



April 16, 2009

287(g) Two-Year Review



Davidson County Sheriff's Office
Nashville, TN

The Davidson County Sheriff's Office (DCSO) began participation in the 287(g) Delegation of Authority program April 16, 2007. To date, over 5,300 illegal aliens, who were first arrested for a crime, have been processed for removal from the United States. As predicted, in Davidson County there has been a 31 percent decline in the percentage of foreign born arrestees and, even more importantly, a 46 percent decline in the percentage of illegal aliens committing crimes since inception of 287(g).

Sheriff Daron Hall consistently looks for program improvements and recently wrote U.S. Department of Homeland Security Secretary Janet Napolitano requesting a review to assist in that effort. Additionally, as part of that review, Sheriff Hall wants to highlight the merits of how the 287(g) program is administered locally. He is continuing the pursuit of an immigration judge via Tennessee's Congressional Delegation.

The following report documents processes and statistics over the past two and a half years of DCSO's 287(g) pursuit and participation in the program since implementation.





DAVIDSON COUNTY SHERIFF'S OFFICE

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Daron Hall, Sheriff

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February 27, 2009

Secretary Janet Napolitano
U.S. Department of Homeland Security
Fax: 202-282-8415

Dear Madam Secretary:

First, I congratulate you on your new position and as sheriff of Nashville/Davidson County, TN, I look forward to working with you and your agency over the coming months and years. No doubt these past few weeks have been hectic with all the new responsibilities as well as assessing various needs.

You may be aware that Davidson County participates in the 287(g) Delegation of Authority program and has the largest processing numbers east of Phoenix, AZ. We will soon hit our two-year anniversary of participation and during that time approximately 5,000 criminal aliens have been processed for removal. More importantly, over the past two years, the percentage of people arrested in Nashville who are here illegally has decreased by 36 percent, we have seen a 30 percent decrease in the overall percentage of foreign-born arrested, and more than 100 gang members have been removed from our community.

I believe our program is unique and a model for many reasons – a primary one is our Metropolitan form of government which separates our agency from the arrest process. Additionally, Davidson County has a process in which citations may be issued in lieu of arrest. Of the 20,000 issued last year by the police department, 17 percent of those were given to foreign-born individuals. Many of our local processes negate the racial profiling argument.

I am requesting a meeting with you to discuss further our program and the merits of how we administer it locally. With all the negative focus on 287(g) from special interest groups, it is imperative that you hear from law enforcement agencies that are performing duties as it relates to this subject responsibly. Please contact my assistant at 615-862-8166 to arrange this meeting as soon as your schedule permits.

I look forward to hearing from you.

Sincerely,


Daron

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What is the 287(g) Delegation of Authority Program?

The Illegal Immigration Reform and Immigration Responsibility Act of September 30, 1996, amended the Immigration and Nationality Act by adding Section 287(g), a program that authorized the Secretary of the Department of Homeland Security (DHS) to enter into a written Memorandum of Agreement (MOA) with state and local law enforcement to authorize qualified personnel to perform certain acts of an immigration officer.

The 287(g) initiative is designed to multiply the forces of U.S. Immigration and Customs Enforcement (ICE) through enhanced cooperation and communication with state and local law enforcement. Under the agreement, once approved, ICE provides training to deputies followed by authorization to identify, process, and when appropriate, detain criminal immigrants encountered in the booking process.

Jail Model vs. Task Force Model

There are two types of 287(g) enforcement models: the jail model and task force model. The DCSO participates in the “jail” model. Only those individuals brought to jail by local arresting agencies are scrutinized under 287(g) authority. The task force model involves initiating investigative work on the streets during traffic stops. According to the Department of Homeland Security’s website, since January 2006, the 287(g) program is credited with identifying more than 79,000 individuals, mostly in jails, who are suspected of being in the country illegally. More than 950 officers have been trained and certified through the program under 67 active MOA’s. For a complete listing of participating agencies, go to http://www.ice.gov/pi/news/factsheets/section287_g.htm.

Why Nashville?

The journey began during the summer of 2006 after a series of tragic events. Six illegal immigrants were arrested and charged with homicide during a three-month period. Not only were they illegal aliens, but many had been arrested previously for misdemeanor crimes. Most notable: Reyes Garcia.

