

Questions for ICE

1. Does Section 1 of the 14th amendment of the Constitution apply to immigrants? Why or why not? How is Due Process applied if it does?
2. We try to use (EBDM) Evidence Based Decision Making locally for our Criminal Justice matters. How does EBDM support your position?
3. The Attorney General of Virginia has issued an opinion that the detainer is not sufficient to hold a person in custody. Why can ICE not obtain a document (warrant issued by Judge, Magistrate) that is sufficient? What changes and/or resources are needed to make this happen?
4. Are there unofficial deportation quotas that you all have to meet?
5. Since you see when someone comes into the jail on the front end what keeps you from getting a warrant from a federal magistrate at that time for the ones you desire to detain?
6. Does the jail get a higher fee if we hold someone on the federal detainer instead of having them do local time and call you all as to when they are going to be released?
7. Are you being strategic in who is getting detained now or is the standard only if here legally or not?
8. Are you deporting some now even pre-trial on state charges?
9. Are people you detain here taken all the way down to Norfolk to be held?
10. What risk assessment tool, if any, does ICE utilize when determining who they identify for removal? Is ICE willing to share it with the board? How is the tool administered?
11. How often do ICE agents seek a criminal complaint from a federal judge as opposed to the agents signing their own administrative warrants?
12. What role do limited resources and the availability of ICE agents play in who is, and who is not, taken into federal custody upon release on bond or the completion of their state sentence?
13. Why are some individuals taken into ICE custody or removed prior to their state trials? Are state prosecutors even notified when this happens? What was the policy and practice under the prior Presidential Administration?
14. Is there any way to inform the community or local/state law enforcement agencies of underlying charges from "Home" countries when a detainer is issued or an individual is deported? For instance, when an individual commits a local or state offense and vacates said locality or state, warrants are issued and individuals are listed as wanted subjects for "said/accused" charges. Depending upon the charge, some localities or states may choose not to extradite. Why does ICE not inform the public of the underlying charges?
15. Is there documentation that illustrates deportation comparisons between the Obama administration and the Trump administration?
16. In a previous meeting, an individual commented that ICE has assisted individuals obtain proper documentation to remain in the states, how often and under what circumstances would this type of assistance be deployed?

CIRAC

CHARLOTTESVILLE-AREA IMMIGRANT RESOURCE & ADVOCACY COALITION

Albemarle-Charlottesville Regional Jail - ICE Notifications

A Fact Sheet

Immigration is a federal civil matter, NOT a state or local criminal matter. Yet, a majority of those arrested by Immigration and Customs Enforcement (ICE) are individuals being released from local jails. ICE has become an extrajudicial national police force that increasingly relies on the cooperation of local law enforcement agencies. This cooperation demonstrably reduces public safety, as evidenced in statements by local police departments.

In March of 2017, the Albemarle-Charlottesville Regional Jail (ACRJ) Board decided on constitutional grounds that it would refuse to hold individuals past their release date. We applaud that decision. We now ask that the ACRJ Board demonstrate leadership and a commitment to our community's public safety by taking the decision to stop voluntarily notifying ICE when an immigrant is due to be released.

Changing this ACRJ policy of making "courtesy calls" to ICE would not violate any federal or state laws. It would render ACRJ and local jurisdictions "neutral" vis-a-vis ICE. Refusing notifications affirms the soundness of our local adjudication process which is undermined when individuals are released to a federal agency without the establishment of probable cause by a neutral judicial officer.

As you review this policy, we also ask that you consider the following information:

Immigration & Crime

- Immigration is a federal, not a state or local matter.
- It is not a crime to be present in the U.S. without legal status.
- First-time crossing of the border without authorization is a misdemeanor.
- The term "criminal alien" is not defined in immigration law.¹
- ICE arrests of those without criminal backgrounds are up 171% in past 18 months.²
- Crime levels in the U.S. have decreased just as the numbers of undocumented immigrants has increased.³
- Communities with large numbers of undocumented people are safer than those without.⁴

A National Police Force

- ICE formed in 2003 under the Department of Homeland Security as an "enforcement" not a "service" agency.
- ICE oversees the largest immigration detention network in the world.⁵

