

Police and Immigration:

How Chiefs Are Leading their Communities through the Challenges



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POLICE EXECUTIVE
RESEARCH FORUM

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Edited by Craig Fischer

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EXECUTIVE SUMMARY

Local police and sheriffs' departments increasingly are being drawn into a national debate about how to enforce federal immigration laws. In many jurisdictions, local police are being pressured to take significantly larger roles in what has traditionally been a federal government responsibility. This is not a simple matter for local police. Active involvement in immigration enforcement can complicate local law enforcement agencies' efforts to fulfill their primary missions of investigating and preventing crime. While no two communities are affected by immigration in the same way, the current system creates a number of challenges for local police, such as understanding an extremely complicated set of federal laws and policies, and working to develop trust and cooperation with undocumented immigrants who are victims of or witnesses to crime.

For several years now, PERF has been focusing attention on the question of illegal immigration and its impact on local police departments. Immigration laws are federal statutes, so this is fundamentally a matter for the federal government to decide. But Congress has not been able to pass any comprehensive immigration reform legislation. Arizona's passage in April 2010 of SB 1070, a new law designed to expand the role of local police in immigration enforcement, and the Obama Administration's decision to challenge the Constitutionality of this state law in federal court, have focused national attention on the question of federal, state, and local enforcement of immigration laws.

In the meantime, many local communities and police agencies are struggling to devise local policies and strategies that reflect their own values and are consistent with the federal government's efforts, which seem to ebb and flow with changing Administrations.

This publication explores the role of six leading police departments in their communities' immigration debates, and how they navigated the challenges and pressures surrounding the immigration issue. Our six case-study jurisdictions were not chosen at random; these six cities have experienced some of the most contentious local battles on this issue in recent memory. The case studies were conducted between December 2008 and September 2009. The goal of this report

is to provide a base of information about what police are currently doing regarding immigration enforcement.

Following are brief summaries of the six case studies. Each chapter concludes with a set of lessons learned and guiding principles for dealing with immigration issues.

In addition, a concluding chapter includes a set of Recommendations for Congress and the Obama Administration, and Recommendations for Local Police Agencies. These recommendations are based on the lessons learned in the six case studies as well as through a National Summit on Immigration Enforcement held in July 2009 in Phoenix.

Summaries of Case Studies

New Haven, CT

New Haven has been considered a destination city for immigrants for many years, and in 2006 the city's Police Department released a General Order barring police officers from inquiring about a person's immigration status unless they were investigating criminal activity. The police also entered into dialogues with immigrant advocacy organizations to address concerns about police interactions with immigrants. One of the issues that emerged was that immigrants are more vulnerable to criminals, in particular robbers, because they lack the legal forms of identification that are required to open bank accounts. In 2007, the city embarked on an initiative to develop a municipal identification card that would be available to all city residents, regardless of immigration status. While some members of the Police Department initially opposed the card, officers' perceptions of it changed once they saw the value of undocumented immigrants being able to present valid identification when stopped by police.

Prince William County, VA

Prince William County, VA has experienced a population boom in the last 20 years, which included an increase in immigrant communities. In 2006, the issue of immigration enforcement began to escalate in the county, and in 2007 the Board of County Supervisors began to consider a proposal to restrict social services for illegal immigrants and to require the county's Police Department to inquire into the immigration status of all individuals who were detained or arrested. Police Chief Charlie Deane was concerned that many of the elected officials were not considering all of the ramifications of the legislation, including possible damage to police-community relations, jail overcrowding, increased costs and liabilities for the Police Department, and a reduced likelihood that immigrants would report crime or come forward as witnesses to crime. The legislation was extremely controversial in the community, with strong advocates on both sides of the issue. Chief Deane, who has served the county's Police Department for nearly 40 years and is widely respected in the community, convinced the

Board of County Supervisors to significantly scale back the legislation, requiring immigration status inquiries only for persons placed under arrest and in police custody.

Montgomery County, MD

Montgomery County, MD is a prosperous jurisdiction that has maintained a relatively liberal policy on immigration issues. But in 2007, several high-profile crimes in the county, including two killings, were linked to illegal immigrants. Police Chief J. Thomas Manger decided to address the immigration issue proactively, rather than waiting for a situation in which the Police Department might be forced to adopt a poorly formulated policy. He undertook a comprehensive program of research and outreach to elected officials and the community, and developed a policy that is designed to get undocumented immigrant criminals off the streets, while preventing racial profiling and ensuring that the Police Department would maintain a close relationship to all segments of the community.

Phoenix, AZ

Phoenix is considered by many to be “ground zero” regarding the national immigration debate. Arizona has one of the nation’s largest illegal immigrant populations, according to the U.S. Department of Homeland Security, and Phoenix is a major point of entry for documented and undocumented immigrants from Mexico, as well as a distribution point in the transportation of illegal drugs. The result is significant drug smuggling and human smuggling crimes in the Phoenix area. Finally, there is an added complication: The Phoenix Police Department shares jurisdiction within city borders with the Maricopa County sheriff, whose hard-line approach to immigration is at odds with the thinking of Phoenix Mayor Phil Gordon and the city’s Police Chief, Jack Harris. Chief Harris has become one of the nation’s leading experts in the challenges of policing a border state and the problems associated with illegal immigration. His approach to the immigration issue is to focus on the criminal activity related to illegal immigration.

Mesa, AZ

Mesa, located approximately 15 miles east of Phoenix in Maricopa County, also shares jurisdiction with the Maricopa County Sheriff’s Office. In 2006, as a new Chief of Police, George Gascón, took office, the illegal immigration issue was gaining steam and becoming increasingly contentious. Chief Gascón was confronted with a generally accepted (but erroneous) public belief that the large majority of the city’s crime was committed by illegal immigrants. He also found that the relationship between the police and the immigrant community was generally one of suspicion and mistrust. Chief Gascón recognized that failing to address the immigration issue would place the Police Department at risk of losing the confidence of citizens who were asking why the department “wasn’t enforcing the law.” At the same time, Gascón was cautious about reacting to political pressure for tougher enforcement of federal immigration laws. He was afraid that such policies would damage the trust of a significant segment of the population.

Gascón responded to these challenges with a practical and measured approach that focuses on reducing crime and improving the quality of life for all residents of the city.

In 2009 Chief Gascon left Mesa to take a new position as chief of police in San Francisco, and in March 2010, a new chief assumed command of the Mesa Police Department: Frank Milstead, a 25-year veteran of the Phoenix Police Department. Chief Milstead has faced several new challenges on the immigration issue, including making revisions to police policy as required by the new state law known as S.B. 1070. Milstead also has made efforts to promote an effective working relationship with the Maricopa County Sheriff's Office.

Minneapolis, MN

Minneapolis is home to the largest population of Somali immigrants in the United States. The majority of Somalis in Minneapolis are refugees or legal immigrants. It is generally believed that there are undocumented Somali immigrants residing in Minneapolis, but the number is believed to be small in comparison to the number of Somalis who are in the city legally.

The Minneapolis Police Department (MPD), unlike many other police agencies in the country, is not struggling with the debate about local enforcement of immigration laws. MPD has had a policy in place for many years that prohibits officers from asking about immigration status. The Police Department policy predates a city ordinance, passed in 2003, that prohibits all city employees from inquiring about immigration status. However, MPD does face a variety of issues related to the acclimation of immigrants, who are generally from rural areas, to life in an urban environment. Under the leadership of Chief Tim Dolan, the MPD has worked to build trust in the Somali community while preventing and responding to crimes.

Summit Recommendations

In light of the experiences of local police, the Summit participants produced two sets of recommendations. One set of recommendations is intended for Congress and the Obama Administration to consider when they begin work on a national immigration reform bill. The other set of recommendations is for local police agencies to consider.

Immigration Summit Participants' Recommendations For the Administration and Congress

1. United States borders should be made more secure, not only in terms of preventing illegal immigration, but also in preventing the illegal trafficking of drugs and firearms.

2. Federal agencies and the Congress should consult with state and local police agencies as they craft immigration policies and legislation. The inclusion of local law enforcement in the policy-making process will result in more realistic, practical and informed policies that have the support of local communities.
3. The motivation for involving local police agencies with the federal agencies that are charged with immigration enforcement should be to improve public safety and information-sharing among all law enforcement agencies.
4. National comprehensive immigration reform legislation should not be delayed any longer. New legislation should include provisions regarding guest workers, provision of permanent legal status, and employer and family-based visa systems.
5. Improvements should be made to ensure tamper-proof identification and work authorization documents for persons allowed into the country.
6. Recognizing the federal government's recent shift in emphasis regarding the enforcement of illegal immigration law in the employment arena, with less attention to worker violations and greater attention to employers who cultivate illegal workforces, there should be comprehensive plans and setting of priorities for enforcement in this area. Local police should be consulted prior to major enforcement actions in their communities and should be informed about arrests in their communities.
7. Immigration and Customs Enforcement (ICE) should increase its coordination with and responsiveness to local police agencies. ICE officials should be more visible in communities to explain their policies and actions and should be available when local police request assistance.
8. The authority of local police agencies and their officers to become involved in the enforcement of federal immigration laws, and limitations on that authority, should be clearly defined.
9. Stricter controls should be put into place regarding whose names are entered into the National Crime Information Center (NCIC) on civil immigration detainees. Controls are needed to eliminate the entering of civil detainees into a system intended for criminal warrants, which creates confusion for local police, and may cause them to exceed their authority by arresting a person on a civil detainer.

Immigration Summit Participants' Recommendations For Local Police

1. Officers should be prohibited from arresting or detaining persons for the sole purpose of investigating their immigration status.
2. Officers should arrest persons who violate the criminal laws of their jurisdictions without regard to the immigration status of the alleged perpetrator or the victim.
3. Local police must uphold the Constitutional and civil rights of persons regardless of their immigration status.
4. Local police must protect crime victims and witnesses regardless of their immigration status, and should encourage all victims and witnesses to report crimes, regardless of their immigration status.
5. Local police should engage immigrant communities in dialogue about department policies and programs.
6. Local police agencies should educate their communities about their role in immigration enforcement, especially the legal authorities and responsibilities of local police and federal law enforcement.
7. Local police should develop comprehensive written policies and procedures regarding handling of undocumented immigrants.
8. Local police agencies should monitor indicators of racial profiling by employees, investigate violations, and sanction offenders.
9. Local police agencies should become knowledgeable about programs such as 287(g), Secure Communities, and state or local initiatives to ensure that the programs meet the agency's specified goals for participation.

