

Virginia State Crime Commission

Illegal Immigration

2007

ILLEGAL IMMIGRATION

An apparent lack of action by the federal government to successfully address the issue of illegal immigration has resulted in calls for action at the state and local levels of government. The Commonwealth of Virginia and its localities have not been immune from this trend. Indeed, a considerable number of legislative measures aimed at addressing various aspects of illegal immigration have been proposed to the General Assembly of Virginia, at an increasing rate, in recent years. The number of immigration related bills in the Virginia General Assembly has steadily increased since the 2003 session. Of the nearly 50 bills during the 2007 session of the General Assembly, only 4 were signed into law. These recent efforts aimed at prompting state action related to illegal immigration, combined with uncertainty over what measures are effective or even legally permissible, compelled a thorough look at the issue in the Commonwealth. The Crime Commission formed its Illegal Immigration Task Force (“Task Force”) to address this necessity.

The mission of the Task Force was framed with the statutory authority of the Crime Commission in mind. Consequently, the mission of the Task Force was appropriately limited in scope to the impact of illegal immigration on Virginia’s criminal justice system. The members of the Task Force were selected from across Virginia. These highly-qualified individuals have diverse experiences and backgrounds that enabled the Task Force to study the issue from a variety of perspectives. The 21 voting members consisted of an array of legislative leaders, law enforcement and corrections experts, prosecutors, members of civic and cultural organizations, and faith-based leaders. The Task Force was also aided by two citizen advocates, two independent legal advisers, and a congressional liaison.

The Task Force conducted five meetings between May and October of 2007. General topics covered

at these meetings included legal issues affecting state action, illegal immigrants as criminals, illegal immigrants as victims of and witnesses to crime, and enhancement of communication and relations between law enforcement and immigrant communities. Twenty presentations were made before the Task Force. These presentations included those by representatives of the United States Immigration and Customs Enforcement (“ICE”), legal experts, local law enforcement officers, a representative of the International Association of Chiefs of Police (“IACP”), a representative of the National Latino Peace Officers Association, representatives of non-profit organizations, and Crime Commission staff.

A total of 32 proposals for recommendations were submitted by individual Task Force members for consideration at its final meeting. Sixteen of the proposals were approved as official Task Force recommendations. Three were found to be outside the scope of the Task Force’s mission and were recommended for referral to the Governor’s Commission on Immigration. All of the Task Force’s 16 recommendations were approved by the Crime Commission. Included are recommendations regarding the role of the federal government, data collection, education for immigrant communities, training for law enforcement, cooperation and communication with ICE, and the role of jails and prisons. The recommendations represent the Task Force’s and Crime Commission’s desire to bring forth measures that are not only legally permissible, but also constructive and effective.

FEDERAL IMMIGRATION LAWS AND PREEMPTION OF STATE MEASURES

Immigration-Related Legislation in Virginia

There were a significant number of bills introduced over the last five legislative sessions, even though there are several existing Virginia Code sections that already address illegal immigration. Currently, there are 23 Virginia Code sections that directly address illegal immigration. Of these 23, 15 deal with criminal justice or public safety. Four

provisions address public benefits/assistance, one creates an identification requirement pertaining to drivers licenses, and two impose reporting requirements for colleges/universities and state mental health facilities.

Criminal Violations under Federal Immigration

The U.S. Code contains 24 sections that deal specifically with crimes related to immigration. The unlawful activities that are forbidden by these sections can be divided into four categories: (i) aiding of illegal immigrants by third parties; (ii) illegal entrance and departure; (iii) unlawful acts involving immigration documents; and (iv) employment.

Preemption

In general, Article 7 of the U.S. Constitution makes the “Constitution, and the laws of the United States” the “supreme law of the land.” Also known as the Supremacy Clause, it prevents the creation of, or “preempts,” existing state or local law that conflicts with existing federal law. The power to regulate immigration is considered an exclusive federal power.

Although the federal power to regulate immigration is considered “exclusive,” the U.S. Supreme Court has never held “that every state enactment which in any way deals with aliens is a regulation of immigration and thus per se pre-empted by this constitutional power, whether latent or exercised.” Specifically, the Court has held that the regulation of immigration is “essentially a determination of who should or should not be admitted into the country, and the conditions under which a legal entrant may remain.” The Court, in DeCanas v. Bica 424 U.S. 351 (1976), outlined a three-part test for determining whether a state measure is preempted: whether (i) the state law regulates immigration, (ii) it was Congress’ “clear and manifest purpose” to ouster state power, or (iii) the state law “stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.”

