

**ATTACHMENT 2****MEMORANDUM**

**TO:** Roger Stancil, Town Manager  
**FROM:** Gregg Jarvies, Police Chief  
**DATE:** January 26, 2007  
**RE:** CHPD Immigration Policy

In response to Council Member Easthom's request for information regarding the police department's policy on immigration, I offer the following:

1. We will not detain a person merely for the purposes of verifying his immigration status nor will we question a person about his immigration status during a routine detention for another matter (i.e. a traffic stop or a minor criminal offense).
2. If we have an individual in custody for a felony or for an act which resulted in injury to another (i.e. an aggravated assault, domestic violence involving injury or threatening intimidation, a traffic accident fatality) we will inquire and attempt to confirm that person's residency status and will hold the individual for federal immigration officials if they request same.

When we arrest someone we are required by federal law to note his country of citizenship on the police report and, if the person is a citizen of a country other than the U. S., we are required by federal law to provide that individual an opportunity to contact that country's consulate. However, we do not ask the individual whether they are in the United States legally.

The protocols noted above have been in effect for several years.

After the incident in early December involving the detention of Ms. Sima Fallahi on an outstanding order of deportation, we clarified our policies regarding what actions officers will take should they encounter an individual with an outstanding order of custody in effect by U. S. Immigration and Customs Enforcement (ICE). (NOTE: If you recall, we did not initiate a check on Ms. Fallahi's residency status. A notice regarding the outstanding deportation order came up when we were conducting a required background check for her solicitation permit application).

If an officer runs a license or warrant check on an individual during the normal course of duty (i.e. during a traffic stop, after breaking up a fight, while serving other warrants) and that check indicates an order of final deportation or an order of detention exists on that individual, the officer will take one of two actions:

- If the warrant from ICE contains the words "felon" or "deported criminal" the officer will contact ICE and, if the warrant is indeed criminal in nature, that individual will be held on the outstanding warrant.
- If the order stipulates that the warrant is administrative or civil in nature, or if the warrant does not indicate the underlying reason for its issuance, the officer will contact our police attorney and/or the chief of police before calling ICE. If the warrant is confirmed as civil

in nature, we will not detain the individual.

Police Attorney Terrie Gale is in the process of formalizing our [immigration enforcement protocols](#) for inclusion in the department's policy manual. Within the past month all officers have received training from Ms. Gale on our enforcement protocols.

Finally, North Carolina General Statute 128-1.1 authorizes local law enforcement agencies to enter into agreements with federal agencies for the purposes of enforcing federal statutes and regulations. Some North Carolina agencies have entered into such agreements for the purposes of being local agents for Immigration and Customs Enforcement. We have not and will not enter into such agreements.

**From:** TERRIE GALE  
**Sent:** Tuesday, March 13, 2007 6:13 PM  
**To:** All Police  
**Cc:** Ralph Karpinos  
**Subject:** Hits from ICE

Per the Chief -

If you get a hit from ICE (US Bureau of Immigration and Customs Enforcement) when you run a name through NCIC, DMV, or another database, handle it as follows.

First, let your supervisor know.

Second, read the computer screen sent back to you in response to the hit. You will have received one of two possible responses. Several lines down from the top of the response, you will see either the words "OUTSTANDING ADMINISTRATIVE WARRANT OF REMOVAL" or you will see "PREVIOUSLY DEPORTED FELON."

Third, if you see "PREVIOUSLY DEPORTED FELON," call the phone number listed in the response to confirm the hit, and handle the hit as normal.

Fourth, if you see "OUTSTANDING ADMINISTRATIVE WARRANT OF REMOVAL," **DO NOT CALL** the phone number and do not confirm the hit. Call either Terrie Gale or the Chief. In addition, if you have a state or local criminal charge against the person, or if there is an outstanding criminal arrest warrant for the person, you can proceed with that.

I am hearing questions and comments about our approach to hits for "Administrative Removal." Some officers have argued that we are not doing our duty which we have sworn to do.

The reason for our policy is that, even though the feds have started putting these names into the NCIC database, they are NOT CRIMINAL. They are strictly civil matters that will be brought before civil hearings. We do not have authority to take persons into custody for civil matters. We have authority to take some actions related to civil matters, but we do not have the authority to arrest people for noncriminal matters.

Chapel Hill is not alone in this. This inclusion of civil-wanted persons in NCIC is causing problems for law enforcement all over the country. Both the Major Cities Chiefs (MCC) organization and the International Association of Chiefs of Police (IACP) have asked the federal government to cease putting the names of civil-wanted persons into NCIC. The MCC stated: "The inclusion of civil detainers on the (NCIC) system has created confusion for local police agencies and subjected them to possible liability for exceeding their authority by arresting a person upon the basis of a mere civil detainer." The IACP stated that by putting the names of these

persons into the NCIC system, "state and local law enforcement officers will be placed in the position of being asked to detain and arrest these individuals without possessing the proper authority to do so."

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**From:** TERRIE GALE

**Sent:** Friday, January 12, 2007 3:50 PM

**To:** All Police

**Subject:** NCIC/DCI hits from ICE

If you run a name through NCIC and get a hit from ICE (Immigration and Customs Enforcement):

- If the hit contains the words "felon" or "deported criminal," deal with it as always, i.e. call the ICE phone number listed in the hit to confirm the hit, etc. Please also put a copy of the hit in my mailbox.
- If the hit does not contain the words "felon" or "deported criminal," call me BEFORE you call ICE, whatever time it is. Home: 942-6166. Pager: 216-0348. Cell: 616-2953.

Terrie