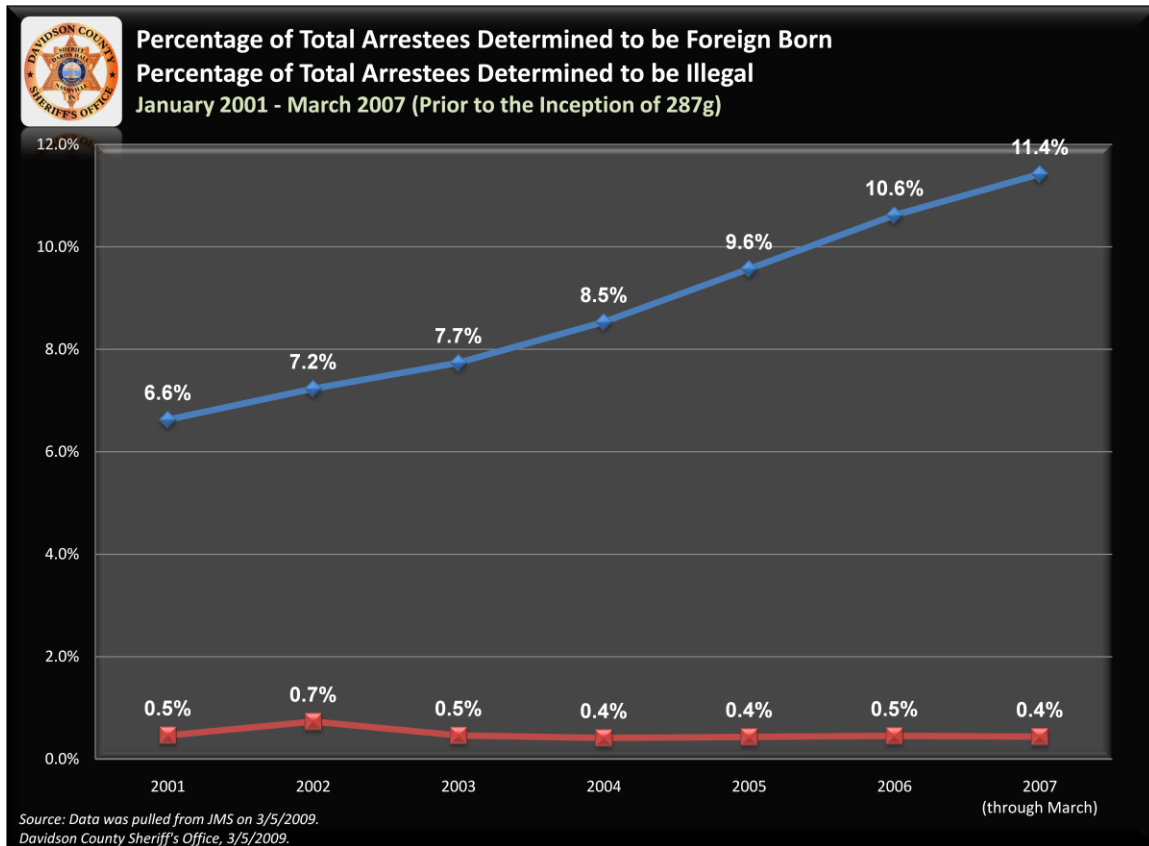


Over a five-year period, Garcia was booked into the Davidson county jail 12 times for, primarily, misdemeanor charges. On June 8, 2006, he was arrested for Driving Under the Influence (DUI) and vehicular homicide. He crashed his car into a Mt. Juliet, TN, couple and both were killed instantly. In 2007, he pleaded guilty to vehicular homicide and, through an interpreter, blamed the criminal justice system for allowing him to get multiple DUI’s with few consequences, “they gave me like 45 days and didn’t really punish me and I just kept driving and driving,” Garcia said. He is eligible for parole in five and a half years. Upon release, he will be deported.



Once these cases came to light, Sheriff Hall began exploring the issue further. He learned that upon booking, the DCSO was sending arrestee information to a federal database center, the Law Enforcement Support Center in Vermont, but the federal government rarely followed-up on an arrestee's immigration status unless they were charged with an aggravated felony.

Further analysis showed the percentage of foreign born arrestees (blue line below) nearly doubling from 2001 to the inception of 287(g) in April 2007 when the number reached an all-time high of 12.2 percent. The red line represents the small percentage of illegal aliens identified prior to 287(g). In 2006, the federal government only identified 151 illegal aliens for removal.



The Pursuit of 287(g)

Believing that it is too late to deport an individual once a serious crime is committed, Sheriff Hall discovered 287(g) being implemented in Charlotte, NC, a city frequently compared to Nashville. It wasn't a perfect solution, but it was an improvement for an obviously flawed system.

In August 2006, using the Charlotte program as a guide, the DCSO applied for 287(g) via a letter to then DHS Assistant Secretary of ICE, Julie Myers. Approval came in December and the MOA was signed January 2007. Training of 15 deputies began soon



after and the Davidson County program began screening arrestees in April of that same year.

