

VIRGINIA STATE CRIME COMMISSION

ILLEGAL IMMIGRATION TASK FORCE

FINAL RECOMMENDATIONS OF THE ILLEGAL IMMIGRATION TASK FORCE

- I. ROLE OF THE FEDERAL GOVERNMENT
- II. DATA COLLECTION
- III. EDUCATION
- IV. LAW ENFORCEMENT & PUBLIC SAFETY
- V. AGREEMENTS WITH I.C.E. PURSUANT TO 8 U.S.C. 1357(g) - 287(g)
- VI. THE ROLE OF JAILS & PRISONS

I. ROLE OF THE FEDERAL GOVERNMENT

Task Force Recommendation # 1 - Resolution:

The Task Force recommends a resolution, addressed to Virginia's representatives serving in the U.S. Senate and House of Representatives, reflecting that 1) the regulation and enforcement of immigration law is the responsibility of the federal government, 2) federal law preempts most state and local measures aimed at addressing the effects of illegal immigration, 3) 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 4) 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 the U.S. Immigration & Customs Enforcement with the resources needed to do its job.

II. DATA COLLECTION

Task Force Recommendation # 2 - Local Inmate Data System: (Related to Recommendation # 6 and # 14)

The Local Inmate Data System should include a field requiring the input of confirmation, upon consultation with the U.S. Immigration and Customs Enforcement, of the immigration status of any inmate who 1) was born in another country, and 2) is a citizen of another country, or for whom this information is unknown.

Task Force Recommendation # 3 - Department of Corrections Data:

The data system used by the Virginia Department of Corrections should include a field requiring the input of confirmation, upon consultation with the U.S. Immigration and Customs Enforcement, of the immigration status of any inmate who 1) was born in another country, and 2) is a citizen of another country, or for whom this information is unknown.

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

The Virginia Department of Corrections 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.

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

It is recommended that the U.S. Immigration & Customs Enforcement maintain data on 1) the number of inquiries made by state and local law enforcement agencies to its Law Enforcement Support Center, 2) the number of these inquiries that are found to be illegal immigrants, legal nonimmigrants, legal permanent residents, and U.S. citizens, 3) the number of detainers issued for those found to be illegal immigrants, nonimmigrants, and legal permanent residents, and 4) the number of deportations that result from the detainers issued. The U.S. Immigration & Customs Enforcement should provide the data to the Commonwealth upon request.

Task Force Recommendation # 6 - Cross Check LIDS Against NCIC/LESC: (Related to Recommendation # 2 and # 14)

It is recommended that the information within the Local Inmate Data System (LIDS) for all inmates currently in jails be cross checked against the illegal alien databases of the National Crime Information Center (NCIC) and the Law Enforcement Support Center (LESC) illegal immigrant databases.

III. EDUCATION

Task Force 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 within their jurisdiction and by hiring more multi-lingual personnel. The Department of Criminal Justice Services should partner with community organizations, such as the Hispanic Chamber of Commerce, to provide language training at no cost to the officer and to explore the possibility of tuition assistance or grant opportunities for officers who seek to earn language degrees at community colleges.

Task Force 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.

IV. LAW ENFORCEMENT & PUBLIC SAFETY

Task Force 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.

Task Force Recommendation # 10 - Regional Anti-Gang Task Forces:

It is recommended that 1) all regions of the Commonwealth that have not already done so form an anti-gang task force, and 2) all anti-gang task forces include, as a member, a representative from the U.S. Immigration & Customs Enforcement.

V. AGREEMENTS WITH I.C.E. PURSUANT TO 8 U.S.C. 1357(g) - 287(g)

Task Force 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 Department of State Police and the Department of Corrections 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. The State Police's authority should be limited to illegal immigrants confronted in the course of investigating violent felonies, drug offenses, and gang-related crime.

VI. THE ROLE OF JAILS & PRISONS

Task Force Recommendation # 12 - Offenses Triggering Response by I.C.E.:

The Crime Commission should work with the U.S. Immigration & Customs Enforcement to develop a list of felonies and misdemeanors not already covered by I.C.E., which, if committed by a person illegally present in the country, will guarantee that I.C.E. will detain and take custody of the suspect at the time of his/her trial or at the conclusion of his/her sentence, whichever is longer.

If the U.S. Immigration & Customs Enforcement 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.

Task Force Recommendation # 13 - Presumption Against Bail:

Virginia 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 the U.S. Immigration & Customs that it does not plan to detain the individual. Upon such notification being received, the presumption shall no longer exist.

Task Force Recommendation # 14 - Inquiry into Immigration Status and Reports to I.C.E.:
(Related to Recommendation # 2 and # 6)

Virginia Code § 53.1-218 should be amended to require direct reporting to the Law Enforcement Support Center of the U.S. Immigration & Customs Enforcement, of any inmate who 1) was born in another country, and 2) 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.

Task Force 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.

Task Force Recommendation # 16 - Reimbursement Rates Received from I.C.E. for Use of Bed Space and Funding for Construction of Extra Bed Space:

Jailers shall receive a higher rate (100%) of the reimbursement received from I.C.E. 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%.

PROPOSED RECOMMENDATIONS REFERRED TO THE COMMISSION ON IMMIGRATION

Verification Cards for Purpose of Showing Identity:

A "verification card" should be accepted/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/she claims to be.

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

Provides the loss of licenses for 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 the minimum suspension of license, not to exceed 10 business day and a 3 year probationary period. It permits the business to avoid the loss of licenses 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.