

Rebuttal to Department of Homeland Security's Focus on Deporting Felons



By Sheriff Leon Wilmot, Yuma County Sheriff's Office, Arizona

I recently became aware of an article submitted by Homeland Security Secretary Jeh Johnson to the National Sheriffs' Association for publication. As the Chairman of the NSA Immigration and Border Security Committee, President of the Arizona Sheriffs Association, member of the Southwestern Border Sheriff's Coalition, and Sheriff of Yuma County, Arizona, I felt that it was my duty to submit a response to the article from a law enforcement perspective. I would like to preface this article by saying that this is about border security, not immigration.

In his article, "Priority Enforcement Program – How DHS is focusing on Deporting Felons," Secretary Johnson discusses the end of the Secure Communities program and its replacement, the "Priority Enforcement Program". Throughout his article, Secretary Johnson attempts to convince the reader that the Secure Communities program was a failure, that it was controversial, and that it resulted in the unintended transfer of otherwise law-abiding residents who had done nothing more than commit a minor offense without even being convicted. Secretary Johnson lauds the President's Executive Actions as bringing an end to Secure Communities, which he asserts "*included documented cases in which dangerous individuals on whom we placed detainees were released to the streets, and committed more serious crimes.*" Secretary Johnson skillfully attempts to convince the reader that the "Priority Enforcement Program" will achieve what the Secure Communities program failed to do: keep our streets safe. He "believes" that every governor, mayor, state legislature, city council, and county commission share in that goal with himself and the President.

What his article does not include is any dialogue with state and local law enforcement agencies or County Sheriffs, specifically sheriffs serving in counties along the southern border even though they are in the epicenter of the border crisis. Furthermore, there is no mention of the financial repercussions for state and local law enforcement agencies or any discussions of the impact this new program would have on those who are on the front lines.

The President's Executive Actions announced in November 2014 effectively ended the "Secure Communities" program. This was a program by which Immigration and Customs Enforcement (ICE) personnel placed "detainers" on

individuals who were in this country illegally and were charged with committing state crimes in order to hold them in local jails. Once these criminals served out their sentences in the local jails, they would be handed directly over to Federal authorities for enforcement purposes. The program goal was to make identification and removal of convicted criminals easier. However, according to the Administration, Secure Communities was ineffective because it became embroiled in political and legal controversy. In his article, Secretary Johnson cites that "*...in reaction, a rapidly expanding list of city, county and state governments enacted laws and directives that limit or outright prohibit their cooperation with federal immigration enforcement personnel. The consequences nationwide have included documented cases in which dangerous individuals on whom we placed detainees were released to the streets, and committed more serious crimes.*" This very situation happened in San Francisco where a criminal alien was released only to be arrested a short time later on murder charges. This problem had a simple solution; rather than ICE personnel placing a detainer on these criminals, all that was necessary was for the U.S. Attorney to issue a warrant for these individuals. This solution would have allowed Sheriffs to hold suspects in custody after they had served their time at the state level so the Federal agency could pick them up for Federal prosecution, thereby preventing dangerous criminals from being released into society. Yet, at no time did anyone from the Administration consult or attempt to work with state and local law enforcement agencies on a solution, instead choosing to replace this program for political reasons. **My question is, "What does politics have to do with enforcing the law?"**

The Administration announced their Priority Enforcement Program as a replacement for the "ineffective" Secure Communities program. According to Secretary Johnson, the goal of this new program is "*...to better focus our immigration enforcement resources on convicted criminals over undocumented immigrants who have been here for years, have committed no serious crimes, and, have, in effect, become peaceful and integrated members of the community.*" That statement in itself is contradictory in nature. As I read it, the following phrases stood out: "undocumented immigrants"; "no serious crime"; and "peaceful

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and integrated members of the community.” Now, let’s look at these phrases from a law enforcement perspective.

Undocumented immigrant: Isn’t it a crime to enter into the United States illegally?

No serious crime: Isn’t it still a crime to break the laws of our nation and states, regardless of the seriousness of the crime?

