

COMPLAINT DISPOSITION REPORT - SECONDARY REPORT

**INTERNAL AFFAIRS UNIT
Grand Rapids Police Department
1 Monroe Center NW
Grand Rapids, MI 49503**

DATE OF DISPOSITION April 19, 2019	DATE OF COMPLAINT January 24, 2019	DATE OF INCIDENT November 21, 2018	COMPLAINT NUMBER CR19-013
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COMPLAINANT NAME ACLU of Michigan Michigan Immigrant Rights Center	ADDRESS 1514 Wealthy St SE, Suite 260, Grand Rapids, MI 49506 1550 E Beltline Ave SE, Suite 375, Grand Rapids, MI 49506-4365	TELEPHONE NUMBER
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EMPLOYEE(S) INVOLVED (rank, name, badge number)
Captain Curtis VanderKooi [550]

NATURE OF COMPLAINT: Violation of Impartial Policing Policy / Discourtesy

INVESTIGATED BY: Acting Deputy Chief Peter McWatters and Lieutenant Chad McKersie

INVESTIGATIVE FINDINGS – ACTING DEPUTY CHIEF PETER MCWATTERS

On March 7, 2019, Interim Police Chief David Kiddle informed me that this investigation was being resumed, to include the review of several emails between Captain VanderKooi and Immigration and Customs Enforcement (ICE). The intent of this review was to determine the purpose of these communications with ICE and to determine what, if any, justification Captain VanderKooi had to make referrals to ICE. The investigation was also resumed to determine if there were any violations of the Grand Rapids Police Department's Impartial Policing Policy. Additionally, given the sustained portion of this complaint regarding the use of the term "Loco", the emails were reviewed for the use of any racially inappropriate, or insensitive, language.

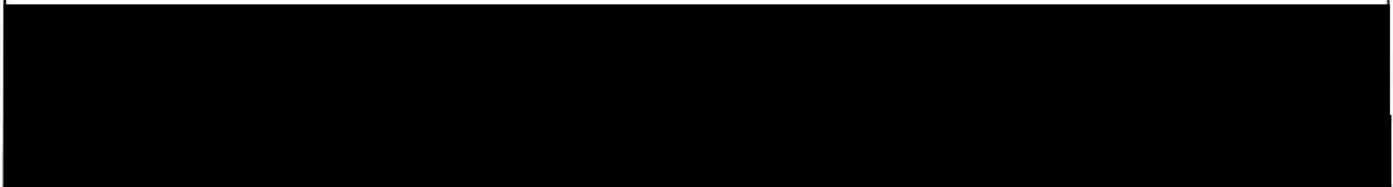
There had been multiple Freedom of Information Act (FOIA) requests for emails between Captain VanderKooi and ICE, between the dates of January 1, 2017, and February 2019. Based on these FOIA requests, the emails between Captain VanderKooi and ICE officials during this time frame had been located and printed by the City Attorney's Office. Chief Kiddle had been tasked with an initial review of the emails earlier in the week and had identified 89 email threads, with these date parameters, between Captain VanderKooi and anyone with an email address containing "@ice.dhs.gov" (indicating an official with ICE). I was assigned to do a more comprehensive review of the documents, including locating any attachments that had been included with the emails.

The Commander of the Internal Affairs Unit (IAU), Lieutenant Chad McKersie, assisted with my initial review of these emails and with identifying and printing any reports or documents that had been attached to the emails. During his review, Chief Kiddle separated and numbered each email thread 1 through 89. The email threads were numbered in the order they were received from the City Attorney's Office and are not in chronological order. Upon my review, it was determined that email thread #34 was actually a subsection of email thread #32 and email thread #43 and #44 were counted as two threads, when they were actually one thread. Therefore, it was determined there are actually 87 email threads, not 89. I identified 26 of the 87 email threads that were initiated by Captain VanderKooi and were referrals or inquiries to ICE with subjects' names in the email or associated attachment. For these 26 emails that were identified as referrals, I printed any associated attachments and included review of these documents in my investigation. For email referral threads #64 and #70, I needed the assistance of the City's Information Technology Department to retrieve the incident reports that had been attached, due to the inability to determine what was attached to the emails. For all other emails, I was able to identify and print documents based on information contained in the subject lines or narratives of the emails.

Section 8 Interview with Captain VanderKooi

Upon consultation with Chief Kiddle and the Police Department Legal Advisor, Assistant City Attorney Kristen Rewa, it was decided that Captain VanderKooi would be interviewed further, with regard to the emails that were initiated by him and were determined to be referrals or inquiries to ICE. Copies of the emails and associated attachments were dropped off to Captain VanderKooi, by me and IAU Sergeant Philip Nevins, on Monday, March 25, 2019, for his review at his home. Through communications with members of the Grand Rapids Police Command Officers Association Union leadership, it was confirmed that Captain VanderKooi would have his review of the emails completed by Tuesday, April 2, 2019. An investigative interview was scheduled for April 2, 2019, at 0900 hours, at the department.

Present for the interview were myself, IAU Lieutenant Chad McKersie, Captain VanderKooi and Union Representative Lieutenant John Bylsma. The interview was held in Room 3061 on the 3rd floor at the GRPD. Prior to the interview, Captain VanderKooi waived the reading of his *Investigative Warning* and *Garrity Rights Statement*. Both documents were signed and a copy was provided to the Union. The interview as recorded in its entirety.



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Email Summaries

Listed below is a summary of the emails between Captain Curtis VanderKooi and email addresses containing "@ice.dhs.gov", with the search parameters of January 1, 2017, through February 19, 2019. The email threads are not in chronological order.

Bold print emails with an asterisk are email threads that have been determined to be referrals/inquiries from Captain VanderKooi to ICE, and below each of those email threads is Captain VanderKooi's explanation for making the referral/inquiry and investigative findings regarding justification, or non-justification, for making the referral.

Non-bold print email threads are requests from ICE to Captain VanderKooi. The emails threads initiated by ICE were reviewed in their entirety. However, any associated attachments were not reviewed, as Captain VanderKooi sending emails and information back was Captain VanderKooi fulfilling a request that we would expect him to do from any law enforcement entity. As previously noted, prior to October 8, 2017, Captain VanderKooi was the Commander of the East Service Area Commander and after October 8, 2017, he was the Commander of the Investigative Division (which includes the Detective Unit and Vice Unit).

**Review of Emails between Captain Curtis VanderKooi and email addresses containing "@ice.dhs.gov".
The search parameters were January 1, 2017, through February 19, 2019. Email threads are not in chronological order.**

Note: Page numbers reference the transcript pages from Captain VanderKooi's 3rd interview.

