General Orders regarding illegal immigration. We collaborated throughout the investigation and conducted confirmation and reconciliation procedures around the population used in the PWC Police investigation. We were **unable** to perform any detailed analysis or testing to validate and substantiate the reporting accuracy of data received by the National Law Enforcement Telecommunications Systems (“NLETS”) and used in the PWC Police’s internal investigation. This is due to the confidentiality of the data and the laws in place that protect this type of data.

Prince William County History

On July 10, 2007, the Prince William Board of County Supervisors (“BOCS”) passed Resolution 07-609. This resolution called for the following:

- The Prince William County Police shall inquire into the citizenship or immigration status of detained persons if there is probable cause to believe such person is in violation of federal immigration law and when such inquiry will not expand the duration of the detention.
- The Prince William County Police shall enter into a 287(g) agreement with Immigration and Customs Enforcement (ICE) to designate up to six County police officers as qualified to exercise the enforcement powers of federal immigration officers.

Prince William County History – continued

Prior to this 2007 resolution, PWC Police had policies in place to take action regarding illegal immigrants who commit serious crimes. Specifically, it had been standard procedure to contact ICE if a “hit” is received from the National Crime Information Center (NCIC) regarding criminal immigration charges. Additionally, the Police Chief recommended, and the BOCS approved, 287(g) training and authority for jail staff and consideration of the same training and further consideration of authority for select police detectives.

Implemented by ICE, the 287(g) program is designed to enable state and local jail and law enforcement personnel, in the course of their normal duties, to question and detain individuals for potential removal from the United States by ICE. Specifically, those trained under the 287(g) program are authorized to perform certain acts of a federal immigration officer under ICE supervision. Further, the PWC Police has been an active participant in the Northern Virginia Gang Task Force, along with ICE, since 2003.

Subsequent to the passage of Resolution 07-609, PWC Police entered into a Memorandum of Agreement (MOA) between the United States Immigration and Customs Enforcement and the Board of County Supervisors of Prince William County, acting through its Police Department. Under the authority of Section 287(g) of the Immigration and Nationality Act, this MOA authorized up to six nominated, trained, and certified Police Department personnel to perform certain immigration enforcement functions. The intent of this MOA was to enable this new “287(g) Unit” to identify and process immigration violators in the County. In 2012, ICE terminated their MOA with PWC Police and the 287(g) unit was disbanded. However, the Prince William-Manassas Regional Adult Detention Center continues their 287(g) program that has been in effect since 2006.

PWC Police also performed the following subsequent to the passage of Resolution 07-609:

- Developed new General Orders outlining the enforcement guidelines of immigration law.
- Initiated an Internal Department Policy Training, which consists of legal training, in addition to ICE services, enforcement policy and procedures, legal presence, and fraudulent ID recognition.
- Created a public education plan to effectively communicate the policy and key messages regarding the PWC Police’s enforcement of the illegal immigration resolution.
- In April 2008 there were changes in the resolution which impacted the time at which immigration status inquiries are mandated from pre-arrest to post-arrest.

PWC Police Manual of General Orders

The following is an excerpt from The Manual of General Orders regarding the legal authority for enforcement of immigration laws:

Warrants and detainers issued by ICE may be criminal or civil. Whether ICE is proceeding criminally or civilly against the subject controls the response of local law enforcement.

1. *POLICE MAY ARREST* under any of the following conditions:

a. *The requirements of §19.2-81.6 Code of Virginia are satisfied.*

§19.2-81.6 Code of Virginia – All law enforcement officers enumerated in §19.2-81 shall have the authority to enforce immigration laws of the United States, pursuant to the provisions of this section. Any law enforcement officer enumerated in §19.2-81 may, in the course of action upon reasonable suspicion that an individual has committed or is committing a crime, arrest the individual without a warrant upon receiving confirmation from the Bureau of Immigration and Customs Enforcement of the United States Department of Homeland Security that the individual (i) is an alien illegally present in the United States, and (ii) has previously been convicted of a felony in the United States and deported or left the United States after such conviction. Upon receiving such confirmation, the officer shall take the individual forthwith before a magistrate or other issuing authority and proceed pursuant to §19.2-82.