Advisory Council

Unlike any other jurisdiction in the United States, the DCSO's Immigration Advisory Council was formed prior to entering into the MOA. The council, made of up immigration attorneys and advocates as well as representatives from the sheriff's office, police department, and public defender's office, still meets quarterly. Members were presented the following purpose statement January 2007:

"It is the purpose of the Sheriff's Immigration Advisory Council to share concerns and input ideas for the implementation of the 287(g) Delegation of Authority program. Another primary purpose of the Council is to carry factual information to the immigrant community and community at large. It is also expected of the Council to bring forward specific complaints concerning individual cases once the program has been implemented. Ultimately, the decisions for how the program works rests with the Sheriff's Office and the laws and policies governing the ICE agency."

Program Implementation

After five weeks of intense training, DCSO ICE deputies gained the authority to investigate the immigration status of those arrested for a crime and booked at the Criminal Justice Center (CJC). That is where the authority ends. These deputies have no enforcement authority outside the jail and do not participate in "round-ups" or job site enforcement. Upon completion of an investigation, DCSO ICE deputies recommend individuals for removal (deportation) and a federal ICE agent working in the CJC signs that recommendation if approved. Ultimately, a federal immigration judge decides whether or not someone is deported. Prior to removal, all local charges must be adjudicated.

Revenue

As part of an inter-governmental service agreement, the federal government reimburses the DCSO at a rate of \$61 per day with a total estimated reimbursement for fiscal year 2009 of nearly \$1 million. On average, an illegal alien will stay in the Davidson County jail five days until removed by federal ICE detention and removal officers.

Results

A total of over 5,300 illegal immigrants have been processed for removal in Davidson County since implementation, with 3,000 processed in the first year. To date, only 1.3 percent of those deported have returned and been rearrested in Davidson County. As shown on the next page, those processed for removal claim 61 different countries of origin.



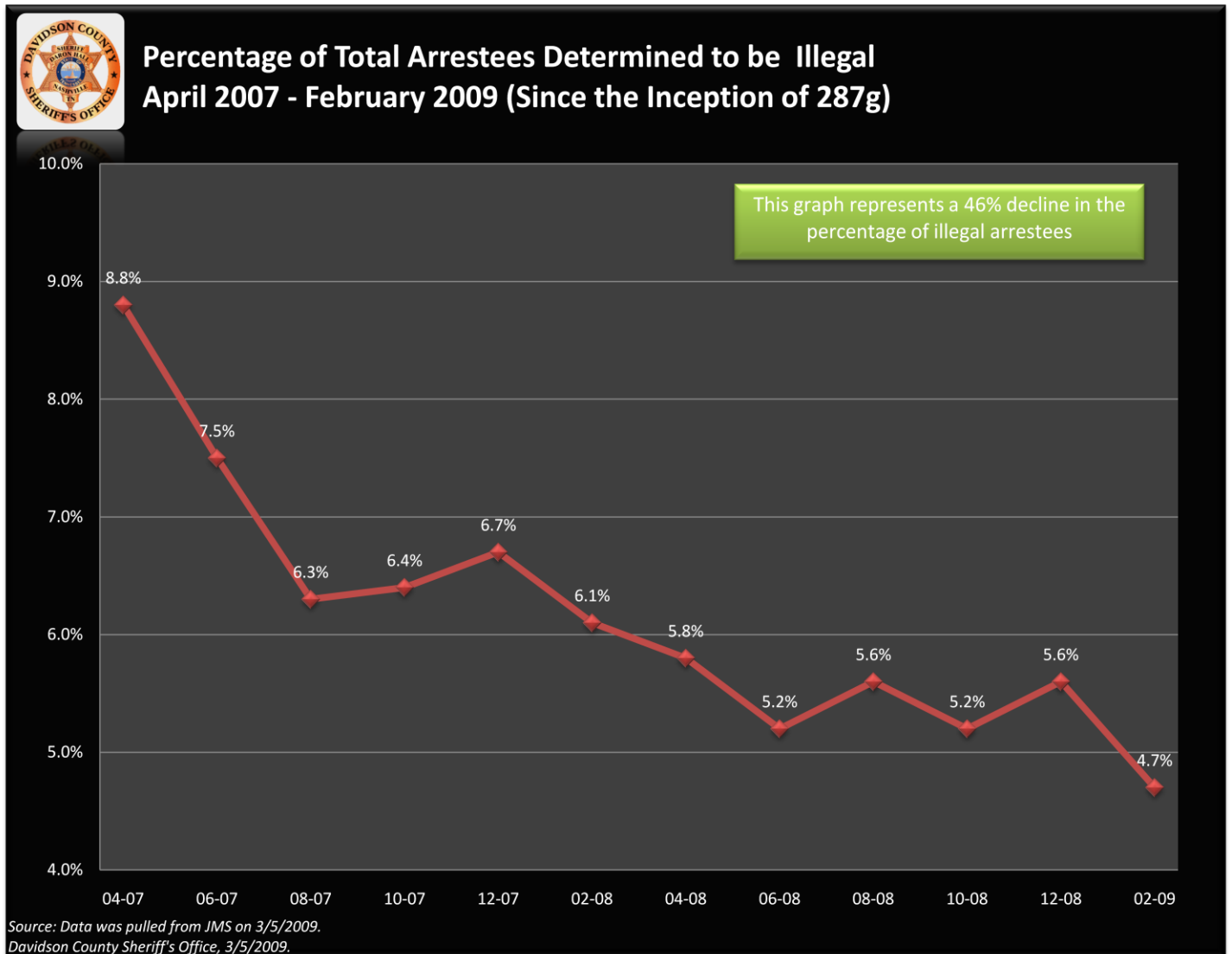
Countries of Origin for Illegal Immigrants