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FOREWORD

For several years now, the Police Executive Research Forum (PERF) has been focusing attention on the question of illegal immigration and its impact on local police departments. Unfortunately, we are no closer to any firm resolution of the issue. Immigration laws are federal statutes, so this is fundamentally a matter for the federal government to decide. But Congress has not been able to pass any comprehensive immigration reform legislation, even though there is quite a lot of talk in Washington about the need for such a law. Arizona's passage in April 2010 of SB 1070, a new law designed to expand the role of local police in immigration enforcement, and the Obama Administration's decision to challenge the Constitutionality of this state law in federal court, have focused national attention on the question of federal, state, and local enforcement of immigration laws.

In the meantime, many local communities and police agencies are struggling along, trying to devise their own local policies and strategies that reflect their own values and are consistent with the federal government's efforts, which seem to ebb and flow with changing Administrations. It seems that no two cities are affected in exactly the same way by illegal immigrant populations, and various communities have radically different philosophies or sentiments about how to approach immigration issues.

For many local police departments, the immigration issue is not like other issues they face. Much of the work that police do on a daily basis does not require the kind of complex political calculations that are involved with the immigration issue. People everywhere want their crime rates to go down; they want criminals to be apprehended; they want their communities to be orderly and peaceful. And to a large extent, residents leave it to the experts—their local police departments—to decide how to get results, whether it is through Compstat programs, hot-spots policing, gang and drug task forces, undercover patrols, new technologies, or whatever a police chief decides is the best mix of programs and strategies for a given city's problems.

The immigration issue is different. It provokes strong passions among residents that go in all directions. Some people simply cannot understand why all

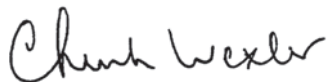
illegal immigrants are not deported, period. Others believe that immigrants, both documented or undocumented, play an important role in America's economy and society and should not be vilified. Many others have opinions somewhere in the middle. And regardless of people's opinions, there are a number of facts that local police must recognize, such as the federal government's capacity to absorb only a small fraction of the illegal immigrants whom local police could arrest if they chose to do so.

Thus, for local police chiefs, the immigration issue is generally considered a difficult matter with no easy solutions. A number of chiefs have initiated internal reviews of their departments' policies regarding immigrants and enforcement. In some jurisdictions, political leaders are asking or requiring their police departments to modify their policies regarding immigrants and immigration enforcement. The overall effect is that police chiefs have found themselves, sometimes unintentionally, as the public face of the immigration debate in their community.

This publication explores how six leading police agencies navigated the challenges and pressures surrounding the immigration issue. Our six case-study jurisdictions were not chosen at random; these six cities and counties have experienced some of the most contentious local battles on this issue in recent memory. The goal of this report is to provide a base of information about what police departments currently are doing regarding immigration enforcement. By presenting examples of how police leaders and their agencies navigated the thorny issue of immigration in their communities, we hope to provide lessons for other chiefs and sheriffs to draw from.

It is clear that the immigration issue will not go away any time soon, and that in many American communities, it is an issue that police leaders must address every day. Most police agencies have spent years developing relationships with diverse communities to ensure the public safety of all residents. Building trust and maintaining the support of immigrant communities is an ongoing challenge that police executives recognize as critical to their efforts to provide effective policing. Today's police departments do not merely respond to crimes after they are committed; they aim to solve the problems that result in crime and prevent crimes from being committed in the first place. Encouraging all residents, including legal and illegal immigrants, to report crime and to come forward as victims or witnesses to crime, is a key part of these efforts. We have come too far to go back to the days when police were feared by some members of the community.

We hope that this report will help inform these debates, and will serve as a launching pad for further discussion of immigration-related questions within the policing community.

A handwritten signature in dark ink, reading "Chuck Wexler". The signature is fluid and cursive, with the first name "Chuck" and last name "Wexler" clearly distinguishable.

Chuck Wexler, Executive Director
Police Executive Research Forum

ACKNOWLEDGEMENTS

This publication would not have been possible without the support, encouragement and cooperation of a great many people. First and foremost, we would like to thank Carnegie Corporation of New York, which funded this project. In particular, we would like to recognize Ms. Geri Mannion, who is the Director of the U.S. Democracy Program for Carnegie Corporation. Ms. Mannion's interest in PERF's early work on immigration was a catalyst for exploring the issue in depth and documenting the experiences of local enforcement agencies as they confronted the challenges and considered the options of new policies and practices to address immigration-related issues.

We conducted case studies with six police agencies across the country: the Phoenix Police Department (AZ), Mesa Police Department (AZ), New Haven Police Department (CT), Minneapolis Police Department (MN), Montgomery County Police Department (MD), and Prince William County Police Department (VA). Critical to our ability to understand the complexity of the issue was the willingness of police, government officials, community members and representatives of advocacy groups to share with us their various perspectives and experiences.

We would like to thank Mayor Phil Gordon and Chief Jack Harris from Phoenix; Mayor Scott Smith, former Chief George Gascon and Chief Frank Milstead from Mesa; Mayor John DeStephano, Jr. and Chief James Lewis from New Haven; Chief Tim Dolan and Assistant Chief Rob Allen from Minneapolis; Chief Charlie Deane from Prince William County, and Chief Tom Manger from Montgomery County for graciously hosting our visits to their cities and making time to share their insights into the issues confronting their communities.

We would also like to thank the following individuals who "opened doors" for us and who also shared their knowledge and experience willingly and candidly – Rob Smuts (City of New Haven), Kica Matos (City of New Haven), Lt. Luiz Cassanova (New Haven Police Department), Commander Glen Gardner (Phoenix Police Department), Commander Joe Klima (Phoenix Police Department), Commander Steve Stahl (Mesa Police Department), Bea Brouillard (Mesa Police Department), and Lt. Kathy Waite (Minneapolis Police Department).

There are many others, too numerous to recognize by name, from the police department, the city government and the community in each case study site who also deserve our thanks and appreciation for giving us their time and answering our questions.

We also want to recognize the exceptional group of leaders from law enforcement agencies and the Department of Homeland Security, as well as the distinguished academicians and other stakeholders who participated in our National Summit on Immigration Enforcement in Phoenix, AZ in July 2009. The dialogue that was exchanged during our day-long session was unprecedented in nature and clearly illustrated the thoughtfulness and interest of the law enforcement community in national immigration reform that is appropriate for their communities and the country.

Finally, this project would not have been possible without the support and efforts of the PERF staff. Chief of Staff Andrea Luna developed the initial concept and proposal for this project, and Executive Director Chuck Wexler offered guidance throughout the project, providing insight and moderating the Immigration National Summit in Phoenix. Craig Fischer reviewed drafts and provided thoughtful editing.

It was our privilege to have worked with so many exceptional people throughout this project. We hope that we have done justice to the experiences that they have graciously shared with us.

INTRODUCTION

Local police and sheriffs' departments increasingly are being drawn into a national debate about how to enforce federal immigration laws. In many jurisdictions, local law enforcement agencies are being pressured to take significantly larger roles in what has traditionally been a federal government responsibility. This is not a simple matter for local police. On the contrary, active involvement in immigration enforcement can complicate local law enforcement agencies' efforts to fulfill their primary missions of investigating and preventing crime. Following are several examples of the consequences of the United States' disjointed immigration policy:

Undocumented Immigrants Are Easily Victimized

As police arrived at the scene of a murder in Houston, the milling crowd quickly disappeared; witnesses did not want to get involved. Days before the homicide, the victim's brother had seen a break-in across the street, but he never reported it. Police discovered that the gun used in the homicide was stolen in the burglary, which raises the question: If police had been able to make an arrest in the burglary, would it have prevented the murder?

In a predominantly immigrant community in Denver, a man was robbed twice within three days. The robbers stole the landscaping equipment he used for his business. A couple days later, they returned and took the only money he had. The victim never notified the police. Instead, he moved out of the neighborhood.

In Boston, a woman was slapped and choked by her husband. She was afraid that the police wouldn't believe her and she would be taken away by immigration authorities and separated from her young daughter. She sought help at a domestic violence shelter but was unwilling to report the incident to the police.

Each of these stories shares a common thread – the victims were undocumented immigrants and they were afraid to involve the police. Their greatest fear was that they would be deported.

Some Undocumented Immigrants Commit Crimes

Francis Hernandez was sentenced to 60 years in prison after being convicted of vehicular homicide and other charges in the deaths of three people in Aurora, Colorado. Prosecutors said Hernandez was driving more than 80 mph in a 40-mph zone when he hit another vehicle, killing two women, and then crashed into an ice cream parlor, where he killed a three-year-old boy.

Hernandez had an extensive criminal record that included arrests for assault, forgery, theft, and fraud and a long list of traffic charges, including driving without a license. In past encounters with law enforcement he claimed to be a U.S. citizen, but in fact he was born in Guatemala and was in the United States illegally. He reportedly used 12 aliases to avoid detection by immigration officials.

In another recent incident, Bolivian native Carlos Martinelly-Montano allegedly crossed the center line while driving on a road in Prince William County, Virginia, killing a Benedictine nun and injuring two others. When he was charged in the crash, Montano had two previous DUI convictions and had been detained by U.S. Immigration and Customs Enforcement but released pending a deportation hearing. He was charged with drunken driving, involuntary manslaughter and felony driving on a revoked license.

The Fallout of Immigration Raids

A single mother of four children had come to New Bedford, Massachusetts from Honduras in 2000 and worked for two years as a seamstress in a Michael Bianco, Inc. factory that produced backpacks for the military. However, just when she was beginning to feel safe, she was arrested at the factory. The raid and detention left her separated from her children. It wasn't until the third day that she was able to call her family. Many of the other 360 illegal immigrants taken into custody were similarly affected.

Postville, Iowa, a community of 2,400 residents, was home to Agriprocessors, the largest kosher meatpacking plant in the country. In a high-profile raid in 2008, heavily armed federal immigration agents descended on the scene in helicopters and detained nearly 400 undocumented immigrants. Almost 300 of the workers served federal prison sentences of five months for identity theft. Others rushed out of town, and those who remained sank deeper into the shadows, reluctant to draw any attention to themselves out of fear of deportation. The Agriprocessors business collapsed; several other local businesses have closed; the population has dwindled; and the remaining residents wonder how they will survive the economic blow to their community.

