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IAQ'S & LIDS-ICE TRACKING

Code of Virginia § 53.1-218, enacted by the 2008 General Assembly, states that upon commitment of any offender to jail it is the duty of the sheriff/superintendent to inquire as to whether the offender is a citizen of the United States. If an offender states that they are not a U.S. Citizen they must be asked (i) was the offender born in another country, and (ii) can the offender claim citizenship to a country other than the U.S. An Illegal Alien Query (IAQ) must be made for any offender who answers affirmatively to both questions, or for whom the answer to one or both questions is unknown. In an IAQ, an inmate's name and any other identifiers are submitted to ICE through VCIN in an attempt to determine an inmate's alien status. § 53.1-218 also requires that the record of the IAQ and its response be logged in the LIDS-ICE tracking system.

Recent review of data stored in the LIDS-ICE tracking system shows that **29%** of jails have made no entries in the system since doing so was statutorily mandated in 2008. Of the remaining jails, **28%** have made no entries since prior to 2010. § 53.1-218 requires jails submit the IAQ's, and track the responses received in the LIDS-ICE tracking system, **failure to do one or both of these steps may result in a significant audit finding**. Additionally, LIDS-ICE tracking system data is subject to the Freedom of Information Act (FOIA), and a request for data housed there may be made by anyone at any time. If a jail has not been tracking the submission of IAQ's in the LIDS-ICE tracking system, the Compensation Board is required to provide that information to any person or agency who makes a request for it.

The LIDS-ICE tracking system is accessed through the Compensation Board website under 'Restricted Access'. Instructions may be viewed or printed from the login page. Users create their own logon id and password.

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Below are some of the most frequently asked questions regarding IAQ's. Answers to the following are given with the stipulation that inmates referred to in the question are required to have an IAQ run per § 53.1-218

How do I run an IAQ?

If your jail has Livescan, the IAQ is automatically submitted to ICE through VCIN. If your jail does not have LiveScan, a manual IAQ may be sent through VCIN.

How long do I have to wait for a response from ICE?

Response times vary from a few hours to a few days..

Do I have to run an IAQ on federal inmates?

No.

Do I have to run an IAQ on an inmate even if ICE has already placed a detainer?

Yes. There is nothing in § 53.1-218 that gives an exception to the IAQ requirements because an ICE detainer has been placed on an inmate. If an offender meets the requirements as set out by the Code, an IAQ must be run, even if they come in to your jail with an ICE detainer already on them.

Do I have to run an IAQ on an offender arrested for Drunk in Public (DIP)?

Yes.

Do I have to run repeat IAQ'S on inmates serving weekends, or non-consecutive days?

No. A sentence served on weekends or non-consecutive days is viewed as a single

confinement. As long as an IAQ is run and then recorded in the LIDS-ICE tracking system when an offender is initially committed to your jail for that offense, repeat queries are not necessary.

Do I have to run repeat IAQ's on inmates who have numerous confinements within a short period of time?

Ex: An inmate was confined in jail on the 15th of the month, bonded out, and was arrested and confined again on the 30th.

Yes. § 53.1-218 stipulates that an IAQ must be made and tracked for every confinement.

If an inmate bonds out before I have a chance to run the IAQ, do I still have to run it?

Yes.

If I run an IAQ and the inmate bonds out after the IAQ has been run but before I receive the response from ICE do I still have to complete the entry in the LIDS-ICE tracking system?

Yes. Even if the inmate is bonded out midway through the process you should still complete the tracking of the query.

I run an IAQ on an offender and receive confirmation from ICE that he is not a U.S. citizen but does have legal presence. If he is later recommitted to jail do I have to run another IAQ?

Yes, do not assume because an offender's alien status is legal when an initial IAQ is run that it will remain so.

Do I have to fill in all blanks when logging query information in the LIDS-ICE tracking system?

We ask that you fill in all information available. If you do not at least enter the Date the Response was Received from ICE and select an answer from the drop down box for US Citizenship Status and Immigration Status the query status will show as Incomplete.

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Is it the responsibility of the arresting officer to run an IAQ?

No, it is the jail's responsibility to ensure that the IAQ's are run and tracked.

If the police department or sheriff's office initiates an IAQ on an inmate do I need to run another IAQ for the same confinement?

No. However, you do need to track the IAQ in the LIDS-ICE tracking system, so be sure to get all relevant information from the police dept/sheriff's office to enter in the tracking system.

I have Livescan, which runs an IAQ on every inmate booked into the jail. Do I have to track the queries for every one of those inmates in the LIDS-ICE tracking system?

The only IAQ's required to be tracked in the LIDS-ICE tracking system are those that meet the criteria for § 53.1-218. When deciding whom to track, ask yourself, 'If I didn't have Livescan, for which of these inmates would I be required to initiate a manual IAQ?' Ex: 200 inmates are booked into jail on Monday. Out of the 200, only 10 meet the criteria as set out by § 53.1-218. Only those 10 must be tracked.

An inmate is booked into my jail, and after a search in the LIDS-ICE tracking system I see that another jail has tracked an IAQ for that individual. Do I still need to run one?

Yes.

I contacted ICE directly to inquire on an inmate's citizenship status in lieu of running the IAQ through VCIN. Is this acceptable?

Yes. The query to ICE would still need to be logged in the LIDS-ICE tracking system just as if the query was run through VCIN.

I have notified the State Police directly of an inmate's alien status. Do I still need to track the query in the LIDS-ICE tracking system?