Mexico	3,752	Venezuela	3
Guatemala	613	Ecuador	2
Honduras	535	Egypt	2
El Salvador	278	Ghana	2
Cuba	12	Israel	2
Nicaragua	11	Peru	2
Somalia	9	Russia	2
Colombia	7	Senegal	2
Iraq	7	Uzbekistan	2
Jamaica	7	Albania	1
Sudan	6	Bahamas	1
Zimbabwe	6	Bosnia	1
Iran	5	Burundi	1
Trinidad	5	Cambodia	1
Vietnam	5	Ethiopia	1
Argentina	4	Finland	1
Canada	4	Germany	1
India	4	Haiti	1
Nigeria	4	Italy	1
Thailand	4	Jordan	1
UK	4	Kosovo	1
Asia	3	Laos	1
Brazil	3	Liberia	1
Costa Rica	3	Malaysia	1
Dom. Republic	3	Mongolia	1
Ireland	3	Morocco	1
Korea	3	Philippines	1
Panama	3	Sweden	1
Uruguay	3	Turkey	1

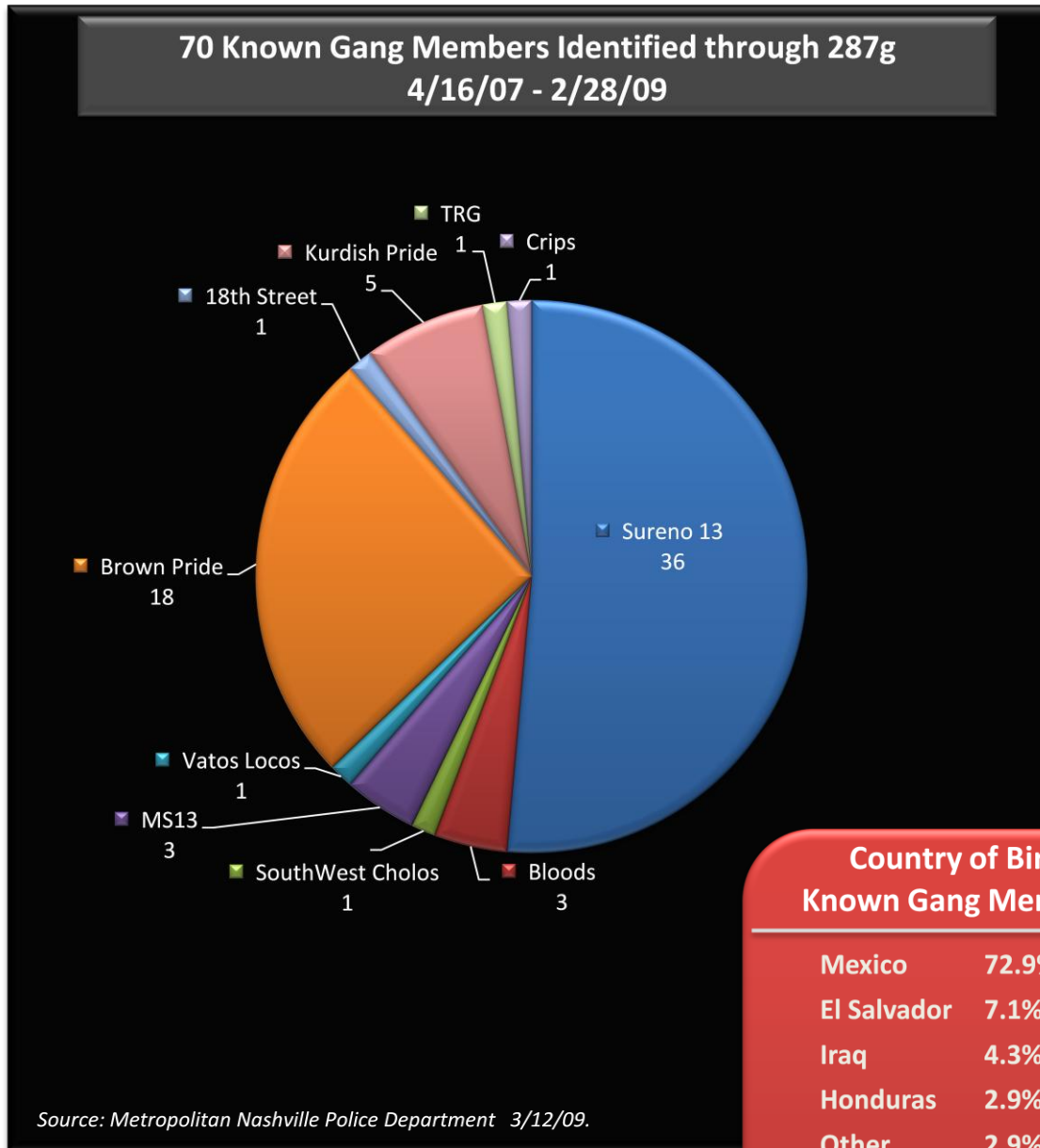


Significant Success for a Safer Davidson County

The success of the program is measured in a variety of ways. Most significant is that the percentage of illegal aliens committing crimes in Davidson County is down 46 percent.



At least 70 known gang members have also been identified and removed.



Country of Birth Known Gang Members

Mexico	72.9%
El Salvador	7.1%
Iraq	4.3%
Honduras	2.9%
Other	2.9%
Ethiopia	1.4%
Guatemala	1.4%
Iran	1.4%
Estonia	1.4%
Somalia	1.4%
Thailand	1.4%
Turkey	1.4%

• Note the discrepancy in the total gang members from page 3. As gang information was closely reviewed for this comprehensive report, it was discovered that previous totals included some instances of duplicate information. Those duplicates have been removed in this graph to reflect an accurate count.