Illegal Immigration: Some Historical Context

The number of illegal immigrants in the United States grew from 8.5 million in 2000 to a high of 11.8 million in 2007, but has since declined to 10.8 million, according to estimates by the U.S. Department of Homeland Security's Office of Immigration Statistics. Mexico currently is by far the leading source country, followed by El Salvador, Guatemala, Honduras, and the Philippines. Nearly one-fourth of all illegal immigrants live in California, followed by Texas (16% of the total), Florida (7%), and New York (5 percent). Georgia, Nevada, and Texas experienced the greatest percentage increases in illegal immigration from 2000 to 2009.

In many ways the American story is one of immigration—we are a nation of immigrants. However, the immigrant wave of the past 15-20 years is different from previous influxes in several ways. Previous waves of immigrants typically settled in major “gateway” cities, while many recent immigrants have settled in smaller cities and rural areas that have not been the traditional destinations for immigrants. And while previous immigrants came predominantly from European countries, the recent wave of immigrants came largely from Central and South America, Asia and Africa. Finally, recent immigrants have included a larger number who are undocumented.

Across the nation, there is a broad consensus that our national immigration system has been broken for some time and is in need of repair. In June 2007, the Bush Administration introduced legislation that incorporated several strategies to address illegal immigration. Congress failed to pass this bill, however, due to conflicts between those who favored stronger border enforcement and those who favored offering a path to citizenship. As of October 2010, the Obama Administration had not yet introduced a comprehensive package of immigration reform legislation, although such a plan is anticipated.

Because federal lawmakers have been unable to adopt a nationwide reform plan, state legislatures and city and county councils have been adopting various immigration policies in response to increasing demands for action by local constituents. State legislatures considered and enacted record levels of immigrant-related legislation in 2009, with 222 laws enacted and 131 resolutions adopted in 48 states. While some of the legislation aims to limit the role of local police in enforcing federal immigration laws, many of the bills go in the opposite direction. The national picture can perhaps best be described as a “crazy quilt.” This patchwork of laws has led to more confusion and in some cases has made a difficult job even more challenging for police officers.

While no two communities are affected by immigration in the same way, the current system creates a number of burdens for local law enforcement agencies, such as:

- *Lack of cooperation from undocumented immigrants who are victims of or witnesses to crime* — Undocumented immigrants are vulnerable to criminals because of their illegal status; for example, police chiefs report that many illegal immigrants carry large sums of cash or keep cash in their homes

because they lack driver's licenses or other forms of identification needed to open bank accounts. Many robbers understand this and target illegal immigrants, police chiefs have said. Undocumented immigrants who are victimized are often reluctant to report the crime, for fear that they may be required to reveal their illegal status to the local police. Domestic violence is another crime in which victims who are undocumented immigrants are often quite reluctant to involve the police, according to some chiefs. Similarly, when undocumented immigrants witness crime, they are often unwilling to report it because of their illegal status, depriving local police of information that might help them solve crimes.

- *Undocumented immigrants who commit crimes* — High-profile incidents in which illegal immigrants have committed crimes have contributed to a perception, held by significant numbers of Americans, that immigrants are responsible for a sizeable portion of local crime problems. But in most communities, the relationship between illegal immigration and crime is unclear. Many police executives have expressed the view that illegal immigrants generally try to avoid any contact with police that might result in their deportation. These police chiefs have the impression that illegal immigrants are careful not to do anything that might bring them in the criminal justice system. But there are some police leaders who believe that immigrants account for a significant amount of local crime. There is consensus among police chiefs and sheriffs that crimes should be investigated and prosecuted regardless of the perpetrators' immigration status.
- *Lack of cohesion in some communities* — Undocumented immigrants often live on the fringe of communities, trying to remain "invisible" to the police and other government agencies. Often, their only experiences with law enforcement have been with the police in their native countries, where they may have witnessed police brutality and corruption. This general fear and lack of trust keep immigrants from assimilating the values and norms of U.S. communities, and make them reluctant to engage with the police on crime prevention and community-building.
- *Unclear roles and responsibilities regarding federal laws and policies* — Historically, state and local law enforcement agencies have not enforced federal immigration laws, for several reasons, beginning with the simple fact that immigration laws are federal laws enforced by federal agencies. Immigration laws and regulations also are complex and in constant flux, and local police simply don't have the time or resources to stay abreast of the latest changes. Federal immigration laws have both civil and criminal components, and the mission of local police is to address criminal violations. State and local police do not have the authority to enforce federal immigration laws unless it is granted by the federal government through

special, limited enforcement programs, such as the 287(g) program.¹ And current economic conditions have placed a strain on most police and sheriffs' departments' budgets, so taking on larger roles in enforcement of federal laws can be problematic from a financial standpoint.

- *Inability to identify people* — Because undocumented immigrants do not usually carry legal documentation of their identity, police officers often have a difficult time accurately determining their true identity. Police chiefs report that investigating a suspect's identity can require an extensive amount of time, keeping officers from other duties.
- *Racial profiling issues* — Attempts to enforce immigration laws may make local police vulnerable to civil rights lawsuits and claims that they are using racial profiling when questioning or arresting people.
- *Managing demonstrations* — In jurisdictions where the immigration issue has been controversial, police chiefs report spending significant resources on maintaining order at public demonstrations and preventing physical conflict between persons on opposite sides of the issue.

This Publication

This report presents a series of case studies that document the ways in which local law enforcement agencies have been affected by the illegal immigration issue, and discusses how those agencies responded with policies and programs. The case studies were conducted between December 2008 and September 2009.

Chapter 1 focuses on the City of New Haven, which took up the issue of undocumented immigrants who lacked legitimate proof of identification. The city government embarked on an initiative to develop a municipal identification card for city residents, regardless of immigration status. While some members of the Police Department initially opposed the card, officers' perceptions of it changed once they saw the value of undocumented immigrants being able to present valid identification when stopped by police.

Chapter 2 describes the role played by the police chiefs in Prince William County, Virginia and Montgomery County, Maryland—two suburban areas of Washington, D.C.—as they found themselves drawn into contentious debates over local enforcement of immigration laws. Each chief provides a number of recommendations for law enforcement executives facing similar circumstances in their own communities.

Chapter 3 describes the situation in Phoenix, considered by many to be “ground zero” regarding the national immigration debate. The Phoenix Police Department faces the same issues as other cities, but at a higher level and with

¹ | The 287(g) program, one of ICE's top partnership initiatives, allows a state and local law enforcement entity to enter into a partnership with ICE under a joint Memorandum of Agreement (MOA). The state or local entity receives delegated authority for immigration enforcement within its jurisdiction.

an added complication: the police share jurisdiction within city borders with the Maricopa County sheriff, whose hard-line approach to law enforcement is at odds with the Phoenix mayor's and police chief's.

Chapter 4 continues with a study of Mesa, Arizona, where the local Police Department, like that in Phoenix, shares jurisdiction with the Maricopa County Sheriff's Office. Over the last three years, Mesa's Police Department has responded to the challenges of a growing Hispanic population, many of whom are undocumented, with a practical and measured approach that focuses on reducing crime and improving the quality of life for all residents of the city.

Chapter 5 discusses the unique immigration problems in the city of Minneapolis, which is home to the largest population of Somali immigrants in the United States. The Police Department faces a number of issues related to the acclimation of these refugees, issues that are often a product of cultural differences.

Chapter 6 provides a summary of the discussion at the National Summit that was convened in July 2009 in Phoenix, Arizona and provides recommendations for local police agencies and for Congress.

CHAPTER 1

Local Measures Address the Realities of an Immigrant Population: New Haven, Connecticut

Introduction

New Haven, nicknamed “The Elm City,” is located in south central Connecticut on the Long Island Sound. The city is approximately 20 square miles and its population of approximately 124,000 makes it the third largest municipality in the state after Bridgeport and Hartford. New Haven has won four All-America City titles², most recently in 2008. The city is also home to Yale University, whose downtown, urban campus is a major landmark. Yale is the city’s largest employer and contributes to New Haven’s image as a progressive city that promotes social equality. The city also has significant working-class populations and neighborhoods.

According to the U.S. Census Bureau’s American Community Survey for 2005–2007, 45.7% of New Haven’s residents describe themselves as White/Caucasian, 36.8% as African American, and 24% as Hispanic/Latino.³ New Haven has the third-largest Hispanic population in Connecticut, making the immigrant community a substantial segment of New Haven’s population. City officials estimate that anywhere from 10,000 to 15,000 persons in the city are undocumented immigrants.

New Haven’s local government structure consists of a mayor and board of aldermen.⁴ The New Haven Mayor exercises executive responsibility for all aspects of city government within the city, including its departments, bureaus, agencies and commissions. The city’s Chief Administrative Officer is responsible for implementing the mayor’s policies and coordinating interdepartmental activities among the city government agencies providing public services.

2 | An award presented annually by the National Civic League to honor communities that “demonstrate innovation, inclusiveness, civic engagement, and cross-sector collaboration ... to address pressing local challenges.”

3 | Numbers add to more than 100% because those who identified as Hispanic/Latino could also identify by race. From website http://factfinder.census.gov/servlet/ADPTable?_bm=y&-geo_id=16000US0952000&-qr_name=ACS_2007_3YR_G00_DP3YR5&-ds_name=ACS_2007_3YR_G00_&-_lang=en&-_sse=on

4 | New Haven is divided into 30 districts; each represented by an alderman.

In 2005 the mayor, the police chief, other government and community leaders and members of the immigrant community collaborated on two initiatives designed to make New Haven more welcoming and safer for immigrants, and to help police officers during interactions with immigrants. The police department issued a new general order delineating police policies and procedures, and the city developed and issued an identification card available to all city residents, regardless of their immigration status—the first known instance of a local government-issued identification card of this type.

Neither the police general order nor the identification card, when first proposed, had overwhelming support in all quarters of the city. Over time, however, as the value of the general order and identification card became apparent, many of those who originally opposed the initiatives became supporters. Anecdotal evidence suggests that these initiatives improved the relationship between the police and the immigrant community.

Recent History of Immigrant Communities in New Haven

New Haven is considered a destination city for immigrants and has been so for many years. The city's two predominant immigrant neighborhoods are Fair Haven and The Hill. Following World War II, immigrants from Germany, Poland, Italy, Ireland and Russia settled in Fair Haven after arriving in the United States. By the 1960s, the community mostly consisted of African Americans and Puerto Rican residents. Currently, the Fair Haven area is dominated by Hispanic immigrants, both documented and undocumented. The Hill area is more ethnically diverse than Fair Haven, but is also home to a significant Hispanic population.

