

April 30, 2008

## **Meeting Recap**

### **Mayor ICE Initiative with ICE Representation and State Legislators**

Meeting was held at the Arizona House of Representatives offices in Phoenix on April 30, 2008 starting at 8:00am.

#### **Attendees**

##### **City of Prescott**

Mayor Jack D. Wilson  
Mayor Pro-Tem Mary Ann Suttles  
Councilman Jim Lamerson  
City Attorney Gary Kidd  
Deputy City Manager Laurie Hadley  
Police Chief Randy Oaks  
Police Lieutenant Andy Reinhardt

##### **U.S. Immigration and Customs Enforcement**

Jason Kidd, Group Supervisor, Office of Investigations  
Eduardo L. Preciado, Assistant Field Office Director, Detention & removal Operations  
Troy Henley, Acting Northern Arizona Special Agent in Charge

##### **Arizona Representatives**

Andy Tobin, District 1 representative  
Russell Pearce, District 18 representative

After all attendees introduced themselves we passed out a recap<sup>1</sup> of the efforts of the City of Prescott to complete a Memorandum of Understanding (MOU) with Immigration and Custom Enforcement(ICE) to secure 287G training for two Prescott Police officers. The meeting took place at the request of the City of Prescott in regards to city police officers receiving Federal 287 G training.

The City was following up on our request for a MOU with the Department of Homeland Security allowing Prescott to engage in field operations as a part of an ICE task force. The task force would work with the Violent Fugitive Apprehension 3 Squad, Criminal Investigation Section, Anti-Gang Unit, and the Community Action Teams. Prescott had agreed to provide two officers who would become certified in enforcement of federal immigration laws.

#### **Representative Pearce's comments**

Representative Russell Pearce was extremely voracious in his comments regarding his position that the state and cities have an inherent right to enforce federal immigration

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<sup>1</sup> Briefing Memorandum, ICE Meeting – 4/30/08

laws. In fact, he distributed a memorandum<sup>2</sup> on that topic. **The ability to detain requires probable cause and investigation to determine reasonable basis to detain. There are no cases on federal charges filed by non-certified federal officers. The ability of officers to detain rests upon the investigation and officer's discretion.** It should be noted that Representative Pearce is not an attorney. **He provided the information and this will be reviewed by Prescott City Attorney Gary Kidd.** The issue of federal preemption is a key topic when discussing the ability of a non-federal agency to enforce federal laws.

- In representative Pearce's opinion, we do not need 287 G certification for arrest authority. The determination to arrests depends upon the probable cause to detain as determined by the officers. **The ninth cir. recognizes a limited ability to detain and thus some inherent authority. Other Cir. Have ruled that local officers have greater inherent authority.**
- Rep. Pearce's' view of the City's' efforts to acquire 287G certification is that **while the certification is nice** to have but it is mainly useful a post arrest authority. It was created in 1996 as a means to build a relationship between Federal and Local law enforcement. 287G was used as a "carrot".
- Pearce was highly complimentary of our delegation and recognizing us as part of the solution for our interest and positions on the issues.
- Local law enforcement has always had concurrent authority and responsibility on immigrations matters. Federal law enforcement can not clean up the mess with out the assistance of local law enforcement.
- Two bills were recently vetoed by the Governor. HB 2801 – Sanctuary Policy - this prohibited any municipality from having policies that allowed or condoned undocumented workers or that discouraged the arrest of same. HB 2577 - this was to provide funds for local law enforcement to enforce employer sanctions.
- HCR 2039 - still alive and could be on the November ballot. **This would remove all sanctuary polices and would prohibit any restriction sought to be imposed on police from enforcing immigration laws by local jurisdictions and would expressly allowing officers to inquire into immigration and ensure they could not be prevented from doing so. The bill would also create a criminal trespass violation so officers could arrest undocumented persons simply for being in the State of Arizona.**
- We need tougher local ordinances to allow our officers to pick up undocumented workers in the first place, and then we can call ICE to see if the arrested person qualifies for a detainer.
- Pearce offered to send representatives from Maricopa County Sheriff's Office (Sheriff Joe Arpaio) to Yavapai County to assist us in our efforts.
- Pearce also stated he is working on a bill that would add a statute that would make being in the country illegally a trespass violation.

### **ICE Representatives Comments**

- They have limited resources.

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<sup>2</sup> "Local Law Enforcement's Inherent Authority of Immigration Law

- ICE is putting their resources and training into the Maricopa County cities first, then detention facilities around the state. They believe they get "more bang for the buck" by training detention facilities. For every one undocumented person they catch on the street, they get 10 through detention facilities. **Last year ICE deported over 10,000 persons in the Phoenix area.**
- They do not expect any near term shift in this approach to a preference for 287G training for detention officers.
- A 7 - 10 day detainer can be put on undocumented persons that are in custody. For areas such as Yavapai County, ICE can usually retrieve them in that time frame, but for areas further away, they typically have to allow them to be released as they don't have enough agents to go to the far away locations.
- Yavapai County Jail has video conferencing which makes it much easier for ICE to determine whether or not a detainer should be placed on a suspect.
- The decision on whether or not Prescott will receive training on 287G is made by ICE Headquarters and not our State office. However, the State office does not believe we will be receiving any certification training.
- They do have a training program that focuses on teaching officers the skills needed to detect falsified identification documents. They said they would be willing to conduct this class in Prescott (it is a 2 or 3 day class). This is a "generic" immigration law/issue training, which will help our officers determine if ICE needs to be involved in cases or not.
- ICE is willing to work with the Prescott Police Department cooperatively on issues such as gangs and document forgery. Lt. Andy Reinhardt will follow-up on this with ICE starting with gang issues.
- ICE does not see "day laborer" issues as a priority. They are interested in hard criminal activity. Although day laborers are a blight problem, there is really nothing they can do to help.
- Even if COP offered to fund the training, ICE being a Federal Agency cannot accept funds from a State Agency. We cannot have street officers certified unless there is direct supervision from an ICE officer and they do not foresee Northern Arizona having an Agent assigned anytime in the near future.
- Local law enforcement officers can run the names of suspected undocumented persons through NLETS (a national data base) to see if they have immigration warrants, etc. issued. However, since true names are rarely given, this is not particularly effective.
- Local law enforcement officers need to find legal reasons to detain undocumented persons and get them in the detention system, and then ICE can step in with a detainer.
- Quote from Agent Jason Kidd "There is no solving day laborer problems," and spending time on this issue is "not worth the resources." **Other jurisdictions have tried to address these issues but have been unable to due to legal constraints. ICE has these same constraints and can do little with respect to day labor sites.** He sees "no real chance of getting a Prescott Police Officer 287G certified."
- **ICE agreed to furnish statistics on deportation arrests in Yavapai County and the Prescott area and to provide statistical breakdown concerning**

**criminal aliens deported from our area. They also agreed to have their general council address how inherent powers apply in the context of detainers and to provide this information to the City Attorney.**