- The budget for immigration enforcement is larger than that for all other federal law enforcement combined.⁶
- The requested FY 2019 ICE appropriation is \$25.2 billion; this includes an increase in detention beds from 34,000 to 51,000.⁷
- Nearly three-quarters of ICE detainees are held in facilities operated by private prison companies, which have a direct incentive to lobby for increased appropriations and detention beds.⁸
- Nineteen ICE agents from the Homeland Security Investigation Division recently requested that the agency be dissolved, stating their work is hampered by the focus on Enforcement and Removal of undocumented individuals.⁹

ICE in Virginia

- ICE operates out of facilities located in Fairfax, Richmond, and Harrisonburg, including one unmarked office and ICE officers embedded with other federal agencies and local law enforcement.
- ICE has detention centers or contracted jail beds in Farmville, Williamsburg, Caroline County, Alexandria, Rockingham/Harrisonburg, and Norfolk.
- ICE contracts with the Office of Refugee Resettlement to house unaccompanied minors in the Shenandoah Valley Juvenile Detention Center, which is being sued for abusive practices including isolation and torture.

Public Safety

- ICE targets people who are being released from local jails after their cases have already been adjudicated in the local court system, served their time and/or paid their bond.
- Increasingly, ICE detains people who have only been charged with a crime and released before they have the chance to go to court and contest the charges against them.
- According to ICE's 2017 arrest data and information made public as a result of FOIAs, 25% of those arrested had no prior convictions, and 50% had only committed low-level crimes.¹⁰
- Some federal courts are now handling 50% immigration cases, which leaves many fewer resources to prosecute serious crimes.¹¹
- Local police departments across the country have voiced concern that undocumented individuals are increasingly unlikely to report crimes that they witness/experience because they fear that the police are collaborating with ICE.

Lack of Accountability

- In 2017, Congress reprimanded ICE for "a lack of fiscal discipline", yet there is little evidence that ICE has improved its financial management.¹²
- In 2017, Congress mandated that ICE meet 2011 health and safety standards for new and contracting detention facilities. ICE ignored this mandate.¹³
- Internal DHS reviews have found that ICE does not adequately provide humane treatment to detainees or manage its contracting with private detention companies in the interest of taxpayers.

Constitutional Violations

- Most constitutional rights apply to all “persons” present in the country, not only “citizens”; these rights include due process, protection against unwarranted searches and seizures, and guarantees against cruel and unusual punishment.
- The ICE detainer system violates these constitutional protections by not ensuring due process, searching without judicial warrants and abusing those in detention.¹⁶
- ICE detainees do not adequately establish probable cause for arrest or detention, and they are not assessed by a neutral third party.
- ICE “administrative warrants” are not signed by a judge and therefore are not warrants under Virginia or Federal Law.
- ICE enforcement operations in the community increasingly result in the arrest of those not the original targets. ICE refers to these individuals as “collaterals”.

Targeting citizens/legal immigrants

- A report found that since 2012 the agency wrongfully detained 1,480 people for days, weeks or months and later released them after investigating their citizenship claims.¹⁷
- An ACLU class-action lawsuit estimated that the number of citizens and legal residents illegally detained over a four year period could total 21,000.¹⁸
- Individuals in ICE detention are frequently denied due process and often lack access to an attorney.¹⁹
- Some US citizens have even been mistakenly deported.²⁰
- ICE has also ramped up its targeting and deportation of legal immigrants in the Trump era.²¹

Abuses and Destruction of Records

- ICE has requested to destroy 11 types of records pertaining to allegations of abuse of thousands in their custody. These include evidence of sexual assault and non-investigation, inadequate medical care, the overuse of solitary confinement and threats and physical violence at the hands of staff.²²
- ICE has turned over records of abuse only after significant public and political pressure.
- ICE reported that there were 1,310 claims of sexual abuse of detainees between 2013 and 2017. Most experts estimate that this estimate is unrealistically low.²³
- ICE targets immigrants outside courthouses and at routine check-ins at ICE facilities.²⁴
- In the Trump era, ICE has increasingly violated its own policy of doing raids at “sensitive locations,” such as schools, churches, and hospitals.²⁵

