

ICE ON THE HARBOR: Norfolk City Jail helps ICE arrest and deport Virginia immigrants

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- In August 2017, the Norfolk City Jail entered a modified Intergovernmental Service Agreement (IGSA) with Immigration and Customs Enforcement (ICE) to allow immigrants in ICE custody to be temporarily held by the Jail. A combination of Jail documents with a case study from Fairfax County shows the need to end this partnership.

The Legal Aid Justice Center has summarized findings to show that the Norfolk Sheriff's Office has the discretion to end its relationship with ICE.

Background and Internal Documents from FOIA Request

Prior to the Trump administration, the Norfolk City Jail had no formal agreement to work with ICE. But on August 1, 2017, the Jail modified an existing intergovernmental agreement with the US Marshals Service to add the capability for ICE detentions, at the existing rate of \$44.50 per day, with the understanding that no ICE detention would last longer than 72 hours.

U. S. Department of Justice United States Marshals Service		Modification of Intergovernmental Agreement		
1. Agreement No. 83-99-0221	2. Effective Date 8/1/17	3. Facility Code(s) 2DL	4. Modification No. Two (2)	5. DUNS No. 004-686-430
6. Issuing Federal Agency United States Marshals Service Prisoner Operations Division Intergovernmental Agreements Branch CC-3, Suite 300 Washington, DC 20530-0001		7. Local Government Norfolk City Jail 811 East City Hall Avenue Norfolk, Virginia 23510		
8. Appropriation Data 15X1020	9. Per-Diem Rate \$44.50	10. Guard/Transportation Hourly Rate \$16.75		
11. EXCEPT AS PROVIDED SPECIFICALLY HEREIN, ALL TERMS AND CONDITIONS OF THE IGA DOCUMENT REFERRED TO IN BLOCK 1, REMAIN UNCHANGED. TERMS OF THIS MODIFICATION: The purpose of this modification is to add Immigration and Customs Enforcement to the Intergovernmental Agreement.				

Modification of Intergovernmental Agreement with US Marshals to include ICE detainees, effective August 11, 2017

Internal communications released through a FOIA request suggest confusion about the nature of this partnership. For example, in October 2017, after the Norfolk City Jail rejected an ICE detainee who had no warrant against him, ICE clarified that they were requesting Norfolk to routinely hold immigrants without warrants, based solely on ICE internal detention forms:

From: Gritte, David M [mailto:David.M.Gritte@ice.dhs.gov]
Sent: Wednesday, October 11, 2017 3:41 PM
To: Rader, Virginia <Virginia.Rader@norfolk-sheriff.com>
Subject: Saturday AM (10/07/17) Booking Problems

Virginia,

Just wanted to follow up with you on an issue my officer ran into early Saturday morning (10/07/17 at 0100).

It appears that there was some miscommunication from both sides. My officer was trying to drop an alien off and initially the deputy/corporal refused the body because we didn't have a detainer and a warrant. This combined with a new ICE officer lead to some confusion.

Just wanted to make it clear that if ICE is dropping of an alien, the only forms needed are a 203/385. This is different than if the PD arrests an alien and the jail is requesting a detainer/warrant of arrest. Once ICE has determined that they are a removable alien and that we are paying for them, the detainer/warrant become a moot issue.

Let me know if you any further questions,

David

David M. Gritte
Supervisory Detention and Deportation Officer
Immigration and Customs Enforcement
Enforcement and Removal Operations
Norfolk, Virginia

ICE Regional Officer claiming that only ICE forms are necessary to allow detention at the Jail on October 11, 2017

Later, in a November 2017 e-mail, Norfolk ICE officer David M. Gritte thanked the Jail for its partnership and the ability “to drop bodies close to the office.” The ICE officer’s gratitude for the partnership remained a common theme throughout the released communication.

O'Toole, Michael

From: Gritte, David M <David.M.Gritte@ice.dhs.gov>
Sent: Monday, November 27, 2017 3:18 PM
To: Rader, Virginia
Subject: RE:

That is great, glad it is working smoothly. We truly appreciate the ability to be able to drop bodies close to the office.

David M. Gritte
Supervisory Detention and Deportation Officer
Immigration and Customs Enforcement
Enforcement and Removal Operations
Norfolk, Virginia

ICE Regional Officer appreciating the ability “to drop bodies close to the office” on November 27, 2017

The Jail/ICE partnership ramped up in Summer 2018, when ICE officer David Gritte advised Norfolk Chief Deputy Sheriff Michael O. Toole that ICE would be conducting statewide raids in July 2018 and would need



more space over two weeks that month. ICE cited “increased southern border apprehensions” as a reason to ask for a change in their terms. These increased apprehensions coincide with the spike in migrant detention caused by the Trump administration’s implementation of its “zero tolerance” policy and family separation, a policy that tore thousands of children from their families.