There is some confusion concerning state law enforcement authority to arrest for criminal violations of federal immigration law. Currently, three statutes in the U.S. Code grant specific authority for state law enforcement officers to effect arrests for violations of immigration law. Section 1252c allows state and local law enforcement officers to arrest and detain an illegal immigrant who was previously convicted of a felony and removed from the U.S. Section 1324 allows state and local officers to effect arrests under the federal anti-harboring statute. Section 1357(g), commonly called the 287(g) program, provides the ability for state and local law enforcement agencies to enter into a memorandum of understanding with ICE for the purpose of authorizing state officers to enforce immigration law. Despite the explicit authorization found in these three statutes, there is a belief, held by some, that state and local law enforcement have “inherent authority” to enforce criminal violations of immigration law.

ILLEGAL IMMIGRANTS IN VIRGINIA JAILS AND PRISONS

To ascertain the approximate number of proxy illegal immigrants held in Virginia jails, Crime Commission staff contacted the Virginia State Compensation Board. The Compensation Board oversees the Local Inmate Data System (“LIDS”) database. Staff specifically requested records for all individuals who spent time in a Virginia jail between Fiscal Years, (“FY”) 2003 through 2007. Staff received over 1.8 million records. Due to the large amount of records, staff analyzed the most recent fiscal year, FY07.

Each record represents an offense committed by an individual; thus, there were far more offenses listed than number of individuals. Specifically in FY07, there were over 925,000 listed offenses committed by over 215,000 individuals. After receiving all of the records, staff had to determine a way to best approximate whether an individual was here in the United States legally or illegally. As a result, three criteria were developed for analyzing the LIDS data to determine who qualifies as an illegal alien.

First, the individual had to be born in a country other than the U.S. If the individual was born in the U.S., he or she was not included because he would automatically be a U.S. citizen. Second, the individual had to have citizenship in a country other than the U.S. However, an individual born in another country and with citizenship from a country other than the U.S. could still be in the country legally. For instance, he could be here on a temporary work visa, student visa or as a legal permanent resident. It should be noted that these two criteria, birth country and citizenship outside of the U.S., are what ICE uses as a proxy for investigations into whether an individual is illegally present in the U.S. or has violated residency or visa restrictions. To address the situation where a person is not a U.S. Citizen, but is here legally, a third criteria was added; the individual had to have an invalid social security number. The goal of the third criteria was to provide a more thorough examination of our jail population than even that employed by ICE, and thereby derive a more accurate approximation of the number of proxy number of illegal immigrants in Virginia jails.

Estimated Figures of Illegal Immigrants in Virginia Jails

The total number of individuals in a Virginia jail at some point during FY07 was 215,769. Of this number, 6% (13,735 of 215,769) were determined to be proxy illegal according to staff's three-prong criteria; 94% (202,034 of 215,769) were determined to be proxy legal.

It must be underscored that the figures set forth represent the most conservative estimate of proxy illegal immigrants in Virginia jails. If those with invalid social security numbers who were born in a foreign country, but whose citizenship status was unknown, were included, an additional 887 offenses would be added; if including those with invalid security numbers and unknown birth country and citizenship status, an additional 12,793 offenses by 7,629 additional individuals would be added. In the latter calculation, the estimated percentage of proxy illegal immigrants in Virginia

jails would be raised to 10%.

Staff purposefully set forth the most conservative estimate for a number of reasons. First, staff did not want to appear to inflate the estimated number of illegal immigrants in Virginia jails. Second, staff did not know for certain how much of the additional percentage included individuals who were intoxicated, mentally ill, or otherwise unable to articulate a social security number or who were currently on a student or tourist visa. It was concluded that it was too great an assumption to accept a less conservative approach. However, the potential range of proxy illegal immigrants in jails being anywhere between 6% to 10% should be recognized. It should also be recognized that the overall findings are based upon the best available resources for analysis at this point in time.