In New Haven, as in other cities, the undocumented segment of the population has faced difficulties related to their lack of status as citizens or legal residents or visitors. They often have been taken advantage of by employers who do not pay a fair wage for work performed, or by landlords who charge inflated rents or violate rental agreements and privacy rights.

In 1994, Connecticut passed a state law prohibiting the issuance of driver's licenses to undocumented immigrants.⁵ The unavailability of a state driver's license left many immigrants without any form of acceptable identification, making it difficult to open bank accounts—which left them vulnerable to robberies and home invasions, since they primarily operated in a cash economy. From a public safety perspective, these difficulties translated into a select population of city residents who were vulnerable to victimization and were unwilling to report crime to the police because they did not trust the police and they feared deportation.

Many undocumented immigrants feel isolated from the rest of the community, not just geographically, but socially as well. They are often fearful of

⁵ | Sec. 14-137-64a took effect June 23, 1994; it was amended on Dec. 29, 2000 and again on April 25, 2008.

venturing out of the comfort of their own neighborhood. These combined factors leave the immigrant community feeling fearful, isolated, and unwelcome despite New Haven's reputation for welcoming immigrants.

Advocates for Immigrant Rights

New Haven is home to two local immigration advocacy groups. JUNTA for Progressive Action Inc. is located in the Fair Haven neighborhood. It is the oldest Hispanic community-based nonprofit organization in New Haven. JUNTA is a staple in the community that many Hispanic residents rely on for social services, education, and advocacy for immigrant issues and changes in public policy.

Unidad Latina en Acción (ULA) is another advocacy group in New Haven. ULA is a grassroots immigration rights organization whose membership consists mostly of Latino immigrants. Established in 2002, the group has approximately 300 members. ULA evolved out of efforts to organize the Latino immigrant community and has worked with JUNTA on many issues concerning local immigrants.

In addition to local advocacy groups, a Catholic parish in the Fair Haven neighborhood plays an active role in helping immigrants. The parish serves a predominantly Latino population from Fair Haven and surrounding communities and acts as an intermediary between the immigrant community and local government. The church has collaborated with both JUNTA and ULA in efforts to address immigrant concerns.

Opposition to Immigrant Rights

One of the most outspoken critics of the city's efforts is the Community Watchdog Project. It is an anti-immigrant, suburban-organized, non-partisan grassroots group established in 2007 in response to New Haven's immigration policies and specifically, the Resident ID Card Program. As stated on the organization's website, "It is the mission of the Community Watchdog Project to abolish illegal immigration in the State of Connecticut, beginning with New Haven. We will work to identify corrupt, pandering, and law-breaking public officials, and will work tirelessly until our targets are voted out of office." The Community Watchdog Group has initiated organized protests and filed lawsuits in response to the city's pro-immigration efforts.

Policing in New Haven

The New Haven Police Department (NHPD) consists of approximately 400 sworn and 100 civilian members. It reflects the city's demographics; more than half of its officers are African-American or Hispanic, and it has a higher percentage of women officers than any other department in the state. The department maintains 10 district stations that are geographically defined by neighborhood boundaries.

The Chief of Police at the time of this writing, James Lewis, was hired in July 2008 to fulfill the remaining 18 months of the contract of the previous chief. Lewis is a strong supporter of community policing, which is the operating philosophy of NHPD. He reports directly to the City Administrator and is advised by a Board of Police Commissioners, who are citizens appointed by the Mayor to “advise and consult with the chief of police... and together with the chief shall make all rules and regulations relating to the administration of the department...”⁶

Crime in New Haven

In 2007, New Haven experienced a 46% decrease in murders, which declined from 24 in 2006 to 13 in 2007. Other violent crimes also declined in 2007, including a 13% decrease in rape incidents (52 to 45), a 9% drop in robberies (802 to 732) and an 8% decrease in aggravated assault (991 to 908) compared to the previous year. Burglaries and motor vehicle theft increased from 2006 to 2007 at 3% and 8% respectively. Overall, total crime decreased by 5% over the one year time period, dropping from 9,079 in 2006 to 8,597 reported crimes in 2007.⁷

Immigrants are more often the victims of crime rather than the perpetrators of criminal acts, according to New Haven police officials. They are frequently the target of street robberies and home invasions that escalate into shootings and homicides. Police officials also indicated that the offenders in these robberies and other crimes against immigrants tend to be young African-American males and young Puerto Rican males. The majority of the offenses committed by undocumented immigrants include disorderly conduct, public intoxication, and motor vehicle violations. In addition, domestic violence is an ongoing problem in the immigrant communities.

In the provision of services, New Haven police officers do not distinguish between legal immigrants and illegal immigrants. As one officer said, “They are here. They are part of our community.” Another officer described it this way: “I would rather solve a homicide than worry about their [immigration] status.” However, the department does recognize the unique needs of the immigrant community and the challenges associated with meeting those needs.

Policing Immigrant Communities

The New Haven Police Department has a district station located in each of the two primary immigrant neighborhoods, Fair Haven and The Hill. The district stations operate under the command of a Lieutenant, also referred to as a District Manager. Monthly community management meetings are held by the District Manager, which give residents an opportunity to raise issues, discuss concerns, and identify problems in their community. Some immigrant residents, particularly undocumented residents, are reluctant to attend the monthly meetings,

⁶ | From website <http://www.cityofnewhaven.com/Police/>

⁷ | From website <http://www.cityofnewhaven.com/Police/Statistics2007.asp>

perhaps out of a general fear of coming into direct contact with any law enforcement agency. They instead communicate their concerns to the police through the local Catholic priest.

Officers assigned to these neighborhoods engage heavily in outreach to the residents. Understanding cultural differences and educating the immigrant community have proven to be effective strategies in gaining trust with a population that generally has a historical mistrust of the police, rooted in past experiences in their native countries. For example, more Latino women have been coming forward to report domestic abuse because officers have worked to educate them about their rights as victims. Officers not only provide services, but also direct immigrant residents to various resources.

Prior to the release of the new Police Department General Order in December 2006, the police department operated under a practice of officer discretion in relation to immigration status. This meant that officers could inquire about immigration status when and if they chose to do so. Checking immigration status was not a priority for officers. The lack of guidance regarding inquiries about immigration status, and confusion over acceptable forms of identification used by immigrants, contributed to misunderstandings between the NHPD and the immigrant communities. Certain aspects of American police policy and practice were misinterpreted. For example, the arrival of a back-up car during a traffic stop generated fear that detention and deportation were imminent. The process for establishing identification was time-consuming, because consular identification cards issued by foreign governments were difficult to authenticate.

In addition, the lack of acceptable identification hindered efforts by undocumented immigrants to open bank accounts, leaving them vulnerable to robbery. Often referred to as “walking ATMs” because they were known to carry cash, immigrants were easy targets for robbers who knew that the crime would not likely be reported to the police.

Immigrant Concerns about the Police Department

Immigrant complaints of disrespectful behavior toward them by the police, and questioning by police about their status, were a few of the issues that immigrants brought to the attention of local advocacy groups in the early 2000s. In response to increasing complaints about police treatment of immigrants, JUNTA organized a dialogue with various New Haven city officials. Contributing to this dialogue were representatives from the police department, ULA and local immigrants.

This initial meeting started as an effort to raise the concerns of the immigrant community in regard to their interactions with the police. Immigrants complained that when they presented identification from their countries of origin, officers would sometimes confiscate the papers, claiming that they were fake documents.

Additional meetings followed that focused on broader issues facing immigrants. One of the most pressing issues among immigrants was the difficulty in obtaining a driver’s license. Many immigrants wanted access to a Connecticut

driver's license, but state law prohibits them from obtaining one. Two of the city's immigrant advocacy groups, who issued a report with recommendations for improving public safety, suggested that the city create a municipal ID card for residents. The idea was that making a standard form of identification available to undocumented immigrants would allow them to interact with businesses, city offices, and police officers without fear of being asked about their immigration status.

The City's Response to Immigrants' Concerns

Following these meetings, the city implemented a number of initiatives. In 2004, the city translated the most popular and useful city documents into Spanish. In 2006, a general order was created for the New Haven Police Department (NHPD) regarding their policy on checking for immigration status. In 2007, the city launched its own identification card.

The General Order

In December 2006, under the leadership of then-Chief Francisco Ortiz, the NHPD released General Order 06-2⁸, which established the department's policy and procedure regarding police inquiries about immigration status and immigration and enforcement activities. The policy clearly established that the department's mission and goals were unrelated to the immigration status of the city's residents and specifically to NHPD's efforts to protect life and property, prevent crime, and resolve problems. Thus, the new procedures prohibited police officers from inquiring about a person's immigration status, unless they were investigating criminal activity. It also prohibited such inquiries of crime victims, witnesses, or others who approached police for assistance. The procedures did not prohibit cooperation with federal authorities investigating or apprehending illegal immigrants suspected of criminal activity, but it did prohibit detention based on belief of illegal presence or a civil immigration violation, including administrative warrants by Immigration and Customs Enforcement (ICE). One police officer described the order as "similar to the military's don't ask, don't tell policy."

The new general order was hailed as consistent with the community policing philosophy of the NHPD. Immigration advocates and other supporters believed that the order benefited not just the immigrant community, but the city as a whole.

The general order was developed by a group that included city officials, community advocates, community residents, and the Police Department, with

⁸ | The text of General Order 06-2 is available online at <http://webcache.googleusercontent.com/search?q=cache:kjbeEKbRZGAJ:newhavenindependent.org/archives/upload/2006/12/NHPDGeneralOrder.doc+New+Haven+General+Order+06-2&cd=1&hl=en&ct=clnk&gl=us>

research assistance from a group of Yale students. The Houston, Texas Police Department general order on this topic was used as a model.

Within the New Haven Police Department, there was disagreement about the need for the order. Some officers said they believed it was “politically driven” and were “offended” by its restriction on asking the question, “Where are you from?” The police union, representing sworn members up to and including the rank of captain, expressed some concern about the general order. The union objection was focused on the conflict between the procedures in the order and the sworn oath that each officer takes upon joining the Department. The oath states that police officers will uphold all state and federal laws. Because the general order prohibits officers from taking certain actions to enforce federal immigration laws, it places officers in a precarious position and leaves the individual officer liable to a lawsuit for failing to take action, the union believes. Also, the union did not see a need for the order and preferred the “informal” practice of officers inquiring about status at their discretion.