In other words, ICE was filling up its own detention beds with parents who had recently been forced away from their children at the border, and so needed more detention beds in order to continue to arrest immigrants in Virginia; and Norfolk approved an expansion in detention. At precisely the time when ICE’s inhumane family separation policy was dominating the news cycle, Sheriff Baron chose to blow the lid off of the 72-hour policy and allow longer-term immigration detention at his Jail. He did this without advising Norfolk city leaders or the public, who were kept in the dark about this until it was reported some six months later.

Background

Due to increased southern border apprehensions transported into the AOR for detention, limited national bedspace, and a planned two-week enforcement operation targeting approximately 200 individuals in July 2018, the Washington field office is requesting a temporary waiver of the under-72-hour rule at the Norfolk City Jail in Norfolk, VA. The Washington field office currently uses the Norfolk City Jail as an under-72-hour facility, using the U.S. Marshals Service’s Intergovernmental Agreement to house ERO detainees for less than 72-hours.

Discussion

Of critical importance is that the detainees housed at the Norfolk City Jail for more than 72-hours receive complete medical care, to include physical exams within 14 days of arrival, chronic care monitoring, and other medical screening and treatment as required by the Medical Care Performance-Based National Detention Standard. The Washington field office will coordinate with the ICE Health Service Corps to ensure that physicals for detainees are completed within 14 days of entering ERO custody.

Recommendation

I recommend that you approve a waiver of the under-72-hour rule for the Norfolk City Jail for a period not to exceed 60 days from the date of authorization.



Approve/date July 16/27/18

Disapprove/date _____

Modify/date _____

Needs more discussion _____

Not to exceed September 30, 2018

Approval of waiver to go above 72-hour limit for ICE detention at the Jail, signed by Norfolk Sheriff's office on June 27, 2018

From: Gritte, David M <David.M.Gritte@ice.dhs.gov>
Sent: Tuesday, June 19, 2018 4:29 PM
To: O'Toole, Michael <michael.ottoole@norfolk-sheriff.com>
Subject: ERO Norfolk - Bed Increase

Sir,

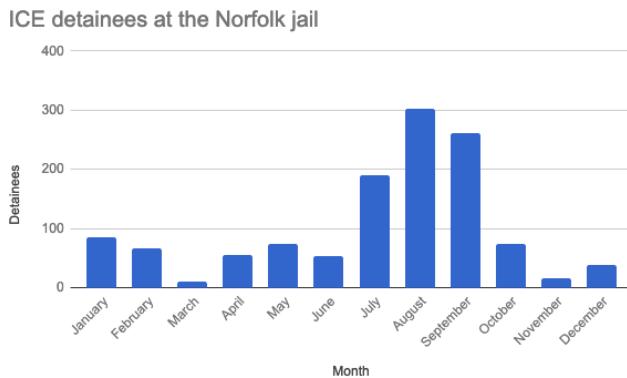
Wanted to run this by you. We are planning a large scale operation on 07/09 – 07/20. Would it be ok if we brought 75-100 aliens for up to 72 hours. It would not be all at once just over the course of those 2 weeks. I don't expect the numbers to get that high but there is potential given the scale of the operation.

David M. Gritte
Supervisory Detention and Deportation Officer
Immigration and Customs Enforcement
Enforcement and Removal Operations
Norfolk, Virginia

OFFICE:
MOBILE:
FAX:

Preemptive announcement of “large scale [ICE] operation” to take place in July 2018

The statewide raids became known as “[Operation Eagle’s Shield](#)” – the largest set of ICE raids in Virginia history – and the detention of immigrants in Norfolk stretched past two weeks and into months that summer. ICE made 132 arrests through Operation Eagle’s Shield and the Jail registered a [sharp increase](#) in immigrant detentions. The majority of these arrests were not targets of any ICE investigation, but rather “collateral arrests” of people who were not even being sought by ICE and had no criminal history known to the agency.



ICE detainees at the Norfolk Jail, showing sharp increase in late Summer 2018. ([source](#))

Sheriff Baron was willing to go past the 72-hour limit originally agreed upon, as shown in the signed request approved on June 27, 2018. These detainees were held in Norfolk for weeks, evidenced by the “bump” that lasted through September, the deadline Sheriff Baron gave for the amendment. After September, detention decreased and the 72-hour limit was re-established, as it remains officially through today.