1. Email request on February 19, 2019, from ICE Agent Christopher Carr to Captain VanderKooi, requesting police report [REDACTED]. The report was sent back to Agent Carr by Captain VanderKooi on February 20, 2019.
2. Email on November 30, 2018, from ICE employee Diane Siegel, regarding a U-Visa application. Captain VanderKooi responded on December 4, 2019 that the U-Visa in question would not be processed, per *General Order 18-02*, due to it being past the statute of limitations.
3. *** Email from Captain VanderKooi to ICE Agent Derek Klifman on November 27, 2018, with a summary of two domestic assaults committed by two brothers on their respective girlfriends. There were references to drugs and guns being involved in the cases. Captain VanderKooi wrote in the email that one brother [REDACTED] was going to be charged with Assault and Battery and the other subject [REDACTED] was charged with Assault with Intent to Murder, along with drug charges. The subject line of the email was "Status?" Police report numbers related to charges for [REDACTED] are [REDACTED] (Assault – Great Bodily Harm) and [REDACTED] (Cocaine – Sell) and police report [REDACTED] (Domestic Assault and Battery) relates to the arrest of [REDACTED]. In the narrative of the Domestic Assault complaint, Officer Susan Clare wrote, in a follow-up report, that [REDACTED] had a hit in the National Crime Information Center (NCIC) database [REDACTED]. Derek Klifman responded on November 28, 2018, that [REDACTED].**

Captain VanderKooi's Stated Justification (Pages 7-8)

[REDACTED]

Investigative Findings

Officer Sue Clare wrote in her Domestic Assault and Battery follow-up report [REDACTED] about [REDACTED]. NCIC shows [REDACTED]. Given this information, Detective Clare's request to make the inquiry, and the severity of the crimes committed by both brothers, the referral/inquiry is determined to be reasonable.

4. *** Email from Captain VanderKooi to ICE employee Matthew Lopez on November 21, 2018, with a summary on the arrest for Jilmar Benigno Ramos-Gomez H/M 7/10/1991, for the incident at Spectrum Health Butterworth Hospital from earlier in the day. Ramos-Gomez had gained entry to a secure stairwell, damaged an entry point key pad, lit a fire, and eventually gained access**

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to the hospital's helipad. Captain VanderKooi asked, "Could you please check his status?" Matthew Lopez responded on November 23, 2018, in part that Ramos-Gomez "is a foreign national illegally in the U.S."

Captain VanderKooi's Stated Justification

This was already reviewed in the original Investigative Report for this case.

Investigative Findings

This was already summarized in the original Investigative Report for this case.

5. * Email from Captain VanderKooi to ICE Agent Derek Klifman on November 9, 2018, requesting to see if ICE had any records on an [REDACTED]. This appears to be a request from Captain VanderKooi to ICE, to help identify a suspect in a shooting that occurred at [REDACTED] on November 9, 2018, report number [REDACTED]. Derek Klifman responded on November 13, 2018, that [REDACTED].

Captain VanderKooi's Stated Justification (Pages 8-9)

[REDACTED]

Investigative Findings

The incident report in this case reflects that at the time Captain VanderKooi sent the email to ICE, officers were attempting to locate [REDACTED] though leveraging several law enforcement agency contacts (other local and out of state agencies, databases, Bureau of Alcohol, Tobacco, Firearms, and Explosives) and investigative efforts led officers to believe [REDACTED] undocumented (e.g. only spoke Spanish when attempted to call, [REDACTED] victim from Mexico, other suspect had prior deportation). Based on this information, the referral/inquiry is determined to be reasonable.

6. Email from Captain VanderKooi to ICE Agent Derek Klifman on October 8, 2018, forwarding a "tip" that had been forwarded to GRPD Lieutenant Kristen Rogers from the Grandville Police Department on October 2, 2018. It appeared the "tip" was an attachment that was not included in what was provided to me.
7. Email from ICE Agent Derek Klifman to Captain VanderKooi on September 28, 2018, requesting a copy of a report related to an OWI (Operating While Intoxicated) arrest. There is no indication from this email that Captain VanderKooi sent the report.
8. Email from ICE Agent Derek Klifman to Captain VanderKooi on September 27, 2018, requesting a copy of a report on a subject related to an OWI/Child Endangerment arrest. There is no indication from this email that Captain VanderKooi sent the report.
9. An email string involving several ICE and GRPD employees related to a request for crime statistics from ICE to GRPD. Captain VanderKooi was copied on the final email sent to ICE.
10. Email from ICE Agent Jeremy Pierczynski to Chief David Rahinsky on July 19, 2019, praising GRPD officers Jacob Newton and Robert Swantek, for assisting them in finding a runaway from out of state. Chief Rahinsky responded by thanking Pierczynski. Captain VanderKooi had no involvement in this email string.
11. * Email request from Captain VanderKooi to ICE Agent Derek Klifman on June 10, 2018, which states "Status? He wants to kill cops and says he is in the Cartel." This request is related to an officer safety caution on [REDACTED] for threats he had made after being arrested for OWI on June 9, 2018.

Captain VanderKooi's Stated Justification (Pages 9-10)

Captain VanderKooi said [REDACTED]

Investigative Findings

Given the nature of the suspect's threats (threatened to kill police officers and cut their heads off) and also that the suspect claims to be a member of the "Guatemalan Cartel", which were documented in the Officer Safety Caution, the referral/inquiry is determined to be reasonable.

12. * Email chain by Officer Ted Whalen on May 21, 2018, to Captain VanderKooi stating, "I had mentioned this subject regarding an incident at Heartland Health Center last week". Report numbers [REDACTED] were listed by Officer Whalen, along with [REDACTED] information listed. Later in the day, Captain VanderKooi forwarded the email to ICE Agent Derek Klifman and asked, "What is the status of [REDACTED]?" Later on May 21, 2018, Derek Klifman responded

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that "Subject is [REDACTED]. In report number [REDACTED] Officer Sue Clare wrote that in an interview with a witness to one of the crimes, the witness stated that [REDACTED] speaks "either Swahili or Arabic".

Captain VanderKooi's Stated Justification

Captain VanderKooi stated [REDACTED]

Investigative Findings

The suspect assaulted a vulnerable family member in one incident and was "yelling in a foreign tongue" during the incident (witnesses state the suspect spoke English and either "Swahili or Arabic"), and in another incident at the same facility, the suspect made what can be categorized as terroristic threats to the staff at the care facility (got his "AK47" and shoot place up). Based on this information, the referral/inquiry is determined to be reasonable.

13. A May 7, 2018, email from ICE Agent Derek Klifman to Captain VanderKooi, requesting information on a suspect (unknown name) related to an assault arrest on a [REDACTED]. There is no email provided that indicates Captain VanderKooi responded.
14. * An April 26, 2018, email from Captain VanderKooi to ICE Agent Derek Klifman asking, "Can you look at this menace to our community? Thanks! Capt CVK" The request is related to a wanted bulletin put out by the GRPD Detective Unit on [REDACTED] [REDACTED] was wanted for a false report or threat of terrorism warrant. Agent Klifman responded later in the day on April 26 that [REDACTED]. It is noted in the report [REDACTED] that [REDACTED]. The threats of terrorism were against the Refugee Minor Program that [REDACTED] used to be part of.