Given an opportunity to comment on the order prior to its release, the union notified the city of its concerns and requested an indemnity clause in the order. The request was not met and the union maintains its objection, but officers are complying with the order. A union representative did not believe that the issuance of the order has made a difference in police interaction with the immigrant population.

Training on the general order was provided to police officers by a priest from the local Catholic church and Yale law students. This training was not well-received by NHPD members, some of whom said that the new policy and procedures were “jammed down our throats by outsiders.” They believed that the training should have been delivered to officers by their supervisors, rather than by people from outside the department.

Although there was general agreement that the training process should have been handled differently, many agreed that having a policy in writing contributed to improving the department’s relationship with the immigrant communities. Lt. Luiz Cassanova, who manages the Fair Haven station, believes that the reporting of robberies increased dramatically after the publication of the order. According to another officer, police-community relations were improved by several police initiatives, including the department’s efforts at The Hill and Fair Haven stations, the community meetings, the presence of officers who speak Spanish, and the officers’ willingness to make referrals to other social service agencies (for example, in domestic violence situations). In the words of one officer, “we have done an incredible job of getting them to overcome their fear of the police.”

Within the community, there are some who would like a city ordinance to replace or supplement the general order. This is driven by a concern that a new administration in the police department could easily rescind the policy.

The Elm City Residence Card

The death of an undocumented immigrant in late 2006 was the precipitating event that led to the implementation of the resident card program. The victim was killed after he cashed his paycheck and resisted a robbery attempt.⁹

The Elm City Resident Card program was launched in July 2007. It is the first of its kind in the United States. The card's purpose is to promote safety and engage the immigrant community to become more active within the city. Currently, a few banks in New Haven will accept the card as a secondary form of identification, which helps immigrants to establish bank accounts. Other features include access to city services such as the local beach, golf course and recycling center. The card also doubles as a library card. In addition, up to \$300 can be put on the card and more than 40 local businesses accept it as a debit card, as does the city for payment at parking meters.

Much time was spent on the design, security and authentication of the cards. It has several identification features, including the name, address, date of birth, ID number, and a photograph of the cardholder. Security features include UV text script, a city seal and cardholder signature. These elements reduce the likelihood that the cards would become "breeder" cards for false identification and other documents.

To receive a city residence card, an applicant must provide proof of residence in New Haven and verifiable identification documents. Any foreign documents provided as identification are authenticated by trained city staff members or by the respective embassy or consulate. Upon verification of the documents, the card is mailed to the applicant. About one out of every four applicants is rejected due to lack of proper documents.

Response to the Identification Card

The city, as a whole, has responded favorably to the Elm City Resident Card program. To date, about 7,000 cards have been issued. It is estimated that about 60% of cardholders are undocumented immigrants. With the card, immigrants feel more comfortable in their interactions with the city as well as the police. It has helped them feel more welcome and acknowledged in the New Haven community. Because the city police accept the card as identification, it has virtually eliminated complaints about NHPD's interactions with immigrants during traffic stops.

Some immigrants are still hesitant to obtain the card. In particular, immigrant residents fear that the personal information required as part of the application process will be shared with federal agencies or other groups. Shortly after the implementation of the Resident Card program, the Community Watchdog Project filed a Freedom of Information Act (FOIA) request to require the city to release the names, photos and other personal information of individuals who had

⁹ | "Immigrant's Wake." New Haven Independent. October 25, 2006. http://newhavenindependent.org/index.php/archives/entry/immigrants_wake/

received a city identification card. The request was denied by the State's Freedom of Information Commission.

Opposition to the Card Program

Following the Board of Aldermen vote approving the resident card program, an enforcement action was conducted by ICE officers out of Boston on June 6, 2007. Some immigrants believe it was in retaliation for the new initiative, because prior to the implementation of the resident card program, federal immigration officials were not active in the New Haven area. A FOIA lawsuit was filed by JUNTA and ULA against the Department of Homeland Security to compel release of documents related to the planning of the raids. A separate lawsuit, filed on behalf of some of the immigrants arrested in the raid, challenges the Constitutionality of the arrests and alleges violations of due process rights.

NHPD members believe that the ICE action damaged the department's efforts to establish trust and engage the immigrant community. Following the raid, the immigrant community lowered their profile, leaving some businesses temporarily closed and neighborhood streets quiet. Immigrants feared that they would be swept up in another raid at either their home or at work.

Law Enforcement Response to the Elm City Resident Card

New Haven police officers view the Elm City Residence Card as another tool to help them identify city residents. It saves time and resources by eliminating the need to hold persons until their documents are authenticated. Officers tend to agree that, prior to the residence card, the effort required to establish the true identity of immigrants was labor-intensive and time-consuming. According to many officers, the card has made this aspect of their job much easier.

However, even with the security safeguards that were included in the card's design, officers do not feel it is an absolute identification of a person. Apparently there remains a misperception among officers about the process and stringent requirements to obtain an identification card. It was suggested that "marketing" the card within the Police Department and in the community would be helpful.

Some officers indicated that they have recently encountered a new assertiveness among immigrants and a lack of respect for the police. According to one officer, when they obtain the card, some immigrants "feel like you're legalizing them" and it emboldens some of the immigrants to question the police or challenge the officer's authority.

Some of the police departments in neighboring towns have confiscated or damaged the identification cards when they are presented during routine traffic encounters. Immigrants have also complained about instances of racial profiling and physical abuse in these towns.

The Future of the Elm City Residence Card

Promotion of the Elm City Residence Card is a priority for the city. City officials believe that many New Haven residents do not know about the card or its features, and that many residents may think that the card is for immigrants only. The ULA believes that the constant change within the immigrant population makes it difficult to keep residents informed about the card program. People are constantly moving and the population changes very rapidly. New Haven has taken a step towards addressing these issues by providing a mobile unit that travels around the city, allowing residents to apply for the card without having to go downtown to City Hall.

The city hopes to add additional features to the card, including provisions for easier access to health benefits such as prescriptions and transportation services. Additionally, the city is working to open a community bank that will accept the residence card as primary identification. Supporters of the card believe that the full potential of the card hasn't been realized yet.

New Haven has received requests from other cities regarding the card. In November 2007, San Francisco's Board of Supervisors voted to allow the city to issue similar municipal identification cards. After determining that the card would comply with state and federal laws, San Francisco launched its version of a municipal identification card in January 2009.

Conclusion

New Haven has an immigrant-friendly attitude that has led to programs and policies that focus on ensuring the safety of all of its residents, including undocumented persons. The issuance of a new general order by the Police Department concerning inquiries about immigration status and the development of the Elm City Residence Card illustrate the city's commitment to public safety as well as integrating immigrant residents into the community.

The general order's overall acceptance by the Police Department has encouraged stronger ties with the community, particularly the Hispanic communities of New Haven. The new policy offers clear guidance and practical procedures for encounters that have in the past been problematic for officers.

The city's effort to provide all residents with an identification card has helped make city services available to all residents. It has also created a sense of belonging among immigrant residents and trust in the police. The card gives police officers a valuable tool that saves time and makes their job easier. The success of the Elm City Resident Card has inspired other cities to consider developing their own resident identification cards.

Several aspects of the card program were especially successful. Much time was spent on the design, security and authentication of the cards. Additionally, the launch of the program was well executed and publicized, and efforts were made to encourage immigrant participation. The support of the Police

Department was an important aspect of the implementation of the resident card program.

The New Haven experience offers several important guidelines for jurisdictions that see the challenges but also the opportunities that are created when working in partnership with immigrant communities.

- **Be inclusive** — Police executives should work collaboratively with city officials, community leaders, advocacy groups, residents, business owners, and other stakeholders when developing a new policy regarding immigration status or making changes to an existing policy. Input from stakeholders provides different perspectives for considering the implications and possible consequences of a change in policy. Police executives should also seek input from within their own department to gain an understanding of how officers will be affected by the change. Additionally, a policy that is developed from discussions among a diverse group of stakeholders creates a sense of ownership by all involved and promotes support for the policy.
- **Remember that the methods of delivering training are as important as the policy content** — A comprehensive training program must be developed to address the policy changes and how they impact the daily work of officers in the department. The selection of persons to deliver the training should be done carefully. Officers are likely to be more receptive when credible and respected persons from within the agency serve as trainers regarding department policy, practice and procedure.
- **Develop a policy that is appropriate for your community** — Having a written policy that is aligned with community needs and expectations and is consistent with the department's mission and operating philosophy is an important aspect of securing acceptance of the policy, both internally and externally. The policy document should be translated into the appropriate languages for the local immigrant populations. A sustained effort to explain the department's procedures will result in increased trust with the community.

If you are considering developing and implementing a municipal identification card:

- **Determine how the card can be authenticated** — Take the time to thoroughly research how the card can be authenticated and protected against false duplication by including several identification and security features. Develop a valid training session for city staff members to verify identification documents presented to obtain the card. Finally, provide the police department with detailed explanations of how a resident's identity is proven and how to tell if the card presented to an officer is valid. This extra step helps to gain the support of the police department as a whole and educates officers on why the card is reliable as a form of identification and how to use the cards in their daily interactions with the immigrant community.

- **Marketing should be an ongoing process** — The immigrant community in New Haven, as in many other cities, is transient. This requires the city and police department to constantly promote and educate the public about the residence card's purpose, features, and functions. The card should be marketed not as an ID for immigrants, but as a useful card for all city residents. It can serve not only as a form of identification, but also as a method of accessing city resources, city services, and banking capabilities.

CHAPTER 2

Managing the Public Debate: Two Jurisdictions Where Police Chiefs Became the Face of Immigration Policy— Prince William County, Virginia and Montgomery County, Maryland

Introduction

In recent years, two police chiefs in the Washington, D.C. metropolitan area found themselves engulfed in community debates regarding immigration policy and enforcement efforts by local law enforcement.

Prince William County, Virginia, once a quiet, bucolic community, has experienced a tremendous population boom over the last 20 years and has found itself being pulled into the suburban framework of the metropolitan D.C. area. As the county grew, so did its immigrant communities, especially the Hispanic population. A conservative local government found itself faced with many new challenges as the cultural makeup of the county shifted.

In contrast, Montgomery County, Maryland, is more urban, and many of its residents work in the bordering District of Columbia. Montgomery County is more politically liberal than Prince William County, and its population has historically included a large number of foreign-born residents. Today Montgomery County has a large Hispanic population.

