

To: Undersheriff Teri Goodall, and all Deputy Sheriffs of the El Paso County Sheriff's Office; District Attorney John Newsome, Assistant District Attorney Amy Mullaney, and all Deputy District Attorneys and Investigators of the District Attorney's Office for the Fourth Judicial District; and Dr. Robert C. Bux, El Paso County Coroner

From: Terry Maketa, El Paso County Sheriff

Date: September 20, 2006

RE: Peace officers' duties of cooperation with Immigration and Customs Enforcement. Senate Bill 06-090.

SUMMARY: By a new law, any peace officer having probable cause to believe that an arrestee is not legally present in the United States (including sworn and civilian detention staff having a reasonable suspicion that an arrestee is not legally present) must report the arrestee to ICE. Statistics of such reports must be maintained and reported to the legislature. For details, please read on.

On May 1, 2006, Governor Bill Owens signed Senate Bill 06-090 into law. We are required to inform El Paso County peace officers in writing of its requirements:

Cooperation with federal immigration authorities. SB 06-090 prohibits any local government from having official or unofficial policies offering safe harbor to illegal aliens. El Paso County and EPSO have no official policies encouraging these practices, and we are not aware of any such unofficial policies. Nonetheless, any such practices are now expressly illegal.

Reporting of suspected illegal aliens. SB 06-090 requires any peace officer having probable cause to believe that an arrestee is in this country illegally—and who is not taking the arrestee to a detention center—to report the arrestee to Immigration and Customs Enforcement (ICE). If the arrestee is taken to jail and the sheriff (or his designee) reasonably believes that the arrestee is in the country illegally, the reporting is done at the jail. Reporting suspected illegal aliens to ICE at the jail is how we have been functioning and will continue to function, in most circumstances. The exception to this scenario will be traffic stops for Class A and B traffic offenses and County traffic infractions where the driver would be issued a summons and release. Class A and B traffic offenses and County traffic infractions are not criminal offenses and therefore do not trigger the reporting requirements. For misdemeanor traffic offenses and all other criminal offenses, suspected illegal aliens will be brought to CJC for booking and reporting.

Domestic violence offenders. There is a provision in SB 06-090 which allows peace officers, when the suspected illegal alien is arrested on a domestic violence charge, to delay reporting to ICE until the arrestee is convicted. We request the help of our colleagues at the District Attorney's Office in reporting suspected illegal aliens to ICE under these circumstances.

Recordkeeping. SB 06-090 requires the BoCC, on or before March 1 of each year, to report to the Legislative Council of the Colorado General Assembly the number of ICE reports during the previous year. EPSO has volunteered to make this report for the El Paso County peace officers named above. We ask that any agency making such reports please transmit these statistics to the Sheriff's Office by February 1 of each year, so that the report can be timely compiled and sent to the Legislative Council. Specifically, send your statistics to the EPSO Detention Bureau Operation Division Commander, El Paso County Criminal Justice Center, 2739 East Las Vegas Street, Colorado Springs, CO 80906. 719/390-2106. Compliance with this provision will be necessary to ensure the uninterrupted flow of federal grants.

Thanks in advance for helping El Paso County to continue to meet its obligations of cooperating with the United States Bureau of Immigration and Customs Enforcement.

TMM/cg

cc El Paso County Board of County Commissioners
William Louis