

Investigation

Orleans Parish Communications District Operations Manager Wendy Ervin was given access to the Louisiana Law Enforcement Telecommunications System and the National Crime Information Center despite being a convicted felon

September 30, 2021



Edward Michel, CIG

REPORT OF INVESTIGATION

20-0005-I

TITLE: Orleans Parish Communications District Operations Manager Wendy Ervin was given access to the Louisiana Law Enforcement Telecommunications System and the National Crime Information Center despite being a convicted felon.

LOCATION OF OCCURRENCE: Orleans Parish Communications District, 113 City Park Ave., NOLA 70119

DATE OF OCCURRENCE: May 2018 through February 2020

INVESTIGATED BY: Terence Barrett – City of New Orleans Office of Inspector General

VIOLATIONS: Criminal Justice Information Services (CJIS) Security Policy, Version 5.8 dated 6/1/2019

ACTION TAKEN: Referred to the Louisiana State Police NCIC/LLETS Access Unit for administrative action

BASIS FOR INVESTIGATION

The investigation into this matter was predicated on an anonymous complaint the City of New Orleans Office of Inspector General received, via U.S. Mail, from the Metropolitan Crime Commission (MCC) on February 5, 2020. According to the anonymous complainant, Orleans Parish Communications District (OPCD) Operations Manager Wendy Ervin has access to the Louisiana Law Enforcement Telecommunications System (LLETS) and the National Crime Information Center (NCIC) despite being a convicted felon.

“The Louisiana State Police, NCIC/LLETS Access Unit, pursuant to Federal Regulations, provides oversight to the informational exchange between the Louisiana Criminal Justice system users and their counterparts throughout the world. The Louisiana Law Enforcement Telecommunications System (LLETS) is managed by the Department of Public Safety and Corrections (DPS&C), Office of State Police, and allows various authorized Criminal Justice entities to access and exchange critical Criminal Justice information. The Department also oversees access to the National Crime Information Center (NCIC), the Interstate Identification Index (III), and the International Justice

and Public Safety Network (NLETS). These various systems are loosely defined as the 'Law Enforcement Network.'"¹

NCIC is a "criminal records database allowing criminal justice agencies to enter or search for information about stolen property, missing or wanted persons, and domestic violence protection orders; to get criminal histories; and to access the National Sex Offender Registry."²

The Louisiana State Police "is designated as the CJIS Systems Agency (CSA) for Louisiana. The CSA is required to "Manage" the operations of the Law Enforcement Network and ensure Criminal Justice information access to local, parish, federal, and other criminal justice interests. This network consists of various databases and computer networks that provide essential information to the Criminal Justice community in the completion of their Criminal Justice missions."³

OPCD employees are granted access to LLETS, NCIC and other criminal justice related databases to verify vehicle registrations, driver's license information and to conduct criminal history inquiries.

According to the Criminal Justice Information Services (CJIS) Security Policy, Version 5.8 dated 6/1/2019, **Section 5.12.1, 3(a) - Personnel Screening Requirements for Individuals Requiring Unescorted Access to Unencrypted Criminal Justice Information:**

3. If a record of any kind exists, access to CJI [Criminal Justice Information] shall not be granted until the CSO or his/her designee reviews the matter to determine if access is appropriate.
 - a. If a felony conviction of any kind exists, the Interface Agency shall deny access to CJI. However, the Interface Agency may ask for a review by the CSO in extenuating circumstances where the severity of the offense and the time that has passed would support a possible variance.

The interface agency in this instance is the OPCD. The "CSO" designation is assigned to personnel in the Louisiana State Police NCIC/LLETS Access Unit. Local user agencies violating CJIS policy are subject to disciplinary action which, in extreme circumstances, may result in the agency's access to the system being temporarily revoked.

¹ Retrieved from <http://www.lsp.org/technical.html>.

² Retrieved from <https://www.justice.gov/tribal/national-crime-information-systems>.

³ Retrieved from <http://www.lsp.org/technical.html>.

RESULTS OF INVESTIGATION

The OIG conducted a criminal history inquiry concerning Wendy Ervin and learned that on March 12, 2015, Wendy Ervin was indicted in U.S. District Court, Eastern District of Louisiana, for conspiracy to commit wire fraud, in connection with the Deepwater Horizon BP Oil Spill. On April 28, 2015, Wendy Ervin pled guilty in U.S. District Court, Eastern District of Louisiana, to one count of conspiracy to commit wire fraud, a felony. On January 13, 2016, Wendy Ervin appeared before U.S. District Judge Susie Morgan, where she was sentenced to three years' probation and ordered to pay \$17,300 in restitution to the Gulf Coast Claims Facility (GCCF). Ms. Ervin was on federal probation at the time she was hired by the OPCD in April 2016.

CONCLUSION

The OIG determined that Wendy Ervin was a convicted felon and notified the Louisiana State Police NCIC/LLETS Access Unit (LSP) of its findings concerning Wendy Ervin's felony conviction. After conducting their own investigation, the LSP also confirmed that Wendy Ervin did have access to LLETS and NCIC and that she was a convicted felon. The LSP contacted OPCD Executive Director Tyrell Morris, via email, to notify him that Wendy Ervin's access to NCIC/LLETS had been terminated, effective February 14, 2020.