In each county, with the increase in lawful immigrants, the communities also saw an influx of undocumented immigrants. Montgomery County and Prince William County each experienced high profile crimes perpetrated by undocumented immigrants, but in many other cases, it was the undocumented immigrants who were being victimized. There have been numerous cases where immigrants perpetrated crimes against other immigrants perceived to be vulnerable and unlikely to report crime to the police.

In Prince William County, when elected officials wanted to move toward large-scale local enforcement of federal immigration laws, the police chief urged a more practical and measured response. The police chief in Montgomery County anticipated that local elected officials would want to revise the county's immigration policies, and crafted a policy to bring to them.

Following is a description of each chief's experience as he found himself drawn into contentious debates over local enforcement of immigration laws. Each

chief has provided a number of recommendations for law enforcement executives facing similar circumstances in their own communities.

Prince William County: Chief Charlie Deane Takes a Leadership Role In Developing a Workable Policy

Prince William County, Virginia is located approximately 35 miles southwest of Washington, D.C. As of March 2009, the estimated county population was 391,621, nearly double the figure from 25 years ago.¹⁰ Between 2000 and 2007, the Hispanic population of the county increased significantly, from 9.7% to 19.2% of the total population. The comparable figure for all of Virginia was 6.6% in 2007.¹¹

Violent crime in Prince William County decreased 21.8% between 2007 and 2008, but total Part I crimes, including property crimes, increased by 3.1%. In 2008, there were 12 murders in the county (up from 10 in 2007), and the number of rapes remained unchanged at 28. Robbery and aggravated assault both decreased, with robberies dropping 8.8% (from 272 to 248) and aggravated assault decreasing 36% (from 310 to 197). Burglary increased 5.3% (from 996 to 1,049) and larceny increased 5.8% (from 5,338 to 5,645). Finally, motor vehicle theft increased 1% between 2007 and 2008 (from 612 to 618).¹²

The Prince William County Police Department is led by Chief Charlie T. Deane, who has been with the department for nearly 40 years, more than half of those as chief. The Police Department currently employs 558 sworn officers. The county government leadership is comprised of the elected eight-member Board of County Supervisors (BOCS), including an at-large chairman and an appointed county executive.

Historically, the Police Department's immigration enforcement policy was similar to those in many other jurisdictions in the Washington, D.C. metro area. Officers generally did not ask individuals about their immigration status. Immigration status only became an issue if an undocumented immigrant was arrested for a serious crime, or an officer was notified of a criminal immigration matter involving the individual through a check of the National Crime Information Center (NCIC).

According to Chief Deane, the issue of immigration enforcement started to escalate in 2006. During the summer of that year, there was a series of robberies in Prince William County, including one that resulted in a homicide. The crimes predominantly targeted Hispanic immigrants, many of whom were in the county

10 | From website <http://www.pwccgov.org/docLibrary/PDF/009899.pdf>

11 | From website <http://quickfacts.census.gov/qfd/states/51/51153.html> and http://factfinder.census.gov/servlet/QTTable?_bm=n&_lang=en&qvr_name=DEC_2000_SF1_U_DP1&ds_name=DEC_2000_SF1_U&geo_id=05000US51153

12 | From 2008 Prince William County Crime Statistics, <http://www.pwccgov.org/docLibrary/PDF/009958.pdf>

illegally. These immigrants sometimes were easy targets because they were walking alone, in some cases intoxicated, and carrying cash. Chief Deane held outreach meetings with the consuls of many Latin American countries to seek their assistance in urging their citizens to be aware of the robberies and to report crimes to the police.

Soon after, BOCS requested that Chief Deane provide an official comment regarding the federal 287(g) program. In December 2006, the Chief advised BOCS that the safest thing for the community was to keep any immigration enforcement in the county jails, noting that the Police Department already had a good working relationship with Immigration and Customs Enforcement (ICE).

The issue quieted down over the winter, but by mid-2007, some factions of the community were increasingly vocal in their concerns regarding perceived quality of life and crime issues associated with the increased number of immigrants concentrated in certain areas of the county. Residents were experiencing a cultural shift in some neighborhoods. Groups like “Help Save Manassas” complained that the influx of immigrants, particularly Hispanic immigrants, had caused the quality of life in Prince William County to deteriorate and had placed a burden on the county’s resources. Some of the criticism was aimed at Chief Deane, who was accused of having a “sanctuary” policy for undocumented immigrants. Bloggers and community activists began to push for change in the county’s immigration enforcement efforts.

Crafting a New Policy

In July 10, 2007, one of the County Supervisors presented to BOCS a proposal for a policy resolution restricting social services for undocumented immigrants and directing the Police Department to obtain federal authority under 287(g). The proposed policy resolution also required that officers inquire into the immigration status of all individuals detained if there was probable cause to believe the person was in violation of Federal immigration law and when that inquiry would not expand the duration of detention. The BOCS allowed time for county agencies to review the resolution prior to implementation, and the Police Department was given 60 days to put together a plan on how the Police Department could implement the proposed measures.

Chief Deane was initially surprised at the BOCS proposal. “I didn’t expect this issue to be so powerful; it caught me by surprise,” he said. With respect to the proposed policy, Deane feared that some of the Supervisors were not considering all of the potential ramifications of immigration enforcement by local police, including the likelihood that it would increase the number of “silent victims” of crime within the immigrant community, that it would harm the Police Department’s relationship with the community and erode public trust in the police, that it could cause jail overcrowding, and that it might result in a spike in civil litigation for allegations of racial profiling against Prince William County and the Police Department. He urged restraint and a balanced approach, adding that as

police chief, “I have a responsibility to provide service to the entire community – no matter how they got here. It is in the best interest of our community to trust the police.”

Chief Deane began to formulate what a potential change in immigration policy would look like within the Police Department. He started by asking a basic question: “What is our authority here?” Chief Deane found that there was a severe shortage of resources available for local law enforcement leaders trying to define their role in the enforcement of federal immigration laws. He talked to other police chiefs and found that many were in similar situations, and that they also were suffering from a lack of guidance in formulating their policies. At Chief Deane’s request, the U.S. Attorney for the Eastern District of Virginia convened a meeting of attorneys and law enforcement officials, including the Prince William County Attorney, the Commonwealth Attorney (county prosecutor), the Virginia Attorney General, and officials from ICE and the FBI. Federal immigration law is extremely complex and a clear and absolute answer to the question of local authority remained elusive, but Deane and his top staff felt comfortable enough with the answers to their questions to be able to formulate a plan of their own to present to BOCS.

The Chief’s plan included several key components. First, Deane recommended that only a small group receive the 287(g) training. Citing concern regarding the budget implications of such training and deployment of specialized police staff, Chief Deane recommended the formation of a Criminal Alien Unit, to be comprised of five detectives, a supervisor, and an analyst. The Criminal Alien Unit would be the only group in the Police Department to receive federal 287(g) authority. The second recommendation was a public education program. Finally, Deane recommended an evaluation process so that the department could assess the policy’s effectiveness. “We have to make sure we know the effects of the new policy and how we might best improve on its implementation,” the Chief said. He wanted to be sure that the policy was implemented in a fair, lawful and reasonable manner.

Chief Deane also urged BOCS to consider that the resolution had the potential to severely drain his department’s resources and reduce the time available to officers to focus on the department’s primary goals of maintaining public safety and reducing criminal activity.

As the Chief was working to craft his recommendations and plan, community members seemed to become even more polarized and vocal about the issue. County Supervisors reported an intense email and telephone campaign that materialized during that time, pressuring them to adopt the measure. No public hearing was ever scheduled by BOCS on the issue, and so on October 2, 2007, when BOCS was to vote on the implementation of the resolution, hundreds of people showed up at the meeting. What would have typically been a short “citizen time” in the meeting turned into a 12-hour marathon session of testimony from hundreds of county residents who provided emotional, and at times extremely contentious, testimony on both sides of the issue. Among the community representatives were a handful of young children who, as the only citizens in their

families, stepped into the role of family spokespersons and read statements to the Board.

The BOCS voted that evening, and it unanimously approved the new immigration enforcement policy proposed in July. However, months later, BOCS found it necessary to scale back the scope of the new policy, based on the recommendations of Chief Deane and others.

Evolution of Enforcement Procedures

The resolution approved by BOCS in October 2007 required officers to inquire about a detained individual's immigration status "if there is probable cause to believe such person is in violation of federal immigration law and when such inquiry will not expand the duration of the detention."¹³ BOCS tasked the Police Department with defining "probable cause" in this context, and it was determined that the standard could have routinely resulted in immigration-related inquiries by officers conducting minor traffic stops.

Chief Deane informed the BOCS that it was imperative that officers receive training prior to the implementation of the policy. This training was particularly important because immigration enforcement was a new responsibility for local law enforcement. BOCS also funded a public information campaign and allotted funds for the Chief to hire a qualified program evaluator. "We wanted to go about this in a very methodical way," the Chief said. "This was a new area of responsibility for local law enforcement. We wanted outside observers to evaluate the impacts of the policy so that we could adjust as necessary to best achieve the goals of the Board of County Supervisors."

The public debate continued among the community and government leaders, and Prince William County found itself thrust into the national spotlight as an example of a jurisdiction that had taken a hard line on immigration. There were countless rallies, demonstrations, and contentious community meetings during that time. Many residents resented the fact that their community was being portrayed as intolerant.

On March 1, 2008, after all officers were thoroughly trained in the new responsibilities, the new policy took effect. Chief Deane continued to be concerned about the probability of litigation against the department for racial profiling. The "probable cause" standard was problematic because it did not provide clear legal guidance that would ensure predictable, consistent actions by officers on the street. Chief Deane sought advice from other departments on how to curb the likelihood of racial bias allegations against his officers. He was worried that class action litigation against the Police Department and county government was inevitable, and that it would consume an inordinate amount of resources and manpower.

¹³ | Prince William County Board of County Supervisors, Resolution No. 07-609, July 10, 2007

The Chief and members of his staff met with executives from the New Jersey State Police, which for years had been working under a consent decree arising from racial profiling charges. The Prince William County Police Department already had in place many of the controls discussed by the New Jersey State Police (e.g. audits, staff supervision, and training), but the department lacked one tool that is particularly effective at preventing false claims against the police: patrol car cameras.

Chief Deane researched the cost of equipping Prince William patrol vehicles with in-car cameras, and found that it would require approximately \$3 million. He presented this information to BOCS, which took his concerns seriously. The cost of the cameras proved to be prohibitive for the Prince William County government.