Sources:

1. American Civil Liberties Union, *Issue Brief: Criminalizing Undocumented Immigrants*, Immigrant Rights Project (February 2010)
2. Unidos US, *President's FY 2019 Budget Request: U.S. Immigration & Customs Enforcement*
3. Michael T. Light and Ty Miller, *Does Undocumented Immigration Increase Violent Crime?*, American Society of Criminology (March 2018)

4. Michael T. Light and Ty Miller, *Does Undocumented Immigration Increase Violent Crime?*, American Society of Criminology (March 2018)
5. Global Detention Project, *United States Immigration Detention* (May 2016)
6. Migration Policy Institute, *U.S. Spends More on Immigration Enforcement than on FBI, DEA, Secret Service & All Other Federal Criminal Law Enforcement Agencies Combined* (January 2013)
7. Maria Sacchetti, *ICE chief tells lawmakers agency needs much more money for immigration arrests*, Washington Post (June 2017)
8. Livia Luan, *Profiting from Enforcement: The Role of Private Prisons in U.S. Immigration Detention*, Migration Policy Institute (May 2018)
9. Texas Observer, *ICE HSI Letter* (June 2018)
10. Roque Planas, *Latest ICE Data Details Increasingly Indiscriminate Arrests*, Huffington Post (July 2018)
11. John Gramlich and Kristen Bialik, *Immigration offenses make up a growing share of federal arrests*, Pew Research Center (April 2017)
12. *Congressional Record Volume 163, Number 76* (May 2017)
13. Tara Tidwell Cullen, *ICE Released Its Most Comprehensive Immigration Detention Data Yet. It's Alarming.* National Immigration Justice Center (March 2018)
14. DHS Office of Inspector General, *Concerns about ICE Detainee Treatment and Care at Detention Facilities* (December 2017)
15. DHS Office of Inspector General, *Immigration and Customs Enforcement Did Not Follow Federal Procurement Guidelines When Contracting for Detention Services* (February 2018)
16. Immigration Legal Resource Center, *Immigration Detainers Legal Update: Key Court Decisions on ICE Detainers as of July 2018* (July 2018)
17. Paige St. John and Joel Rubin, *ICE held an American man in custody for 1,273 days. He's not the only one who had to prove his citizenship*, Los Angeles Times (April 2018)
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19. Ingrid Eagly and Steven Shafer, *Access to Counsel in Immigration Court*, American Immigration Council Special Report (September 2016)
20. Eyder Peralta, *You Say You're An American, But What If You Had To Prove It Or Be Deported?* National Public Radio (December 2016)
21. Brittny Mejia, *It's not just people in the U.S. illegally — ICE is nabbing lawful permanent residents too*, Los Angeles Times (June 2018)
22. Victoria López, *ICE Plans to Start Destroying Records of Immigrant Abuse, Including Sexual Assault and Deaths in Custody*, ACLU National Prison Project (August 2017)
23. Emily Kassie, *Sexual Assault Inside ICE Detention*, New York Times (July 2018)
24. American Civil Liberties Union *ACLU Recommendations to DHS on Sensitive Locations Enforcement* (March 2014)
25. National Public Radio, *DHS Under Pressure Over Alleged Violation Of Policies On Sensitive Locations* (October 2017)

ICE at ACRJ: Fact or Fiction?

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- On January 25, 2018, the Albemarle Charlottesville Regional Jail (ACRJ) Authority Board held a special meeting to review the jail's voluntary policy of additional notification of Immigration and Customs Enforcement (ICE) in advance of the impending release of undocumented immigrants incarcerated at the jail. At that meeting, ICE Field Office Director Russell Hott testified in support of the voluntary additional ICE notification policy. Based in part on Mr. Hott's representations, the ACRJ voted 6 to 4 to maintain the additional ICE notification policy.

The Legal Aid Justice Center has identified five false or misleading statements made by Mr. Hott in his testimony to the Board.