Summary of Jail Findings

In summary, the findings from the analysis indicate that the proxy illegal immigrant population comprised anywhere from 6% to 10% of Virginia's jail population in FY07. When looking at country of birth, individuals born in Mexico comprised the largest group of individuals held in jails across the Commonwealth. The majority of offenses for which proxy illegal immigrants were being held involved alcohol-related offenses and possession of fake identification documents.

Proxy Illegal Immigrants in Virginia Prisons

Crime Commission staff contacted the Virginia Department of Corrections ("DOC") to obtain an approximation of the number of proxy illegal immigrants in Virginia prisons. Again, staff asked for all records on individuals under DOC supervision for FY03 through FY07. Staff received over 100,000 records. Each record received was analyzed in terms of the most serious offense committed by an individual from his or her most recent event. So, if one was held on multiple convictions, only the most serious offense was counted for purposes of this analysis.

Determining Status

Unlike the Compensation Board's LIDS database, staff did not use Social Security numbers as a determination of illegal status. This was due to the fact that examination of that particular data entry field showed that DOC does not make extensive use of it for identification purposes and, thus, do not pay as much attention to cleaning out erroneous data in that field. Staff was unable to establish a three-prong criterion for DOC data and used the two-pronged criteria of examining country of birth and citizenship status that is employed by ICE.

The number of individuals under DOC supervision between FY03 through FY07 was 129,876. Of this number, 6,936 were foreign nationals (meaning born in a country other than the U.S.). Of the 6,936 foreign nationals, 44% or 3,064 individuals met the second prong of not having U.S. citizenship. Hence, proxy illegal immigrants comprised 2% (3,064 of 129,876) of individuals under DOC supervision from FY03 through FY07. In FY07, proxy illegal immigrants comprised 1.5% (368 of 23,958) of the total number of individuals under DOC supervision.

Summary of Prison Findings

Proxy illegal immigrants comprised approximately 2% of Virginia's prison population between FY03 through FY07. Individuals born in El Salvador comprised the largest group of proxy illegal immigrants, followed by an increasing number of individuals from Mexico. The majority of offenses occurred in Northern Virginia; however, cases involving proxy illegal immigrants do appear to be "spreading out" across the Commonwealth. The offenses committed by proxy illegal immigrants have remained fairly consistent over the past five fiscal years, including grand larceny, drug possession, robbery, DUI, and kidnapping/abduction.

THE ROLE OF THE UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT

In March 2003, ICE was established as the largest investigative arm of the Department of Homeland Security. It investigates a wide range of national security, financial and smuggling violations including drug smuggling, human trafficking, illegal arms exports, financial crimes, commercial fraud, human smuggling, document fraud, money laundering, child pornography and exploitation, and immigration fraud.

The Washington D.C. Special Agent in Charge Office ("SAC DC") of ICE is responsible for enforcement in the District of Columbia and the Commonwealth of Virginia. The SAC DC office is located in Northern Virginia and is responsible for performing duties within Northern Virginia and the District of Columbia. A Resident Agent in Charge Office ("RAC") located in Harrisonburg services the western part of Virginia and a RAC office in Norfolk services Southeast Virginia.

Given ICE's role as the federal agency responsible for the enforcement of immigration law, representatives of ICE were asked to present the Task Force with information on ICE initiatives and available resources. The Task Force was presented with information on ICE's 287(g) program. Pursuant to this program, the Secretary of the Department of Homeland Security is authorized to enter into agreements with state and local law enforcement to allow designated officers to become trained and authorized to perform immigration law enforcement functions pursuant to a memorandum of understanding. The program is voluntary. Participating state and local law enforcement officers are provided with training by ICE on how to identify, process and detain illegal immigrants encountered during their regular duties. The memorandum of understanding details the scope of authority and enforcement activities, supervision requirements, and training requirements. The Task Force was informed that the memorandum of understanding is flexible and

may be tailored and subject to modification as needed.

The Task Force was also presented with information on ICE's Law Enforcement Support Center. The Law Enforcement Support Center ("LESC") operates an Immigration Alien Query, which provides access to the approximately 93 million records held by ICE. The LESL mission is to provide investigative assistance to local, state, and federal law enforcement in the identification of illegal immigrants who are suspected of criminal activity. The LESL allows law enforcement officers to easily and quickly obtain information and assistance from ICE on law enforcement matters. The LESL database includes information on such individuals as lawfully admitted aliens or those who are here to apply to become lawful aliens, anyone who has previously been deported, students who enter on a visa, and those who constitute a national security interest who are trying to enter the U.S.