Captain VanderKooi's Stated Justification (Page 11)

Captain VanderKooi said [REDACTED]

Investigative Findings

[REDACTED] was wanted for a false report or threat of terrorism warrant. It is noted in the report [REDACTED] that [REDACTED]. The threats of terrorism were against the Refugee Minor Program that [REDACTED] used to be part of. Based on this information, the referral/inquiry to ICE is deemed to be reasonable.

15. * Email from Captain VanderKooi to ICE Agent Derek Klifman on April 26, 2018, requesting "Status?" related to a shift summary about a felonious assault that occurred on April 25, 2018, at [REDACTED]. The report numbers are [REDACTED] and [REDACTED]. Suspect [REDACTED] is the suspect and who the request is made on. Klifman indicated that he would have two ICE agents interview [REDACTED] but there are no further emails about whether or not this occurred, or the results.

Captain VanderKooi's Stated Justification (Pages 11-12)

Investigative Findings

The suspect committed violent crimes against multiple individual, and the booking photo attached to the shift summary shows [REDACTED] to have possible gang tattoos on his face. Given the crimes committed, and [REDACTED] possible gang involvement, this referral and information sharing is reasonable.

16. Email from Captain VanderKooi to ICE Agent Derek Klifman regarding a U-Visa and the criminal history of the subject who had applied for a U-Visa. Klifman responded that he had no record of the subject.
17. * Email from Captain VanderKooi to ICE Agent Derek Klifman on April 6, 2018, asking if [REDACTED] has been deported. There are further emails, back and forth, confirming a DOB and Klifman confirmed that [REDACTED]. The related reports [REDACTED] are for weapons violations and for firing rounds into a house. There is no indication that Captain VanderKooi made the referral.

Captain VanderKooi's Stated Justification (Pages 13-14)

Captain VanderKooi [REDACTED]

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Investigative Findings

This is not a referral. Rather, as indicated in his email, Captain VanderKooi was seeking clarification on information obtained through the jail on a subject already in ICE custody and awaiting deportation. The corresponding incident reports also indicate that the suspect was involved in gang activity. This is a normal and reasonable communication between law enforcement agencies.

18. * Email from Captain VanderKooi to ICE Agent Derek Klifman on April 4, 2018, requesting he check the status of CSC (Criminal Sexual Conduct) suspect [REDACTED]. The report number is [REDACTED]. Klifman responded late on April 4 that [REDACTED].

Captain VanderKooi's Stated Justification (Page 14)

[REDACTED]

Investigative Findings

The Criminal Sexual Conduct investigation led detectives to believe that [REDACTED] was an undocumented alien from Mexico. The report further indicated the suspect was a flight risk. This was confirmed by ICE and an ICE detainer was issued. This email thread was reasonable communication between ICE and Captain VanderKooi, given the facts present.

19. Email communication between Captain VanderKooi and ICE Agent Derek Klifman starting on March 19, 2019, regarding the status of a U-Visa application for the [REDACTED] of a 12-year-old abuse victim. The abuse suspect is the 12-year-old's [REDACTED]. There is no related referral.

20. * Email from Captain VanderKooi to ICE Agent Derek Klifman, requesting the status of the subject [REDACTED] of an officer safety caution issued on 3/15/18. Klifman responded on March 16, 2018 that [REDACTED].

Captain VanderKooi's Stated Justification (Pages 14-15)

Captain VanderKooi mentioned [REDACTED]

[REDACTED]

Investigative Findings

Charges (Unauthorized Driving Away of and Automobile, Fleeing and Eluding, Resisting and Obstructing a Police Officer, Operating While Impaired, and DWLS) and [REDACTED] actions (terroristic threats against police officers) were documented in a March 14, 2018, Officer Safety Bulletin sent to all officers. The suspect also had what appeared to be gang tattoos on his face. It was reasonable for Captain VanderKooi to forward this information to ICE, given the nature of the crimes and threats made, along with potential Latin gang affiliation.

21. Email from ICE Agent Derek Klifman to Captain VanderKooi on February 13, 2018, inquiring if the GRPD has license plate readers in our cars. Captain VanderKooi confirmed that some of our patrol cars do.

22. Email from Captain VanderKooi to ICE Agent Derek Klifman on February 11, 2018, inquiring on the status of the [REDACTED] of a U-Visa applicant. This was not a referral. Instead, it was Captain VanderKooi seeking information to help him make a decision on a U-Visa. Klifman confirmed [REDACTED].

23. Email from ICE Agent Derek Klifman to Captain VanderKooi requesting a "good address" for [REDACTED].

24. * Email from Captain VanderKooi to ICE Agent Derek Klifman on January 26, 2018, to check the status of homicide suspect [REDACTED]. Klifman responded on January 26 that the suspect [REDACTED].

Captain VanderKooi's Stated Justification (Page 15)

[REDACTED]

Investigative Findings

Homicide suspect originally from out of state and claimed to be a gang member. Based on this information, it was reasonable for Captain VanderKooi to make this contact with ICE.

25. * Email from Captain VanderKooi to ICE Agent Derek Klifman on January 14, 2018, requesting a status check on [REDACTED]. Attached was a shift summary describing an Assault with Intent to Murder / Home Invasion, where [REDACTED] was the suspect and was arrested. Klifman responded on January 19, 2018, [REDACTED].

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Captain VanderKooi's Stated Justification (Pages 15-16)

Captain VanderKooi said [REDACTED]

Investigative Findings

Per the incident report, the investigation led officers to believe, and the suspect admitted in an interview with detectives, that he was an illegal alien. Therefore, it was reasonable for Captain VanderKooi to pass this information on to ICE.

- 26. Email request from ICE Agent Christopher Carr to Captain VanderKooi on January 5, 2018, requesting an OWI report involving [REDACTED]. The only record found was a DWLS report.
- 27. Email from the Police Chief's Secretary to law enforcement partners on January 5, 2018, regarding the death of GRPD Forensic Technician Kyle Grant.
- 28. *Request from Captain VanderKooi to ICE Agent Derek Klifman, to check the status of [REDACTED] and [REDACTED] related to multiple reports between January 1, 2018 and January 4, 2018. Reports involve larceny of firearms, possession of stolen firearms, warrant arrests and a search warrant for stolen guns.

Captain VanderKooi's Stated Justification (Page 16)

Investigative Findings

The Officer Safety Caution related to larceny of firearms and possession of stolen firearms also requested assistance with identifying suspects by possible names and photos. The suspects were thought to be gang members. It was reasonable for Captain VanderKooi to make this request to ICE for investigative assistance to assist with confirmation of identity, due to the severity of the crimes and to share officer safety information.

