

Jail bed-rental program with immigration, U.S. Marshals may hit breaking point

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Note to readers: This is the third in a three-part series examining McHenry County's longtime jail bed rental program with two federal government agencies. Some county officials question whether the program should expire toward the end of 2015.

WOODSTOCK – The McHenry County Board and Sheriff Bill Prim have some decisions to make about the future of the county's contract to house federal detainees locally, but so much remains in flux as the agreement's expiration date looms.

Before he left office, former sheriff Keith Nygren, who inked the deal with the U.S. Marshals Service in 2003 and remained steadfast in his support for the bed-rental program, warned county officials on his way out: It's been good for a bit, he said, but it won't be good forever.

"This is a good program, but someday it won't be a good program – you'll reach that break even point," Nygren told County Board members in July at a County Board meeting.

Some county officials said we've reached that point. Others said it's much worse than that, and the county is losing money at an alarming rate.

Either way, county officials agree it's time to re-evaluate the agreement moving forward.

If the county is losing money at the rate some claim, then it's time to act, officials said. Employee, health care and food costs are a few of the expenses that continue to increase, while the volume of beds filled each night dwindles and the reimbursement rate has plateaued.

"We need to make sure that moving forward we can at least cover our costs, and, if not, we need to look at how we're going to get out of this," County Administrator Peter Austin said. "... We're starting to realize that we're approaching that period where the numbers aren't coming back to where they were when we had 300 [detainees] a night."

The budget for fiscal 2015 budget – which began Dec. 1 – includes \$1.2 million less for the sheriff's office, with the possibility of job cuts on the horizon. Prim has said there could be as many as 40 corrections jobs lost with the contract. Others said expected attrition would reduce that number.

Immigration and Customs Enforcement piggybacked on the U.S. Marshals agreement. Detainees awaiting immigration proceedings make up the majority of those housed through the program. Further complicating matters, there is a great deal of uncertainty in the national immigration landscape, as a much larger debate ends up at the county's doorstep.

President Barack Obama's recent executive action on immigration would enable as many as 4 million people in the U.S. illegally to apply for work permits. The president's plan faces legislative obstacles, and exactly how it plays out in terms of detaining immigrants and what that means for the overall demand for bed space remains to be seen.

Locally, Prim said he wouldn't make any "snap decisions on an issue as complicated and potentially

costly as this one.”

“That being said, if a new agreement emerges following the expiration of the current one in October 2015, it will be dramatically different,” Prim said in a statement to the Northwest Herald. “... If, between now and then, we can assemble a new plan that makes sense to the county from both the economic and the jail operations standpoint, and there is federal buy-in to the concept, we may be able to move forward on a new agreement or agreements.

“But we are a long way from that point, and there are many contingencies, not the least of which is federal immigration policy.”

While the debate plays out nationally, local officials are considering how a new agreement might be structured.

“If there is going to be another agreement, it needs to be shorter, it needs to be more flexible, and it needs to have some commitment from the federal government tying it to some sort of index so we’re seeing some sort of increases and not having to beg year, after year,” Austin said. “Or have some commitment on the number of detainees they’re going to keep here.

“Because we’re really at their mercy right now.”

But if history is any indication, ICE and the Marshals aren’t the most flexible negotiators. When the county secured a \$10 per detainee per day rate increase in May, the U.S. Marshals immediately pulled all of their federal detainees from McHenry County for cheaper facilities. The closest federal contracts in Kenosha and Dodge counties in Wisconsin charge \$70 and \$65 a night, respectively, essentially cutting McHenry County’s negotiating leverage at the knees.

On the future of the McHenry contract, ICE only said the agency “will continue to house its detainees at McHenry County Jail on an as-needed basis through the existing USMS contract.” They will do so at the \$95 a day rate.

If either federal agency is unwilling to agree to new terms, some County Board members, in no uncertain terms, were clear about what should happen.

“I’m perfectly fine with shutting that third floor down and mothballing it,” County Board member Nick Provenzano said. “I have no problem with that whatsoever.”

County Board Chairman Joe Gottemoller said he will direct the Law and Justice and Finance committees to take up this discussion in further detail. There is no simple answer on how much it costs to run the program, and there are some critics who said the contract is losing money.

“Right now it appears we are supplementing the federal government’s immigration legislation,” Gottemoller said. “For me it’s a financial decision. No one, so far, has been able to convince to me that this is a good deal for McHenry County citizens. Until somebody does, my sentiment is in October we’re going to terminate the agreement.”