

WRITTEN TESTIMONY IN OPPOSITION TO HOUSE BILL NO. 2578

To: The Honorable Steve Brunk, Chairperson
Members of the House Federal and State Affairs Committee

From: Captain Thomas Hongslo, Patrol Commander, Lenexa Police Department

Date: February 14, 2012

RE: House Bill 2578 – Kansas Immigration Bill

Thank you for the opportunity to submit written testimony regarding HB 2578. The Lenexa Police Department has concerns with HB 2578 regarding the enforcement of immigration laws by local law enforcement. The Lenexa Police Department opposes HB 2578 for the following reasons:

Section 1 (c) - Illegal Immigrant Status Verification

This bill states that law enforcement officers shall determine the immigration status of the person if reasonable. However, there is not an easily accessible database where an officer can submit a name and determine the legal status of the person contacted. The only database that contains this information is with the United States Customs and Immigration Services. This database identifies only immigrants that are in the country legally and those previously cited for breaking immigration laws. The database would have no record of someone that simply crossed the border illegally. An inquiry into the database is made by a police dispatcher. The response time to get the results from the inquiry varies, and can take a substantial amount of time. Short of an admission by the person contacted, this is the only source of evidence for an officer make a decision on their immigration status. In fact, according to this bill, even the admission that one is an illegal alien is not acceptable and must be verified by the federal government. The time and difficulty associated with this inquiry will likely result in civil litigation to determine what a reasonable time is to detain a subject when the sole purpose of the detention is to verify their immigration status. HB 2578 does not, and cannot, shield the City from civil liability in this situation.

As did similar measures that other states adopted, HB 2578 will create the perception that only certain populations or persons of a particular national origin will be investigated, and therefore "targeted" by police. Reasonable suspicion is a very low threshold. The Bill provides that an officer may not consider race, color or national origin in implementing the requirements of the bill and further provides four documents that create a presumption of legality, if presented to the law enforcement officer, but provides no guidance on what constitutes reasonable suspicion to inquire into legal status. This puts the police in a dilemma. Officers are trained to observe and detect behaviors that reasonably relate to criminal activity. However, immigration laws, as this section proposes, rely heavily on an officer's observation of appearances, rather than behavior. Those appearances are largely in the form of color, ethnicity and or language, which is expressly prohibited by the bill and others aimed at curbing "racial profiling", and feeds a negative perception that police are targeting a specific group. This, too, raises civil liability concerns that the bill does not address.

House Fed & State Affairs

Date: 2-15-12

Attachment 6

HB 2578 states in section 1 (d) that immigration and customs enforcement shall be immediately notified if an alien who is unlawfully present in the United States is discharged from imprisonment or assessment of fine. This would create an undue burden on the municipal court system. The municipal court personnel do not have the resources, training or time to make these types of inquiries. The burden would fall upon the police department to assist them in the verification process.

- **Section 1 (d), (e) – Increased Cost for Local Law Enforcement**

This bill would cost law enforcement agencies in time and money. The police methods to investigate legal status are complex and costly. The investigation into the immigration status may involve computer database inquiries, phone calls, interviews and the documentation of evidence. This may include the collection of fingerprints and electronic submission.

Lenexa, like many other law enforcement agencies, has already made drastic cuts in manpower and community policing programs due to the economy. The additional time, manpower, and resultant costs associated with enforcing the provisions of these bills would further exaggerate the economic issues that are already having negative consequences for law enforcement agencies.

For example, in 2011, the Lenexa Police Department had contact with 2,006 Hispanic individuals. This equates to 5.5 contacts per day and approximately 167 contacts per month. If, conservatively, 20% of the Hispanic persons contacted in Lenexa did not provide one of the four pieces of documentation necessary to create a presumption of legality pursuant to HB 2578, the Lenexa Police Department will be required to verify immigration status of approximately 30 persons a month. If it took the officer 45 minutes to make a determination on the status of the person contacted, this would account to 23 hours a month. This is over half of a full work week of one police officer's time and does not include any time necessary to contact the U.S. Bureau of Immigration and Customs Enforcement or transport those found to be in the U.S. illegally to a federal facility, nor any classroom training that would have to be conducted before the implementation of an immigrant verification process. In tight economic times such as these, the Lenexa Police Department simply does not have the resources necessary to implement the provisions of HB 2578 without significant negative impacts to the other services we provide.

- **Section 1 (e) – Transportation**

This provision of HB 2578 would have a large impact on the city courts and the police department by requiring that any illegal immigrant, who is convicted of a misdemeanor or traffic infraction in city court, would possibly be transported by a local law enforcement officer to a federal facility. This would involve more court time and officer time in the notification and transportation process. It is also very unclear on where a police department will obtain judicial authorization to transport the alien out of the state. Lenexa is very close to the Missouri border and transport out of state may occur. If the officer is given judicial authorization to transport a prisoner out of state, under what color of law is the officer performing the duty? If the prisoner attempts to escape outside of the jurisdiction and state, what authority do the officers have to act?

- **Inhibit Relationships with Hispanic Community**

This bill will inhibit community policing initiatives of the Lenexa Police Department. The Lenexa Police Department is currently working to increase the level of trust with our Hispanic

community through community policing initiatives. Pursuant to HB 2578, law enforcement officers would be required to check the immigration of status upon any lawful stop, detention, or arrest if reasonable suspicion exists. Does this include lawful contacts with citizens who are reporting crimes or are victims of crimes? This bill would have a negative impact on contacts with all Hispanic residents of the community. It could create a fear of police, inhibiting people from reporting crimes or cooperating with investigations.

The goal of law enforcement should be to put programs in place that target the violent or felony crime offenders. If an individual of any race is placed under arrest for a felony crime, then the immigration status of the individual should be verified and, if the individual is found to be in the U.S. illegally, the appropriate federal agency should be contacted. A requirement that law enforcement verify the immigration status of all lawful contacts where the officer has reasonable suspicion that they may be illegal will deter persons from reporting crimes out of a fear that they will be deported. This is not only time consuming and costly, but runs directly counter to the Lenexa Police Department's community policing initiatives and could result in increased crime in our community.

The Lenexa Police Department urges you to consider these points and remove or revise these provisions of HB 2578 accordingly. If you need any additional information, please do not hesitate to contact me at 913/477-7260 or by e-mail at thongslo@lenexa.com.

Thank you for your consideration.