

# VIRGINIA STATE CRIME COMMISSION

## ILLEGAL IMMIGRATION TASK FORCE

### PROPOSED TASK FORCE RECOMMENDATIONS

#### I. Role of the Federal Government

##### **Recommendation # 1: Task Force Resolution**

The Task Force will draft and recommend 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 Bureau of Immigration & Customs Enforcement with the resources needed to do its job.

#### II. Data Collection

##### **Recommendation # 2: Local Inmate Data System**

The Local Inmate Data System should include a field requiring the input of confirmation, upon consultation with the Bureau of Immigration and Customs Enforcement, of whether or not an inmate who 1) was born in another country, and 2) is a citizen of another country, or for whom this information is unknown, is either:

- A citizen of the U.S.
- Nonimmigrant legally present in the U.S.
- A legal permanent resident, or
- An illegal immigrant

##### **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 Bureau of Immigration and Customs Enforcement, of whether or not an inmate who 1) was born in another country, and 2) is a citizen of another country, or for whom this information is unknown, is either:

- A citizen of the U.S.
- Nonimmigrant legally present in the U.S.
- A legal permanent resident, or
- An illegal immigrant

**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.

**Recommendation # 5: Data of the Bureau of Immigration & Customs Enforcement**

It is recommended that the Bureau of 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.

**III. Law Enforcement**

**Recommendation # 6: Department of State Police – Anti-Gang Enforcement**

It is recommended that the Virginia Department of State Police 1) enter into an agreement with the Department of Homeland Security, Bureau of Immigration & Customs Enforcement, pursuant to 8 U.S.C. 1357(g), authorizing officers to enforce immigration law when acting during the course of investigating crimes committed by members of criminal street gangs, and 2) to make these officers available to assist local gang units and regional gang task forces.

**Recommendation # 7: 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 Bureau of Immigration & Customs Enforcement.

**IV. Jails**

**Recommendation # 8: Offenses Triggering Response by I.C.E.**

The Crime Commission should work with the Bureau of Immigration & Customs Enforcement to develop a list of felonies and misdemeanors 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 their trial, or at the conclusion of their sentence, whichever is longer.

**Recommendation # 9: Presumption Against Bail**

Virginia Code § 19.2-120 should be amended to include illegal immigrants among those for whom there exists a presumption against bail unless and until notification is received from the Bureau of Immigration & Customs that it does not plan to detain the individual. Upon such notification being received, the presumption shall no longer exist.

**Recommendation # 10: Inquiry into Immigration Status and Reports to I.C.E.**

Virginia Code § 53.1-218 should be amended to require direct reporting to the Law Enforcement Support Center of the Bureau of 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 the confirmation be requested from the L.E.S.C. as to whether or not the individual reported is:

- A citizen of the U.S.
- Nonimmigrant legally present in the U.S.
- A legal permanent resident, or
- An illegal immigrant

**Recommendation # 11: Facility for the Detention of Criminal Illegal Immigrants**

The Commonwealth of Virginia should negotiate with the Bureau of Immigration & Customs Enforcement with regard to the construction of a facility containing up to 1,000 beds at a location to be determined. The construction should be contingent upon the Bureau's commitment to make use of, and pay per diems for, the agreed upon bed space in order to fund debt service and the operational costs of the facility.

**Recommendation # 12: Reimbursement Rate for Per Diems Collected from I.C.E.**

Any sheriff or regional jail administrator who holds an illegal immigrant, nonimmigrant, or legal permanent resident on behalf of the federal government and, in so doing, is entitled to per diem reimbursement, shall be entitled to 100% of the reimbursement received from the federal government.