As of 2003, all 50 states have online access to the LESL. The Task Force was informed that from October 1, 2006, to May 7, 2007, there have been approximately 500,000 queries nationwide to the LESL. The Task Force was informed that LESL technicians receive about 2,000 requests for information per day and they expect to answer about 700,000 requests this year. Virginia has been online with the LESL since 2001. A representative from ICE informed the Task Force that the LESL is a very important tool for Virginia law enforcement and that its use by Virginia law enforcement is increasing with each year. Virginia law enforcement ranks tenth among the most frequent users of the LESL nationwide. In the past three fiscal years, LESL responded to a combined total of 22,283 electronic queries from Virginia law enforcement. In Fiscal Year 2004, the LESL received 4,878 queries from Virginia law enforcement. In Fiscal Year 2005, it received 8,880. In Fiscal Year 2006, the number decreased to 8,525. In Fiscal Year 2007, as of the July 24 meeting, the LESL had received 9,668 queries from Virginia and was expecting to receive about

12,000 by the end of the year. Ultimately, it was reported that the LESL received 12,073 inquiries from Virginia law enforcement agencies between August 1, 2006 and July 31, 2007, with 694 resulting in the issuance of detainers.

Upon questioning from the Task Force as to how many of the inquiries received from Virginia law enforcement led to the identification of illegal immigrants, the Task Force was informed that such information was not available. Specifically, it was stated that the person inquired about could be identified through the LESL as a legal permanent resident, a lawful permanent resident, a previously deported felon, or a visa overstay. U.S. citizens are not in the database, nor are illegal immigrants who have not been encountered. In instances where a query does not result in the production of any information on an individual, it may indicate that the person is either a U.S. citizen or an illegal immigrant who has not been previously encountered.

A representative of the Task Force emphasized the need to know how many of the inquiries made by Virginia law enforcement to ICE resulted in the identification of illegal immigrants and, further, how many of those against whom detainers were issued were eventually picked up by ICE and deported. Task Force members also urged the importance of knowing criteria that will be used to determine whether or not an illegal immigrant charged with a crime will be detained and picked up by ICE. In response to these inquiries, ICE representatives indicated that they do not have information on the number of inquiries made to the LESL that have resulted in the identification of an illegal immigrant and, further, do not have statistics on the number of illegal immigrants against whom detainers were issued who were eventually picked up and deported. Additionally, ICE was unable to provide the Task Force with criteria that could be used to provide local law enforcement agencies with more concrete expectations as to when ICE will and will not detain and pick up an illegal immigrant in custody.

An ICE representative informed the Task Force that the most important factor in determining whether or not to hold an individual is the amount of bedspace available in any one location at that time. Available space is an issue throughout the country, not just in Virginia. A Task Force member stressed that when known illegal immigrants commit crimes the public has a perception that the government should do something about it and that all localities in Virginia should have the same policies with regard to illegal immigrants. Consequently, it is important to know when ICE will respond to a situation as well as what ICE's capacity is to dealing with a statewide approach to illegal immigrants. The ICE representatives informed that ICE's ability to utilize its limited resources to detain and remove an illegal immigrant is determined by two factors: i) the severity of the offense, and ii) the amount of available bed space. The amount of available bed space, in turn, is dependent upon the amount of funding available to ICE to pay for that space. Currently, ICE has funding for approximately 650 beds in Virginia. The availability of ICE officers to come and pick up the illegal immigrant in question is also a factor.

The Task Force was also informed about how ICE's Office of Detention and Removal Operations ("DRO") promotes the public safety and national security by ensuring the departure from the U.S. of all illegal immigrants and other removable aliens through its Criminal Alien Program. DRO conducted more than 198,000 removals in FY 2006, including over 89,000 criminals. On average, over 29,000 aliens are held in custody on any given day. Over 1.2 million active cases are being managed by DRO staff. Since the creation of ICE, Fugitive Operations Teams have removed over 109,000 illegal immigrants and other aliens from the fugitive population.

