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Office of the State Attorney
20th Judicial Circuit

Serving Charlotte, Collier, Glades, Hendry and Lee

For Immediate Release

September 11, 2008

State Attorney Stephen B. Russell announces the 2008 Fall Term Lee County Grand Jury has met and has issued the following Presentment which is attached to this email.

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Notably absent was anyone from United States Immigration and Customs Enforcement (ICE). Although they were invited to appear before us, they declined to do so.

We reviewed the evidence of the incident of July 18, 2008, in which Officer Widman was murdered, and Abel Arango was killed following the subsequent shootout with other officers. That incident has been investigated by the Fort Myers Police Department and reviewed by the State Attorney's Office. While there is no need for further action by us as to that immediate incident, there were several other issues that were of concern to us:

- Why was Arango allowed to be released from the Lee County Jail on bond, after his arrest in May 16, 2008, despite being on probation for a previous offense?
- Why was Arango not arrested on the Violation of Probation (VOP) warrant issued in Collier County on or about May 29, 2008, despite appearing at an arraignment in Lee County in June?
- Why was Arango not deported from the United States after his previous conviction, if he was not a citizen?

Abel Arango was prosecuted for being a principal to a robbery, which occurred in 1998, when he was a juvenile. The State Attorney's Office prosecuted Arango as an adult, and he was sentenced as an adult to 6 years in prison, followed by 15 years probation. Upon completing his prison sentence in March 2004, he was held on a detainer for immigration, before being released to probation supervision by DOC. His probation was without incident for 4 years, until the events beginning in May, 2008.

Arango was arrested by LCSO on May 16, 2008 on drug charges. He was not initially allowed to bond out of jail pursuant to bond schedules that have been established by the courts. Rather, after screening by Pretrial Services, he was held until being brought before a judge for a first appearance hearing on May 17, 2008. Pretrial Services had determined that Arango was on probation from Collier County, and so advised the judge. The judge set bond in a total amount of \$100,000, which was more than twice the amount set out in the standard schedule.

Current law does not allow a person to be held without bond on new charges simply because of being on probation in another case. Therefore, the setting of bond was necessary, and allowed for Arango to be released from custody unless or until he was arrested for a VOP. It appears that the procedures in place worked properly at the jail and first appearance hearing.

However, we would ask that the legislature consider a change to current law, in order to allow a judge at first appearances to hold a defendant in custody for a reasonable time if the defendant is on felony probation and is arrested for a new felony offense. This would allow time for the judge handling the VOP to issue a warrant, if appropriate, before the person is released. Such a change would be an appropriate tribute to Officer Andrew Widman, and such an Act might even be named in his memory.

The DOC was alerted to Arango's arrest of May 16, 2008, by reviewing the Lee County arrest records. Their process began to bring a VOP affidavit and warrant to the judge handling the 1998 probation case in Collier County. A warrant was issued on or about May 29, 2008, and it was processed routinely. Reasonable efforts were made by the CCSO, based upon the

information they had available to them at the time, to arrest Arango on the warrant. Ultimately, he could not be located by them.

Arango appeared in Lee County Circuit Court for his arraignment on the drug charges on June 16, 2008. He appeared personally, without an attorney, at a proceeding that lasted less than a minute. Although he told the judge he had an attorney, and gave the attorney's name, that attorney had not filed a notice of appearance or engaged in any representation of Arango before the court. As the attorney was not actually appearing with Arango, the issue of whether the attorney had a duty to advise the court of the VOP warrant is moot. However, we have also been made aware that even if the attorney had been there, ethical rules would have prohibited him from disclosing the warrant under these circumstances.

The Lee County Court system did not have any procedure in place at the time of Arango's arraignment to screen all defendants for out-of-county warrants. Arango was one of more than 1200 people who were scheduled to appear in court that day in the Lee County Justice Center, including more than 300 people who were on the felony arraignment docket. Although long-standing existing procedures were followed, including a check for local Lee County warrants, there were no resources in place to identify those persons with out-of-county warrants at these types of court proceedings.

Unfortunately, we were unable to learn much about Abel Arango's contact with ICE, as they did not accept the invitation to appear before us. We understand that immigration matters are the subject of Federal law, and therefore outside the control of our State and local officials. Still, we

would have been interested to know what occurred in Arango's case, and why, so that we could include that in this report. We are disturbed about the lack of accountability and responsiveness of ICE to the citizens of this community. We call upon the appropriate Federal leaders to review and correct this as soon as possible.

We were pleased, however, to learn of the efforts of both the Lee County Sheriff's Office, and the Courts of the Twentieth Judicial Circuit in response to the tragic events of July 18, 2008. This action, to review what had happened, and to work towards preventing it from happening again, began almost immediately after the event. There are ongoing efforts to bring new technology online which will, hopefully, enable better screening of defendants as they come to court for arraignments and other court dates. Under the leadership of the Chief Judge, the court system has reacted in a positive manner to try to correct this problem. We commend these efforts, and call upon our state and local leaders to fund these computer and system upgrades so they can be as effective as possible.

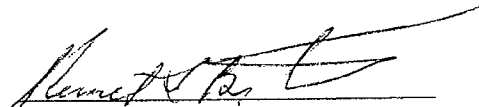
We also note that correcting problems such as occurred here takes resources. State criminal justice agencies, including State Attorneys, the Department of Corrections, Public Defenders, and the Courts themselves, have been the targets of substantial budget cuts over the last couple of years, and this trend is continuing. A case such as Arango's does not take place in isolation, but is one of thousands of cases, thousands of VOP warrants, and thousands of court appearances which must be handled by an understaffed and underfunded system. While we are aware of the tough budget times occurring in Florida, we believe it is absolutely necessary that the agencies in the criminal justice system, which are called upon to protect the public in many ways, be

properly funded to do the job we expect them to do. We urge the legislature to do so, and to place a priority on the criminal justice system in the interest of public safety.

Further, we have become aware that funding for the court system in the Twentieth Judicial Circuit lags behind other areas of the State, both on a per capita and per case basis. We urge the legislature to provide funding for the criminal justice system in this circuit that is equal to those in other areas of the State, so as to provide the citizens of Southwest Florida with equal justice and protection.

Dated this 11 day of Sept., 2008

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Vice Foreperson of the Grand Jury

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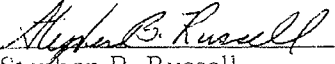
Presented in the Circuit Court by
The Grand Jury and filed:

Sept. 11, 2008

By:


Charlie Green
Clerk of Circuit Court

We, Stephen B. Russell, State Attorney
and Dean R. Plattner, Assistant State Attorney,
as authorized and required by law, have advised the
Grand Jury returning this presentment.


Stephen B. Russell
State Attorney


Dean R. Plattner
Assistant State Attorney

I certify this document to be
a true and correct copy of the
original on file in my office,
Charlie Green, Clerk Circuit
Court, Lee County, Florida
Dated: 9-11-08

By 
Deputy Clerk