

THE FACTS: LOCAL ENFORCEMENT OF IMMIGRATION LAW



BACKGROUND

Under U.S. law, the federal government is responsible for enforcing U.S. immigration laws. Recently, however, the federal government has attempted to enlist state and local law enforcement agencies into doing this work. Many law enforcement agencies, public officials and others are concerned that deputizing state and local law enforcement officers as immigration agents will subvert successful community policing strategies.

With the goal of building safe communities, over 80 state and local government around the U.S. have adopted laws separate their own policing responsibilities from the enforcement of federal immigration status violations.¹ Ordinances passed in Minneapolis² and St. Paul³ clarify that public safety officials may not question a person about immigration status, nor question, arrest or detain any person for violations of federal civil immigration laws except when immigration status is an element of the crime.

SEPARATION OF LOCAL AND FEDERAL LAW ENFORCEMENT SUPPORTS COMMUNITY POLICING EFFORTS AND PUBLIC SAFETY.

Community policing relies on relationships of trust between community members and law enforcement officials. Police around the country have adopted these strategies because they work, cutting crime and strengthening crucial relationships between police and those they serve.⁴ These strategies are particularly important when working in immigrant and refugee communities. According to one former police chief, the difficulty in getting immigrants to report crime and to work with the police would be “magnified exponentially if local police were given the authority of INS officers.”⁵

“Community Policing is based upon a solid relationship between the police and the community”
*Los Angeles Police Department
Report on Community Policing*

Local governments should have the authority to decide if a separation policy is right for their community. Clear policies separating local law enforcement from the enforcement of federal immigration status violations promotes trust between local law enforcement agencies and the communities they serve. These policies essentially already exist in federal law.⁶ Separation policies do not prevent local and federal authorities from sharing information or working together to fight crime. State and local officials still can arrest any person who commits a crime within their jurisdiction, ask those whom they arrest for identification, and work with immigration authorities when non-citizens are arrested for criminal activity.

LOCAL ENFORCEMENT OF FEDERAL IMMIGRATION LAWS ISOLATES IMMIGRANT COMMUNITIES.

Immigrant communities are less willing to report crimes and suspicious behavior, cooperate in investigations, or come forward as witnesses, resulting in undeterred and unsolved crimes reaching far beyond the undocumented community.⁷ Fearing deportation, victims of domestic violence in immigrant and refugee communities are less likely to find safety for themselves and their children and accountability for their abusers. Battered women from immigrant and refugee communities fear seeking medical assistance and other services from any government institution. “They don’t call the police; they don’t go to the doctor; they don’t seek help,” reports an attorney describing her battered immigrant clients.⁸ Criminals may even exploit the fear within immigrant communities,⁹ leading to increasingly isolated immigrant communities.

LOCAL ENFORCEMENT OF IMMIGRATION LAW IMPOSES BURDENSOME COSTS ON STATE AND LOCAL GOVERNMENTS.

Local enforcement of immigration laws diverts resources, adding an extra burden to under-staffed local police departments. State and local governments are being asked to bear the costs of enforcing the federal government’s civil immigration laws. *Meanwhile, the FY2008 Immigration and Customs Enforcement (ICE) budget is over \$5.5 billion.*¹⁰

LOCAL ENFORCEMENT OF IMMIGRATION LAW MAY RESULT IN RACIAL PROFILING, VIOLATIONS OF CIVIL RIGHTS, AND COSTLY LITIGATION.

Government officials must have a “reasonable cause” to interrogate a person about immigration status and the U.S. Supreme Court has ruled that the reasonable cause cannot be solely based on racial heritage or ethnic appearance.¹¹ The likelihood of error and racial profiling is high, especially for minorities, Puerto Ricans, naturalized citizens, and legal permanent residents.¹² A \$35 million lawsuit was brought against the city of Chandler, Arizona by U.S. citizens and legal permanent residents who were racially profiled and, according to the Arizona Attorney General, stopped repeatedly “for no other reason than their skin color or Mexican appearance or use of the Spanish language.”¹³



SOURCES FOR “LOCAL ENFORCEMENT OF IMMIGRATION LAW”

¹ See National Immigration Law Center, *Laws, Resolutions and Policies Instituted Across the U.S. Limiting Enforcement of Immigration Laws by State and Local Authorities*, available at www.nilc.org.

² Minneapolis Code of Ordinances 19.10-19.15 (May 2007).

³ St. Paul Ordinance No. 2003R-109 (April 2003), Administrative Code Sec. 44.01, 44.02.

⁴ See Senate Judiciary Committee, Subcommittee on Immigration, Hearings on the CLEAR Act, April 22, 2004, Testimony of Professor David A. Harris, University of Toledo College of Law, available at http://judiciary.senate.gov/print_testimony.cfm?id=1156&wit_id=3324.

⁵ Scheck, Tom and Williams, Brandt. “Pawlenty outlines plan to fight illegal immigration.” Minnesota Public Radio. Ja. 3, 2006. Accessed Feb. 06 from: http://news.minnesota.publicradio.org/features/2006/01/03_scheckt_immigrationplan.

⁶ Anderson, Lisa. “Sanctuary cities draw fire, no light.” Chicago Tribune. Dec. 12, 2007, quoting David Abraham, professor of immigration and citizenship law at the University of Miami School of Law, as he says “There is really no such thing as a sanctuary city. Crime victims and witnesses are covered by the mandate that law enforcement officials stop crimes and do their best to solve them”.

⁷ Waslin, Michelle. “Immigration enforcement by local police: The impact on the civil rights of Latinos.” National Council of La Raza issue Brief, No. 9. February 2003. Accessed Feb. 2006 from: <http://www.nclr.org/content/publications/detail/1390>.

⁸ “The government response to domestic violence against refugee and immigrant women in the Minneapolis/St. Paul metropolitan area: A human rights report.” The Advocates for Human Rights. Dec. 10, 2004.

⁹ For example, 58 deaf/mute Mexican workers who were found living in slave-like conditions in New York in 1997 feared reporting their brutal abusers because they were undocumented and believed they would be deported by the police. See supra note 6..

¹⁰ Office of Public Affairs, U.S. Dept. of Homeland Security, U.S. Immigration and Customs Enforcement, Fact Sheet, Fiscal Year 2008, Dec. 27, 2007, available at <http://www.ice.gov/doclib/pi/news/factsheets/2008budgetfactsheet.pdf>

¹¹ “Forcing our blues into gray areas: Local police and federal immigration enforcement. A Legal Guide for Advocates.” Appleseed. Washington D. C. January, 2006. Accessed Feb. 2006 from: <http://appleseeds.net/servlet/PublicationInfo?articleId=70>.

¹² Id.

¹³ Id.