

## **Commissioners defer to Sheriff Griffin on whether to keep 287(g) in Henderson County**

Derek Lacey

March 20, 2019

Henderson County commissioners threw their support behind Sheriff Lowell Griffin Wednesday, saying they will support him whether or not he decides to renew his office's contentious agreement with federal immigration authorities known as 287(g).

The agreement between the county and federal Immigration and Customs Enforcement allows local law enforcement to check the immigration documentation status of an individual once they're arrested or face a charge, instead of waiting for ICE agents to send information.

Henderson County is now one of only four counties out of 100 in the state to still participate in what's known as the 287(g) program, alongside Cabarrus, Gaston and Nash, with Mecklenburg and Wake ending their agreements late last year.

Commissioner Charlie Messer requested the issue be added to the agenda for the board's Wednesday meeting. He asked during discussion whether Griffin felt that \$250,000 would be enough to cover any costs for the program in the coming budget year. Griffin said it would, and commissioners said they would support Griffin if he chose to renew the agreement.

Griffin, who throughout his campaign and the first few months of his tenure remained skeptical of the program, has voiced his intention to take a close look at the agreement between HCSO and ICE.

Griffin said Wednesday that much misinformation is circulating in the community about 287(g). He focused on several main points in his presentation to commissioners:

--ICE detainees are placed on criminal aliens regardless of participation with 287(g).

--The county gets no funding from the federal government and continuing the program will mean more county dollars.

--The Sheriff's Office can only become involved within the walls of the jail.

--Federal ICE agents assigned in Henderson County routinely work in close cooperation with the Henderson County Jail officers.

Community members have expressed their support for both sides of the issue, some circulating a petition for the sheriff to end the agreement and others speaking up at commissioners' meetings about the need to continue it.

Opponents Speak Out

At the meeting, three residents spoke during public comment in support of the program. Paul Rebuck, Jim Durfee and Jane Bilello said they feared that without the program, people with criminal records who were arrested by the Sheriff's Office would be let go, and called the program a wise expenditure of taxpayer dollars.

Rebuck said the program "has been highly successful under the past two sheriffs," so that "the predator is not accidentally released into our community. When illegals commit crimes, especially assaults, murder, rape, check fraud, identity theft, drug and human trafficking, they need to be taken off the streets immediately and permanently with no chance of accidentally being released into the community."

The 287(g) program, he said, allows for the swift identification of those individuals when processed into the jail. He requested that commissioners continued to fund the program and encouraged Griffin to continue it.

Durfee said all the money is worth it to keep the county safe, and officials should build one less soccer field or mile of greenway to pay for it.

#### Griffin's Response

Later in the meeting, Griffin said "misinformation" has been circling about the program, blaming recent developments across the state that have served as a catalyst to fuel debate and feed that misinformation. He said he was taking the opportunity Wednesday to "set the record straight concerning operations in Henderson County."

He emphasized the difference between honoring a detainer placed on a criminal alien by ICE and contracting with the federal government to assist in identifying illegal aliens as outlined in federal law that constitutes the 287(g) program.

Detainers, Griffin said, are issued by ICE officials and transmitted to local agencies, normally via fax, and are the result of the identification of a criminal alien after that person is arrested and processed into a local jail.

During any arrest process, biometric information like fingerprints are submitted to federal authorities, which is the information ICE uses to determine immigration status or past criminal records. If ICE chooses to place a detainer on that person, then the local jail will hold them for 48 hours following the requirements of detainment with the local charge.

"This process does not only apply to counties with a 287(g) contract; it applies nationwide," even though some sheriffs in the state have chosen not to honor those detainers, Griffin said in a written statement presented to commissioners.

Answering a question from Commissioner Grady Hawkins, Griffin confirmed that in the recent past, he's never had a case where ICE officials weren't able to come to the jail within that 48-hour timeframe to retrieve an individual.

"I think that's significant," Hawkins said.

Griffin also stressed the close relationship his office has with the local ICE office.