Yes. Notifying the State Police is not a substitute for the statutory requirement of tracking the IAQ's in the LIDS-ICE tracking system.

An offender has just been transferred to my jail from another jail. Since he was a transfer and not a direct commit from a magistrate do I still need to run an IAQ?

Yes.

IAQ'S & SECURE COMMUNITIES

Secure Communities, a program designed by the Department of Homeland Security, assists jails in identifying inmates who may be subject to deportation. Under the Secure Communities program, any inmate booked into jail has their fingerprints checked against two databases, U.S. Visitor and Immigrant Status Indicator Technology Program (US-Visit) and the Automated Biometric Identification System (IDENT). If an individual's fingerprints matches a fingerprint record in one of these databases, Immigration & Customs Enforcement (ICE) is automatically notified. ICE will then determine whether or not to detain the individual.

Separate from the Secure Communities program, but of equal importance, is the Illegal Alien Query (IAQ) process. **Participation in the Secure Communities program is not a substitute for submission of IAQ's through VCIN and recording of responses in the LIDS-ICE tracking system.** The Secure Communities program depends on fingerprint matches to determine illegal presence. An offender not identified as illegal through Secure Communities may still be identified through an IAQ.

LIDS
Certification & Approval Due Date
4/11/2011

2011 GENERAL ASSEMBLY

The following are items from the 2011 General Assembly impacting the offices of Sheriffs and Regional Jails:

All Constitutional Officers

- Budget language was removed that provided localities with the option to require employees hired prior to July 1, 2010 to contribute a 5% employee-share amount toward the cost of VRS retirement premiums if provided with a pay raise. Language was reverted to its original form, providing again that the local decision to contribute the 5% employee-share amount for these employees is irrevocable.
- Budget language is included to limit the Compensation Board's retirement reimbursement cap for constitutional officers and their employees at no more than the FY11 state employee rate (2.13%). With a FY12 approved rate of 2.08% through March 2012, changing to 3.79% through June 2012, it appears that the Compensation Board will reimburse a maximum of 2.08% for July 2011 through March 2012, and a maximum of 2.13% for April through June 2012.
- Budget language was approved providing that in the event of the consolidation of a county and city into a consolidated city, any positions in the constitutional offices of the former county which are available for reallocation as a result of the transition shall be first reallocated in accordance with Compensation Board staffing standards to the constitutional officers in the consolidated city.

Budget Bill proposals, unchanged in Conference:

- Reduction of \$1.7 million in funding for the cost of the Virginia Risk Management liability insurance and surety bond premiums paid by the Compensation Board on behalf of Constitutional Officers, Directors of Finance, and Regional Jails. The Compensation Board presently pays this premium and recovers 50% of such cost from reimbursements to localities. Language has been amended providing for the recovery of 100% of the cost in FY12 from localities.
- No other funding of future salary increases or salary bonuses for Constitutional Officers and their employees is included.

Sheriffs and Regional Jails

- Restoration of \$6 million to offset a portion of the remaining shortfall in FY12 that resulted from the failed passage of the Virginia Public Safety Fund fee during the 2010 session of the General Assembly.
 - This amount approved by the legislature is in addition to \$8.3 million restored in FY11 and \$8.3 million restored in FY12 by Governor McDonnell in the introduced budget, addressing the 2010 failure to restore any of the \$30 million in funds eliminated in the 2010 budget bill anticipated to be replaced with new Public Safety Fund fees that ultimately failed.
 - Based upon these restorations to the originally unrestored 2010 funding reduction amount of \$30 million, the remaining shortfall will result in reductions of \$7.4 million to office budgets in FY12 below FY11 levels.

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Sheriffs and Regional Jails

- Based upon the passage of HB2435 to eliminate unnecessary local mandates, budget language was stricken requiring Sheriffs and Jail Administrators to provide to the Department of Corrections (DOC) reports on the numbers of contract or federal prisoners held in their jails. The language was unnecessary as this information is already available to DOC from the Compensation Board as needed through LIDS jail inmate reporting data.
- Budget language is included under sections related to the Department of Corrections (DOC) to require the DOC to assess staffing of the Piedmont Regional and Western Tidewater Regional Jails, and that provides the Compensation Board the authority to staff jail bed capacity housing state and local responsible inmates in beds formerly built for housing federal inmates, were federal contracts under which the beds were previously built with federal funds have expired.
- Budget language is included under sections related to the Department of Corrections (DOC) directing the DOC to report annually on the double-bunking capacity of local and regional jails.

Budget Bill proposals, unchanged in Conference:

- Additional positions and funding totaling \$1.3 million is included in FY12 for staffing the expansion project of the Blue Ridge Regional Jail (Amherst) beginning January 1, 2012.

Jail Per Diem Funds

- Additional inmate per diem funding of \$6.1 million in FY11 (the net result of a Budget Bill increase of \$7.4 million based upon fall inmate population forecasts, and a Conference Report reduction of \$1.3 million based on actual inmate populations through January 2011.)

These matters remain subject to review or change at the upcoming "veto" session on April 6, 2011

LIDS Training

The following are upcoming LIDS Trainings sessions. If you are aware of any staff training needs please register these individuals for one of the below listed trainings.

April 21st-Basic Training (Batch Users)

May 19th- Basic Training (Online Users)

June 16th- Basic Training (Audit Prep)

All training sessions will be held at the Hanover County Sheriff's Office from 9a.m. to 3:30 p.m. To register for training please call or email Kari Bullock at 804-371-4299 or kari.bullock@scb.virginia.gov