b. *An **NCIC Immigration Violator File (IVF)** hit reads “**PREVIOUSLY DEPORTED FELON**,” a hit confirmation is received, **AND** a Criminal Detainer from ICE is received and/or issued*

c. *An NCIC IVF hit reads “**OUTSTANDING ADMINISTRATIVE WARRANT OF REMOVAL**” (such NCIC warrants are considered civil in nature), **AND** the officer has charged the person for a separate Class 1 or Class 2 misdemeanor or a traffic infraction, §19.2-74 Code of Virginia or §46.2-940 Code of Virginia, the NCIC IVF hit, absent extenuating circumstances, shall be considered as a strong factor to proceed under §19.2-82 Code of Virginia (Arrest without warrant), in determining whether the person is likely to disregard the summons.*

2. *POLICE **MAY NOT ARREST*** under the following conditions:

a. *Solely because the person is an illegal alien. This is because the Police Department has no legal authority to independently enforce Federal Immigration Law. When probable cause exists to believe a person may be an illegal alien a Field Interview Card shall be completed whenever possible and forwarded to the Crime Analysis Unit. The Crime Analysis Unit shall in turn forward the information to the ICE LESC.*

b. *Solely based upon an NCIC IVF hit which reads “**OUTSTANDING ADMINISTRATIVE WARRANT OF REMOVAL**.” These are considered civil in nature. Officer have no authority to arrest based solely on **CIVIL** administrative warrants or detainers for immigration issues. A Field Interview Card shall be completed whenever possible and forwarded to the Crime Analysis Unit. The Crime Analysis Unit shall in turn forward the information to the ICE LESC.*

Sanctuary City

The WJLA news article published November 19, 2015, included allegations that the County is a “Sanctuary City”. We did research to understand the use and meaning of that term and allegation. The term “sanctuary city” has been used extensively for over 30 years. It is defined as the following; Sanctuary cities protect illegal aliens through local resolutions, executive orders or city ordinances. City police departments may also issue their own special orders, policies and general orders to the similar effect. A local government would enact these local resolutions, orders or ordinances if they do not want municipal funds to be used for the enforcement of federal immigration law. Or perhaps, a city police may feel it is not their obligation to uphold federal immigration law.

Based on our review, at no time has Prince William County or the Prince William County Police Department enacted any resolutions, orders, or ordinances to be classified a “Sanctuary City.”

Communication and Reporting to ICE

The WJLA news article published November 19, 2015, also included allegations that the County was “...not cooperative with civil or deportation warrants...ICE will not be contacted and that person, let go”. After completing various interviews and gaining a thorough understanding of the process we found the process to be consistent with the General Orders outlined above. Specifically, whenever an officer runs a wanted check on an individual through the NCIC, the IVF database is automatically checked and a “hit” may be received. Similar to other law enforcement agencies, criminal warrants obtained by ICE agents are entered into the NCIC wanted persons files. However, ICE “hits” for deported felons and alien absconders are based on administrative warrants and are entered in the NCIC IVF file.

Upon receiving an NCIC “hit” from the IVF databases, the officer subsequently reads the “hit” in detail to gain a better understanding of the response. There are only two possible responses that will appear:

1. “Previously Deported Felon” – Upon receipt of such “hit” the officer shall request a “hit” confirmation through communication with ICE. This communication can be performed through NCIC or telephone directly to ICE. If a “hit” confirmation and a Criminal Immigration Detainer from ICE is received and/or issued, the suspect is brought to the Adult Detention Center.
2. “Outstanding Administrative Warrant of Removal” – Upon receipt of such “hit” the officer does not confirm, nor requests an issuance of detainer from ICE. The officer does not take the individual into custody, unless the subject is lawfully detained for another violation of the law.

Additionally, upon receiving an “Outstanding Administrative Warrant of Removal hit”, it is our understanding that further detailed communication occurs between the officer and ICE while the subject is detained in the field. Specifically, through communication with ICE via teletype or telephone, the officer may be sent a picture of the subject to confirm identity, or ICE may request the officer to obtain updated information of the subject, for example, current address. This information is subsequently communicated back to ICE, in real time, while in the field. Upon completion of the additional ICE requests the subject is released.