The primary objective of the Criminal Alien Program is to ensure that all criminal illegal immigrants and other removal aliens serving criminal sentences are processed for removal prior to their release from federal, state, and local

custody. This is intended to provide for the reduction of the average detention time in ICE custody, thereby decreasing the number of beds and the number of personnel required to manage the detained population. Initiating removal proceedings against criminal aliens in jails and prisons is a primary goal of the Criminal Alien Program. It is using the number of charging documents issued on illegal immigrants encountered in jails and prisons as a measure of productivity towards achieving this goal. Since the beginning of FY07, DRO has seen over a 100% increase in monthly charging documents issued. The Criminal Alien Program is aggressively pursuing criminal prosecutions of immigration violators located in jails and prisons. In FY07, DRO presented 2,159 cases to the Office of the U.S. Attorney; of these, 1,274 were accepted.

The Washington Field Office of DRO covers Virginia. This field office has increased staffing within Virginia by adding an office in Roanoke and by increasing officers in Harrisonburg, Richmond, Norfolk, and Fairfax. The number of charging documents issued in Virginia has increased from 80 in FY06 to 1,228 in FY07. The field office has also coordinated with the Virginia Department of Corrections to establish ICE onsite representation at intake centers. The field office seeks to continue the improvement of all processes for communication and identification of illegal immigrants and promote ICE Agreements of Cooperation in Communities to Enhance Safety and Security (ACCESS), a program that provides local law enforcement agencies an opportunity to team with ICE to combat specific challenges in their communities.

The Task Force was informed that DRO is starting to build a relationship with local jails in populous areas similar to that which exists with Virginia DOC. They frequently visit local and regional jails in an effort to improve relations. The Task Force was informed that even if a jail does not have a 287 (g) agreement in place with ICE, the jail can contact LESC if it suspects that an individual in custody may be an illegal immigrant. LESC will

run an Illegal Alien Query (IAQ). If the individual is an illegal immigrant, ICE can issue a detainer that will authorize the jail to detain the individual.

BRIDGING THE GAP BETWEEN LAW ENFORCEMENT AND IMMIGRANT COMMUNITIES

In an effort to better understand particular issues and needs concerning communications between law enforcement and immigrant communities, as well as related concerns with the ramifications of the enforcement of federal immigration law by local law enforcement, the Task Force took testimony from representatives from Virginia's law enforcement community. Specifically, the Task Force heard from Chief Mark A. Marshall, the Chief of the Smithfield Police Department and Fourth Vice-President of the IACP; Sergeant Leonardo Reyes of the Virginia Beach Police Department, in his capacity as President of the Virginia Chapter of the National Latino Peace Officers Association; Officer Juvenal Valdez of the Norfolk Police Department; and Captain Steve Drew and Lieutenant Harvey Powers of the Richmond Police Department.

The Task Force requested the above individuals to provide background information and a description of the practices currently used in their localities. All of the agencies noted that there are both cultural and language issues that serve as barriers between the immigrant community and police, and that communication is the key component to overcoming these barriers. It was stressed that the public safety of all is improved when immigrants, legal and illegal alike, feel comfortable with coming forward and speaking to law enforcement as victims and witnesses. This assertion was bolstered by presentations made before the Task Force regarding concerns with illegal immigrants as victims of employment abuse, domestic violence, and human trafficking.

RECOMMENDATIONS

Role of the Federal Government

Recommendation # 1 - Resolution:

The Task Force recommended a resolution, addressed to Virginia's representatives serving in the U.S. Senate and House of Representatives, reflecting that i) the regulation and enforcement of immigration law is the responsibility of the federal government, ii) federal law preempts most state and local measures aimed at addressing the effects of illegal immigration, iii) despite the federal government's preemption over the field of illegal immigration, it has failed to properly address the issue, thereby forcing the state and local governments to attempt to address an issue which is largely preempted, and iv) the limited state and local measures that can be implemented will be of limited effect unless and until the federal government provides the dedicated members of ICE with the resources needed to do its job.

Data Collection

Recommendation # 2 - Local Inmate Data System:

LIDS should include a field requiring the input of confirmation, upon consultation with ICE, of the immigration status of any inmate who i) was born in another country, and ii) is a citizen of another country, or for whom this information is unknown.