Over 20,000 Previous and Current Charges; 40 Percent Arrested Previously

Forty percent of those processed for removal have been arrested previously either in Davidson County or elsewhere in the U.S. The 5,300 identified as illegal have more than 20,000 current and previous charges. Prior to 287(g), one illegal alien was arrested and released 26 times in Davidson County alone. This “catch and release” system not only put our community at risk, but it also burdened our entire criminal justice system.

Checks and Balances

Davidson County is unique. It already has a system in place that allows police officers to issue state citations for misdemeanor crimes when the person meets specific requirements set by state law. When a person in Davidson County is issued a state citation in lieu of a physical arrest, they do not face the same 287(g) scrutiny as someone physically arrested.

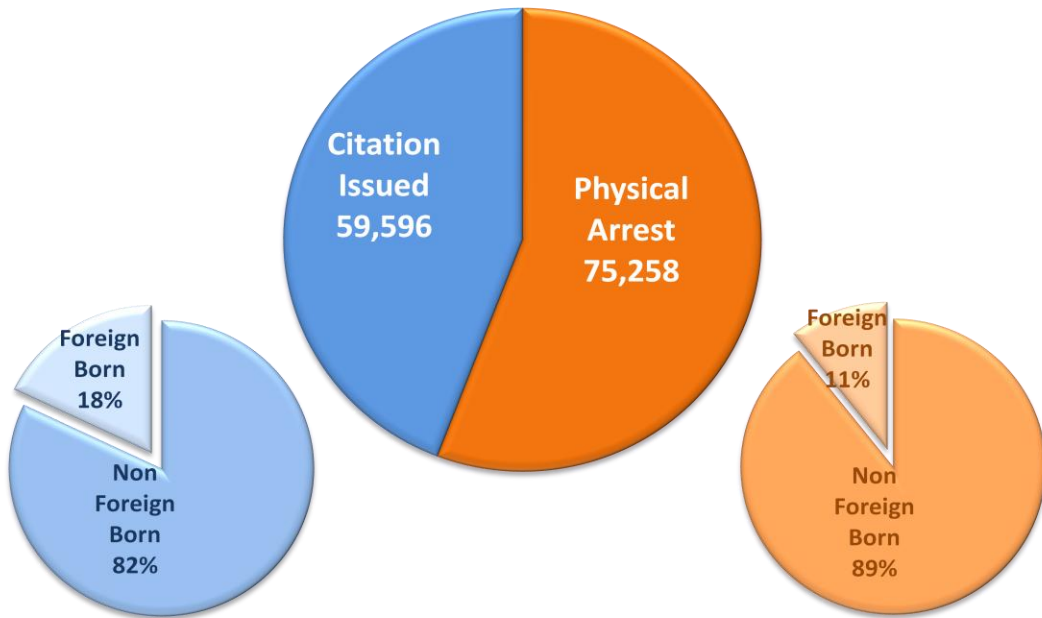
As pointed out in the following graph, nearly half of all people charged with a crime since the inception of 287(g) were issued misdemeanor citations instead of being arrested. Foreign born people are being issued citations at approximately the same rate post 287(g) as they were prior to its implementation. This negates criticism that police are choosing to arrest more foreign born individuals to process them through this program.

