

What The Section 287(g) Program Can Do For Your Community

By Sheriff Jim Pendergraph, Mecklenburg County Sheriff's Office, Charlotte, North Carolina



Photo Credit: Charlotte Observer, Diedre Laird

It is quite amazing, after eleven years, how few sheriffs and law enforcement officers have heard of U. S. Immigration and Customs Enforcement (ICE) Section 287(g) Program. It is equally amazing how few people understand what it is and the potential benefits it can provide for your community.

What is the Section 287(g) Program?

The Section 287(g) Program originated when the 1996 amendments to the Immigration and Nationality Act passed Congress. It is designed to enhance cooperation and communication between ICE and state and local law enforcement. Under the 287(g) Program, ICE provides training and subsequent authorization to identify, process, and when appropriate detain immigration offenders encountered during regular law enforcement activities.

Mecklenburg County, NC

Around 2000, I noticed an increase in the number of arrests of suspected illegal immigrants for state charges, the majority being for DWI and domestic

violence. This increase continues today. In the last four years, my jail population of illegal immigrants has risen from 2% to 20%. We are also seeing an increase in the arrests of illegal aliens who work construction jobs by day and sell drugs out of their pickup trucks by night. Positive identification was nearly next to impossible. The only true positive identification of these arrestees is by fingerprinting, however, only ICE personnel have access to federal immigration databases. One cannot identify an individual by a name search over the telephone and those who claim that is possible are living in a dream world. I knew there were many illegal immigrants, some with felony convictions, who were posting bond and walking out of my jail daily.

I searched for a solution to the identification and criminal illegal immigrant issue. In late summer 2005, I discussed my frustration with Sheriff Mike Carona of Orange County California. He suggested I explore the Section 287(g) Program. He informed me he was currently in the process of signing a Memorandum of Understanding (MOU) with ICE to begin the Program in his county. I immediately contacted my ICE representative in Charlotte about the Program and was informed it was available, but few people knew anything about the details. Sheriff Carona sent me a sample of his Program application letter. I copied and forwarded it to ICE in Washington, requesting to be part of the Program.

U.S. Representative Sue Myrick, is a

staunch opponent of illegal immigrant amnesty and a proponent for tougher border control. She immediately came to my assistance, and wrote a letter supporting my partnership with ICE and the 287(g) Program. Within sixty days, my request was approved and the ICE training for twelve deputy sheriffs was under way. The twelve deputy positions were funded with excess revenue generated from housing more federal inmates than originally projected for the fiscal year. My County Manager and Board of County Commissioners have been very supportive of the ICE efforts and the entire Program. ICE provided and installed the AFIS equipment and a photo recognition system at my arrest processing center.

What is the process?

Everyone arrested in Mecklenburg County is processed at the Sheriff's Arrest Processing Center at Jail-Central. We process approximately 50,000 arrestees per year. Since May 1, 2006, when we began the ICE screening, every arrestee is asked two questions regarding their citizenship. "Were you born in the United States?" and "Are you a U.S. citizen?" Anyone answering no to either or both questions, or who does not speak English, is fingerprinted and a recognition photo is taken and submitted electronically to ICE. Usually, within five minutes, a response is received regarding any contact the arrestee may have had with any federal agent or law enforcement official, including prior photos.

Many prior encounters of illegal aliens with U.S. law enforcement were made at the U.S./Mexican border. One individual we encountered early in the screening process had been ordered removed from the United States 22 times prior to our encounter with him. If this is the arrestee's first encounter with law enforcement and the individual's fingerprints are not in file, we usually

can determine that the individual is in this country illegally by the lack of any valid documentation, forged documents in their possession, or the inability to speak English. At this point, the initial entry is made into the ICE system regarding the circumstances and pending charges along with fingerprints and photos. The work is all completed by my ICE trained deputies who are certified federal officers. Depending on the current charge(s), prior records and convictions, and prior deportations, the arrestee is either given a Notice To Appear (NTA) in Immigration Court or a detainer is placed on the arrestee and they are marked for deportation. Individuals detained for ICE must answer for their state or local charges before being transported to the Immigration Court for deportation. The access to

gram was and what I hoped to accomplish with it. I have stayed in constant contact with the media and community leaders regarding the Program. My initial goal of positively identifying illegal aliens in our community committing crimes and removing them from our community, has never changed.

As you might suspect, the Latino media, supportive of the Latino community that represents the largest illegal immigrant population, was suspicious of the Program. Latino community advocates voiced loud concerns of profiling and increased arrests for minor traffic offenses, resulting in deportation. Unfortunately, most immigrants are suspicious of law enforcement and have some history of dealing with corrupt government officials from their home country. I believe many immigrants, legal and illegal, expect law enforcement officials to be corrupt and it is therefore difficult for them to believe that I will do exactly what I say.

The facts speak for themselves: arrests for traffic offenses and misdemeanors of illegal immigrants have actually decreased since the 287(g) Program started in Mecklenburg County. It is hard to argue with arrest facts and statistics. Maintaining this documentation is another important part

of the local Program. It is also hard for anyone to criticize the removal of criminals from our community.

