



## Mecklenburg County Sheriff's Office

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### **To: An Open Letter to the Mecklenburg County Board of Commissioners (“BOCC”) and the citizens of Mecklenburg County**

cc: Dena Diorio, Mecklenburg County Manager; Tyrone Wade, County Attorney

#### **Honorable Commissioners and Citizens of Mecklenburg County:**

The purpose of this letter is to address misinformation regarding operations of the Mecklenburg County Sheriff’s Office (“MCSO”) 287(g) Program (the “Program”) discussed at the Commissioners meeting February 20, 2018 (the “Meeting”). Meeting speakers provided misleading and false information about the Program, including that they have never been afforded an opportunity to obtain accurate and factual Program information. We have provided numerous public forums for the press, elected officials and others to learn about Program operations, and I have always personally been available to address Program concerns. In today’s climate, it is incredibly difficult for law enforcement to recruit quality individuals. The pay is not commiserate with the high risks, and law enforcement personnel often feel unappreciated and undervalued. Imagine your world without people of good character willing to accept law enforcement positions to patrol our streets and run our jails. The purpose for the Program is to allow law enforcement (and citizens) to know exactly who our citizens and officers encounter in our community and in our jails. This knowledge is critical to maintaining a safer work environment for law enforcement both inside and outside the jail, and is essential to a safer community.

At the Meeting, a Commissioner implied that a parent could encounter the Program while at a school bus stop to pick up their child. That is false information and reveals the speaker’s total lack of understanding of the Program. How many times do we have to say that MCSO does not participate in ICE community round ups before our elected officials and others get that message? The Program is never encountered by any person until they get arrested for breaking a law and the Program merely identifies who a person is after the person is arrested for breaking a law. ICE makes all deportation determinations, not MCSO. Contrary to Meeting speaker representations, the Program never targets certain races or ethnicities. Every person who is

arrested locally, regardless of their race or ethnicity, is asked two questions: 1) What country are you a citizen of? 2.) Where were you born? If you are lawfully in this country, you have no Program issues. It is that simple.

Unfortunately, there are people who pretend to want to know about the Program, but do not want to hear facts that do not fit within their own personal agendas. We recently had a newly elected city official come to the jail to “learn about” the Program. Upon hearing and seeing the truly unbiased functions of the Program, he chose to leave and declined the ICE tour offered. The reason? Accurate facts do not fit his personal agenda of spreading Program misinformation. *He does not want to hear the truth.* A MCSO officer later questioned this same official about statements he made at the Meeting, namely: 1) His citizenship status was questioned when he was arrested in 2016. The truth is, he was asked the same two questions that all arrestees are asked. Once he answered those questions, his citizenship was *never* questioned, and he reluctantly acknowledged that to the MCSO officer. This official also stated that: 2) CMPD “brass” advised him the Program is detrimental to CMPD operations. When he was asked by the MCSO officer to provide names of these CMPD officials, he could not provide any names. The truth is, CMPD has never advised me or anyone else in MCSO Administration that the Program is detrimental to CMPD operations. *In summary, this city official, in a public forum, intentionally provided the BOCC and the public with false and misleading Program information.*

Fundamental to my role as Sheriff of this County, and to the role of members of the BOCC, are our state mandated oaths of office. I take my oaths very seriously. One of the oaths the Sheriff must take is identical to a required Commissioners’ oath. This oath, and the NC statutory and Constitutional authority for it is set forth below:

*North Carolina General Statute § 153A-26. Oath of office*

*Each person elected by the people or appointed to a county office shall, before entering upon the duties of the office, take and subscribe the oath of office prescribed in Article VI, Sec. 7 of the Constitution. ...*

*Article VI, Section 7 of North Carolina Constitution: Before entering upon the duties of an office, a person elected or appointed the office shall take and subscribe the following oath:*

*“I, \_\_\_\_\_, do solemnly swear (or affirm) that **I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina, not inconsistent therewith,** and that I will faithfully discharge the duties of my office as \_\_\_\_\_, so help me God.”*

