

EXHIBIT 6

DECLARATION OF RAY LATHAM
CLAY COUNTY SHERIFF

I, Ray Latham, declare and state the following:

I currently serve as the elected sheriff of Clay County, Alabama, sworn on January 18, 2011. I began my law enforcement career with the Clay County Sheriff's Department in 1974, graduating the Northeast Alabama Police Academy shortly thereafter. After serving approximately 5 years, I was then appointed to Chief of Police for the City of Ashland, Alabama serving there until 1985. I then began employment with the United States Department of Justice, first serving with the U. S. Bureau of Prisons and in 1986 transferring to the United States Marshals until my retirement on December 31, 2009. I have completed many training academies at the Federal Law Enforcement Training Center and hold several training and instructor certificates in both state and federal levels.

As a Deputy United States Marshal, I have had the opportunity to work with Immigration Customs Enforcement (ICE) on many occasions with regards to placement of illegal aliens from various custodial agencies. The task of removing illegal aliens from the soils of our country is a trying a sometimes stagnant procedure. The removal of an illegal alien is a civil procedure given direction by (ICE). Our current pending state legislation makes it a criminal offense for a person to be on Alabama soil illegally. The transfer of custody of a state criminal offense to a Federal Civil Offense is somewhat confusing, and shows concern of a possible delay for local law enforcement.

Clay County is located in East Central Alabama with a population of approximately 13,800 (thirteen thousand eight hundred) persons covering about 610 square miles, made up of mostly a rural working middle-class American farmer. Clay County is limited in large industry and thus is somewhat limited to industrial tax income as afforded by larger surrounding counties. The Clay County Detention Center has a housing capacity of 136 inmates and runs an average population of 80 inmates. Our entire Sheriff Department Staff consists of less than 30 employees, with some employees multi-tasking between

corrections, communications, administration, and enforcement. On many occasions, our enforcement personnel may be assigned an entire half of the county. A single arrest can take up to 2 to 3 hours for the incarceration process to be finished, leaving areas of the county unprotected for some time. Our personnel serve with pride and commitment. In order to be proficient, we must be provided with training and direction with regards to laws that we are to enforce. HB 56 lacks the administrative guidance in many regards to the enforcement of the law.

As Sheriff of Clay County, I am responsible for protecting and ensuring the public safety of all people living in and traveling through the county, both in the unincorporated areas and in the cities in my county that have police departments. My deputies exercise concurrent jurisdiction in the cities that have police departments, and we are exclusively responsible for the unincorporated areas of the County. I am charged with the safe-keeping of all, regardless of their immigration status. I am also bound by my oath of office to uphold the Federal and Alabama Constitutions, as well as any laws enacted by the Alabama State Legislature.

Currently in Northern District of Alabama, there is only one 287(g) detention center. It is my understanding this is the only place an illegal alien can be housed awaiting deportation. That center is located in Gadsden, Alabama and is operated at the direction of the Etowah County Sheriff. The Etowah County Sheriff's Department has special trained deputies that handle illegal immigrants that are delivered to the detention center. These immigrants are delivered to the detention center at the direction of (ICE) and are maintained as (ICE) prisoners. Costs associated with the incarceration can be and in most cases are an uncontrollable expense with regards to medical and health related issues. Rural counties such as Clay County cannot absorb the costs, nor should it be the responsibility of our county taxpayers to assume such costs.

After careful review of HB 56, the language contained therein is somewhat confusing and at least, hampers the way our enforcement of laws in Clay County are enforced. This law mandates that a Sheriff's Deputy must determine the immigration status of any person they lawfully stop, detain or arrest in every case where reasonable suspicion exists that a