- 29. Report request from ICE Agent Christopher Carr to Captain VanderKooi, requesting a report related to the arrest of [REDACTED]. Nothing in the email indicates Captain VanderKooi responded.
- 30. Report request from ICE Agent Derek Klifman to Captain VanderKooi, requesting a report related to the arrest of [REDACTED]. Nothing in the email indicates Captain VanderKooi responded.
- 31. Report requests from ICE Agent Derek Klifman to Captain VanderKooi, requesting reports related to the arrests of [REDACTED] and [REDACTED]. Nothing in the email indicates Captain VanderKooi responded.
- 32. Email from Captain VanderKooi to ICE Agent Derek Klifman, requesting information on someone with the last name of [REDACTED] that is related to a U-Visa application of someone [REDACTED] had victimized. Klifman responded that [REDACTED] had been [REDACTED].
- 33. Email request from ICE Agent Derek Klifman to Captain VanderKooi, requesting reports related to the arrests of [REDACTED]. Nothing in the email indicates Captain VanderKooi responded.
- 34. This is an email that is a subsection of the emails already documented in item #32.
- 35. Email request from ICE Agent Derek Klifman to Captain VanderKooi on December 21, 2017, requesting report related to the arrests of [REDACTED]. Nothing in the email indicates Captain VanderKooi responded.
- 36. Email request from ICE Agent Derek Klifman to Captain VanderKooi on December 15, 2017, requesting report involving [REDACTED]. Nothing in the email indicates Captain VanderKooi responded.
- 37. Email request from ICE Agent Derek Klifman to Captain VanderKooi on December 15, 2017, requesting report involving [REDACTED]. Nothing in the email indicates Captain VanderKooi responded.
- 38. Email request from ICE Agent Derek Klifman to Captain VanderKooi on November 30, 2017, requesting assistance with attempting to identify a domestic assault suspect who lived at [REDACTED]. There is no indication in the email string that Captain VanderKooi responded.

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39. * Email from Captain VanderKooi to ICE Agent Klifman on November 28, 2017, requesting the status of [REDACTED] related to [REDACTED] being arrested for Assault with Intent to Murder [REDACTED] ICE responded that [REDACTED] had [REDACTED]
- Captain VanderKooi's Stated Justification (Page 16)*
[REDACTED]
- Investigative Findings*
Suspect [REDACTED] had been charged with a serious felony and Officer Rich Lewis inquired the status of an ICE case initiated, prior to the time period of this investigation. Captain VanderKooi followed up on the request from Officer Lewis. According to court records, the criminal case against [REDACTED] was pending and trial was adjourned several times. The date of Captain VanderKooi's email corresponds to one of the trial adjournments. It was reasonable for Captain VanderKooi to make this inquiry.
40. Email request from ICE Agent Derek Klifman to Captain VanderKooi on November 27, 2017, requesting reports related to [REDACTED]
41. Email request from ICE Agent Derek Klifman to Captain VanderKooi on November 23, 2017, requesting reports related to [REDACTED]
42. Email request from ICE Agent Derek Klifman to Captain VanderKooi on November 20, 2017, requesting reports related to [REDACTED]
43. It is believed that #43 and #44 were counted as two email threads when they were one (#44). There is no #43.
44. *Email from Captain VanderKooi to ICE Agent Derek Klifman on November 2, 2017, requesting the status of [REDACTED] related to an Officer Safety Caution issued on November 2, 2017. Several report numbers are listed related to the subject, threats he has made, and his deteriorating mental condition. Suspect [REDACTED] was determined to be a [REDACTED]
- Captain VanderKooi's Stated Justification (Page 18)*
[REDACTED]
- Investigative Findings*
The suspect make terroristic threats and his mental health was in question and documented to be declining. It was reasonable for Captain VanderKooi to share this information with another law enforcement agency.
45. Email request from ICE Agent Derek Klifman to Captain VanderKooi on October 17, 2017, requesting reports related to [REDACTED]
46. * Email from Captain VanderKooi to Agent Klifman on September 20, 2017, with the day shift summary attached asking, "Status?" The only item on the shift summary was an attempted murder (shooting) case described. This is likely a request for the status on suspect [REDACTED] The report number is [REDACTED]
- Captain VanderKooi's Stated Justification (Pages 18-19)*
Captain VanderKooi stated [REDACTED]
- Investigative Findings*
In Officer Allen (AJ) Hite's follow-up narrative in report [REDACTED] he wrote that a witness had said that [REDACTED] stated plan was to flee to Mexico, to avoid getting arrested. Passing [REDACTED] information on to ICE is deemed to be reasonable, given this information. I confirmed with Officer Hite that he made the request to Captain VanderKooi.
47. * Email from Captain VanderKooi to ICE Agent Klifman on September 18, 2017, asking for the status on two homicide victims.
- Captain VanderKooi's Stated Justification (Page 19)*
[REDACTED]

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Investigative Findings

This was a request to ICE to assist with identification. It was reasonable to do this, based on the facts of the case and the request from Sergeant Purtee, which indicated one of the victims had "an ICE app on his cell phone".

48. Email request from ICE Agent Christopher Carr to Captain VanderKooi on September 8, 2017, requesting any reports related to [REDACTED]. There is no indication, from the email, that Captain VanderKooi responded.
49. * Email from Captain VanderKooi to ICE Agent Derek Klifman on September 6, 2017, requesting a status check on [REDACTED] related to a wanted bulletin for [REDACTED] for CSC 4th degree and also a LEIN (Law Enforcement Information Network) [REDACTED]. The report number is [REDACTED]. Klifman responded on September 7, 2017, that [REDACTED] was a [REDACTED] and had [REDACTED] but due do administrative issues, [REDACTED].

Captain VanderKooi's Stated Justification (Pages 19-20)

Investigative Findings

I did not locate anything in the narrative about [REDACTED] being a [REDACTED]. I believe Captain VanderKooi mistook the email narrative for the report narrative, when answering this question. There was not an Officer Safety Caution; however, there was a "Wanted" poster that Captain VanderKooi sent to ICE. [REDACTED] was a parole absconder who had cut off his tether and was wanted for Criminal Sexual Conduct 4th degree. ICE confirmed that [REDACTED]. I cannot find a specific reason why this request was made to ICE, but it is reasonable to conclude there was some information about [REDACTED] possibly being an undocumented alien that was presented to Captain VanderKooi, prompting the information being sent over. I cannot conclude that this was in any way improper to do, especially since [REDACTED] already had a history with ICE a [REDACTED].