Federal law prohibits illegal entry into this country. Proponents of Program elimination are willing to overlook that the person entering this country illegally is guilty of breaking our laws *immediately upon their illegal entry into this country.* However, that person does not encounter the Program until they are charged with breaking *yet another law(s)*. An argument often advanced is that children of illegal immigrants should not have to pay the consequences for poor decisions made by their parents who chose to enter this country illegally. The reality is that all across this nation, there are children who bear the consequences of their parents’ poor decisions,

regardless of where the parent or the child is born. This includes your children and mine. Our prisons are full of people who have families who bear the burden of the prisoners' poor decisions. Unfortunately, an individual's bad choices have consequences not only for themselves but also for their families. Why is it acceptable for lawful U.S. citizens to have *all* of the federal and state laws they have broken strictly enforced against them; yet, apparently some believe that when the person who entered the country illegally is brought to jail for breaking *yet another one of our law(s)*, the fact that he initially broke one of our most fundamental laws (illegal entry into our country) should simply be overlooked? How is that not treating lawful citizens differently and more harshly than those who choose to enter our country illegally, and who continue to show disrespect for our laws resulting in their subsequent arrest(s)?

The oath that I took as Sheriff and all Commissioners took obligates all of us to support and maintain the laws of the United States. It is unequivocal. There is not an oath, or state or federal law that permits a Sheriff or a Commissioner to pick and choose which laws we can refuse to support and maintain based upon whether we personally like the law, or whether it is popular with our constituents.

Two additional North Carolina laws that are also constantly overlooked in this discussion are set forth below:

**1. NC General Statute 153A-145.5. Adoption of sanctuary ordinance prohibited (County)**

(a) No county may have in effect any policy, ordinance, or procedure that limits or restricts the enforcement of federal immigration laws to less than the full extent permitted by federal law.

(b) No county shall do any of the following related to information regarding the citizenship or immigration status, lawful or unlawful, of any individual:

(1) Prohibit law enforcement officials or agencies from gathering such information.

(2) Direct law enforcement officials or agencies not to gather such information.

(3) Prohibit the communication of such information to federal law enforcement agencies.

**2. There are identical prohibitions for cities in NC General Statute 160A-205.2.**

A Commissioner stated at the Meeting that he has not been advised of one positive outcome of the Program. Respectfully, I submit that Commissioner has not been listening to or attending MCSO public forums on this topic to become educated, has not availed himself of our Program tour, and has not once contacted MCSO for further information to develop a truly informed understanding of the Program. *How can anyone maintain that knowing the true identity of persons in our community does not make a safer community? How can anyone maintain that jail detention staff knowing exactly who they are looking after does not provide a safer and more secure detention facility for not only the officers, but also for inmates the county is charged with the responsibility of keeping safe and secure?* I maintain that if you do not see the very obvious Program benefits, you have not walked the walk of law enforcement officers in your community

that you depend on to keep you and your family safe, nor have you experienced the life shattering loss of a loved one due to our failure to detect those who are illegally in our country and who commit crime after crime, and are then released back into the community to continue to commit crimes. Attached are copies of posters my staff displayed at the March 7 BOCC meeting, representing a sampling of illegal immigrant arrestees we have encountered. Charges include murder, arson, burglary, statutory rape of a child under 15 years, kidnapping, trafficking in methamphetamine, opium, heroin and opiates. The first law these individuals broke was entering this country illegally. *This is what happens when laws that prohibit illegal entry into this country are not enforced on a consistent and impartial basis. Maintaining and supporting our laws is a required oath that I, and the BOCC, took.* Surely you agree that removing these individuals from our community qualifies as a positive outcome. Absent programs such as 287(g), your family goes to bed at night not having a clue who is in your community-and who might be your neighbor. Is this really the community you want for your constituents?

I invite any public official to contact me to become more educated prior to making uninformed comments against the Program. To do otherwise is a grave disservice to this community. As Sheriff, I do not garner votes by catering to special interest groups. *My duty is to follow the law as it is written, to the best of my ability.* If I do not like a law, I seek to change it. I never view my personal biases as a license to ignore certain laws while I enforce others, nor does my personal dislike of a law provide justification for disregarding my oath of office to support and maintain the laws of the United States and the laws of NC not inconsistent therewith. This is the exact same oath all Commissioners took.

If you do not like a law, attempt to change it. If you do not understand the Program (and the Meeting speakers as well as some members of the BOCC clearly do not), and you *really want to understand the Program* (many do not), please refrain from espousing grossly misleading information based upon your personal failure to seek Program clarification that has been offered time and again. I invite you to contact me and educate yourself so that Program issues you address are not merely regurgitations of grossly inaccurate information an individual having their own biased agenda has provided you, and who is merely using you to advance their self-serving misinformed agenda.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Irwin Carmichael". The signature is fluid and cursive, with the first name "Irwin" and last name "Carmichael" clearly distinguishable.

Irwin Carmichael, Sheriff of Mecklenburg County