Each month, we provide all media outlets with monthly reports of arrests involving identified illegal immigrants and deportation statistics. The community at large is very supportive of the 287(g) Program. It has been even more successful than I could have imagined. As of February 1, 2007, we have identified over 1330 illegal alien immigrants in Mecklenburg County who have been charged with or convicted of a state crime that meets the criteria for removal from our country.

I have been asked if the Program is



Photo Credit; Charlotte Observer, Diedre Laird

ICE databases also gives us information on the validity of passports or other 'official' documents an arrestee may have in their possession. Forged documents, including birth certificates, drivers licenses, and even children's vaccination records, are quite common.

Community Reaction

One of the smartest decisions I made with the 287(g) Program was informing the news media and community of my intention to partner with ICE very early in the process. Immediately after applying for the Program, I called a press conference and community meeting to inform everyone about the 287(g) Pro-

effective. The simple answer is yes. If that many criminals are removed from any community, it will make a positive difference in the crime rate. I only wish there was a mechanism to remove criminals who are U.S. citizens from our community. On the down side and a very telling sign of the porous nature of our southern border; of the illegal aliens already deported from Mecklenburg County, we have already seen approximately one third of them return to Mecklenburg County and rearrested for another criminal offense. If one third has been deported and rearrested, what percentage is returning? The answer is appalling and frightening.

Conclusion

Approximately one month ago, I met with about a dozen Latino community leaders and news media representatives. The topics of discussion were the same as usual, concerns about the 287(g) Program and the fear in the Latino community of being identified and deported. My first question to the group was: "How many of you are U.S. citizens?" They all were. I read a statement President Theodore Roosevelt made 100 years ago about immigrants. He stated that it was an outrage to discriminate against any immigrant community or person that came to the U.S. legally and assimilated into our culture, but it was also an outrage for any immigrant to say they were Americans but have dual loyalties. There is room in the United States for one loyalty, that is to the American flag; loyalty to one people, that is to the American people; and loyalty to one language, and that is the English language. Any real American cannot have two loyalties and if you do, you need to reassess your priorities. After my comments to the group there was very little criticism of the Program that day.

Since my 287(g) program started in May 2006 it has received nationwide attention and articles have been written about it in *The Washington Post* and the *Philadelphia Inquirer*. I have appeared twice on CNN's Lou Dobbs Show. This media attention resulted in hundreds of supportive emails and letters from citizens and law enforcement officials from across the United States.

The citizens we are sworn to protect are demanding action on the illegal immigrant problem. Unfortunately, even though this is a 'federal' issue we are the most visible government officials in our respective communities. Our citizens do not care whose 'responsibility' this issue is, they simply want something done. The 287(g) Program is one way to expeditiously and effectively do something positive for our communities.

What Can You Do?

If you would like to be a partner in the 287(g) Program, I suggest you first contact your local ICE officials for more information. The ICE officials I partner with in North Carolina are

some of the most dedicated individuals I have ever worked with. However, they are overwhelmed with their caseloads and need our help. This illegal immigrant problem has become so large the Federal government cannot handle it without state and local help. It is also very important to obtain the support of your Congressional representative and your County Manager. ☘

For more information on the Program, simply Google 287(g). The Mecklenburg County Sheriff's Office will gladly provide any assistance or answer any questions you may have regarding the Program. We can be reached at (704)336-3667 or at www.mecksheriff.com.

EDITOR'S NOTE:

The following article is excerpted with permission from written testimony to the United States Congress in August 2006 by Sheriff Jim Pendergraph.

Empowering Local Law Enforcement to Combat Illegal Immigration

By Gini and Dan McKain

First, let me begin by saying that I fully support the Office of the President of the United States and President Bush. It is therefore with all due respect that I make my comments on a very serious and controversial subject, so please excuse me for being blunt.

However, I, and many others, strongly disagree with President Bush's policy, or lack (thereof), on illegal immigration. The Congress of the United States has let us down by the lack of action on the illegal immigration issue for decades, leaving those of us responsible for local law enforcement to deal with not only the fall-out of the criminal element, but the ire of the public for their perception of our inaction on a federal issue.

Mine is one of the few sheriffs' offices in the United States that has signed a Memorandum Of Understanding (MOU) with Immigration and Customs Enforcement (ICE) for the 287(g) program. After extensive training, twelve of my deputies are

certified under this program to screen illegal immigrants arrested in Mecklenburg County.

"This certification gives us access to ice databases of fingerprints and photographs, which is the only real method of positively identifying a person and their immigration status. Most law enforcement agencies in this country are trying to identify the legal status of an individual by telephoning the law enforcement support service center in Vermont and submitting the name of a person in question. This is virtually worthless and a waste of time. I know it is shocking, but people lie to law enforcement about their name and use names of persons who are in this country legally.

"This past February I had lunch in Washington D.C. with a group of chiefs and sheriffs from the largest law enforcement agencies in the U.S. I informed one of the chiefs of police of my recent agreement with ICE to screen illegal aliens and deport them if they fit the criteria.