Norfolk City Jail Going Out of Its Way for ICE

While the details of the partnership are essential in establishing the Norfolk City Jail's discretion in modifying or ending their partnership with ICE, their communications show the Jail went out of its way for the federal agency. Under the IGSA, the Sheriff's Office temporarily holds immigrants who are already in ICE's custody. The Sheriff's Office, however, voluntarily chose to continue detaining immigrants who were eligible for release on their state charges based on nothing more than ICE's requests, which were issued in the form of "ICE detainees." In two known instances in fall 2017, Norfolk Sheriff's Deputy Teana Armstrong emailed ICE notifying them that an immigrant inmate was set to be released but would be "held for ICE only" past their release date.

O'Toole, Michael

From: Armstrong, Teana
Sent: Wednesday, September 27, 2017 3:18 PM
To: Gritte, David M
Cc: Records
Subject: ICE DETAINER FOR [REDACTED]

INMATE [REDACTED] HAS BONDED ON HIS NORFOLK CHARGES AND IS NOW BEING HELD FOR ICE ONLY. PLEASE LET OUR OFFICE KNOW WHEN AND WHAT TIME YOU WILL SCHEDULE TO HAVE HIM PICKED SO THAT WE CAN HAVE HIM READY.

THANKS ☺

Deputy T. Armstrong J1460
811 E. City Hall ave
Norfolk, Va 23510
[REDACTED]

Sheriff's Office notifying ICE of extended detention of an immigrant on September 27, 2017

O'Toole, Michael

From: Armstrong, Teana
Sent: Wednesday, October 4, 2017 2:23 PM
To: [REDACTED] Gritte, David M
Cc: Records
Subject: Attachment: [REDACTED]

The above subject Norfolk charge has been released by the court as of today. He now will be held for ICE only. Please let us know when you guys will schedule for pickup. The paperwork is attached.

inmate [REDACTED]
FBI [REDACTED]
CORIS ID# [REDACTED]

Sheriff's Office notifying ICE of extended detention of an immigrant on October 4, 2017

This practice of holding immigrant detainees past their release date was [declared unconstitutional by the Virginia Attorney General](#) in 2015, and is currently being challenged in [a class-action lawsuit](#) by Legal Aid Justice Center against the Sheriff of Culpeper County.

Sheriff Baron's Discretion and Fairfax County Example

Central to the Norfolk City Jail's partnership with ICE is Norfolk City Sheriff Baron's discretion in beginning, modifying, clarifying, or ending the partnership, as evidenced by the timeline in the released documents. Within the state of Virginia, we have a proper parallel in the termination of Fairfax County's contract with ICE last year.

On May 23, 2018, Sheriff Stacey Kincaid of Fairfax County [terminated](#) the Fairfax Sheriff's Office IGSA with ICE to hold immigrant inmates "past their release date unless an ICE administrative request to detain the inmate is accompanied by a criminal detainer issued by a court." While the specifics of the partnership were not the exact same as Sheriff Baron's partnership with ICE, there is a core similarity in the discretion exercised by the Fairfax Sheriff's Office. Sheriff Kincaid reduced the extent of collaboration with ICE by ending the partnership, but she [made it clear](#) that the contract was not necessary "to comply with all federal obligations as they pertain to ICE" and that continuing the contract required them "to extend [their] resources beyond these obligations."

The partnership between the Jail and ICE was born through full discretion of the Norfolk Sheriff's Office, as evidenced in the FOIA document samples above. It was a *modification* of an existing contract with the US Marshalls, and the partnership can end in the same way without interfering with federal obligations, as shown in the Fairfax example.

Impact on Immigrant Community

As reported by the [Virginian Pilot](#), an estimated 1,200 immigrants in ICE custody have been held at the Jail from August 2017 through December 2018. Prior to the article release, "most or all of the ICE detainees held at the Norfolk jail had not had a hearing before a judge." Additionally, detainees that have seen a judge might have only seen an immigration judge, and not a judge in traffic or criminal court. Last month, the [Washington Post](#) reported a whopping 59% of detainees in ICE custody on February 9, 2019 had *no criminal history*.

The combination of these factors creates a grey area open to arbitrary decisions by ICE, and the documented history of the Jail and ICE's partnership shows such a lack of transparency that not even city government officials outside of the Sheriff's Office knew of the partnership. The lack of transparency means that the immigrant community of Virginia is left at the mercy of a federal agency with little accountability, while facilitated by local collaboration through the Norfolk City Jail.

Conclusion

The impact of family separation in the hands of ICE is a well-known public matter that has spurred calls from communities across Virginia and the US to hold ICE accountable and end local government collaboration with the agency. The timing of Jeff Sessions' announcement of "[zero tolerance](#)" at the border, which gave way to family separation at a massive scale in 2018, and ICE's ramped-up use of Norfolk City Jail's facilities is not lost on the immigrant advocate community of Virginia. Legal Aid Justice Center joins Norfolk residents in calling on Sheriff Baron to exercise his discretion to end the modified Norfolk City Jail IGSA that allows ICE to hold immigrant detainees in its custody.

