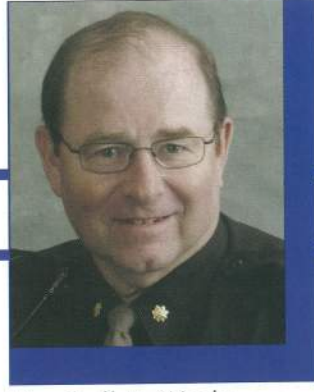




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# Legal Update: Local Law Enforcement & Federal Immigration Law: Part One

by Joseph Summerill, Esq. and Marshall B. Weeks

Federal immigration policy is again attracting the attention of federal and state officials, as well as the American public. In what will be a three part series examining local law enforcement response to Federal immigration policy, we begin with an examination of a recent survey of local law enforcement and their response to the growing number of unauthorized immigrants into America. In the next edition, we will trace the evolution of immigration policies designed to help local law enforcement, from the 287(g) program to "Secure Communities" program. Finally, we will examine new federal legislation aimed at helping local law enforcement, and whether such legislation will pass in the 112th Congress.

Across America, the local sheriffs' decision whether or not to enforce immigration laws depends upon whether removing illegal aliens is a priority for the local community. The controversy regarding the recently enacted Arizona immigration statute directing sheriffs to enforce federal immigration law emphasizes the challenges facing local law enforcement in balancing the responsibilities of protecting life and property while assisting in the removal of illegal aliens.

In August 2010, the Missouri Sheriffs' Association passed a resolution stating: "We realize the failure of the federal government to enforce immigration laws has forced states like Arizona to pass their own legislation to accomplish this goal, and we applaud those states for doing so. We also realize the increased activity at the border has increased

the danger to law enforcement and the citizens they are sworn to protect. We applaud your efforts and are grateful for the job you do."

While the topic of illegal immigration remains highly controversial within many local communities across America, local law enforcement's attitude regarding the level of controversy regarding unauthorized immigration appears to be different. According to a recent survey conducted by the Arizona State University (ASU), John Jay College of Criminal Justice, many sheriffs noted that their officers did not view unauthorized immigration to be as controversial as the citizens view the topic in the communities they serve. Many sheriffs questioned for the ASU survey explained that the citizens in their local communities believe that it is easy to "determine immigration status." In contrast, the officers reported that it was difficult to determine an individual's immigration status unless he/she was arrested for a serious offense.

The prime reason illegal aliens are not identified by local law enforcement is that local law enforcement officers are focused on protection of their citizens and enforcement of local/ state law. When the local laws are disobeyed or a citizen complaint is received involving an illegal, then local area policy for enforcement of immigration becomes a factor and the officer is left to their own discretion in determining the best method of identifying illegal aliens. For examples, last year, the St. Francois County Sheriff apprehended several illegal immigrants at a construction site in Farmington, Missouri, only to be

later told by Immigration and Custom Enforcement (ICE) to release all of the individuals except one with an outstanding arrest warrant.

Sheriffs often receive conflicting pressures from community groups and federal authorities regarding the apprehension of unauthorized immigrants. Because identifying and removing illegal aliens is the primary mission of ICE, it is important that local law enforcement work in conjunction with ICE. Dunklin County Sheriff Bob Holder explains, "We do have illegal immigrants around Kennett and when they are picked up for a crime, we call ICE, which is the people who take care of it. They will tell us whether or not they want to put a detainer on them."

Most sheriffs in the ASU survey stated that they had some relationship with ICE, although the majority of sheriffs reported that they do not have a formal agreement for the management of ICE detainees. The majority of sheriffs also noted that they do not have ICE personnel located within their facility and they conduct ICE investigations remotely with agency personnel when an suspected illegal alien is arrested or booked into their jails.

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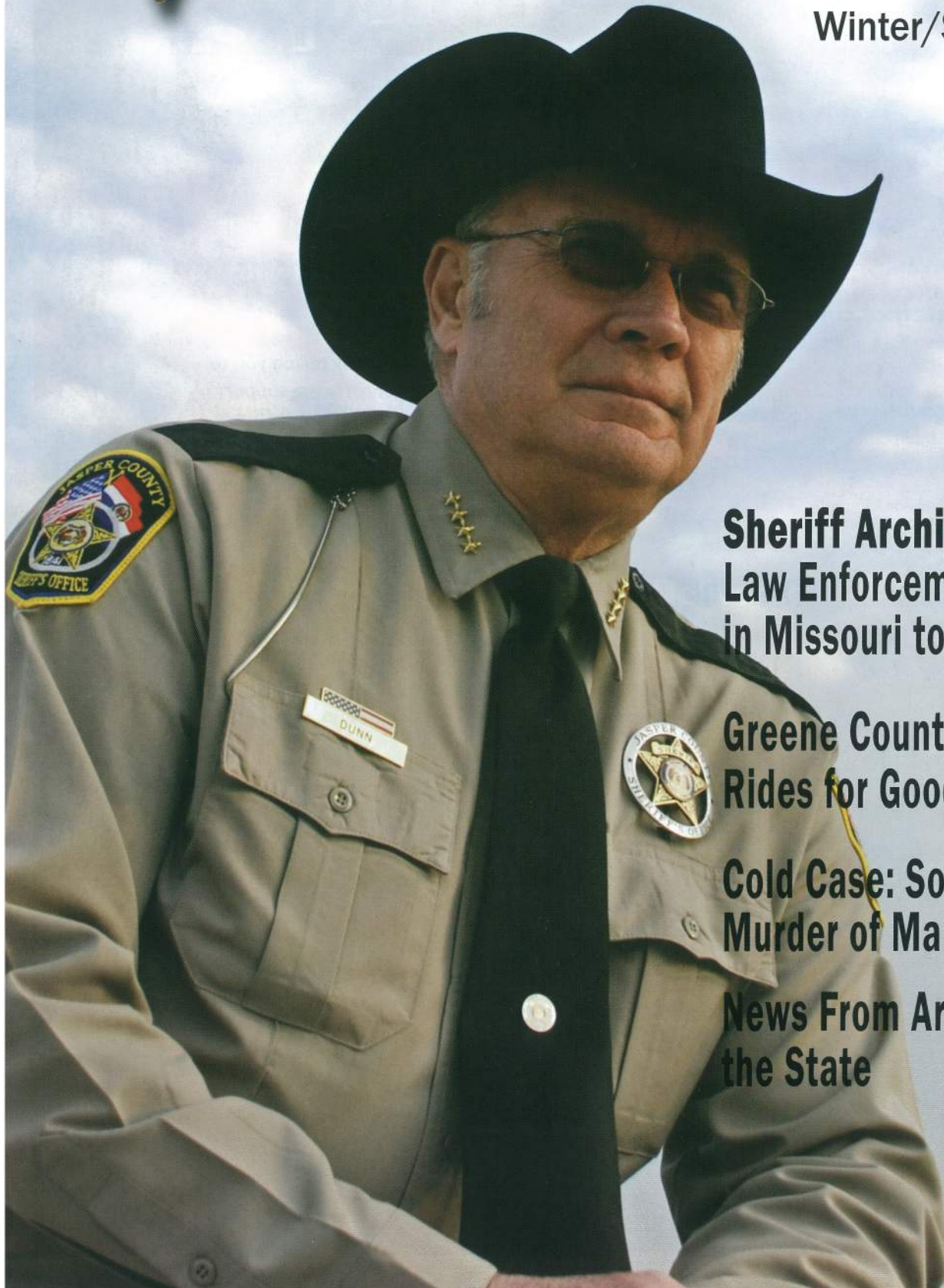
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