Additionally, before an arrestee can be committed to jail and subjected to 287(g), the arresting officer must bring the defendant before a judicial magistrate. That magistrate must validate the arrest. This is an additional step that most jurisdictions do not have in place.

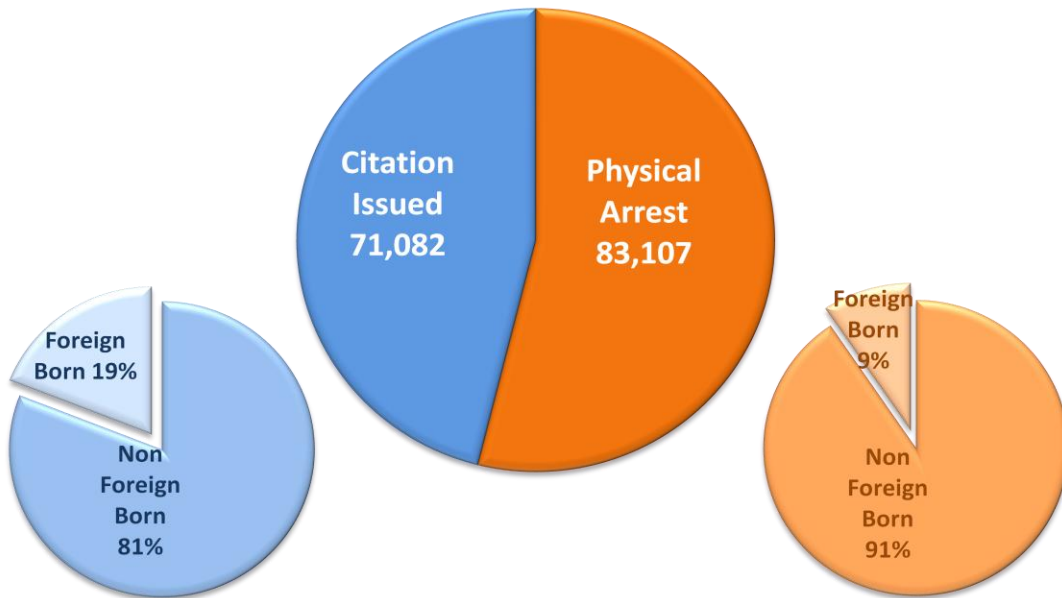
Misdemeanor arrests make up approximately 85 percent of all those processed through 287(g). DCSO officials believe that if both the arresting officer initiates the arrest for violation of the criminal law *and* the magistrate validates that arrest, then that defendant – if foreign born – should be interviewed to check his or her legal status.



**Result of Individuals Charged with a Crime in Davidson County
June 1, 2005 - April 15, 2007 (Prior to Inception of 287g)**



April 16, 2007 - February 28, 2009 (Since the Inception of 287g)

