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Congressional testimony touches on county's 287 (g) program

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April 3, 2009 - 4:37 PM

Keren Rivas / Times-News

Alamance County Sheriff Terry Johnson was partly the subject of a Congressional testimony Thursday about the negative effects the 287 (g) program is having in North Carolina.

Deborah M. Weissman, a law professor at the University of North Carolina at Chapel Hill, told the members of a U.S. House Judiciary Committee that among other things, the 287 (g) program encourages racial profiling and creates fear of law enforcement within immigrant communities.

Weissman was one of eight panelists who made their case about illegalities involving the federal program during a joint hearing on the topic of public safety and civil rights implications of state and local enforcement of federal immigration laws.

The 287 (g) program, named for part of a congressional act, allows federal authorities to train and deputize local lawmen as Bureau of Immigration and Customs Enforcement agents, and provides their departments with access to federal immigration and identification computer databases.

Weissman, who based her testimony in part on a February report she co-authored in partnership with the American Civil Liberties Union of North Carolina Legal Foundation, referred to statements made by Sheriff Johnson when talking about factors that have contributed to the creation of a "nativist sentiment" against immigrants regardless of their status.

She mentioned, for instance, comments attributed to Johnson in an April 22, 2007 News & Observer article in which he is quoted as saying that Mexicans have different morals, including their attitudes toward sex and drinking.

"In Mexico, there's nothing wrong with having sex with a 12-, 13-year-old girl ... They do a lot of drinking down in Mexico," Johnson was quoted as saying.

Weissman also made reference to Johnson's comments prior to the 2004 election that he planned to

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go "door to door to investigate registered voters with Hispanic last names."

Weissman said that sheriffs with Johnson's attitude toward Hispanics create an atmosphere for racial profiling. She said that federal programs like 287 (g) cannot be effective at the local and state level within this framework.

"The nativist and racist commentary by law enforcement officials suggests that federal programs cannot simply be passed on to localities without concern for troubling attitudes that may control the way the program is implemented at the local level," she said.

She added, "Today's anti-immigrant law facilitates tomorrow's encroachments on American liberties."

SHERIFF'S DEPARTMENT Spokesman Randy Jones said on Friday that the comments attributed to the sheriff were "conveniently taken out of context."

He said, for instance, that when Johnson made the comment about Mexicans having different morals he was answering a reporter's questions about "a specific criminal element" within the Latino community the department was dealing with at the time that involved drug trafficking and prostitution.

"It was never intended as a generalization," Jones said of the comment, adding that the department recognizes that criminals only make up a small section of the Hispanic community.

It's that small section of the population, he said, the ones who have a different moral fiber.

Jones said every ethnic group, whether it's white, black or Asian, has good, working people and people who disregard the law. He said the sheriff has said on more than one occasion that "the vast majority of the Hispanics - legal or illegal - don't cause us any problem."

Jones firmly denied any hint that the sheriff or anyone in the department engages in racial profiling. He said the numbers simply do not reflect that.

He said deputies do not go around looking for Hispanics simply because of the 287 (g) program. He said that even in the supposed scenario that the sheriff or his deputies want to engage in racial profiling, deputies don't have the time to do so. He said deputies have "too much stuff to do" as it is to waste time trying to target one single group.

"It's not a big conspiracy theory," Jones said. "Nobody can ever show anything that would indicate racial profiling" by the sheriff's department.

"It's just not there," he added.

DURING HER PRESENTATION, Weissman also challenged the way the 287 (g) program is being used in North Carolina.

She said that according to ICE, the program was intended to target illegal aliens convicted of violent crimes, including those involved in sexual-related offenses, gang activity and drug trafficking.

However, she said, data reveals that the bulk of illegal aliens caught through the program statewide have been charged with traffic infractions and low-level misdemeanors.

Once again, Weissman pointed at Alamance County, saying local data show that about 70 percent of those detained here through the 287 (g) program were arrested on routine traffic violations.

Jones said the fact that Hispanics are arrested for violations like driving without a license is not a product of the program but simply the reflection of a longtime standard procedure of how to deal with people whose identity cannot be established.

He said arrests are the standard tool when an officer cannot determine the identity of a traffic violator and has reason to believe the person will not show up to court.

"That has never changed," Jones said. "We have always made that arrest."

Weissman closed her presentation asking for a revision of the 287 (g) program. She called for the program to be more transparent and to conform to the letter and the spirit of the law. She also said more community participation and checks and balances were needed to ensure the program was

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being implemented properly.

Finally, she asked for a comprehensive immigration reform at the federal level.

"Until this reform occurs, the deficiencies and illegalities of 287 (g) agreements must be remedied and communities and law makers must be encouraged to implement change under the current system," she said.

Jones said he believes 287 (g) has been an effective tool to fight crime in Alamance County. For instance, he said, a recent report by a Cary-based company found that the crime rate in the county went down 19.5 percent in 2008 compared with the previous year.

Though he has no scientific way to prove that the decline is a result of the federal program, he said the program was the major change the department had during that period. He also said the county has seen a decrease in recidivism.

To read Weissman's full statement before the committee, go to <http://judiciary.house.gov/hearings/pdf/Weissman090402.pdf>.

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