Recommendation # 3 - Department of Corrections Data:

The data system used by the DOC should include a field requiring the input of confirmation, upon consultation with ICE, of the immigration status of any inmate who i) was born in another country, and ii) is a citizen of another country, or for whom this information is unknown.

Recommendation # 4 - Department of Corrections; Social Security Number Verification:

The DOC should be required to verify the validity of inmates' social security numbers in its records and to omit from its records those that are discovered to be false.

Recommendation # 5 - Data of the U.S. Immigration & Customs Enforcement:

It is recommended that ICE maintain data on i) the number of inquiries made by state and local law enforcement agencies to its Law Enforcement Support Center, ii) the number of these inquiries that are found to be illegal immigrants, legal nonimmigrants, legal permanent residents, and U.S. citizens, iii) the number of detainers issued for those found to be illegal immigrants, nonimmigrants, and legal permanent residents, and iv) the number of deportations that result from the detainers issued. ICE should provide the data to the Commonwealth upon request.

Recommendation # 6 – Cross Check LIDS Against NCIC/LESC

It is recommended that the information within LIDS for all inmates currently in jails be cross-checked against the illegal alien databases of the National Crime Information Center and the LESC illegal immigrant databases.

Education

Recommendation # 7 - Bridging the Language Barrier between Law Enforcement and Immigrant Communities:

Law enforcement agencies should enhance their ability to overcome language barriers with immigrant communities by arranging for law enforcement officers to be trained in different languages and cultures and by hiring more multi-lingual personnel. Virginia DCJS should partner with community organizations, such as the Hispanic Chamber of Commerce, to provide language training at no cost to officers and to explore the possibility of tuition assistance or grant opportunities for officers who seek to earn language degrees at community colleges.

Recommendation # 8 - Greater Education for Immigrant Communities on Laws, Regulations, and Safety:

Law enforcement agencies, state and local governmental agencies, and community organizations should work together to educate

immigrant communities on laws, regulations and safety issues relevant to immigrant communities.

Law Enforcement & Public Safety

Recommendation # 9 - Building Relationships between Law Enforcement and Immigrant Communities:

Law enforcement agencies should continue to build stronger working relationships and tighter bonds with immigrant communities by working to establish trust through crime prevention programs, neighborhood watch programs, citizen police academies, community outreach events, and community information meetings.

Recommendation # 10 - Regional Anti-Gang Task Forces:

It is recommended that i) all regions of the Commonwealth that have not already done so form an anti-gang task force, and ii) all anti-gang task forces include, as a member, a representative from ICE.

Agreements with ICE Pursuant to 8 U.S.C. 1357(g) – “287(g)”

Recommendation # 11 – Authorization for the Department of State Police and the Department of Corrections:

Request that the Governor execute 287(g) agreements with the U.S. Immigration and Customs Enforcement to authorize the Virginia State Police and Virginia DOC to designate officers to be trained and authorized to assist federal authorities in the detection, apprehension, detention, and removal of illegal immigrants confronted in their normal criminal justice functions. Virginia State Police’s authority should be limited to illegal immigrants confronted in the course of investigating violent felonies, drug offenses, and gang-related crime.

The Role of Jails & Prisons

Recommendation # 12 - Offenses Triggering Response by ICE:

The Crime Commission should work with ICE to develop a list of felonies and misdemeanors not already covered by ICE, which, if committed by a person illegally present in the country, will guarantee that ICE will detain and take custody of the suspect at the time of his or her trial or at the conclusion of his or her sentence, whichever is longer. If ICE cannot guarantee detention and deportation of criminal illegal aliens for all offenses that qualify under federal law, then it must advise the Commonwealth of the reason(s) for that decision so that the Commonwealth may evaluate any options at its disposal to facilitate deportation.

Recommendation # 13 - Presumption Against Bail:

Va. Code § 19.2-120 should be amended to include illegal immigrants charged with a state crime, or for whom a federal warrant is outstanding, among those for whom there exists a presumption against bail, unless and until notification is received from ICE that it does not plan to detain the individual. Upon such notification being received, the presumption shall no longer exist. This recommendation is contingent on the ability of ICE to implement Recommendation # 12.

