



Bob Ferguson
ATTORNEY GENERAL OF WASHINGTON

Civil Rights Division
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February 27, 2023

VIA U.S. MAIL AND E-MAIL

Kevin McCrae
Grant County Prosecuting Attorney
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kjmccrae@grantcountywa.gov

Joe Kriete
Grant County Sheriff's Office
P.O. Box 37
Ephrata, WA 98823
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RE: Grant County's Compliance with Keep Washington Working Act

Dear Mr. McCrae and Sheriff Kriete:

The Attorney General's Office is committed to protecting the civil rights of everyone in the State of Washington. This includes ensuring that units of local government comply with state law designed to protect vulnerable individuals from being targeted by law enforcement based on their national origin, citizenship, or immigration status. *See* RCW 49.60.030(1). I write to raise concerns that the Grant County Sheriff's Office may be in violation of the Keep Washington Working Act (KWW), RCW 10.93.160.

As you know, KWW restricts local law enforcement agencies from participating in the enforcement of federal immigration laws. KWW provides that a person's immigration status, presence, or employment in the U.S. is not a matter for police action, and enforcing civil federal immigration law is not local law enforcement's primary purpose. RCW 10.93.160(2).

To that end, KWW expressly prohibits local law enforcement agencies from, among other things:

- Inquiring into or collecting information about an individual's immigration or citizenship status, or place of birth, unless there is a connection between such information and an investigation into a violation of state or local criminal law;

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- Providing nonpublicly available personal information about an individual to federal immigration authorities in a noncriminal matter, except as required by law; and
- Detaining someone, or holding someone in custody, solely for the purposes of determining immigration status or based solely on a civil immigration warrant or immigration hold request.

RCW 10.93.160(4)-(8).

In May 2020, at the Legislature's direction, the Attorney General published Guidance, Model Policies, and Training Recommendations for State and Local Law Enforcement Agencies, to ensure that "local law enforcement duties are carried out in a manner that limits, to the fullest extent practicable and consistent with federal and state law, engagement with federal immigration authorities for the purpose of immigration enforcement." RCW 43.10.315; https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Home/Office_Initiativess/KWW/KWW%20LEA%20Model%20Guidance.pdf. I have enclosed a copy of these documents for your review.

KWW requires local law enforcement agencies, including the Grant County Sheriff's Office, to (1) adopt policies consistent with the Attorney General's guidance; or (2) notify our Office that they are not adopting the guidance, state the reasons why, and provide a copy of the agency's policies that ensure compliance with KWW. RCW 43.10.315(1)-(2). To date, our Office has not received any information from the Grant County Sheriff's Office regarding its compliance with these provisions.

Accordingly, on January 24, 2022, we requested information from Grant County reflecting communications with federal immigration officials from May 2019 through December 2021. We reviewed information the County provided in response to that request. Based on our review, it appears that Grant County has engaged in conduct that may violate the above-cited provisions of KWW.

The records we reviewed indicate that since the effective date of KWW (May 21, 2019), staff for the Grant County Prosecutor's Office contacted federal immigration officials over 400 times to share nonpublicly available information pertaining to individuals in custody at the Grant County Jail. None of this information appears to have been provided in connection with an ongoing criminal matter. Rather, staff for the Prosecutor's Office appear to have proactively provided this information from "in custody" lists and "inmate event schedules" maintained by the Jail, which included inmate dates of birth, FBI numbers, home addresses, drivers' license numbers, and anticipated jail release dates. Although these communications originated from the Prosecutor's Office, they routinely included staff from the Grant County Sheriff's Office. Further, our review identified repeated instances in which Sheriff's Office staff provided the anticipated release dates of jail inmates to federal immigration authorities, again without any apparent connection to a criminal matter. This type of information sharing likely violates KWW's express prohibition on participating in civil immigration enforcement. *See* RCW 10.93.160(4)(b), (5).

KWW prohibits local law enforcement agencies from sharing nonpublic information with federal immigration authorities, both directly and through third parties. The frequency and nature of the information shared by the Prosecutor's Office, as well as the fact that Sheriff's Office staff were regularly included in these communications, indicates that the Sheriff's Office was aware of the

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information being shared, but did not take steps to prevent it. This, too, likely violates KWW. *See* RCW 10.93.160(5).

We also reviewed the Grant County Sheriff's Office Policy Manual and identified certain policies that may be contributing to the above conduct. Policy 428.5 (Information Sharing) refers to 8 U.S.C. § 1373 (Section 1373), and provides "No member of this agency will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual: (a) Sending information to, or requesting or receiving such information from federal immigration officials," and "(c) Exchanging such information with any other federal, state or local government entity." The Policy implies incorrectly that Deputies may freely share any information, including personally identifiable information, with federal immigration authorities. However, Section 1373 does not apply to personal information other than immigration or citizenship status, such as birthdate, address, location, or release date. Thus, local law enforcement may not share such information with federal immigration authorities unless it is clearly connected to a criminal matter. *See* RCW 10.93.160(4)(b), (5). Moreover, nothing in Section 1373 requires state or local law enforcement agencies to collect citizenship or immigration information from their constituents, or share that information with federal immigration authorities, as Policy 428.5 implies. KWW, as noted above, prohibits the collection of such information unless it is directly connected to an ongoing state or local criminal investigation.

Based on the foregoing, the Attorney General's Office is concerned that Grant County may be in violation of KWW and other civil rights laws. I request an opportunity to meet with you to discuss these issues and strategies your offices may employ to ensure compliance with state law. I am available at the following dates and times:

- Friday, March 10, 2023: 10:00AM-12:00PM
- Thursday, March 16, 2023: 1:00PM-4:00PM
- Tuesday, March 21, 2023: 9:00AM-12:00PM
- Wednesday, March 22, 2023: 9:00AM-12:00PM
- Friday, March 24, 2023: 9:00AM-5:00PM

Please confirm a date and time that works for you, and I will circulate a remote meeting invitation. Please feel free to invite anyone else on your staff who should also participate. I look forward to meeting with you.

Sincerely,



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Encl.