1. ICE manipulated the data to make Charlottesville's immigrant population seem dangerous.

FICTION: "Of the folks we removed this last year from this jail—the amount of charges—we had ... 52 DUIs, 3 hit-and-runs, we had over 10 drug-related offenses, 4 abductions, 2 malicious wounding, 33 sex offenses ... 26 assault and batteries, 4 homicides, 3 protective order violations, breaking and entering, 3 larceny charges, and 3 weapons offenses, so you can see that the individuals that we are removing from the ACRJ or that are in custody *have violated* more than just the immigration of the United States."

FACT: LAJC's analysis of the non-U.S. citizen foreign-born population incarcerated at ACRJ in 2017 indicates that ICE's testimony significantly over-counted the number of individuals whose most serious offense was a DUI, an abduction, a sex offense, or an assault.ⁱ ICE also failed to mention that ACRJ housed 24 immigrants whose most serious charges were 'Profane Swearing/Drunk in Public,' as well as 29 immigrants whose most serious charge was related to driving without a license. Moreover, ICE often removes people before they have been convicted of anything. Data provided to the Board by ACRJ in July indicates that, between July 1, 2016 and June 27, 2018, at least six people were removed by ICE pre-trial, and after a local judge or magistrate had given them bond.ⁱⁱ Mr. Hott's statistics—and the perception of dangerousness they conveyed—are not supported by the data.ⁱⁱⁱ

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2. ICE implied that individuals benefit from being detained.

FICTION: “The other thing I want to say is that ICE has partnered with several non-governmental organizations and faith groups who do work with these populations...they offer pro-bono services to those who can’t afford their own representation.”

FACT: This statement implies that all people in detention have access to pro bono legal representation—this is not the reality. Because most immigration violations are tried in civil court, immigrants are denied access to a court-appointed attorney. And while individuals in detention are provided with a list of referrals for pro-bono legal services, there are not enough pro-bono attorneys to meet the demand. Access to legal representation is scarce. In a study of deportation cases between 2007 and 2012, researchers found that only 37% of all immigrants were able to secure legal representation in their removal cases. That number dropped to 14% for immigrants in detention. Having that representation makes a big difference—represented immigrants in detention were four times more likely to be released from detention and twice as likely to get relief from deportation.^{iv}

3. ICE denied conducting raids, while practicing sweeping and indiscriminate enforcement.

FICTION: “[ICE] does not conduct raids.”

FACT: Not only does ICE frequently conduct raids throughout the country,^v it very recently conducted a raid throughout the state of Virginia and in the greater Charlottesville area. From July 9-20, 2018, ICE arrested 132 individuals around Virginia and the DC area in what they dubbed Operation ‘Eagle’s Shield.’ While ICE claims that this operation aimed to target ‘dangerous criminal aliens,’ during that same period, ICE indiscriminately arrested at least four individuals in Charlottesville and Albemarle with either no criminal charges or low-level misdemeanors.^{vi}

4. ICE cannot satisfactorily explain why it cannot pursue a warrant, just like other law enforcement agencies.

FICTION: “There are laws of the United States—such as involving applying for a U-Visa—I cannot disclose that information to anybody.” AND “Oftentimes there are many instances where there are things on the other side of the global community that can’t be seen by local law enforcement.”

FACT: When Mr. Hott was asked why ICE was not pursuing warrants before taking custody of members of our community, he indicated that ICE had sensitive information or intelligence that could not be disclosed to local law enforcement. The truth is that ICE can pursue criminal warrants for arrest, and that sensitive information (including information collected in the U-Visa Process) can be disclosed to a judicial officer, such as a judge or magistrate in pursuit of a warrant.^{vii} ICE often refers cases to federal courts where sensitive evidence is regularly used in securing a criminal warrant.^{viii}

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5. ICE falsely stated that being undocumented is a crime.

FICTION: “It is a crime to be present in the United States without documentation.”

