

# EXHIBIT I

<b>PRINCE WILLIAM COUNTY POLICE DEPARTMENT  MANUAL OF GENERAL ORDERS (PROPOSED)</b>		
<b>General Order: 45.02</b>	<b>Effective:</b>	<b>Number of Pages: 4</b>
<b>LOCAL ENFORCEMENT RESPONSE TO ILLEGAL IMMIGRATION:  MEMBER RESPONSIBILITIES</b>		

A. Officer Response:

1. Officers ***shall*** investigate the citizenship or immigration status of any person who is lawfully detained for a violation of a state law or county ordinance, if (1) probable cause exists to believe such person is in violation of federal immigration laws; (2) the inquiry has not already occurred in the encounter, and (3) the inquiry will not unlawfully expand the duration of the detention. There may be circumstances under which the Fourth Amendment authorizes an earlier inquiry and officers may use their discretion in accordance with training to investigate immigration status at an earlier stage.

Officers must remain cognizant at all times of the legal justification to continue detention of a person. The permissible length of a lawful detention in every instance depends on all circumstances.

Officers are reminded there is no law compelling a person to identify himself or herself to a law enforcement officer in all instances. However, presenting false identification to a law enforcement officer is a violation of State law under §19.2-82.1 *Code of Virginia*:

2. If the officer has probable cause to believe the detained person is in violation of federal immigration law and the person does not produce any of the documents outlined below to prove legal presence, the officer ***shall*** inquire as to the legal presence of the person by checking nationwide databases maintained by the **U.S. Department of Homeland Security's Bureau of Immigration and Customs Enforcement (ICE)** or by contacting the **ICE Law Enforcement Support Center (LESC)**. Officers shall conduct a **Query Wanted (QW)** through NCIC. This QW automatically searches the **Immigration Violator File (IVF)** contained in NCIC. ICE is the only agency authorized to enter and maintain records in the IVF.
3. Generally, a person may prove legal presence by producing a **valid Virginia** Operator's License or Special Identification Card (Adult ID card, Child ID card, or Hearing Impaired Photo ID Card – commonly referred to as a "Walker's ID"), with an **ORIGINAL** issued date of January 1, 2004 or later, as noted in § 46.2-328.1 *Code of Virginia* (Virginia's legal presence law took effect on January 1, 2004). A birth certificate from any U.S. State or Territory, or any of the documents identified by the Virginia Department of Motor Vehicles, as referenced in General Order 45.01, F-11, will also serve as proof of legal presence. If a person produces a document that establishes legal presence, members will not routinely inquire further about the person's legal presence.

4. Whenever an officer runs a wanted check on an individual through NCIC, the IVF database is automatically checked and a "hit" may be received. It has long been the policy of the Department to serve criminal warrants originating from NCIC wanted queries. Similar to other law enforcement agencies, criminal warrants obtained by ICE agents are entered into the NCIC wanted persons' file. However, ICE hits for deported felons and alien absconders are based on administrative warrants and are entered in the NCIC IVF file.

NCIC entries contain both civil and criminal immigration violations. Officers should be careful to determine the nature of the underlying offense resulting in the NCIC entry. An entry into NCIC does not guarantee the officer has actual authority to take the person into custody.

5. Officers who receive an NCIC "hit" on an Immigration Violator File shall carefully read the IVF hit received through NCIC. There are only two (2) possible responses that will appear. Several lines from the top of the response will be the words **"PREVIOUSLY DEPORTED FELON"** or **"OUTSTANDING ADMINISTRATIVE WARRANT OF REMOVAL."**

- a. **"PREVIOUSLY DEPORTED FELON"**

- i. The officer shall request a hit confirmation and Criminal Immigration Detainer, as outlined below in B-3.
- ii. If a hit confirmation **and** a Criminal Immigration Detainer from ICE is received and/or issued, absent other charges which require the subject be taken before the magistrate, the suspect will be brought forthwith to the Adult Detention Center (ADC) which has established policies in place with ICE. An Incident Report titled "Criminal Immigration Arrest" shall be completed.
- iii. If the officer has reasonable suspicion to believe a person has committed or is committing a crime, absent probable cause to arrest for that crime, if a hit confirmation is received from ICE, the officer shall take the individual forthwith before a magistrate and obtain an arrest warrant for a violation of § 19.2-81.6 *Code of Virginia*. Recurrent applications for a warrant under this subsection are not permitted within a six-month period, as enumerated in § 19.2-82 *Code of Virginia*.