Finally, absent independent lawful authority to detain, and the subject did not violate any other laws, or an IVF “hit” is made, but the Criminal Immigration Detainer was not received within a reasonable period of time, the subject is released. However, officers document the detained person’s identification information on a Field Interview Card, which is forwarded to the Crime Analysis Unit. The Crime Analysis Unit then periodically forwards the information via email to ICE. Per PWC Police and their investigation of 2013, 2014 and 2015 data, there were no instances noted that required the Crime Analysis Unit to perform this type of reporting.

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PWC Police Internal Investigation

PWC Police provided us a copy of their final draft report, which details the work completed during their comprehensive review. Throughout the investigation we had meetings with the investigation team to collaborate and further our understanding of the process and the nature of the work performed during the investigation. PWC Police received more than 3,300 pages of all communication between PWC Police and ICE from the State Police. These communications were from January 1, 2015 to November 27, 2015 and included communication for every person queried by PWC Police that resulted in any ICE “hit”, whether it related to deportation, civil or criminal warrants. PWC Police then performed a review of all communications to ensure that, “ICE was notified of any person they encountered who is identified, for whom there is an ICE warrant, whether its deportation, civil or criminal.” Upon completion of the initial review of all communications PWC Police found that an “overwhelming majority” of the records did not pertain to the person queried, which we understand is common with ICE “hits”. However, per the PWC Police there were 15 query records that the response was actually the person queried and that person had an outstanding warrant for removal. PWC Police then manually reviewed the circumstances of each of the 15 queries to determine if ICE was notified. PWC Police found evidence of communication with ICE in all 15 of these query records. Additionally, PWC Police performed a review of internal records for 2013 and 2014 and found that ICE was notified in each case. Specifically, there were 3 cases in 2014 and 8 cases in 2013. Therefore, since no notification gaps were found in PWC Police’s comprehensive review of 2015 communications PWC did not request external data from LESC for 2013 and 2014.

PWC Police also requested and received data from the ICE Law Enforcement Support Center (LESC) evidencing the number of times PWC Police contact was made with the ICE LESC. Specifically, it showed the number of “hits” that specify “Prince William” in the call summary field. Therefore, this would include communication that related to the Prince William Adult Detention Center, Prince William County Commonwealth’s Attorney’s Office, Prince William County Fire Marshall or Prince William Sheriff. This data was used to substantiate the population through reconciliation.

Due to Virginia Law, we were not legally authorized to review these communications and privileged data received from the State Police. However, we were able to receive written confirmation from the Commonwealth of Virginia’s Department of State Police, who provided the communications, that they conducted a search for, “Any and all inquiries/communication between PWC Police Department and the Bureau of Immigration and Customs Enforcement and their Law Enforcement Support Center” and provided it to PWC Police. Additionally, the letter confirmed the total number of pages of text related to inquiries and responses between PWC Police and ICE. Through our discussions with PWC Police, we understand the population of PWC Police databases, the records from the State and those from ICE reconciled. Below is a summary from the PWC Police internal investigation report:

2015 Prince William County Police Contacts with the ICE

	Officer Out with Subject & Identity Confirmed	Arrest	No Arrest	Committed to the Adult Detention Center (287g)	ICE Contacted
2015	15	10	5	*9	15
2014	3	1	2	1	3
2013	8	6	2	6	8

*1 Released by magistrate

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Summary

We have been able to gain a thorough understanding of the various ICE communication and reporting methods completed by PWC Police. Additionally, we were able to review the PWC Police final draft report to gain an understanding of the work completed as part of their internal investigation to verify that ICE was notified 100% of the time. Based on our review, at no time has Prince William County or the Prince William County Police Department enacted any resolutions, orders, or ordinances to be classified a "Sanctuary City." Through our limited audit procedures and understanding of the process, we found that PWC Police appears to cooperate with ICE and follows their General Orders regarding Illegal Immigration.

Respectfully Submitted,

RSM US LLP

INTERNAL AUDITORS

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