FACT: As the US Supreme Court stated in 2012 in the seminal case *Arizona v. Texas*, 567 U.S. 387 (2012), being in the United States without status is a civil matter, *not* a criminal matter. While crossing the border without permission can be prosecuted criminally (usually as a misdemeanor), many immigrants who are in the United States without status have legal entries into the U.S., including people who have overstayed a visa, been waved through a border crossing, or entered on a border crossing card.^{ix} Furthermore, the vast majority of immigrants in removal proceedings are charged civilly, not criminally.^x By charging immigrants civilly, ICE ensures that the charged immigrant is not entitled to a court-appointed attorney during the course of their hearings.^{xi}

CONCLUSION

In light of these misrepresentations, the ACRJ Board should be highly skeptical of ICE’s data and arguments in support of voluntary collaboration.^{xii} February 2018 was not the first time ICE has tried to deceive this community to serve its own ends. For example, when the ACRJ adopted a policy not to honor ICE detainers to hold inmates beyond their release dates, ICE began presenting the ACRJ documents with the word ‘Warrant’ at the top of each sheet, even though they had not been issued by a judicial officer.^{xiii} These faux-warrants were presented to the ACRJ in order to mislead jail officials to believe that they had a legal duty to comply with the terms of these ICE-concocted forms.

The ACRJ Board should require ICE to abide by the basic constitutional norms that all law enforcement are required to observe, including requiring probable cause for an arrest—demonstrated by a warrant *signed by a judicial officer*.

The stakes are high. ICE notification is the first step in family separation. Once an immigrant is in detention, he or she could be transferred to detention centers out of state and across the country, separating immigrants from their families and children and making it significantly harder for them to access legal representation—if they can afford it. Moreover, forced separation for any length of time causes both children and adults extreme emotional distress from which they may be unable to fully recover.^{xiv}

Members of our community have attended the ACRJ Board Meetings pertaining to additional ICE notification, and have overwhelmingly spoken out against this practice. In the eyes of the community, this practice entangles local law enforcement with ICE—posing a threat to our collective public safety; is discriminatory by its very nature; and is offensive to constitutional principles and the ethos of our local civic values.

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¹ In response to a request for information, ACRJ provided detailed data directly from its database on every individual incarcerated at ACRJ for 2016, 2017, and part of 2018. Spreadsheet on file with LAJC.

² "List of Individuals from July 1, 2017-June 27, 2018 whom ICE filed Detainers, requested voluntary notification of their release from custody AND took physical custody of the Individual from this facility," Attachment D to ACRJ Board Packet for July 12, 2018.

³ We do not know exactly how Mr. Holt arrived at these numbers, but it is likely that a single individual charged with multiple offenses was counted multiple times. In our analysis, we counted each individual once, using the most serious offense charged. Using an unduplicated count (i.e., counting only the most serious offense for any one individual, not charges) for all persons whose citizenship was listed as unknown or other than U.S., LAJC identified 37 DUIs, 1 abduction, 8 sex offenses, and 18 assaults. Of note, the 4 homicide charges listed by Mr. Holt stem from an incident in which one death occurred, and the individuals involved are currently being prosecuted in Albemarle Circuit Court.

⁴ Ingrid Eagly and Steven Shafer. "Access to Counsel in Immigration Court." American Immigration Council Special Report, September 2016.

⁵ See: "ICE Raids Meatpacking Plant in Rural Tennessee, More Than 95 Immigrants Arrested," Washington Post, April 6, 2018.; "Utter Chaos, ICE arrests 114 Workers in Immigration Raid at Ohio Gardening Company," Washington Post, June 6, 2018; "ICE Arrests Nearly 150 Meat Plant Workers In Latest Immigration Raid in Ohio," Washington Post, June 20, 2018.

⁶ "ICE operation targeting public safety threats nets 132 arrests in DC, VA." <https://www.ice.gov/news/releases/ice-operation-targeting-public-safety-threats-nets-132-arrests-dc-va#wcm-survey-target-id> on August 17, 2018.

⁷ 8 USC 1367(b)(2); 8 USC 1367(b)(8).