Therefore, to protect officers and the County from false allegations of racial profiling, Chief Deane and the County Attorney recommended a significant change in the policy to the BOCS. As a result, less than two months after the immigration policy took effect, BOCS modified its mandate to require immigration status inquiries only for individuals placed under arrest and in physical custody of the police. This was a watershed moment. The revised policy contains clear guidelines to officers as to when an immigration status inquiry is to be conducted. Essentially, the policy moved from one of a pre-arrest inquiry to a post-arrest inquiry.

The current adopted policy is not unlike those found in other law enforcement agencies, such as in jail settings, but is unusual in that Prince William police are mandated to conduct an immigration inquiry on every person arrested and taken into custody.

Educating Officers and the Public

Chief Deane has aimed to achieve transparency throughout the entire process of formulating, implementing, and evaluating the department's immigration policy. Early on, the Chief focused on keeping the policy fair, lawful, and reasonable. The Chief and his staff wanted to be sure that the enforcement policy was focused on immigrants who committed crimes, and that crime victims and witnesses are protected regardless of their immigration status. Racial profiling is prohibited.

Every officer in the department attended training on the policy's requirements and intent. The training, which was well-received, was conducted by a team from the Police Department, the County Attorney's Office (which provides legal advice to the county government), the office of the Commonwealth Attorney (the county prosecutor), and ICE. The Chief recorded a video so that all of his officers would hear about the policy directly from him during the course of their training. To ensure transparency in the process, the Police Department invited the news media to attend officer training sessions.

With regard to educating the community, from the outset the Police Department used a number of different approaches. The Prince William County Police

Department website is a wealth of information about the policy and issues. The Chief's outreach efforts also have included speaking with community groups and foreign consuls. Chief Deane has held meetings at churches that serve Hispanic communities, and has worked with clergy in educating their parishioners. He has given interviews to a number of Spanish-language radio, television, and newspaper outlets. The Police Department also worked with the county schools to help inform the student body about the immigration policy shift and to alleviate the pressure placed on teachers who found themselves inundated with students' questions and concerns.

Even today, several years from the beginning of this challenging process, immigration remains a large focus in Prince William County. "I still spend time on this every day," Chief Deane said. "Wherever we have the opportunity to educate the public, a member of the senior staff or I go." While the Chief's approach has largely been well-received, it has caused tension at times. Periodically, one or more of the County Supervisors have not been happy with certain outreach efforts by the Chief. One well-publicized example was a meeting with the Mexican Consul, who had offered to assist Chief Deane with outreach efforts to the Mexican immigrant community. The BOCS Chairman asked the Chief not to attend the meeting, but he had no authority over the Chief's decision. The Chief honored his commitment to the Consul and had a productive meeting.

Although public outreach and education efforts were mandated as part of the policy implementation efforts, they were not clearly defined in the BOCS policy. Chief Deane has said that while some discretion is useful in this area, in order to avoid tension with elected officials it may be worthwhile for police agencies to more clearly outline how "outreach" is defined in their particular communities.

The Policy's Community Impact

One area that appears to have been affected by the immigration policy is the Police Department's approval rating, which declined somewhat after the department implemented the new policy. Prince William County residents have historically given their Police Department high marks, and Chief Deane stressed that even with the recent immigration controversy, the department still has a good reputation among the county's residents. The overall favorable rating for community satisfaction dropped slightly from 92% to 89% between 2007 and 2008. The police satisfaction rating among Hispanics fell more substantially, from 97% in 2005 to 73% in September 2008, but that trend has been reversing recently. In 2010, the police satisfaction rating among Hispanics climbed back to 92%.¹⁴ There also were anecdotal reports of Hispanics moving out of Prince William County because of the enforcement efforts.

¹⁴ | Guterbock, Thomas M. and Christopher S. Koper, et al. Evaluation Study of Prince William County's Illegal Immigration Enforcement Policy. Final Report 2010. Available at www.pwcgov.org

Chief Deane has received high marks from many in the community based on his response to the many issues raised during the formation and implementation of the immigration policy. Among his professional colleagues in policing, Chief Deane has earned enormous respect for the methodical way in which he approached the issue. He carefully researched the issue, provided the Police Department and the community with facts and information, and developed appropriate and innovative strategies. His calm and professional approach was the key to guiding the county through the crisis. The Chief believes that the success of the policy is to be measured in whether it has resulted in improved public safety and getting perpetrators of serious crimes off the streets. The overall effect of the immigration enforcement mandate was reviewed and evaluated by the University of Virginia and the Police Executive Research Forum.¹⁵

Montgomery County: Chief Thomas Manger Takes a Proactive Approach To Developing a New Immigration Policy

Montgomery County, Maryland, borders Washington, D.C., to the northwest and has an estimated population of 968,000 as of January 2008.¹⁶ Like Prince William County and other jurisdictions in the Washington, D.C. metropolitan area, Montgomery County has experienced a rise in its Hispanic population in recent years. Between 2000 and 2007, the Hispanic proportion of the county's population rose from 11.5% to 14.3%. Overall, 6.3% of the Maryland population in 2007 was Hispanic.¹⁷

Montgomery County experienced a slight increase (1.4%) in total reported crime between 2007 and 2008. Part I crimes (the more serious violent and property crimes) increased 5.3%. The number of murders increased from 19 to 21. The number of rapes remained steady at about 130; as did robberies, at about 1,100. Aggravated assaults increased 2.5% (from 815 to 835) and burglaries increased 1.5% (from 3,551 to 3,603). Auto thefts declined 9.1% (from 2,483 to 2,258).¹⁸

The Montgomery County Police Department (MCPD), which has approximately 1,200 officers, is led by Chief J. Thomas Manger, who has over 30 years of policing experience in the Washington, D.C. metropolitan area. Chief Manger has been with MCPD since January 2004. Prior to that, he served over 27 years with the police department in Fairfax County, Virginia, most recently as chief.

¹⁵ | Final Report available at <http://www.pwcgov.org/docLibrary/PDF/13188.pdf>

¹⁶ | From website http://www.montgomeryplanning.org/research/data_library/data_library_portal/documents/AtAGlanceJuly2007.pdf

¹⁷ | From websites <http://quickfacts.census.gov/qfd/states/24/24031.html> and http://factfinder.census.gov/servlet/QTTable?_bm=n&_lang=en&qvr_name=DEC_2000_SF1_U_DP1&ds_name=DEC_2000_SF1_U&geo_id=05000US24031

¹⁸ | From website <http://www.montgomerycountymd.gov/content/pol/media/08stat/04/031909crimestats.pdf>

The county leadership in Montgomery County is comprised of an elected county executive and nine elected council members.

When Chief Manger joined the MCPD, he recognized that the elected leadership of the county had maintained a relatively liberal stance regarding immigration matters, and the community was generally accepting of undocumented immigrants. At that time, MCPD did not have what he considered to be a “sanctuary” policy, but, in Chief Manger’s view, it tended to slant in that direction. Officers did not question individuals about their immigration status and they generally refrained from any type of immigration enforcement. If an officer conducted a routine NCIC database check on a person (e.g., traffic stop, arrest, etc.) and a criminal deportation order was reported, only then would the officer notify ICE and allow federal agents to decide how to proceed with the immigration matter.

Over the past five years, as Montgomery County experienced an increase in its undocumented immigrant population, MCPD began to see a trend of increased crime in neighborhoods and housing complexes known to have large undocumented immigrant populations.

Increasingly, the news media were linking violent crime to undocumented immigration and were questioning the Police Department about suspects’ immigration status. In 2007, several high-profile home invasions and homicides in Montgomery County were linked to undocumented immigrants. Three Salvadoran immigrants were arrested for the brutal murder of an 83-year-old woman who was beaten and burned alive in her home. In another highly publicized case, a 14-year-old honor student was killed by shots fired onto the bus he was riding. Two MS-13 gang members were arrested and it was disclosed that they were in the country unlawfully. Each had recently had a contact with Montgomery County police officers.

The public perception began to shift, and even community members who described themselves as “liberal” began to question the Police Department’s policy, which was seen as a policy of non-enforcement. County officials began to feel pressure from advocates on each side of the issue; historically influential immigrant advocacy groups, such as CASA of Maryland, were challenged by local immigration reform groups, such as Help Save Maryland.

Policy Development

Chief Manger decided to address the immigration issue proactively, rather than waiting for a situation in which the Police Department might be forced to adopt a hastily or poorly formulated policy. “I knew the time was right politically,” he explained. Chief Manger felt that the community was looking to the Police Department to show that Montgomery County was not soft on crime and was not going to be a “sanctuary” jurisdiction.

In his approach to the issue, Chief Manger’s primary concern was ensuring that the policy would help his officers get undocumented immigrant criminals off

the streets. However, it also was essential that the policy allow officers to maintain the relationships that they had worked to build within various immigrant communities.

This concern was echoed in Chief Manger's testimony on behalf of the Major Cities Chiefs Association on April 30, 2009 before the House Committee on Homeland Security in Washington, D.C. He stressed that local agencies contemplating an immigration enforcement program needed to address three key issues. First, local immigration enforcement would likely make it much more difficult for police to "foster trust and cooperation with everyone in these immigrant communities." Immigrants who are crime victims or witnesses will be less likely to come forward and cooperate with police if they fear that their immigration status will be questioned. Second, Manger said, immigration enforcement would place additional strain on already overextended police resources. Finally, federal immigration laws are quite complex and enforcement would require a large amount of training for local agencies.

Chief Manger began to outline a new immigration policy for MCPD in late 2008 and early 2009. As he researched his options, the Chief consulted his staff, his Latino Advisory Group, and other law enforcement executives who had written immigration policies for their agencies. Chief Manger also consulted with officials at ICE to be sure that the agency was on board with his planned proposal.

Chief Manger recommended to County Executive Isiah Leggett a policy in which MCPD officers would be allowed to provide ICE with the names of all foreign-born individuals who were arrested for felony or weapons offenses. Mr. Leggett organized a series of community meetings to receive input from the public on the immigration issue. Chief Manger said that the meetings created "buy-in" from the public and were "a smart move."

The meetings helped to illuminate and alleviate many of the concerns held by the community. For example, some in the community were concerned that the policy could be used to unfairly target some immigrant workers. They feared that, because the policy required ICE notification for weapons offense arrests, police officers would arrest individuals for carrying their work tools (e.g. certain knives and box cutters) and charge them with weapons crimes in order to make the ICE notifications. The meetings gave Manger and other county officials opportunities to clear up such misunderstandings.