The key point, he said, is that detainees are identified due to those biometric identifiers and without a criminal record, the person will have no identifiers in the system. The 287(g) program is often mistakenly used synonymously with the detainees.

Griffin said the 287(g) program is a partnership with federal authorities allowing the Sheriff's Office to identify an illegal alien only after they have been arrested and brought into the county jail on state charges, and the Sheriff's Office has no authority to ascertain the status of an immigrant in the field.

Under the county's current agreement, the Sheriff's Office has the authority to identify and place detainees on criminal illegal aliens, he explained. Only officers who are trained can do so, a process that requires deputies to travel and spend more than a month out of state with annual in-service training thereafter.

The identification process can take from two to 12 hours in-house, and the research and background checks are "extremely time consuming," he said.

"This very act can be redundant as many times the 287(g) officer will spend valuable time identifying an alien only to have ICE officials transmit a detainer through the process described previously."

Griffin added that "the 287(g) process is burdensome to the operation of the jail and taxpayers, as federal government provides no funding for the program in Henderson County," and continuing the program would require additional county funds.

The only funds the program could provide is for housing and transportation, he said, and the county is no longer able to contract to house federal inmates because of the increasing jail population and lack of available bed space.

The most efficient way to identify criminal illegal aliens will be to work directly with federal ICE agents and support them as they investigate and detain criminals, he said

"I want to express that I intend to serve all the people of Henderson County," Griffin said in closing. "My priority will always be to keep the people safe and focus on getting the criminals off our streets. I refuse to offer sanctuary to the criminal element of any demographic."

Commissioners Weigh In

Commissioner Mike Edney said the county started with this program in 2008 under Sheriff Rick Davis, who "used it as a way to make money for the county."

"He would have his guys stop people for no operator's license and other minor traffic offences," he said, "And instead of writing a ticket like he would a light-skinned person, they would bring them in and have them arrested and then if they were illegal, they would be deported."

Edney also noted that at some point, the county had as many as 16 people paid directly out of the funds generated by the agreement.

Under Sheriff Charles McDonald, Griffin said, the jail population grew to the point that it could no longer contract with the federal government to house those detainees, which is where the money was generated, as the county was paid for those services.

Right now, the county jail is regarded as full enough to not be able to contract with anyone for a similar arrangement, he added.

Edney then cited a CATO Institute study completed last year in North Carolina that found “no causal relationship between apprehensions through 287(g) programs in measures of crime rates or police clearance; however, we do find a significant relationship between the activation of 287(g) agreements and assaults against police officers.”

“It seems that 287(g) costs us money, but it’s not helping make Henderson County safer,” Edney said.

Commissioners took no formal action at the meeting, but told Griffin they have heard good things about his office’s work from the community. They said they put their trust in him to make the right decision.

“In your opinion, what does the Henderson County Board of Commissioners need to do in Henderson County pertaining to money? Do we need to put additional funds in our budget — in your budget?” Messer asked, saying he doesn’t want to wait to make that decision. “If there’s a need, then we as county commissioners need to step up and fund that need.”

Griffin said it’s his opinion that the program, with all the available identifiers out there today, “we’re not really accomplishing a lot there because we have a local ICE office and because our jail officers work hand-in-hand with local ICE officials” that come and go in the county jail just like any other officer.

It’s to the point, he said, that his staff even have cell phone numbers for ICE officials and can reach out if they see someone that may require a detainer that hasn’t come through yet.

“I’ll echo what Commissioner Messer says, we want to do whatever it takes to support you and keep Henderson County the safest place possible, but we’re not the experts; you guys are,” Edney said. “So I’m going to follow your lead and support you whatever you do.”

Griffin said he’s open to more dialogue. He isn’t opposed to what the program does, but he’s struggled to find officers and federal bureaucracy makes maintaining those certifications and trainings cumbersome, while working those cases in-house can cause the compilation of an unbelievable load of documentation to do something that local agents could be doing.