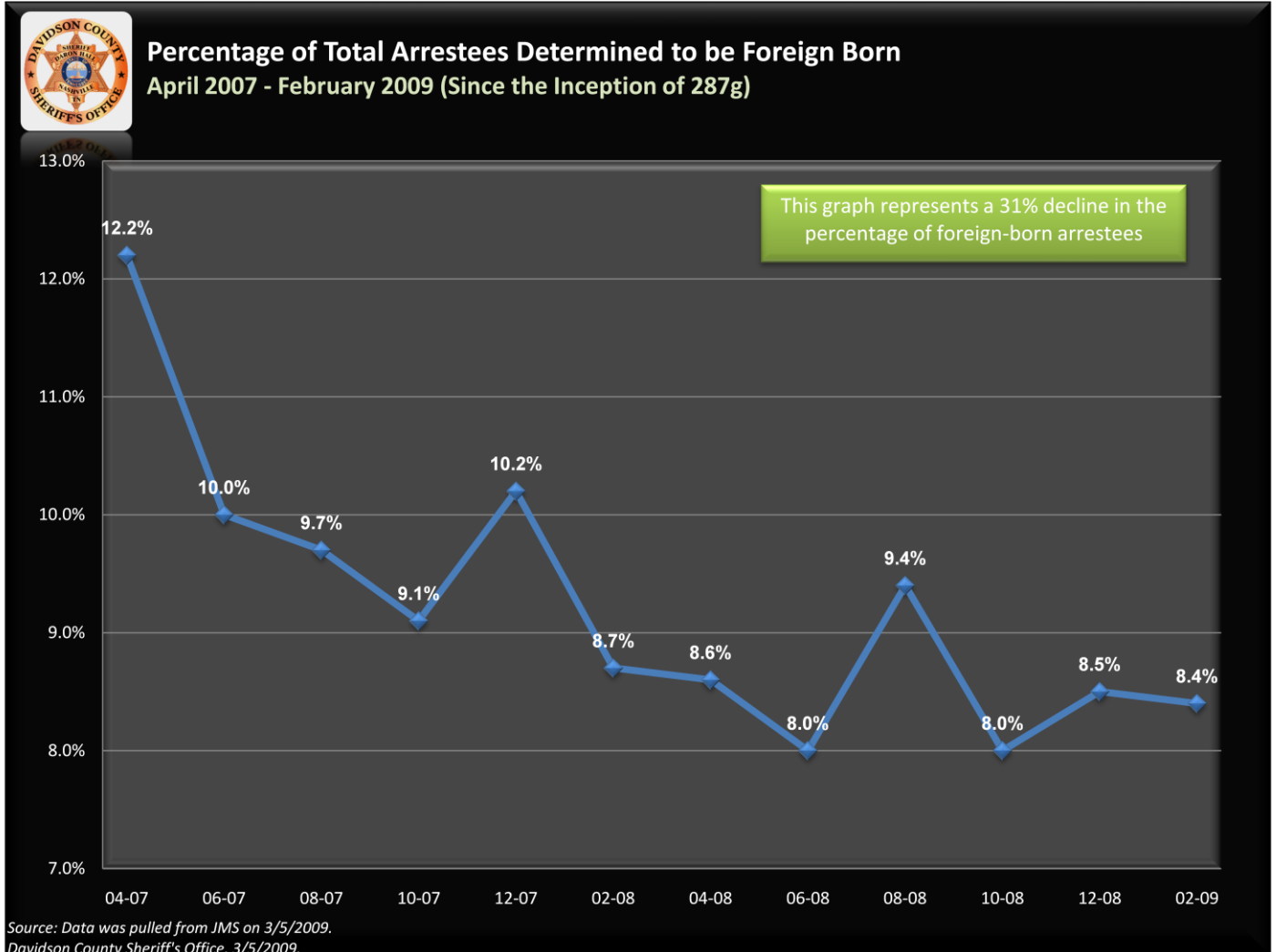


Disclaimer: All reports and other documents generated by Criminal Justice Planning are based on information drawn from databases owned and maintained by other agencies of state and local government. Therefore, Criminal Justice Planning cannot guarantee, or assume responsibility for, the accuracy or completeness of the data or information reflected in any reports or other documents.

Source: Data was pulled from Compstat on 3/10/2009. Criminal Justice Planning, 3/12/2009.

Racial Profiling

Sheriff Hall is sensitive to the issue of racial profiling and there is no indication in the tracked numbers that arresting agencies are involved in this practice. As shown below, the percentage of arrests of foreign born individuals has *decreased* 31 percent. Additionally, as shown on page 13, foreign born arrestees were brought to jail for, primarily, the same crimes prior to 287(g) as they are post 287(g).



**Top 5 Arrested Charges Prior to the Inception of 287g
June 1, 2005 - April 15, 2007**

Non-Foreign Born

1. Capias Misdemeanor (General Sessions)

2. Drug Paraphernalia, Possess

3. Driving Under the Influence

4. Probation Violation (Felony)

5. Fail to be Booked (State Citation)

Foreign Born

1. License, Drivers License Required

2. Driving Under the Influence

3. Capias Misdemeanor (General Sessions)

4. Fail to be Booked (State Citation)

5. Trespass

**Top 5 Arrested Charges Since the Inception of 287g
April 16, 2007 - February 28, 2009**

Non-Foreign Born

1. Driving Under the Influence

2. Capias Misdemeanor (General Sessions)

3. Fail to be Booked (State Citation)

4. Public Intoxication

5. Probation Violation (Felony)

Foreign Born

1. License, Drivers License Required

2. Driving Under the Influence

3. Fail to be Booked (State Citation)

4. Capias Misdemeanor (General Sessions)

5. Implied Consent Violation

Notes:

(a) Most Frequent Arrested Charge includes all charges for which defendants were jailed during the time period.

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Source: Data was pulled from JMS on 3/5/2009. Criminal Justice Planning, 3/5/2009.



Arrested on Misdemeanor Crimes

It is evident that processing misdemeanors makes the Nashville community safer. A review of arrest data since 287(g) inception indicates 75 percent of vehicular homicides by illegal aliens would have been prevented if their previous misdemeanor arrests had led to deportation.

