

# EXHIBIT E



Craig S. Gerhart  
County Executive

**COUNTY OF PRINCE WILLIAM**

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July 10, 2007

TO: Board of County Supervisors

FROM: Charlie T. Deane   
Chief of Police

THRU: Craig S. Gerhart  
County Executive

RE: Enforcement of Federal Immigration Laws

The purpose of this memorandum is to address the resolution under consideration for the Police Department to focus more attention on enforcement of Federal Immigration laws.

Any discussion of this Country's challenge of illegal immigration needs to be put in the proper context. Illegal immigration is first and foremost a national problem that can best be addressed with national strategies. Border security and meaningful sanctions against employers of illegal aliens are necessary strategies to get at the root causes of this wave.

Turning to the local level, at the onset, I want to emphatically say that Prince William County is not now, nor has it been, a "sanctuary" for illegal immigration. The Police Department and County have been more aggressive than most jurisdictions in dealing with illegal immigration. In view of the significant misunderstanding in the community, I welcome this opportunity to provide a snapshot of how the County Police Department's response to the issue has evolved.

Historically, State and local police departments, including the Prince William County Police Department, have had no significant role in Federal immigration issues. Therefore, we had limited contact with U.S. Immigration and Customs Enforcement (ICE) authorities. However, in the past few years, we started to address the criminal illegal alien challenge by developing professional relationships with ICE officials. One specific example of that change is by having an ICE agent assigned full time to our regional gang task force. Over the past 3 ½ years, 368 criminal aliens have been deported or have their

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deportation cases pending under this initiative. Overall, an outstanding working relationship has been developed with ICE officials.

In December, 2006, at your request, I briefed this Board regarding immigration enforcement. Following my recommendation, and that of other criminal justice officials, this Board and the Jail Board endorsed the development of ICE authority for a limited number of ADC Correctional Officers as a way of doing more to deport criminal illegal aliens. That initiative, known as a Section 287(g) agreement under the Immigration and Nationality Act, is in its final stages at this time. Six corrections officers have been trained and plans are moving forward for implementation. I am confident that this enhanced authority will serve as a valuable tool for use in controlling crime and helping to remove criminal illegal aliens from the community. It should be noted that Prince William County, along with our area law enforcement partners, is the only jurisdiction in the Metropolitan Washington Region, and the only large jurisdiction in the State of Virginia, to initiate such a program.<sup>1</sup>

When I met with you in December, I stated that the Police Department would consider the acquisition of ICE authority for detectives assigned to our local gang unit. With regard to that issue, the Police Chiefs of Manassas City and Manassas Park, Sheriff of Prince William County, Jail Superintendent, and I have met. I can report to you that we are united in our commitment to the establishment of common policies and deportation standards in conjunction with ICE. In addition, it is our intent to seek additional ICE authority, under section 287(g), for a number of select police staff.

Furthermore, last week, I informed you that I suspended the Police Department's General Order regarding Immigration Enforcement and plan to implement an updated version that will incorporate the new ICE authority at the jail and provide officers with additional guidance.

As we look to local police involvement in the enforcement of Federal Immigration laws it is important to consider a number of broad issues including the following:

**Legal Authority** – State and local police have almost no authority to detain the average illegal alien. Virginia law does authorize previously deported felons who return to the County to be arrested without a warrant. However, beyond that, Federal Immigration Laws are a complex mix of civil and criminal laws and local law enforcement has little or no authority to hold suspected illegal aliens solely on immigration charges. Put another way, if a Prince William County Police Officer observes a known or admitted illegal alien, absent a separate legal reason to physically arrest the person, that officer has no authority to detain him or her.

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<sup>1</sup> The Town of Herndon currently has ICE authority for some police officers.

**Trust and Cooperation in the Immigrant Communities** – With a growing population of foreign born residents and increasing violent crime victimizing those individuals, in order to have a chance to control crime it is vital that crime victims and witnesses trust and cooperate with the Police. We have worked hard to build trust and cooperation with immigrant groups. In that regard, it is very important that whatever we do to address the criminal illegal alien issue not be presented as a threat to crime victims or potential witnesses. **If we create a class of silent victims and witnesses who are afraid to seek police assistance, or cooperate with the police, the consequences could be dire.** Victims could turn to gangs or vigilantism for protection. Serious crimes could go unreported resulting in perpetrators remaining at large and posing continued threats to the community.

**Resource Priorities** – Since September 11, 2001, police departments have struggled to take on the added role of helping prevent and being prepared to respond to terrorist attacks in this Country. Local police departments cannot continue to perform their primary duties of crime control and public safety while taking on broad responsibilities related to immigration enforcement. No community is willing to pay enough taxes to have a police officer on every street corner. There will always be limited police resources and those resources must be allocated based on where they will do the most good in the maintenance of a safe community. Police enforcement of immigration laws should fall within that balance and should be used as a tool to deal with the most serious threats. Considering that it is estimated that 8-12 million illegal immigrants currently live in this Country and several hundred thousand enter each year, it is essential that effective police strategies are utilized. As an example, in the near future, local police officers in conjunction with ICE authorities will proactively target convicted criminal aliens who are living in our community. This collaborative initiative is one way to effectively deploy valuable police resources.

**Jail Space** – As I have mentioned in previous communications, limited jail space continues to be a concern when considering additional detentions such as immigration incarcerations.

Next I will address specific items in the proposed resolution:

- *Item B – County Police Officers shall inquire into the citizenship or immigration status of any person detained for a violation of state law or municipal ordinance, regardless of the person's national origin, ethnicity, or race where such inquiry does not expand the duration of the detention. In all such cases where a person indicates that he or she is not a citizen or national of the United States, the Police department shall verify whether or not the person is lawfully present in*

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*the United States, pursuant to United States Code Title 8, subsection 1373(c). If the person is verified to be unlawfully present in the United States, the Police Department shall cooperate with any request by federal immigration authorities to detain the alien or transfer the alien to the custody of the federal government.*

I am not sure how officers would easily "verify whether or not the person is lawfully present." However, it could be very labor intensive to investigate the background and immigration status of *all* persons detained that are otherwise not arrested on a State or local charge. In addition, the detention of the individual solely on a non-criminal/administrative immigration charge raises serious legal issues. Therefore, it is my position that immigration status inquiries be conducted following physical arrests where the individual is not eligible for release on a summons and/or where a subject is reasonably suspected of having committed a serious crime or poses a significant threat to public safety.

As always, wanted checks will continue to be run on virtually anyone when the circumstances are warranted, ranging from traffic violators to serious criminals. In such incidences, if a wanted check reflects an outstanding *criminal* immigration violation the person will be detained.

- *Item D – The Police Department of the County shall as quickly as practicable enter into a cooperative agreement with the United States Department of Homeland Security, pursuant to United States Code Title 8, subsection 1357 (g), to designate specific County law enforcement officers qualified to exercise the enforcement powers of federal immigration officers in the United States; and to establish a protocol for the expedited transfer of verified illegal aliens into federal custody. The Police Department may negotiate the cooperative agreement or participate in its implementation in partnership with other state or local law enforcement agencies.*

I agree. As previously mentioned above, I anticipate moving forward on this along with area law enforcement officials.

In summary, I suggest the following action steps:

- Continue to work with ICE through Northern Virginia Gang Task Force.
- Request ICE authority for select police staff under the 287 (g) program.
- Continue to work with our area law enforcement partners to facilitate the jail implementation of the 287 (g) initiative.
- Revise the Police Department's immigration enforcement policy.