person may be on American Soil illegally. With no consideration of the severity of the actual offense at issue, in every case the deputy will be required to detain the suspect on the side of the road, or in the jail, pending confirmation of the individual's immigration status. If we arrest the suspect, the law prohibits the posting of bond, mandating they will remain in jail until the disposition of their case. If my department does not enforce this policy fully, we risk being sued by private parties for not enforcing the law. This threat and unjustified possibility of litigation will require that my deputies determine the immigration status of every person they stop, detain or arrest that is suspected of being an illegal alien. HB 56 makes it clear the only way to verify the immigration status is through the Federal law enforcement services center, authorized under U.S. Code Title 8 Sec 1373©. There is no explanation of how timely this process will take, and frankly, language in other sections of this bill simply suggest no concern to the issue. In my experience as a Deputy U.S. Marshal, I have waited up to 1 to 2 hours awaiting a confirmation on a subject that would be in our lockup. I can only image that as requirement as this is increased, the confirmation replies will be longer in process, taking valuable time and causing accelerated costs to any department across the State of Alabama.

With the limited number of enforcement personnel, the promises I have made to the citizens of this county will be adversely affected. With the changes in the new sex crime bill and my priority on fighting the war on drugs, particularly methamphetamines, my responsibility and focus is on enforcing laws that will have a positive impact on our county. We have just established the first every Drug and Violent Crimes Task Force in Clay County. I have a responsibility to see that this task force is successful with regards to our war on drugs and associated crimes. With unfunded mandates and no collectible explanation of how these illegal aliens will be transferred from our custody to Federal Custody and in what timely fashion, not to mention who will be responsible for the increased costs associated with housing and transfer, Section 12(e) and 18(d). Section 5 and 6 requires that deputies must prioritize immigration enforcement over everything else. This causes direct interference with my Oath of Office and my commitment to the citizens of this great county.

Without proper training in the enforcement of HB 56, It seems to me that proof of citizenship, as outlined in Section 2 & 12 of HB 56 will be confusing to enforcement personnel. These sections outline a list of documents that are to be considered for the proof of lawful presence. For instance “ [a]ny valid United States federal, state or local government issued identification document if issued by an entity that requires proof of lawful presence in the United States before issuance.” I do not see language in HB 56 that states which government entities require proof of a lawful presence before issuance.

Another concern of HB 56 is that law enforcement agencies across the state will be engaged in costly litigation. HB 56 requires full enforcement of the law, both on the state and federal levels. Sections 5 & 6 imposes penalties of \$1,000.00 to \$5,000.00 per day against the agency they feel is not fully complying with HB 56. These fines are assessed from the date of filing, and could take up to 120 days. A complainant could file, wait his 119 days before serving the court, and my office could still be fined \$119,000.00 to \$595,000 before even being instructed by the court what we were doing wrong. On the other hand, I am rightfully concerned that if a deputy detains a person without proper identification, but had other indicators of a lawful presence, that deputy could be sued for illegally detaining that person while awaiting immigration verification. This is a serious concern for my agency and other agencies across the state in an attempt to enforce HB 56.

With regards to housing, with no definite direction or time table on the transfer of custody of proven illegal aliens from state/local custody to federal custody, I can only be assured of an increase in costs within the operation of the detention center. No direction has been awarded on how these inmates become federal inmates or (ICE) detainees. With one 287(g) detention center in Alabama, I can only imagine the impact on (ICE) when 67 counties began dialing the phone in an attempt to get these inmates out of their county jails. As I have stated earlier, I do not believe that county jails across this state can absorb the costs associated with the medical and health related issues that will arrive with the incarnation of these inmates, not to mention costs of clothing and feeding.

Finally, I am rightfully concerned with the enforcement of Section 18(b). If a citation is issued by a deputy for a violation of Alabama Code 32-6-9, and the driver has no license, or is suspended or revoked, then the deputy in order to comply with the law, will be required to secure the driver and transport them to a magistrate. This will be problematic at night, weekends and holidays, as most magistrates are not available for such hearings. In addition, magistrates in Alabama play no role in determining the citizenship of an individual who has been detained, questioned or arrested. This involvement of a magistrate will not aid in the enforcement of the law, instead it will only hamper the ability of the agency in fulfilling their sworn responsibility as a peace officer in the State of Alabama.

Ray Latham

Clay County Sheriff

Electronic signature

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