50. Email request from ICE Agent Klifman to Captain VanderKooi on September 7, 2017, requesting reports related to [REDACTED].
51. Email from ICE agent Derek Klifman to Captain VanderKooi on September 5, 2017, requesting a GRPD police report for [REDACTED]. Captain VanderKooi replies he is unable to locate the report. A second email from Klifman is sent, requesting a report for [REDACTED] regarding a Felony Child Support warrant arrest.
52. Email from ICE Agent Derek Klifman to Captain VanderKooi on August 25, 2017, requesting a GRPD police report regarding [REDACTED].
53. Email in attached letter form from ICE Agent Christopher Carr on August 14, 2017, requesting a GRPD police report involving [REDACTED]. Captain VanderKooi delegated the reports to Sergeant Al Noles, to locate and email the police reports to Agent Carr.
54. Email in attached letter form from ICE Agent Christopher Carr on August 16, 2017, requesting GRPD police report involving [REDACTED].
55. Email from ICE Agent Monica Alaez on July 13, 2017, requesting a GRPD police report involving GRPD report [REDACTED].
56. Email from ICE Agent Derek Klifman to Captain VanderKooi on July 4, 2017, requesting GRPD police report [REDACTED] involving [REDACTED].
57. Email response to Captain VanderKooi from ICE Agent Aaron Zylstra on June 19, 2017, regarding [REDACTED]. A FileMaker search results in report [REDACTED] which correlates to an OWI arrest.
58. Mass email to numerous persons, including Captain VanderKooi, on June 6, 2017, regarding a Conference for the 10th Annual Response to Hate.
59. * Captain VanderKooi initiated an email to ICE Agent Aaron Zylstra on June 5, 2017, with the subject line of "Status Check Please". In the body of the email was a shift summary regarding a CCW (Carrying a Concealed Weapon) Handgun arrest of [REDACTED]. Also included was an Officer Safety Caution flyer regarding [REDACTED] being a possible suspect in two shots fired incidents into occupied dwellings, as well as being gang affiliated. [REDACTED] was the subject of an investigation by the GRPD Major Case Team for two incidents involving numerous gunshots fired into occupied homes (GRPD police reports [REDACTED]). On June 2, 2017, an Officer Safety Caution flyer was sent out regarding [REDACTED] advising he was not arrestable, but if contacted, to order him into the Detective Unit to speak with detectives. On June 3, 2017, [REDACTED] was arrested for CCW handgun (see GRPD police report [REDACTED]).

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Captain VanderKooi's Stated Justification (Page 20)

Captain VanderKooi stated [REDACTED]

Investigative Findings

[REDACTED] was a known "Latin King" gang member who had been involved in firing a weapon into two separate houses. There was an Officer Safety Caution issued by GRPD about him, which references gang affiliation. It was reasonable that Captain VanderKooi would share this information with ICE.

60. Email from ICE Agent Jeffrey Lembke on May 31, 2017, regarding a two-time prior removal suspect seeking information about [REDACTED] (potential girlfriend) to the suspect. ICE was requesting police reports [REDACTED] on [REDACTED]. Captain VanderKooi replied on June 2, 2017, with an encrypted message containing the reports.
61. Email from ICE Agent Monica Alaez on May 31, 2017, requesting GRPD police reports for [REDACTED]. GRPD police report [REDACTED]. Captain VanderKooi replied on May 31, 2017, with an encrypted message (regarding [REDACTED] containing the police report.
62. Email from ICE Agent Brandon Brown on May 29, 2017, regarding arrest reports related to [REDACTED] for an immigration investigation (specifically GRPD police report [REDACTED]). Captain VanderKooi replied on May 30, 2017, with a message containing the report.
63. Email from ICE Agent Derek Klifman on May 23, 2017, requesting a police report for [REDACTED] (regarding GRPD police report [REDACTED] CSC 1st). Captain VanderKooi forwarded the request to Sergeant Benjamin Hawkins, to fax the report to Agent Klifman. Captain VanderKooi replied that he faxed the report on May 25, 2017.
64. * Captain VanderKooi emailed ICE Agent Aaron Zylstra on May 15, 2017, with the subject line of "FYI". This email is encrypted and confirmed to be two police reports from the GRPD. One report [REDACTED] documented the arrest of [REDACTED] for OWI on 5/13/17. The second report [REDACTED] documented the arrest of [REDACTED] on 5/14/17. [REDACTED] was determined to be an Undocumented Alien and [REDACTED] is a [REDACTED].

Captain VanderKooi's Stated Justification (Page 21)

Captain VanderKooi stated [REDACTED]

Investigative Findings

Both subjects had committed the crime of Operating While Intoxicated. [REDACTED] was "super drunk", with over .17 BAL and had a suspended license and did not speak English. [REDACTED] had a property damage accident and fled the scene, did not speak English, was unlicensed, and provided a foreign passport as identification. Given the facts presented in each incident report, it was reasonable for Captain VanderKooi to make this referral to ICE.

65. Email in letter form from ICE Agent Christopher Carr on May 10, 2017, regarding [REDACTED] specifically GRPD police report [REDACTED].
66. Email from ICE Agent Aaron Zylstra on May 9, 2017, with the subject line of "Photo Request". The email was asking for recent photographs for [REDACTED]. Agent Zylstra advised they have an [REDACTED] and do not have a current photographs. This is related to GRPD police report [REDACTED]. Captain VanderKooi replied and sent the two photographs of [REDACTED] on May 9, 2017.
67. Captain Vincent Reilly sent an email to Captain VanderKooi on May 8, 2017, after locating a social media post regarding a protest of ICE. Captain Reilly requested Captain VanderKooi to give them a heads up, if they had not heard about this event yet. Captain VanderKooi sent the link to ICE Agent Aaron Zylstra.
68. Email from ICE Agent Aaron Zylstra on April 27, 2017, requesting reports for [REDACTED]. Captain VanderKooi replied on April 28, 2017 with a "snip" of GRPD records management with [REDACTED] reports from 2009 to 2015, stating, "This is all I can find! CVK".
69. Email from ICE Agent Derek Klifman on April 24, 2017, with the subject line of "Monday Pick-ups" and attachments "203 4-24-2017.xls". The email is regarding a pick up in Allegan County, which is out of Grand Rapids' jurisdiction. It is unknown why Agent Klifman would send this to Captain VanderKooi. Captain VanderKooi did not respond.

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70. * Email to ICE Agent Aaron Zylstra on Monday, April 10, 2017, with the subject line of "FYI". Attached to this email were GRPD police reports [REDACTED] and [REDACTED] for the OWI and DWLS arrest of [REDACTED] on April 7, 2017. Agent Zylstra replied on Tuesday April 11, 2017, with, "Thanks, Looks like he has [REDACTED]"

Captain VanderKooi's Stated Justification (Page 21)

[REDACTED]

Investigative Findings

[REDACTED] had committed the crime of Operating While Intoxicated (PBT BAC of .197) and Driving While License Suspended. When contacted, he presented a Mexican ID, as indicated in the incident report. It was reasonable for Captain VanderKooi to make this referral.

71. * Email to ICE Agent Aaron Zylstra on Monday, April 3, 2017, with the subject line of "ICE information requested". Agent Zylstra replied on Monday April 3, 2017, with "CPT VanderKooi, [REDACTED] is a [REDACTED] he is [REDACTED]. Let me know if you need anymore information on him. Thanks". Attached to the email was a Domestic Assault and Battery report [REDACTED] documenting the arrest of [REDACTED]"

Captain VanderKooi's Stated Justification (Page 21)

[REDACTED]

Investigative Findings

Officer Paul Smith's report narrative states that [REDACTED] is from Sudan. Given this information, and the crime committed, it was reasonable for Captain VanderKooi to make this request.

72. * Email to ICE Agent Aaron Zylstra on March 20, 2017, with the subject line of [REDACTED]. Attached in the email is GRPD police report [REDACTED]. This report is regarding a Felonious Assault with a Handgun by [REDACTED] and in the police report, Officer Thomas Goojtes documents a statement from the victim, who advised [REDACTED] had been deported from the country in the past, but now he's back. Deportation was also indicated in the photo index.