⁸ E.g. *Yanez-Marquez v. Lynch*, 789 F.3d 434 (4th Cir. 2014). (Where ICE sought a criminal warrant signed by a judicial officer); "Prosecuting Migrants for Coming to the United States," American Immigration Council, May 1, 2018. Available at: <https://www.americanimmigrationcouncil.org/research/immigration-prosecutions>; US Immigration and Customs Enforcement "Homeland Security Investigations" <https://www.ice.gov/hsi>, August 21, 2018 (detailing its *criminal* investigations in sensitive matters including human trafficking and "In HIS's first full year in existence... Criminal arrests rose by almost 30 percent; indictments by nearly 18 percent; search warrants by almost 60 percent... This standard of excellence has continued ever since...")

⁹ 8 USC 1325, 1326.

¹⁰ In 2017 there were 59,910 criminal prosecutions of immigrants for immigration law violations. "Criminal Immigration Prosecutions Down 14% in FY 2017." TRAC Report. <http://trac.syr.edu/tracreports/crim/494/> August 20, 2018. However, ICE arrested 143,470 individuals in 2017 – charging them civilly (i.e. not criminally). "Fiscal Year 2017 ICE Enforcement and Removal Operations Report." US Immigration and Customs Enforcement. <https://www.ice.gov/sites/default/files/documents/Report/2017/iceEndOfYearFY2017.pdf>, August 20, 2018.

¹¹ *United States v. Gasca-Kraft*, 522 F.2d 149, 152.; *C.J.L.G v. Sessions*, 800 F.3d 1122 (9th Cir. 2018).

¹² ICE's history of deceiving public officials is well-documented. See: *Ramirez Medina v. Department of Homeland Security*, Case 2018 WL 2214035 (W.D. Wash. 2018). See Also: "This Case Is About a Lie," An ICE Attorney Forged a Document to Deport an Immigrant. ICE didn't Care Until the Immigrant Sued." Slate. <https://slate.com/news-and-politics/2018/08/ignacio-lanuz-a-got-deported-because-an-ice-agent-forged-a-document-ice-didnt-care-until-lanuz-a-sued.html> August 21, 2018; "ICE Lies: Public Deception, Private Profit," Detention Watch Network and the National Immigrant Justice Center. https://immigrantjustice.org/sites/default/files/content-type/research-item/documents/2018-02/iceLies_DWN_NIJC_Feb2018.pdf August 21, 2018; "Federal Judge Calls ICE. Homeland Security FOIA Response 'Inadequate'" Daily Report. <https://www.law.com/dailyreportonline/2018/07/30/federal-judge-calls-ice-homeland-security-foia-response-inadequate/?strefum=20180721133901> August 21, 2018; "CBS News interview with ICE whistleblower interrupted by surprise visit from government agents." CBS News <https://www.cbsnews.com/news/former-ice-spokesman-james-schwab-opens-up-about-resignation-trump-administration/> August 21, 2018.

¹³ These documents were not warrants under the law. Both Federal and Virginia Law require that a warrant for arrest only be issued by a judicial officer, such as a judge or a magistrate, upon a finding of probable cause. See: Fed. R. Crim. P. 4(b)(1)(C), 4(b)(1)(D); Va. Code Ann. § 19.2-71. ICE produced documents signed by ICE Officials that were titled "Warrant" and presented them to the ACRJ. These are not warrants for arrest under both Federal and Virginia law because there was no signature by a judicial officer, nor an impartial assessment of evidence that there is probable cause to believe that the targeted individuals committed any crimes.

¹⁴ See: Coan, James, "The Trump administration is committing violence against children." Washington Post https://www.washingtonpost.com/opinions/the-trump-administration-is-committing-violence-against-children/2018/06/15/9be06440-70c0-11e8-bd50-b80389a4e569_story.html?noredirect=on&utm_term=.c5c7ec4df1 August 20, 2018.

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**OFFICE OF THE COMMONWEALTH'S ATTORNEY
for the
COUNTY OF ALBEMARLE**

**ROBERT N. TRACCI
COMMONWEALTH'S ATTORNEY**

August 23, 2018

Dear Colonel Kumer and Albemarle County Regional Board Members,

While I intended to attend, court obligations preclude my physical attendance at today's Albemarle County Regional Jail (ACRJ) meeting. However, I respectfully ask that this letter be included in the hearing record.

