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Prominent arrests shine spotlight on 287(g) program

One was a woman on the brink of giving birth to her fourth American child. The other was an ex-convict with over 20 arrests for various burglaries, gun possession and drug-related charges.

Both were arrested by local police officers this month for misdemeanor crimes that usually lead only to citations. Instead, both were taken to the county jail, where the Davidson County Sheriff's Office discovered they were illegal immigrants through the implementation of a program called 287(g).

Initiated in April of last year, the 287(g) program allows the sheriff's office to check an individual's immigration status once they are brought to county lock-up.

Now, both individuals are facing deportation. In the meantime, advocates for and against the much-debated 287(g) program are ratcheting up their rhetoric.

287(g) Poster Child

Manuel Garcia Delgado was arrested by Metro Police on a misdemeanor trespassing charge earlier this month. When he was taken into sheriff's office custody, it was discovered he had a shockingly long list of convictions.

Among them were charges for gun possession, burglary and several drug-related crimes. In addition, Delgado, an illegal immigrant, had been deported five times already.

Tom Davis, the director of immigration enforcement for the Sheriff's Office, said Delgado is the "poster child" for why the 287(g) program works effectively.

Had it not been for the program, the sheriff's office never would have discovered Delgado's immigration status and multiple aliases — he has more than 20, according to the sheriff's office.

Prior to the initiation of 287(g), Davidson County Sheriff Daron Hall said only criminals arrested for crimes like rape and murder had their immigration status checked by federal officials.

Since the program's inception, Hall said more than 3,500 illegal immigrants have been identified by 287(g). Among them have been more than 60 alleged gang members and several wanted for violent crimes like murder, according to Hall.

Many of them were arrested for traffic violations and would have slipped past federal immigration status checks prior to the implementation of 287(g) last year.

“The federal government wasn’t telling us who was illegal and who wasn’t as we expected them to do back in those days,” Hall said.

While identifying violent criminals like Delgado has been one benefit of the 287(g) program, Hall is quick to point to other statistics he says demonstrate the initiative’s effectiveness.

Since the launch of 287(g) in Davidson County, the percentage of illegal immigrants identified by the program has fallen by 30 percent. Through June of this year, just 5.2 percent of those arrested have been determined to be illegal immigrants by 287(g).

Hall said there was no indication that number was going anywhere but up before the inception of 287(g).

The statistics bleed over specifically into crimes like driving under the influence. The number of foreign-born individuals charged with DUIs has dropped by 20 percent since April 2007.

There’s also been a cost benefit, Hall said. The federal government compensates the sheriff’s office for the cost of housing and caring for inmates who are determined to be illegal immigrants. Since the program’s inception, Hall said his office has been reimbursed for a total \$1.1 million since April 2007 and is currently receiving about \$200,000 per month.

Standing on the other side of Hall’s point of view are advocacy groups, including the Tennessee Immigrant and Refugee Rights Coalition, which believe the scope of 287(g) has increased beyond what was promised by Hall two years ago.

TIRRC Executive Director Stephen Fotopulos points to the fact that 81 percent of those identified to be illegal immigrants under 287(g) are arrested for misdemeanor crimes like traffic violations.

“I believe that any confusion of local peacekeeping and civil immigration enforcement is a mistake,” Fotopulos said.

Pregnant and Shackled

If Delgado is the sheriff’s office poster child for how 287(g) prevents dangerous criminals from slipping through the cracks, then the opposition’s counterpart is Juana Villegas DeLaPaz.

Stopped by Berry Hill Office Tim Coleman, a candidate for Metro’s school board, Villegas was arrested instead of being cited on July 3 for driving without a license.

At nine months pregnant, Villegas was found to be an illegal immigrant once she was in custody of the sheriff’s office 287(g) deputies. Villegas gave birth to her fourth child while in custody and was bound to her hospital bed for portions of her stay in the delivery room.

