



Free Congress Foundation Commentary

Unlawful Immigrants and Criminals - Sometimes One and the Same

By Marion Edwyn Harrison, Esq.

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Two Federal agencies estimate that there are 300,000 - 450,000 unlawful immigrants jailed in the United States. Perhaps this estimate is not surprising in that last year some 14 million people were “booked” in our roughly 3,100 local jails. Most are in State prisons and local jails. Further estimates are that only about 10% of the inmates in local jails last year were checked for their immigration status. All these estimates may be considerably in the “guesstimate” category, especially as to local jails, in which there is considerable short-term traffic.

In theory it seems elementary that upon or very shortly after incarceration in any prison or jail the inmate, however potentially transient his occupancy may be, should be checked for his citizenship or lawful/unlawful immigration status. There are several difficulties, not necessarily in order of seriousness: Cost, availability of personnel to check, access to records to verify a check.

The George W. Bush Administration probably could have been more active as to Federal prisons and could have offered more assistance as to State penitentiaries, any activity as to jails obviously having been, and being, more difficult. However, the Bush Administration Department of Homeland Security (“DHS”) did address an inundation of problems, arising directly and indirectly from 9/11 activity and possibilities and otherwise. The volume has not decreased. The Barack H. Obama Administration, through DHS, appears to be coming to life, in the form of a comprehensive initiative to be operated by a DHS entity called the Secure Communities Program Management Office.

Various proposals are pending in the 111th Congress and the newly created Secure Communities Program Management Office is attempting to address the task.

A caveat is in order. While the wisdom of and need for checking citizenship/immigration status of prisoners is obvious, the Obama Administration must not entangle itself in the operation of State penitentiaries and local jails to the exclusion of other means to reduce unlawful immigration. The task should have begun with effective closing of the Mexican Border, a pursuit not yet accomplished. Thereafter it could continue with requirement of proof of citizenship or lawful residence when applying for a Social Security card. Experts probably know, or could ascertain, other means, short of, or ultimately in addition to, entanglement in the operation of State penitentiaries and local jails.

Every pragmatic and reasonable approach properly a Federal Government function should be evaluated.

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