If reasonable suspicion does not exist that the arrested person has committed or is committing a separate offense, officers may act solely on the confirmation and detainer issued by the LESC for a "Previously Deported Felon" and the arrested person shall be transported to the ADC as outlined in section ii above.

- iv. The Police Department anticipates the formation of a Criminal Alien Unit, comprised of detectives who are specially trained in ICE's 287(g) program. Once this Unit becomes active, in certain cases these detectives may be requested to respond and further investigate the matter, if circumstances warrant.
- v. Absent independent lawful authority to detain, such as other charges that justify detention or physical arrest, if an NCIC hit is made and confirmation of

a Criminal Immigration Detainer is **not** received or issued within a reasonable period of time, the person must be released. Officers will document the detained person's identification information on a Field Interview Card and forward it to the Crime Analysis Unit.

- vi. If the suspect is remanded to the ADC for another offense, the illegal immigration status shall be relayed to ADC booking personnel, which has established policies and practices in place to coordinate with ICE.

b. **“OUTSTANDING ADMINISTRATIVE WARRANT OF REMOVAL”**

- i. The majority of these ICE warrants represents civil administrative procedures and this hit typically refers to persons who have failed to appear for a hearing or failed to leave the United States after having been ordered to do so.
- ii. Officers shall **not** confirm and shall not request automatic issuance of a detaining order from the database because such detaining order will be invalid on this type of IVF hit and shall **not** take the individual into custody, unless such person is lawfully detained for another violation of the law. Officers will document the detained person's identification information on a Field Interview Card and forward it to the Crime Analysis Unit. The subject must be released.
- iii. While officers may not automatically arrest a person based solely on this hit, officers shall, absent extenuating circumstances, consider this type of NCIC IVF hit as a **factor** in deciding whether or not to release on a summons for a separate violation of the law. This section only applies when an individual is being arrested for another offense for which the law indicates the person be released on a summons unless certain factors are present.

Officers may proceed under §19.2-82 *Code of Virginia* (Arrest without warrant), **only** if the provisions of §19.2-74 *Code of Virginia* or §46.2-940 *Code of Virginia*, are satisfied and the NCIC IVF hit is confirmed.

If the officer takes the suspect before a magistrate, the officer shall request a copy of the hit confirmation. A copy of the NCIC IVF Hit confirmation shall be presented to the magistrate. The illegal immigration status shall be relayed to ADC booking personnel, which has established policies and practices in place with ICE. If the Magistrate orders the suspect to be released officers shall document the suspect's identification information on a Field Interview Card and forward it to the Crime Analysis Unit.

- c. NCIC hits are factors which may provide legal justification to continue detention of a person. The permissible length of a lawful detention in every instance depends on all circumstances.
6. In **all** cases, any time probable cause exists to believe a person is in violation of federal immigration laws, a Field Interview Card shall be completed and forwarded to the Crime Analysis Unit who in turn shall forward the information to the ICE LESC.

7. Officers shall cooperate with federal immigration authorities or provide information as permitted or required by law.

B. Office of Public Safety Communications (OPSC) Response:

1. When a QW (Query Wanted) transaction is conducted through NCIC, the Immigration Violator File (IVF) is automatically searched for records on criminal illegal aliens who have been deported for serious crimes. It also contains records of civil immigration violations or persons who have violated some section of the Immigration and Nationality Act.
2. OPSC shall, as requested, perform initial inquiries between the Department and the ICE LESC. Upon request, OPSC will perform an IAQ (Illegal Alien Query) through NLETS.
3. OPSC will assist members in the confirmation of criminal alien arrest warrants, in accordance with General Order 26.01, E (NCIC Hits). Once the identity of the person and the warrant or detainer is confirmed, the ICE LESC will be contacted for acceptance of a criminal hold on the suspect.
4. Requests for confirmation of active Prince William County warrants shall follow established policy, regardless of immigration status. Any suspected illegal immigration status shall be relayed to the arresting officer.
5. Citizens wishing to make a routine complaint of the illegal immigration status of an individual will be referred to the ICE public tip line. The Police Department will not routinely document or follow-up on such information.

C. Prince William County Criminal Justice Academy (Academy) Responsibility:

1. The Academy's role with regard to this General Order is to provide training to members in the Department's Enforcement of Immigration Laws policy.
2. New recruits will receive initial training as a component of local training.
3. All sworn members will receive mandatory initial training. In-service training will be provided to members as deemed necessary.