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National Sheriff's Association

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Virginia Sheriff's Association

SPOTSYLVANIA COUNTY SHERIFF'S OFFICE



Office of Sheriff
Sheriff Howard D. Smith
Post Office Box 124
Spotsylvania, Virginia 22553
Phone: 540-582-7115 • Fax: 540-582-9448

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Dear Board of Supervisor Members,

I have been in discussion with some of you regarding Illegal Aliens within our community and the resolutions recently passed in PW and Loudoun Counties which, in part, direct or encourage law enforcement to take action.

This memorandum is intended to summarize the issue from this Office's standpoint for you.

Over the past several months the Sheriff's Office has been engaged in a research project to determine a method by which the problem of Illegal Aliens can be met by law enforcement without sacrificing the basic mission. Some law enforcement executives have made flat statements that they will not allow the members of their agency to enforce Immigration Laws. At the same time some Counties have passed legislation that requires local law enforcement to ascertain the status of suspected illegal aliens and take action. (A cautionary note: On July 26th, 2007 a Federal Court struck down a town ordinance in Pennsylvania as being unconstitutional.)

These approaches represent both ends of the spectrum. On the one hand the flat statement that the law will not be enforced is "ostrich like" and denies that there is a problem; on the other end a burden is placed upon field law enforcement officers that weighs down their ability to do the preventive work that must be done. The Spotsylvania County Sheriff's Office feels that the answer lies somewhere in the middle.

Our research has led us to an avenue of approach that has been implemented in other areas of the nation and provides a method by which the Hispanic

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Community does not get the impression of law enforcement stopping every Hispanic person to check their immigration status. At the same time this approach identifies those "illegals" that violate the law and are arrested.

The program is authorized under the Immigration and Nationality Act of 1996 Amendment Section 287 (g) --- commonly referred to as the 287 (g) Program.

In essence the program allows local law enforcement to enter into a Memorandum of Agreement with the Department of Homeland Defense, this agreement provides for the "deputizing" of local law enforcement officers as Immigration, Customs Enforcement (ICE) agents. The program allows officers to access the Federal Immigration Data Base to identify those within the country legally and those who are not. The program also identifies those illegal aliens that have been contacted before and deported or wanted. The program has been in place in several areas of the country most notably Mecklenburg County, North Carolina and Orange County California.

There are several features of the program that are attractive from a law enforcement standpoint:

- The program is most often administered through the corrections system and removes the burden of enforcement from the field law enforcement officer.
- The program identifies minor law violators who are also illegal aliens and allows for their removal from the community.
- The programs requires four (4) weeks of training by the Department of Homeland Defense and if administered through the corrections system field law enforcement officers are not lost to the community for that period.
- The program makes sense in that law enforcement can go about its normal work within the community. Individuals regardless of status will not be hesitant to report crime for fear of being identified as an illegal alien.

There have been some overtures towards Regionalization of the Program and this Office feels that the best course of action is to explore the installation of the Program at the Rappahannock Regional Jail. To that end this has been placed to the RRJ Board Agenda for discussion purposes.

Again it is rational to attach this effort to the jail system as the successful operational programs in the country have. Mecklenburg County has been in operation since May of 2006 and to date has processed over 2,000 illegal aliens through the system. All of these individuals had violated the state law before their identification by the jail, all had "detainers" placed and all were turned over to ICE and deported. According to a Sergeant that supervised the program they consider it a huge success. Orange County California initiated the program in January of 2007 and has had a similar success.

Of course there is at least one down side to the program. Both Orange and Mecklenburg have experienced a percentage growth in their illegal inmate population and some overcrowding has taken place. Although the number of arrests and incarcerations has not been affected (because individuals are originally arrested on other charges) once the individual is identified he/she cannot be released until their sentence for the local charge is completed, they are then turned over to ICE.

Another possible impediment is the local ICE response. When "illegal's" are ready for release ICE needs the resources to receive and transport them to a Federal facility. In Orange County California this is not a significant problem because of the number of ICE agents in the area, in Mecklenburg the delays are one or two days before the individuals are released to Federal Custody. It is assumed that because of the proximity of ICE resources in the Washington area our experience would be similar to that of Orange County.

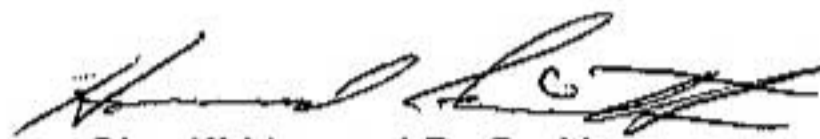
Although revenue is not an issue in this discussion; once a person is accepted as an ICE detainee and completes his/her local sentence he/she becomes a federal prisoner at the rates provided by the US Marshal's Office. In Mecklenburg the Federal Rate is \$108. Per. day and when 80 to 100 prisoners a day are held the revenue can be significant, we do not expect that this area would match the volume of Mecklenburg, however.

The local approach will require a Memorandum of Agreement between the Jail Authority and the Department of Homeland Defense to initiate the 287 (g) program. Entering into the program through the jail provides not only Spotsylvania County but also the other RRJ participants the coverage afforded by the Program. In late 2008 the new addition to the jail is scheduled to open and the additional bed space will provide room for the jail population increase.

It is my hope the Jail Authority ,of which Mr. Wheeler, Mr. Neely, and myself are members, will advance the proposal for RRJ Superintendent and staff to evaluate the feasibility, determine impact on the facility and staff and let us know what would be needed in order to implement such a program.

If you have questions or would like to discuss further, please do not hesitate to contact me.

Warmest regards,



Sheriff Howard D. Smith