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Office of the Sheriff

Clarence F. Birkhead, Sheriff

Durham, N.C. (Sunday, September 8, 2024) --- All media: see below

Durham County Sheriff Clarence Birkhead's Statement in response to HB 10

“House Bill 10 is not only an attack on the immigrant community but also on the ability for sheriffs, like me, to determine how best to serve their communities and keep them safe.”

Here we are, yet again, having to deal with a piece of legislation (**HB 10**) that will erode the authority of the constitutional Office of Sheriff by requiring all North Carolina sheriffs to cooperate with Immigration and Customs (ICE) detainers. This time, proponents of **HB10** are packaging the bill with funding that continues to undermine North Carolina's education system. Since 2019, Republicans have tried to push this flawed bill through, only to experience a rejection via gubernatorial veto. Even with these revisions, this bill does not make residents safer. Instead, it is a direct attack against the inherent common law powers and sovereignty that is granted under the State's constitution and law of the longest-standing elected office in our state - the Office of The Sheriff.

A fundamental flaw of HB10 is it only requires Sheriffs to “reasonably” believe the person is subject to an ICE detainer and administrative warrant. For more than 200 years, probable cause has been the constitutional standard for arrest, custody and confinement. As it is proposed however, HB 10 eliminates this requirement and erroneously attempts to shield Sheriffs by stating there will be no “criminal or civil liability” for acting upon this legislation. A state legislature cannot immunize a Sheriff from violations of clearly established Constitutional law – the Fourth Amendment.

HB10 is not only an attack on the immigrant community but also on the ability for sheriffs, like me, to determine how best to serve their communities and keep them safe. Individual sheriffs are

already required to verify the legal status of the people held in our jails, under N.C.G.S. 162-62. And, other law enforcement agencies, including ICE, the FBI and other federal agencies, are currently made aware of who is held in every jail and prison across our nation. Nothing in this legislation improves upon these processes. Rather, it is politics. Our state legislature is stepping into the national political debate on immigration policy and border control. **Sheriffs are not ICE agents.** As elected officials, however, we call upon our Congressional delegation to pass meaningful immigration reform.

This latest HB10 iteration is packaged with further efforts to defund the State's public education system. Recent literacy statistics show that 85% of all juveniles who interface with the juvenile court system are functionally illiterate. Sixty percent of all prison inmates are functionally illiterate. Seventy percent of adults incarcerated in our nation's prisons cannot read above a fourth-grade level. There is a close connection between crime and illiteracy. To help begin making our communities safer, we need our General Assembly to take steps to meaningfully address these root causes that contribute to criminal behavior instead of targeting sheriffs who are forward-thinking, pro-active and engaging their communities across all ethnic and social economic boundaries. I would like to see more efforts and resources to provide our youth - particularly in our black and brown communities - with real opportunities to succeed. This is especially crucial in a time when they are struggling to fit in academically and socially.

I, along with many of my colleagues, condemn the revisions of HB10. I hope the legislature will not pass the bill, and if passed, that our Governor will again veto it.

As Sheriffs, we are concerned first and foremost about community safety. This bill will potentially make our jobs infinitely harder.

Clarence Birkhead, Sheriff of Durham County