Captain VanderKooi's Stated Justification

[REDACTED]

Investigative Findings

The incident report narrative by Officer Thomas Goojtes stated that [REDACTED] was previously deported. ICE confirmed that [REDACTED] due to a weapons offense. It was reasonable for Captain VanderKooi to make this request.

73. Email from ICE Agent Zylstra on March 10, 2019, regarding [REDACTED] GRPD police report [REDACTED] (Homicide). Captain VanderKooi replied on March 14, 2017.

74. Email from ICE Agent Derek Klifman on March 7, 2017, regarding [REDACTED] GRPD police report [REDACTED]. Captain VanderKooi replies and then numerous emails about getting through the encryption.

75. Email from ICE Agent Jeffrey Lembke on February 15, 2017, regarding property of [REDACTED] GRPD police report [REDACTED]. The property they were seeking was a counterfeit Green Card.

76. * Captain VanderKooi emailed ICE Agent Derek Klifman on Tuesday February 14, 2017, with the subject line of [REDACTED]. The body of the email was "Status? As well as a snapshot of Filemaker with his name and the charges of Kidnapping and CSC 1st." Sergeant (then Officer) Alan Ort's investigation documents the immigration process for the victim. A statement was documented, by Officer David Lilly, from [REDACTED] that he paid \$4,000 to bring her up from Mexico.

Captain VanderKooi's Stated Justification (Pages 22-23)

Captain VanderKooi's reason

[REDACTED]

Investigative Findings

A statement from [REDACTED] was documented by Officer David Lilly, indicating [REDACTED] had paid \$4,000 to bring the victim to the

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United States from Mexico. These facts are consistent with potential international human trafficking. Based on the facts of the case, it was reasonable that Captain VanderKooi made this referral.

77. * Captain VanderKooi emailed ICE Agent Derek Klifman on February 7, 2017, with the subject line of [REDACTED]. The narrative of the email was "GRPD Incident Report [REDACTED]. Attached was the related police report, detailing the arrest of [REDACTED] for Domestic Assault and Battery and for interfering with Electronic Communication.

Captain VanderKooi's Stated Justification (Page 23)

Captain VanderKooi's reason [REDACTED]

Investigative Findings

This request was initiated by Officer Sue Clare, based on information contained in the original report documented by Officer Derrick Learned. The narrative of the report documents a statement from the victim, indicating that [REDACTED] had only been in the United States for three weeks and he is from the Dominican Republic. It was reasonable for Captain VanderKooi to make this referral.

78. Email from ICE Agent Derek Klifman on February 2, 2017, requesting GRPD police report [REDACTED] for [REDACTED]
79. ICE Agent Jeffrey Lembke, on January 30, 2017, requesting GRPD police report [REDACTED] of [REDACTED]
80. ICE Agent Jeffrey Lembke, on January 30, 2017, requesting GRPD police report [REDACTED] for [REDACTED]
81. ICE Agent Jeffrey Lembke, on January 9, 2017, requesting GRPD police report [REDACTED] for [REDACTED]
82. ICE Agent Brandon Brown, on January 9, 2017, requesting GRPD police reports for [REDACTED]
83. ICE Agent Brent Clark, on January 9, 2017, requesting GRPD police report [REDACTED] on [REDACTED]
84. * Email to ICE Agent Jeffrey Lembke from Captain VanderKooi on January 4, 2017, with the subject line of "Status?" The body of the email is a copy of the police narrative [REDACTED] written by Officer Cody Bechaz, describing fraudulent documents about International Driver's Licenses and the arrest of [REDACTED] for Driving While License Suspended. [REDACTED] was in possession of an "International Driver's License" when he was arrested and he stated he bought the license from an unknown female for \$160. Captain VanderKooi requesting information about a potential scam.

Captain VanderKooi's Stated Justification (Page 24)

Captain VanderKooi denied [REDACTED]

Investigative Findings

This email thread contains two contacts regarding this incident. The first email, even though titled "Status", does not appear to be a referral, as indicated by Captain VanderKooi in his interview, but rather, seeking advice on international driver's licenses. This is supported by the ICE agent's response to the first email, which was to provide his knowledge regarding this as a scam. A follow-up email in this thread does appear to be a referral; however, [REDACTED] did not speak English, had no record of a driver's license, and was in possession of a fraudulent driver's license when arrested. It should be noted, as well, that Captain VanderKooi made efforts to investigate the potential victimization of undocumented aliens and let his East Service Area officers know to be on the lookout for the fraudulent driver's license scam. It was reasonable to make the initial contact to ask another law enforcement agency for its expertise. Additionally, based on the information available, it was reasonable to make the referral.

85. Email from ICE Agent Brandon Brown to Captain VanderKooi on January 3, 2017, asking for a report related to [REDACTED] whose immigration status ICE was investigating. Incident Report [REDACTED] appears to have been emailed back by Captain VanderKooi.
86. Email from ICE Agent Jeffrey Lembke on January 3, 2017, regarding GRPD incident report [REDACTED]
87. Email from ICE Agent Jeffrey Lembke on January 3, 2017, regarding GRPD incident report [REDACTED]
88. Email from ICE Agent Jeffrey Lembke on January 3, 2017, regarding GRPD incident report [REDACTED]
89. Email from ICE Agent Michael Lentz on January 2, 2017, requesting GRPD incident report [REDACTED]

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During the course of the investigation, several documents were discussed, reviewed, or offered to the investigation but not received. They included:

- Emails between Captain VanderKooi and ICE, along with related incident reports and other documentation related to the subjects referenced in the emails; these documents were used as part of the investigation and contained in the file.
- Statistics compiled by Captain VanderKooi regarding demographics of victims listed in these incidents were not received, as it was determined to be beyond the scope of the investigation.
- A July 19, 2017, email from Sergeant Gregory Griffin to all sworn personnel, advising on how to respond to terrorist information returned on a federal database, as well as a Homeland Security Resources flyer, dated September 2011. This document was determined to not be relevant, as it is not a directive to those officers with special assignments to coordinate with specific federal agencies on the list (JTTF, ATF, and ICE).
- ICE Priority Enforcement Program 2014 Memo was determined to be relevant to the investigation because Captain VanderKooi stated he relied on this information; relevant sections are incorporated below.
- National statistics regarding deaths caused by unlicensed or undocumented drunk drivers was offered by Captain VanderKooi, but not received, as it was not relevant to the investigation.
- Policy from Parker Police Department (Parker, Colorado) offered, but not received, as it was not relevant to the investigation.

SUMMARY

This investigation was resumed on March 7, 2019. The resumption of the investigation was based on the sustained complaint for the use of the term "Loco" in an email and it was decided that all emails between Captain VanderKooi and Immigration and Customs Enforcement (ICE) between January 1, 2017, and February 2019, would be examined for any evidence of similar racially inappropriate or insensitive language. The emails were also examined to determine if there was any evidence of an Impartial Policing Policy violation (Grand Rapids Police Department Manual of Procedures, Section 8-15) by Captain VanderKooi. It is noted that the Grand Rapids Police Department Impartial Policing Policy went into effect on July 21, 2017. Any potential violations prior to this date could not be sustained as a violation of this policy, because it did not exist at this time. Prior to the Impartial Policing Policy, allegations would have been handled as Racial Profiling or Bias Based Policing.