As an initial matter, it should be made clear that I provide these remarks voluntarily, and that they do not constitute legal guidance to this Board. This recognition is consistent with Virginia Code § 15.2-1627, which provides, *inter alia*, that "[n]o attorney for the Commonwealth, or assistant attorney for the Commonwealth, shall be required to carry out any duties as a part of his office in civil matters of advising the governing body and all boards, departments, agencies, officials and employees of his county or city. . . ." However, public interest in this issue justifies a response to your request to provide my views.

It is my understanding that the ACRJ Board is contemplating the discontinuation of long-established policy pertaining to notifying federal immigration officers before the release of unlawful residents subject to a federal immigration detainer. As Charlottesville Commonwealth's Attorney Joseph Platania properly observes in his August 10, 2018 letter to this Board, "federal immigration enforcement falls well outside the purview of state prosecutors in the Commonwealth of Virginia."

My oath of office extends to the Constitution of the United States and the Commonwealth of Virginia. The Supremacy Clause of the United States Constitution (Article VI, Clause 2) establishes that the Constitution and federal law constitute the supreme law of the land. From a state and local law enforcement perspective, it is important to recognize that there may be things about a detained individual's criminal history or status unknown to state and local law enforcement. This concern is aggravated when individuals are arrested without identification, and are matched to other offenses through the biometric data accessible to federal authorities.

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Absent additional safeguards, discontinuing notification would result in the release of these individuals into the County of Albemarle and neighboring jurisdictions.

Consistent with the Immigration and Nationality Act and applicable federal law and accompanying regulations under 8 U.S.C. §§ 237 and 287, the Albemarle County Regional Jail has provided notification to Immigration and Customs Enforcement (ICE) (and its predecessor agency) before the release of detained individuals subject to federal detainer. Given the clarity of federal law and regulations, this notification occurred without objection or controversy during presidential administrations of both parties. In fact, it is my understanding that *every regional jail in the Commonwealth of Virginia and in the District of Columbia* provides federal law enforcement notification prior to the release of detained individuals. As a result, any change to this policy requires public enunciation of the Board's legal authority to abrogate existing practice, clear explication justifying this departure, and an explanation of accompanying public safety implications. Simply put, the proper way to change federal law is to petition Congress to change federal law.

Moreover, ACRJ data demonstrate that the clear majority of detained individuals face serious felony offenses. I respectfully request that that a list of these offenses, with personally identifiable information redacted, be made part of the public record by the ACRJ Board. In addition, while some detainers issue for less serious offenses, analysis of this data often indicates that these individuals may be facing pending charges in federal or state jurisdictions or additional immigration-related charges. As a result, the claim that detainers are issued for all unlawful residents booked into ACRJ is inconsistent with the data. In addition, the data appears to indicate that some individuals facing serious felony charges, including strangulation, and abduction, have not been picked up by federal immigration after detainers are issued. Clarification of this data by federal immigration representatives would be instructive.

I would like to conclude with the following point. As a first generation American whose parents are both immigrants, I realize the emotion the issue of immigration evokes in many. We are a country of immigrants, but no less sovereign than any other. And we are a nation of laws; laws that I swore to uphold without regard to personal preference when taking the oath for the office I am privileged to serve. In recent months, the intensity of emotion generated by these issues has resulted in unprecedented attacks on federal immigration officers. Attacks on law enforcement are not new and take many forms. In recent years officers and agents of the FBI, ATF, Bureau of Land Management, IRS, EPA, and state and local law enforcement have been targeted for personal abuse and public derision. Our First Amendment is strong and vibrant, and nobody is above reproach. But whatever one's views, it is unfair and inappropriate to broadly demean, defame, and demonize federal, state, or local law enforcement officers. The vast majority of these officers are honorable public servants who do their best on a daily basis to enforce the law consistent with the oath they swear to uphold. They deserve appreciation not vilification.

August 23, 2018

As the Board continues to consider and deliberate on these issues, it is my hope that it will do so in a spirit that respects the law and acknowledges the vital role the law enforcement community plays in upholding it.

Thank you for the opportunity to provide my views.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Tracci". The signature is fluid and cursive, with a prominent initial "R" and a long, sweeping underline.

Robert N. Tracci
Commonwealth's Attorney