Recommendation # 14 - Inquiry into Immigration Status and Reports to ICE:

Va. Code § 53.1-218 should be amended to require direct reporting to LESC of ICE, of any inmate who i) was born in another country, and ii) is a citizen of another country, or for whom this information is unknown and, further, to require that confirmation of such an inmate's immigration status be requested. The jailer must inquire as to the country of birth and citizenship of every person.

Recommendation # 15 – Training for Certain Jail and Prison Officers:

Clarify the requirements of Va. Code § 53.1-218

to ensure that officers responsible for intake and detention of inmates at local and regional jails and state prisons obtain training on the detection of illegal aliens coming into our criminal justice system.

Recommendation # 16 – Reimbursement Rates Received from ICE for Use of Bed Space and Funding for Construction of Extra Bed Space:

Jailers should receive a higher rate (100%) of the reimbursement received from ICE for use of bed space, rather than it going to the General Fund, and the state should fund new construction of extra bed space at a rate of 50%, rather than the current 25%.

PROPOSALS REFERRED TO THE COMMISSION ON IMMIGRATION

Three proposals were determined to fall outside the scope of the Task Force's mission, and, consequently, were referred to the Governor's Commission on Immigration for consideration.

Verification Cards for Purpose of Showing Identity:

A "verification card" should be created and issued to those who are in the United States without legal presence to help state and local authorities properly identify such persons in the Commonwealth. Such a document shall not provide legal status or rights, but rather will merely serve as verification that the individual is who he or she claims to be.

Verification of New Employees Through "Basic Pilot Program;" Loss/Suspension of License for Knowing Employment of Illegal Immigrants:

A business that knowingly employs illegal immigrants, after investigation by the Attorney General or local commonwealth's attorney. The determination of an employee's immigration status can only be made by the federal government. A first time violation will result in a minimum suspension of license, not to exceed ten business day and a three year probationary period. It permits the business to avoid the loss of license if it discharges the illegal immigrants. Any loss of

license requires a hearing and court order. All employers are also required to verify the immigration status of all new employees through the federal government's "E-Verify" program.

Documentation Required for Certain Benefits:

Any person who applies for a state administered public benefit program that requires participants to be U.S. citizens, must provide documentation that they are legally present in the U.S. Self-declarations of U.S. citizenship, even under the penalty of perjury, are not sufficient to document citizenship.

ACKNOWLEDGEMENTS

Law Enforcement Agencies

Commander Steve Drew, Richmond Police Department, 2nd Precinct; John W. Jones, Executive Director, Virginia Sheriffs' Association; Chief Mark A. Marshall, Smithfield Police Department, Fourth Vice-President, International Association of Chiefs of Police; Lieutenant Harvey Powers, Richmond Police Department, 2nd Precinct, Sector 212; Sergeant Leonardo Reyes, President, Virginia Chapter, National Latino Peace Officers Association; Sergeant Quinn Stansell, Mecklenburg County Sheriff's Office, North Carolina; Officer Juvenal Valdez, Norfolk Police Department

Organization Representatives

Clement D. Carter, Williams Mullen, Volunteer with the Virginia Hispanic Chamber of Commerce Foundation - Legal Clinic; Rená E. Cutlip-Mason, Director of Legal Services, Tahirih Justice Center; Tim Freilich, Legal Director, Virginia Justice Center for Farm and Immigrant Workers; Jeanne L. Smoot, Director of Public Policy, Tahirih Justice Center; Jessica M. Vaughan, Senior Policy Analyst, Center for Immigration Studies

U.S. Immigration & Customs Enforcement (ICE)

Vincent E. Archibeque, Field Office Director,

Office of Detention & Removal; Jorge E. Artieda, Associate Legal Adviser, Enforcement Law Division, Office of the Principal Legal Adviser; Scott Blackman, Director, Law Enforcement Support Center; Mary F. Loiselle, Acting Deputy Assistant Director, Detention Management Division, Office of Detention & Removal; Mark McGraw, Assistant Special Agent in Charge; William F. Reid, Special Agent in Charge

Virginia State Agencies

Robyn M. deSocio, Executive Director, Virginia Compensation Board; Andrea Ross, Systems Analyst, Department of Corrections; Anne M. Wilmoth, Chief Information Officer, Virginia Compensation Board