"His comment to me was "Congratulations and best of luck. I envy what you are doing but I'd have to turn in my resignation the same day I signed such an MOU. It is not politically correct to cross local business that uses the cheap labor."

". . . This 'political correctness' will eventually be the downfall of this country if someone doesn't wake up. My office started the immigration screening for persons arrested on May 1, 2006. My jail population for illegal immigrants has grown from 2% to over 15% in the last three years. We have so many "new" arrestees to process, we have not been able to process the 350 inmates suspected of being illegal, that were "already" in the jail on May 1.

"As we suspected, the vast majority of immigrants arrested and processed are in this country illegally. Infrequently, we find a legal resident arrested, but they are rare since the ("legals") are very protective of their legal status. More than half of the screened illegals have detainees for deportation placed on them immediately, either for past removals from this country or for the seriousness of the crime they are accused of.

"The first week we were processing, we came across an individual who had been removed from this country 22 times. His last deportation was from the Arizona Department of Corrections back to Mexico, and he was arrested a short time later in Charlotte for trafficking methamphetamines.

"Again, the majority of the people detainees are placed upon have been deported multiple times. The ones not held for deportation are cited for an immigration hearing in Atlanta. Most, 97%, never show up for the hearing, which is another reason we need an Immigration Court in Charlotte.

"So many illegal immigrant criminals have been identified through my 287(g) program, it is causing me a jail space problem. One of the agreements with ICE in the beginning was for their removal of the identified offenders as soon as possible. I don't think even they foresaw the numbers we would be dealing with. The removal and detention division of ICE is overwhelmed by the numbers we are generating for removal in Mecklenburg County alone.

"In the last year I have come to know and work very closely with the

ICE employees in my area. I suspect the public would be outraged to know how few ICE agents there are assigned to North Carolina. ASAC Jeff Jordan, and ASAC Ken Smith from Atlanta, have literally bent over backwards to make this 287(g) program work. They are as dedicated and professional people as I have worked with in my 36 year law enforcement career. However, they are as frustrated as I am with their lack of resources, and the frequent dealings with the same people they just removed from this country only a few days prior.

"I attended a meeting at the White House two months ago with Attorney General Alberto Gonzales and ICE Director Julie Myers, . . . National Sheriffs' Association (members), . . . and other groups representing local law enforcement. (It was) stressed that border security was the number one issue that needs to be addressed by Congress.

"Another issue I brought to the Attorney General's attention is the common practice by state and federal prosecutors to dismiss criminal cases if an illegal immigrant agrees to voluntary removal. The illegal criminal immigrants know the system and how it works better than most of us. This in effect wipes the slate clean for a criminal, gives him/her a free ride home at tax-payer expense to visit family, and then begin the journey back to the U.S. to victimize other U.S. citizens. Think of the frustration we feel when a group of illegals leaves the jail for deportation and they smile and say "We'll see you next week."

"One of the main purposes for our meeting with the Attorney General was for him to promote the 287(g) program and to request 'everyone' to become part of it. Most chiefs of police are not interested in the program for various reasons; the main one being it is not politically correct and is viewed as a federal problem.

"Most sheriffs, however, because they are elected, would like to be part of the 287(g) program, but ICE administrators admit they have nowhere near the resources to support that many MOU's. ICE agents in North Carolina could not handle the work load if one fourth of the North Carolina sheriffs signed an MOU with ICE for the 287(g) program. I can tell you for a fact, had it not been for Representative Myrick, I

probably would not have my program operating now.

"I firmly believe we are just seeing the beginning of problems surrounding illegal immigration. I have often heard that these illegal immigrants are just trying to feed their families and provide themselves a better life. I have seen some sad cases in my career of people resorting to bank robbery and other crimes to provide for their families. Can we afford to pick and choose the laws we enforce? This country was built on laws and I took an oath many years ago to enforce the law and protect our citizens from all enemies, foreign or domestic. I (still) take that oath seriously.

"The average citizen has no idea what illegal immigration issues costs us in infrastructure tax dollars. These include the criminal justice system, hospital emergency rooms, county departments of social services, schools etc. A recent report from the Mecklenburg Health Department stated that the county spent \$400,000 last fiscal year for interpreters for people who could speak little or no English that were seeking health services. The county's health director predicts that in less than five years, fully 20% of the children starting school in Mecklenburg County will be children of illegal immigrant parents with little or no English (language) skills.

"I have nothing against immigrants. This country was built with and by immigrants looking for a better life. The flood of illegal immigrants crossing our southern border, expecting citizenship and all the privileges that come with it, is a slap in the face to every other immigrant who went through the legal process and did it the right way. Even though I have great concern for the flood of illegals coming across our southern border looking for a better way of life, my bigger concern is for those crossing our porous border looking to cause harm and commit acts of terrorism against the U.S. This is a serious homeland security issue.

"I have just scratched the surface of issues we face every day just dealing with illegal immigrants committing crimes in our community. Thank you for the opportunity to testify before this commission. May God bless America and help Congress come to a quick resolution on this issue," concluded Sheriff Pendergraph. ☺