There had been multiple Freedom of Information Act (FOIA) requests for emails between Captain VanderKooi and ICE between the dates of January 1, 2017 and February 2019. The emails between Captain VanderKooi and ICE officials during this time frame had been located and printed by the City Attorney's Office. Interim Police Chief David Kiddle had been tasked with an initial review of the emails and had identified 89 email threads between Captain VanderKooi and individuals with an email address containing "@ice.dhs.gov". I was assigned to do a more comprehensive review of the documents, including locating any attachments that had been included with the emails.

The Commander of the Internal Affairs Unit (IAU), Lieutenant Chad McKersie, assisted with my initial review of these emails and with identifying and printing any reports or documents that had been attached to the emails. During his review, Chief Kiddle separated and numbered each email thread 1 through 89. The email threads were numbered in the order they were received from the City Attorney's Office and are not in chronological order. Upon my review, it was determined that email thread labeled #34 was actually a subsection of email thread #32 and email thread #43 and #44 were counted as two threads, when they were actually one thread. Based on this review, I determined there are actually 87 email threads, not 89. I identified 26 of the 87 email threads that were initiated by Captain VanderKooi and were referrals or inquiries to ICE with subjects' names in the email or associated attachment. One of these email threads was the November 21, 2018, email from Captain VanderKooi to ICE officials regarding Jilmar Benigno Ramos-Gomez. This email thread was not examined further, as it was already addressed in the initial part of this investigation. For the remaining 25 email threads that were identified as referrals, I printed any associated attachments and included review of these documents in this investigation. For email referral threads #64 and #70, I needed the assistance of the City Information Technology Department, to retrieve the incident reports that had been attached, due to the inability to determine what was attached. For all other emails, I was able to identify and print documents based on information contained in the subject lines or narratives of the emails.

Each email thread, and its associated documents, were evaluated independently. Investigative findings for each item are documented in this Investigative Report – Secondary Report. Of the 25 email threads reviewed, 23 of the referrals or inquires to ICE involved subjects who had committed crimes. The exceptions were email threads #44 and #47. Thread #44 involved a domestic assault suspect, who was determined to be a naturalized United States citizen, who had made terroristic threats and whose mental health was documented to be declining. Thread #47 was a request for assistance from ICE, with identifying two homicide victims. The 23 other email threads primarily involved referrals and inquiries from Captain VanderKooi to ICE for suspects who had committing violent, predatory felonies, including the crimes of Homicide, Assault with Intent to Murder, Criminal Sexual Conduct, Carrying Concealed Weapons, other weapons violations, and Terroristic Threats. It was also found in the review of the related incident reports, and interview with Captain VanderKooi, that the far majority of the victims in these cases were people of color and many of the victims of these crimes were determined to be undocumented, or illegal aliens, themselves. These individuals' names were *not* referred to ICE, despite Captain VanderKooi's knowledge they were illegal aliens. They were not referred because they had not committed crimes and were not a danger to the public. It was also found that email thread #84 involved follow-up efforts by Captain VanderKooi, to inform GRPD officers of a fraudulent driver's license scam being perpetrated against undocumented aliens. Captain VanderKooi communicated, via email, to his East Service Area officers in 2017, his desire to have officers stop the victimization of undocumented aliens who thought they were purchasing valid "International Driver's Licenses".

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When reviewing these cases, it was evident that the majority of cases referred to ICE involve suspects whose citizenship status was in question; many were likely undocumented/illegal aliens who had committed crimes. Citizenship status was less clear for other cases, but in all cases, there was at least some reason to make an inquiry to ICE or share information with ICE. Given the crimes committed, threats made, or potential gang affiliation, it was reasonable to share information with ICE, and inquire about the suspect's immigration status with ICE in each case. There is no evidence that Captain VanderKooi randomly selected people's names to send to ICE based solely on their name, race, or appearance.

Notification Catalyst

In reviewing the interview and reports, severity of the offense appears to be tied to ICE Priorities 1 and 2 (see Appendix). Priority 1 includes gang membership, conviction of State law felonies, or felonies under immigration law. Priority 2 includes multiple misdemeanors and serious misdemeanors (including domestic violence, sexual abuse, and driving under the influence). Contacts made by Captain VanderKooi fit within one, or more, of these criteria. For example:

- Felonies under State Law (murder, attempted murder, shooting/weapons offenses, felonious assault): (email threads 5, 15, 24, 25, 28, 39, 46, 72, and 76)
- Gang Affiliation (which was also in conjunction with being wanted on another type of priority offense and/or being listed in an officer safety caution: (email threads 11, 15, 20, 28, and 59)
- Sexual Abuse / CSCs: (email threads 18, 49)
- Domestic Violence / Elder Abuse: (email threads 3, 12, 71, 77)
- OWI: (64, 70)

Terrorist Threat

For purposes of the review, activities identified as "terroristic threat" fell under the conduct outlined within the Michigan State Police / Department of Homeland Security documentation provided by Captain VanderKooi in first interview. In immigration law, terrorist activity is defined to include "any activity which is unlawful under the laws of the place where it is committed (or which, if it had been committed in the United States, would be unlawful under the laws of the United States or any State) and which involves any of the following: . . . The highjacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle)" and engage in terrorist activity includes "to prepare or plan a terrorist activity" or "to gather information on potential targets for terrorist activity." 8 U.S.C.A. § 1182. Additionally, under State law, an "act of terrorism" means:

- (a) "Act of terrorism" means a willful and deliberate act that is all of the following:
- (i) An act that would be a violent felony under the laws of this state, whether or not committed in this state.
 - (ii) An act that the person knows or has reason to know is dangerous to human life.
 - (iii) An act that is intended to intimidate or coerce a civilian population or influence or affect the conduct of government or a unit of government through intimidation or coercion.

Review of the reports indicate that contact related to terrorism was made in email threads 4, 14, 11, 20, and 44. A review of these reports show that the statements or actions involved are consistent with these definitions of terrorism or pre-terroristic activities.

Nexus to Undocumented Criminal Suspect

Many of the ICE contacts, or referrals, in addition to satisfying one or more of the other "catalyst" factors, had specific references to information that reasonably called into question a suspect's status (NCIC information, suspect or witness statements, types of identification provided to officers or lack of driver's license, lack of English proficiency). These contacts include email threads 3, 5, 12, 14, 17, 18, 25, 46, 47, 64, 71, 70, 72, 76, and 77.

Officer Safety Warning, Public Safety for All

Officer Safety Cautions were associated with multiple contacts, including email threads 11, 28, 44, 49, and 59.