Peaceful and integrated member of society: If someone is arrested and prosecuted for committing a crime, can they really be classified as a “peaceful and integrated member of society”?

As law enforcement officers, we are sworn to uphold the Constitution of the United States of America and the laws of our respective states. I firmly believe that the laws of our nation and our states apply to everyone, regardless of their legal (or illegal) status and as such, they should be fully enforced on everyone. In other words, “If you do the crime, you do the time.” So I have to ask, “At what point did it become acceptable **NOT** to enforce these laws on criminal aliens?” Keep in mind that these are the same laws that we expect our citizens to abide by, just as we expect them to bear the consequences when they break these laws.

Secretary Johnson also states, *“We need a partner in state and local law enforcement. It is for this reason that I and other officials of the Department of Homeland Security have set out across the country to meet with state and local officials, including those in law enforcement, to show them our new policy, and encourage them to work with us again.”* As the Sheriff of Yuma County, I can tell you firsthand that not once has any Federal agency met or consulted with me regarding the impact to my agency and community resulting from ending or changing any ongoing Federal program. I am also not aware of any border sheriff who was contacted by any Federal agencies to consult on this new program prior to implementation. I can also tell you firsthand that each and every time the Administration changes their direction by diluting or ignoring the law due to “politics,” it has significant financial repercussions for state and local governments, especially the Sheriff’s Offices since we operate the jails which house these criminals.

Case in point: at one time, Yuma County had the worst record in the United States for illegal entries by undocumented immigrants and, as a result, our community suffered numerous ancillary crimes. Several Federal programs, such as Secure Communities and Operation Streamline, were put into place and significantly curtailed the criminal activity in our county. However, the recent changes made by the Administration have left a significant burden on local governments not only to bear the costs associated with the apprehension, prosecution, and incarceration of criminal illegal aliens, but to also ensure that this criminal element is not released back into society to prey on our citizens. Furthermore, state and local resources which have become necessary to address the criminal activity by illegal aliens and its effects on our communities have also been burdened to the point of exhaustion and aggravation. How does all this translate in actual dollars? During 2014, Arizona Sheriffs requested reimbursement through the State

Criminal Alien Assistance Program (SCAAP) for costs incurred in housing criminal aliens. The costs totaled approximately \$30 million of which our “Federal partners” reimbursed Arizona Sheriffs \$1.2 million—**only 4.8% of the actual cost.**

The fact is that any changes to Federal policies and/or programs related to immigration, border security, international contraband smuggling, and other related law enforcement matters impacts border communities significantly as well as the state and local law enforcement agencies who serve them. A lack of Federal involvement results in second and third order effects in those communities in ways that are not immediately apparent to those who do not live in those areas. Criminal activity which is not rigorously and visibly curtailed expands; and a lack of enforcement or **WILL** to enforce only becomes a beacon of opportunity for criminal organizations to exploit.

In his closing paragraph, Secretary Johnson states that, *“We must work together to enforce our immigration laws in a smart and cooperative way, in line with our enforcement priorities, and for the sake of the public safety we are all pledged to protect.”* However, what he is really saying is that law enforcement should fall in line and enforce the laws of our nation as the Administration sees fit. This line of thinking does not work for Sheriffs who have sworn to serve, protect and enforce the Constitution and laws of their state and nation. Furthermore, due to the Federal government’s lack of enforcement of the existing laws of our nation, the Western States Sheriff’s Association and the Southwestern Border Sheriff’s Coalition have submitted resolutions to Congress and the Office of the Attorney General regarding all of the issues discussed above and encouraging them to direct the appropriate Federal agencies to return to enforcing the law and prosecuting those who would commit crimes against our nation.

The bottom line is that the new Priority Enforcement Program will be just another program that will continue to burden the finances and resources of state and local law enforcement agencies that must step in to enforce the laws that our Federal partners should be enforcing. Enforcing our laws in order to secure our border is not an option, it’s our duty. ✪