Although the sheriff’s office maintains Villegas was treated appropriately — pointing out the shackles were not restrictive and were removed in the lead-up to and after birth — local advocates are outraged. All told, Villegas was in custody for six days before her release and is now waiting immigration charges.

“The fatal flaw of the sheriff’s program is that any person with a civil immigration violation is treated like a dangerous criminal when they’re not,” Fotopulos said. “To see [sheriff’s office spokeswoman Karl Weikal’s] statements that the way Juana was treated was appropriate... it’s shocking.

“If shackling a pregnant woman to a hospital bed for a driving infraction is an appropriate action, then we are all less safe.”

‘That’s the fact that’s often left out.’

Fotopulos’ complaint with the arrest of Villegas is whether she should have been arrested, and not simply cited, in the first place.

Although Villegas was arrested by a Berry Hill officer, her situation is typical of many of the illegal immigrants who have been taken into custody by local police, according to immigrant advocates. Many in the Hispanic community believe local officers are profiling individuals pulled over for a traffic violation.

“There’s just far too much discretion by individual officers for it to withstand that significance of the program,” Fotopulos said. “Being arrested for something does not mean you’re guilty.”

But Metro Police spokesman Don Aaron said officers aren’t choosing an arrest in favor of a citation because they suspect a traffic violator is an illegal immigrant.

The Metro Police Department has a policy detailing when an individual should be arrested instead of being cited. Aaron said the threshold for whether someone should be arrested or cited is merely that individual’s ability to provide sufficient identification. If, for instance, someone is pulled over and found to be driving without a license, Metro Police have a long list of other forms of identification that can be presented. If drivers can prove their identity and address to the officer, a citation is issued, according to Aaron.

Hall said the reason a high number of illegal immigrants are arrested instead of cited is because they don’t have any sufficient form of identification.

Hall also takes issue with the notion that illegal immigrants are eventually deported for not having a license or not wearing a seatbelt. He blames over-zealous advocates for spreading misinformation.

“If you’re going to be in that advocate’s role that says, ‘But they need to get to work, they need to go do these things.’ You should also say, ‘You’re risking it if you do not have these forms of ID on you, even if it’s not a license,’” he said.

“Instead, they like to say the illegal fishing will get you deported. No, illegal fishing will get you cited. The fact you can’t prove who you are will get you arrested. That’s the fact that’s often left out.”

Fotopulos said TIRRC is educating immigrants on how to properly identify themselves following traffic stops. But he added that the Hispanic community is “terrified” because of 287(g). Fotopulos argued that some in the immigrant community are less likely to call for police help for fear of having their immigration status checked.

“When you have a mother and a father who won’t ride in the same car together to take their child to school for fear of, ‘Who will take care of them if we end up with a tail light out?’ then something is wrong,” Fotopulos said.

Metro Police has attempted to reach out to the Hispanic community with a program called EI Protector, which holds workshops and provides information on how local law enforcement works.

“You have people from other countries and oftentimes their law enforcement is drastically different than it is here,” said Metro Officer Juan Borges with EI Protector. “The goal is to make sure we can prevent them making mistakes that could cost them going to jail.”

In the meantime, attorneys are preparing to fight the arrest of Villegas, who has an Aug. 15 court date scheduled. Advocates believe winning Villegas’ case will set a precedent that could ultimately take a bite out of 287(g).

“There are two recommendations we’ve made to the sheriff to give the program even a chance of success,” Fotopulos said. “The first is a criminality threshold, where felons are affected, so that we are actually directing our resources to dangerous criminals. The second is that we have a screening after conviction as is done in other places.”

Fotopulos believes this would assuage the growing fears of the immigrant community in Nashville, but Hall sees things differently.

“If you’re illegally here and committing crime, I think you should be in fear, quite frankly,” Hall said. “If you’re committing crime and you’re here illegally in our country, you should fear the fact you’re going to be held accountable.”

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