On April 17, 2020, Mr. Morris sent a letter to the Louisiana State Police NCIC/LLETS Access Unit requesting that they reconsider their decision to terminate Wendy Ervin's NCIC/LLETS access. The LSP denied the request and reaffirmed their decision to terminate Wendy Ervin's access to NCIC/LLETS.

Sincerely,



Edward Michel
Interim Inspector General
City of New Orleans

OFFICIAL COMMENTS FROM THE ORLEANS PARISH COMMUNICATIONS DISTRICT

City Code Section 2-1120(8)(b) provides that a person or entity who is the subject of a report shall have 30 days to submit a written explanation or rebuttal of the findings before the report is finalized, and that such timely submitted written explanation or rebuttal shall be attached to the finalized report. On August 17, 2021, the OIG distributed a draft report to OPCD so that they would have an opportunity to comment on the report prior to its public release. OPCD provided comments on September 22, 2021. These comments are attached.

OIG's response to OPCD's comments concerning the Louisiana State Police granting Wendy Ervin Louisiana Law Enforcement Telecommunications System and the National Crime Information Center access certification:

In its response to the OIG's report, OPCD asserted that the OIG did not include the following language in its report: "On May 16, 2018, LSP granted Ervin NCIC/LLETS access certification." This information is misleading because as noted on page 2 of the Report of Investigation:

- a. If a felony conviction of any kind exists, the Interface Agency shall deny access to CJ. However, the Interface Agency may ask for a review by the CSO in extenuating circumstances where the severity of the offense and the time that has passed would support a possible variance.

The interface agency in this instance is the OPCD. It was their responsibility to deny Wendy Ervin access to CJ because she had a felony conviction. OPCD should have requested permission in advance from the Louisiana State Police for a "possible variance."

Unlike the OIG's Audit Division, the OIG Investigations Division does not recommend corrective actions in a Report of Investigation (ROI). However, because OPCD made note of the fact that the ROI did not recommend corrective actions, the OIG Investigations Division recommends the following:

1. The OPCD should conduct an immediate inquiry to determine if access to the Louisiana Law Enforcement Telecommunications System (LLETS) and the National Crime Information Center (NCIC) was granted to any other convicted felons, prior to revising your employment criteria in 2018.
2. Should you find that you have granted access to other convicted felons, please immediately notify the Louisiana State Police NCIC/LLETS Access Unit to ensure that their access is revoked.

MILLING

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September 22, 2021

Via: Electronic Transmission (wbonney@nolaog.gov)

William Bonney
Deputy Inspector General for Investigations
New Orleans Office of Inspection General
525 St. Charles Avenue
New Orleans, Louisiana 70130

Re: *Report of Investigation*

Dear Mr. Bonney:

The undersigned counsel represents the Orleans Parish Communication District (hereinafter "OPCD"). I have been provided a copy of your correspondence dated August 23, 2021, and enclosed draft Report of Investigation for review and response.

As an initial matter, I note that your investigation appears incomplete. Please note the following additional information that was not included in the draft Report of Investigation:

- 1) In April, 2016, Ervin was employed by OPCD.
- 2) Ervin disclosed her non-violent felony conviction, and OPCD reported it to the Louisiana State Police (hereinafter "LSP"). LSP cleared Ervin for employment by OPCD.
- 3) In 2018, OPCD was granted National Crime Information Center (NCIC) and Louisiana Law Enforcement Telecommunications System (LLETS) access.
- 4) On April 25, 2018, OPCD submitted a LLETS Operator Access Form for Ervin with her fingerprints to LSP for approval.
- 5) On May 16, 2018, LSP granted Ervin NCIC/LLETS access certification.
- 6) In February, 2020, LSP revoked Ervin's NCIC/LLETS access, and advised OPCD of the revocation.
- 7) OPCD likewise revoked Ervin's NCIC/LLETS access.
- 8) In April, 2020, Executive Director Tyrell Morris (hereinafter "Morris") requested an exemption for Ervin based upon her many years of dedicated service to OPCD in accordance with United States Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division (CJIS), Security Policy 5.12.1, 3(a) (hereinafter the "Policy"). LSP denied the requested exemption.
- 9) In 2018, OPCD revised its employment criteria whereby applicants with felony convictions are not considered for operations positions with NCIC/LLETS access.
- 10) Ervin did not illegally or improperly access the NCIC/LLETS database, nor are there any allegations that she did so.

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September 22, 2021

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As a secondary matter, I note that the Title of the draft Report of Investigation and Date of Occurrence identified therein are inaccurate and misleading. As your office noted in the Conclusion, Ervin does not have NCIC/LLETS access and has not had such access since February, 2020. Furthermore, as noted herein, Ervin did not have NCIC/LLETS access in April, 2016, and was not granted such access until May, 2018 when LPS granted her access.

As a tertiary matter, I note that your office failed to recommend any corrective actions and/or failed to clearly note in the draft Report of Investigation that corrective actions are not necessary.

Please include all comments in the final Report of Investigation to ensure both accuracy and completion. If you would like to discuss this matter in greater detail, do not hesitate to contact my office.

Yours truly,

Benjamin M. Chapman

BMC/

c: Orleans Parish Communication District