The following are examples of illegal aliens charged with misdemeanors who would have been released back into our community prior to 287(g):



Ventura, Isidro Elorsa

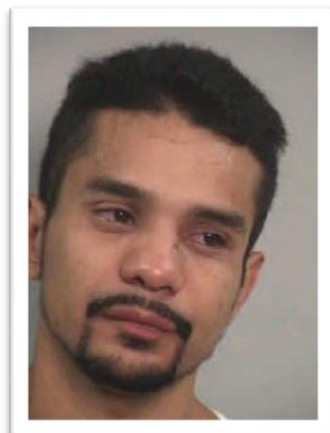
AKA: Gonzalez-Masillas, Jose
Mancias-Gonzalez, Jose Luis

- Previously deported and returned to the U.S.
- Apprehended four times by U.S. Border Patrol
- No prior Davidson County criminal history
- Most recent charges: Drug Paraphernalia, open container
- Country of origin: Mexico
- Current status: Serving a federal sentence for illegal reentry and will be deported upon completion of sentence.



Cengiz, Volkan

- Visa Overstay
- Davidson County charges (26 dating back to 2006) including:
 - Aggravated burglary, controlled substance possession, contributing to delinquency of a minor, assault
- Most recent charge: Misdemeanor theft, failure to appear, resisting stop
- Known gang member
- Country of origin: Turkey
- Current status: Deported

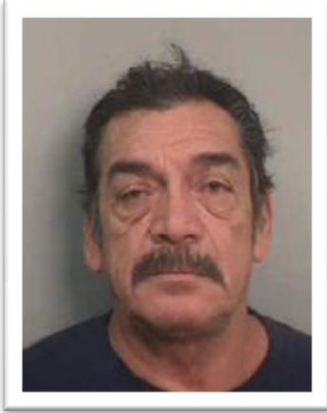


Gonzalez, Roberto

AKA: Sanchez, David

- Entered the U.S. without inspection
- Davidson County charges (36 dating back to 2003) including: DUI, evading arrest, assault, tampering with evidence, possession of drug paraphernalia, criminal impersonation, theft of property, contributing to delinquency of a minor
- Most recent charge: DUI, retaliation for past action, possession without prescription
- Known gang member
- Country of origin: Mexico
- Current status: Deported





Medina-Valasquez, David F.

AKA: Torres, Victor Manuel
Velasquez, David Medina

- Entered U.S. without inspection
- Previously deported and returned to the U.S.
- Davidson County charges: No Driver's License
- No prior Davidson County criminal history
- Subject is an aggravated felon
- Has criminal convictions of crimes against children in California
- Country of origin: Mexico
- Current status: Serving a federal sentence for illegal reentry and will be deported upon completion of sentence.



Garcia-Lopez, Carlos Alfredo

AKA: Garcia, Carlos Alfredo
Monenegro-Miranda, Jose Alfredo

- Previously deported and returned to the U.S.
- Apprehended four times by U.S. Border Patrol
- Davidson County charges: Trespass
- No prior Davidson County criminal history
- Subject is an aggravated felon
- Has criminal convictions for drug-related charges in Washington
- Country of origin: Honduras
- Current status: Deported



Manuel Garcia Delgado

AKA: 20 Different Aliases

- Previously deported and returned to the U.S.
- Davidson County charges: Trespass, criminal impersonation
- Previously arrested in Davidson County on misdemeanor charges prior to 287(g) and released
- Subject is an aggravated felon
- Has 23 prior criminal convictions in Washington, Oregon, and Utah for unlawful possession of heroin and cocaine, burglary, theft, drug trafficking
- Country of origin: Mexico
- Current status: Deported



Conclusion

Partnering with the federal government has been the right move for Davidson County:

- 46 percent decline in percentage of illegal aliens committing crimes;
- 31 percent decline in the percentage of foreign born arrested – showing no indication of profiling by arresting agencies;
- 70 gang members removed from Davidson County
- 5,300 illegal aliens set for removal have more than 20,000 current and previous charges;
- 75 percent of vehicular homicides since inception of 287(g) would have been prevented if misdemeanor offenders were removed previously;
- 40 percent have been arrested previously.

Sheriff Daron Hall agrees that more should be done at the federal level such as enforcing the border. Additionally, he believes 287(g) is a public safety tool - not a solution to this country's illegal immigration problem. Hall also supports recommendations made by the U.S. Government Accountability Office (GAO), the investigative arm of Congress, that the program needs more oversight and consistency across the board. In addition, he believes transparency is a necessary function for a program such as 287(g).

Over the past two years, there have been challenges; however, the DCSO has handled the implementation of 287(g) effectively and professionally and strives to operate a model program.

For more information about Sheriff Daron Hall and the Davidson County Sheriff's Office, please visit www.nashville-sheriff.net.