In addition to the above factors stated by Captain VanderKooi as part of his "Notification Catalyst", this investigation also identified two additional factors that appeared to factor into Captain VanderKooi's decisions to contact ICE, including:

- Other detectives asking Captain VanderKooi to get into contact with ICE (email threads 3, 39, and 46)
- Some of contacts were not initiated, at least originally, to seek immigration status from ICE, but for other reasons, like to attempt to identify or locate an individual or gain information about a potential fraudulent activity (email threads 5, 17, 47, and 84)

The Grand Rapids Police Department has no written policy that either provided guidance to Captain VanderKooi about making referrals or prohibited him from making any of these referrals. The GRPD has not provided Captain VanderKooi any specific training about criteria to be considered when making a referral. Captain VanderKooi made decisions about what to pass on to ICE based on what he thought was reasonable. Communication between GRPD and ICE can be classified as information sharing between federal and local agencies that has been highly encouraged in a post 9/11 environment and consistent with many initiatives, including the Nationwide Suspicious Activity Reporting (SAR) Initiative (See Appendix B). The United State Supreme Court has said "consultation between federal and state officials is an important feature of the immigration system. Congress has made clear that no formal agreement or special training needs to be in place for state officers

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to "communicate with the [Federal Government] regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States." 8 U.S.C. § 1357(g)(10)(A). And Congress has obligated ICE to respond to any request made by state officials for verification of a person's citizenship or immigration status. See § 1373(c); see also § 1226(d)(1)(A) (requiring a system for determining whether individuals arrested for aggravated felonies are aliens)." *Arizona v. United States*, 567 U.S. 387, 411–12 (2012).

The Grand Rapids Police Department Legal Advisor determined that it is legally appropriate for officers to take into consideration certain facts about a person that are linked to national origin, where the traits can be linked or aligned to that individual's alienage or immigration status, because both are legally relevant to law enforcement activities associated with immigration. For example, upon reasonable suspicion, ICE can interrogate a person, believed to be an alien, on his/her lawful status; ICE can detain a person based on probable cause that the individual is (1) an alien and (2) not lawfully present in the United States. Therefore, information pertaining to place of birth, country of origin, lack of English proficiency, or immigration status, although tied to national origin, can be appropriately considered as part of the totality of the circumstances in making a decision to contact immigration officials. However, other traits associated with national origin, like race, religion, or treating an individual negatively because he/she is from a specific county or region would be an inappropriate use of traits associated with national origin.

Captain VanderKooi and the Grand Rapids Police Department are not responsible for actions taken by ICE based on information shared with them; ICE bears responsibility for these decisions.

The impartial policing policy prohibits racial profiling and bias-based policing. It further states that "employees shall base all stops, detentions, investigative activities and arrests on the appropriate legal standard and in doing so shall not violate this policy or any law." This investigation finds no violation of the impartial policing policy. The decisions were based on appropriate legal standards. There is no evidence that Captain VanderKooi used specified characteristics as an indicator for criminal behavior stereotypes about characteristics in making law enforcement decisions. It appears that Captain VanderKooi considered the unique circumstances of each individual encounter when making the decision to contact ICE.

Based on the information examined, there is insufficient evidence to conclude Captain VanderKooi did anything improper when making these referrals and inquiries to ICE. Additionally, based on the information examined in each case, Captain VanderKooi is **EXONERATED**, with regard to MAKING THESE REFERRALS AND INQUIRIES. It is also found that there was no racially inappropriate or inflammatory language used in any of the 87 email threads. Any additional complaint of DISCOURTESY is **UNFOUNDED**.

APPENDIX

A: ICE Priorities 1 and 2 are defined as the following:

Enforcement priorities referenced in Priority Enforcement Program

The Priority Enforcement Program relies on updated enforcement priorities released in a November 20, 2014 memo by DHS Secretary Jeh Johnson (note that these enforcement priorities apply DHS-wide and are not limited to PEP).^{[4][5]}

- **Priority 1** (prioritized for removal) includes noncitizens who meet one or more of these criteria:
 - 1(a): national security threat
 - 1(b): apprehended immediately at the border
 - 1(c): gang member
 - 1(d): convicted of an offense classified as a felony in the state or local jurisdiction, other than one related to immigration status
 - 1(e): convicted of a felony or aggravated felony as defined by immigration law.
- **Priority 2** (subject to removal) includes noncitizens who meet one or more of these criteria:
 - 2(a): convicted of three or more misdemeanors
 - 2(b): convicted of a serious misdemeanor. Serious misdemeanors are defined as offenses involving domestic violence, sexual abuse or exploitation, burglary, unlawful possession or use of a firearm, drug distribution or trafficking, driving under the influence, and other crimes in which a defendant was sentenced to actual custody of 90 days or more.
 - 2(c): entered the United States unlawfully after July 1, 2014
 - 2(d): significantly abused visas or visa waiver programs

B: **The Nationwide Suspicious Activity Reporting (SAR) Initiative (NSI)** is a program of the United States Government used to collect and share reports of suspicious activity by people in the United States.[1][2] The Nationwide SAR Initiative (NSI) builds on what law enforcement and other agencies have been doing for years — gathering information regarding behaviors and incidents associated with criminal activity — but without the customary restrictions on collecting data on individuals in the absence of reasonable suspicion or probable cause. The program has established a standardized process whereby SARs can be shared among agencies to help detect and prevent terrorism-related criminal activity. This process is in direct response to the mandate to establish a "unified process for reporting, tracking, and

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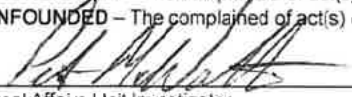

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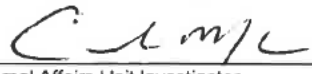
accessing [SARs]" in a manner that rigorously protects the privacy and civil liberties of Americans, as called for in the 2007 National Strategy for Information Sharing (NSIS)[3], which in turn was authorized by the Intelligence Reform and Terrorism Prevention Act of 2004[4]. Reports of suspicious behavior noticed by local law enforcement or by private citizens are forwarded to state and major urban area fusion centers as well as DHS and the FBI for analysis. Sometimes this information is combined with other information to evaluate the suspicious activity in greater context. The program is primarily under the direction of the US Department of Justice.[2][5]


The conclusion contained in the *Complaint Disposition Report* is subject to review by the Civilian Appeal Board, as set forth in *City Commission Policy 800-02*, if the disposition of the complaint is not sustained, unfounded, or exonerated.

DISPOSITIONS

- SUSTAINED** – Evidence was sufficient to prove the allegation(s)
- NOT SUSTAINED** – Lack of sufficient evidence to prove the allegation(s)
- EXONERATED** – The complained of act(s) did occur, but were justified and lawful
- UNFOUNDED** – The complained of act(s) did not occur

 _____ Internal Affairs Unit Investigator	<u>4-19-19</u> Date	 _____ Internal Affairs Unit Commander	<u>4-19-19</u> Date
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 _____ Internal Affairs Unit Investigator	<u>4-19-19</u> Date		
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 _____ Assistant City Attorney	<u>4-19-19</u> Date	_____ Labor Relations	_____ Date
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APPROVED:

 _____ Chief of Police	<u>4-19-19</u> Date	_____ City Manager	_____ Date
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