As a result of the meetings and further discussions, Chief Manger realized that in order to win greater acceptance of the policy, he would need to pull back somewhat with regard to its requirements. The County Executive agreed and on February 10, 2009 issued a memo to Chief Manger outlining what is now MCPD's policy. The new policy requires that police forward to ICE a list of all individuals arrested and charged with certain crimes of violence or for specific handgun violations. The crimes of violence provision is defined by Maryland Criminal Law §14-101 and includes individuals arrested for murder, rape, certain types of assaults, carjacking, sexual assault, arson, and robbery. Handgun violations include wearing, carrying, or transporting a handgun contrary to Maryland Criminal Law §4-203.

In order to prevent any appearance of racial profiling, the names of *all* persons arrested for the specified violent crime or weapons violations in Montgomery County must be forwarded to ICE. Based on average arrest rates, this amounts to approximately three names per day that are forwarded to ICE.

The county's prior policy with regard to criminal deportation orders in NCIC also remained in effect. That is, if an individual is stopped or arrested for an offense and his/her name appears in the NCIC database as having a criminal deportation order, ICE will be notified.

Montgomery County has several local city police departments within its borders, and MCPD officers patrol those cities in cooperation with the local departments. Once the Montgomery County policy was implemented, the chiefs of the two largest city police departments were able to adopt similar policies allowing those departments to act consistently with MCPD on immigration matters.

Implementation Considerations

Once the policy was adopted, the next step was implementation. According to Chief Manger, his officers were generally supportive of the change. They viewed it as an additional tool that they could use to keep their community safe. There was little need for additional training, and the policy was presented to officers through a roll call notification. Chief Manger explained that the change was essentially one additional step (a phone call to ICE) for the officers when they arrested individuals for crimes that triggered the notification requirement.

Since all names, and not just those of foreign-born individuals, are forwarded to ICE, Chief Manger has not faced racial profiling allegations. The one potential abuse of the policy that Chief Manger foresaw was the possibility of an officer erroneously increasing a charge so as to trigger the reporting requirement. However, the department already had effective controls in place to handle such ethics issues.

Chief Manger considers the policy's effectiveness to be reflected in the number of criminal immigrants detained by ICE in Montgomery County. In the entire year of 2008, the number was 280. In the first six months of 2009, under the revised policy, the number was already at 250.

Public Reaction & Outreach

Chief Manger described the public feedback he has received as generally supportive of the policy. As was anticipated, immigration advocates were not entirely pleased with the policy shift, although some in the immigrant community have described it as the "lesser of evils" when compared with neighboring communities' policies. "The groups that complain the loudest are those at the extremes," Chief Manger said.

One of the principal fears among immigrants' advocates is that immigrants' reluctance to report crimes and cooperate with police investigations will grow because of the expanded enforcement activities. Chief Manger has taken a proactive role in reassuring the community on that point, and he continues to consult with his Latino Advisory Group. He has also spoken with local immigrant organizations and he has made numerous appearances on local Spanish-language television and radio programs. The Chief is cognizant that even with his outreach efforts, there remains a certain level of fear of the police in immigrant communities. He and his officers are "constantly reminding people of the policy" and that it only applies to people who commit crimes. Chief Manger stated that months later, the department "still fights the battle over rumors and misinformation."

As the public face of the immigration debate in Montgomery County, Chief Manger has found himself at the receiving end of complaints and threats from both sides. Immigration advocacy groups have called for his termination; he has received letters informing him that he has "blood on [his] hands" for a crime perpetrated by an undocumented immigrant; and immigrant rights groups were vocal in their displeasure when he did not speak at a rally on behalf of their cause.

Chief Manger said, "I believe professionally and personally that we are doing the right thing." He said he has not found it difficult to be the chief public spokesman on the issue, "because I care about the issue and its effect on the police." But he added that he is "ready for the issue to die down." Like many other police chiefs, Manger hopes that the federal government will develop new immigration policies that remove the pressure from local police departments.

Tools to Help Manage the Public Debate

The lessons learned by these two chiefs are applicable to communities throughout the United States. Chief Deane and Chief Manger offered several key suggestions to guide other law enforcement executives who are facing a similar public debate.

- **Anticipate the Issue** — Police departments without a clear policy should anticipate the potential for immigration enforcement to become a critical issue in their communities. Prince William County was one of the first jurisdictions in the United States in which the immigration issue flared up, starting in 2006. Chief Deane said, "I didn't expect this issue to be so powerful. It caught me by surprise." Chief Deane and Chief Manger both experienced firsthand the upheaval that can occur when the politically volatile immigration issue becomes a local controversy.
- **Research** — Chief Deane and Chief Manger stressed that any chiefs considering the development or modification of their agency's immigration policy should research the issue and consult with other police executives who have faced similar challenges in their own departments.

- **Public Support** — Chief Manger suggested that chiefs should “get buy-in from the public” as policy is formulated and presented to government leadership for approval. The chiefs offered the following ideas for ways to get their message out to the public, community groups, and local government leaders:
 - Public meetings
 - Meetings with immigrant community groups and foreign consuls
 - Interviews on foreign language radio and television stations
 - Interviews in foreign language newspapers
 - Writing op/ed articles and meeting with local and regional newspaper editorial boards.
- **Standardized Message** — Chiefs should expect a degree of confusion among residents on the immigration issue, particularly when various interest groups may misrepresent the issue and attempt to provoke emotional responses from members of the community. The public message put out by the Police Department and local government should be consistent. According to Chief Deane, “Somebody has to be the leader...to prevent inconsistent messages.” Both chiefs spent countless hours educating the public by attending meetings, conducting media interviews, and taking advantage of other forums.
- **Talk to ICE** — Both chiefs consulted with ICE as part of their research process. Chief Manger suggested that any policy should be evaluated in consultation with ICE to ensure smooth implementation.
- **Time Management** — Each chief quickly realized that the immigration issue was going to demand much of his time and attention in terms of conducting research, making public outreach efforts, meeting with government officials, and preparing for testimony before legislative committees. Chief Deane stated that even several years after the debate was initiated in Prince William County, he still spends time on immigration issues every day. “Don’t underestimate the time it will take. Don’t go half-heartedly,” he said. Both chiefs emphasized that the issue takes focus away from other matters and can easily consume many department resources.
- **Evaluation** — Chief Deane made evaluation of the Prince William County policy a priority. Ongoing evaluation can help a chief adjust the policy if necessary to be sure that it is achieving the goals of the local government, is consistent with the mission of the police department, and is benefitting the community.

Conclusion

As the examples above illustrate, a police chief can quickly become the “public face” of the local immigration enforcement policy debate. Local political structures vary from one jurisdiction to the next, and communities differ in how the majority generally sees the immigration issue. But regardless of the local political climate, police chiefs should consider their positions on the immigration issue and prepare for what can quickly become a very contentious debate.

CHAPTER 3

Attacking Serious Crime Related to Illegal Immigration: Phoenix, Arizona

Introduction

Phoenix is considered by many to be “ground zero” regarding the national immigration debate. People on all sides of the debate can probably agree that Phoenix is a city that pays a high price for a broken immigration system, not the least of which is the cost to public safety.

Arizona is one of the top 10 states with the highest unauthorized immigrant populations in the country, according to the U.S. Department of Homeland Security.¹⁹ According to a report by the Center for Immigration Studies, approximately 579,000 undocumented immigrants reside in Arizona.²⁰ Phoenix is the state capital and fifth-largest city in the United States, with a population of about 1.5 million people. About 25% of the Phoenix population is foreign-born, and about 20% of those are not U.S. citizens, according to the U.S. Census Bureau.²¹

Phoenix is a major point of entry for a great number of immigrants, both documented and undocumented, who cross into the United States from Mexico. It is also a major distribution point on the transportation route for illegal drugs. The result is drug smuggling and human smuggling activities in Phoenix, which are often related to home invasions, kidnappings, use of “drop houses” where human smugglers hold their clients, money laundering, and robberies.

In Phoenix, as in other parts of the country, the role of local police in the enforcement of immigration laws is the subject of debate and is often a flashpoint between competing political agendas. In Phoenix, this debate is played out in an ongoing “war of words” between the mayor and the county sheriff. It is highlighted in the local news media and has become the rallying point for advocates on either side of the controversy in Phoenix.

¹⁹ | “Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2007.” Population Estimates. U.S. Department of Homeland Security, Office of Immigration Statistics. September 2008.

²⁰ | Pew Hispanic Center, “A Portrait of Unauthorized Immigrants in the United States.” April 2009.

²¹ | U.S. Census Bureau, “2007 American Community Survey 1 Year Estimates, Phoenix, Arizona.”

Much less visible in the highly contentious local debate is the effort being made by the Phoenix Police Department (PPD), led by Chief Jack Harris, to combat the serious crime that is a by-product of illegal immigration. Chief Harris is one of the nation's leading experts in the challenges of policing in a border state and the problems associated with illegal immigration. "The city of Phoenix and the metropolitan area have experienced firsthand the failures of the country's immigration policies," he has said.²² Harris advocates comprehensive reform that "focuses on treating both the symptoms and the causes of the deficiencies associated with the current immigration system."²³ He warns that current policies can result in a drain on resources, diminished trust with immigrant communities, and a risk of racial profiling.

In the city of Phoenix, Chief Harris has focused the Police Department's attention on the criminal activity related to illegal immigration. He has managed resources, maintained trust and formulated a policy that protects officers from accusations of racial profiling, while monitoring officers' actions to ensure fair and consistent application of department procedures regarding questioning persons about their immigration status.

Conflict and Controversy

Phoenix Mayor Phil Gordon is a vocal advocate for comprehensive immigration reform, including strengthening border controls, providing a path to legalization for immigrants, and improving guest worker programs. He serves as Chairman of the U.S. Conference of Mayors' Task Force on Comprehensive Immigration Reform, which has offered recommendations to Congress and the Obama Administration. (One of the five principles cited by the mayors' group is that city and state governments "are disproportionately shouldering the costs of the current broken immigration system.")

Mayor Gordon speaks openly about the burden placed on local police because of the lack of federal attention to immigration enforcement. "When this nation was founded, no one ever conceived or imagined that immigration enforcement was an issue that would ever fall to mayors and local police departments. But, because of federal neglect, here we are," he said.²⁴

The Phoenix Police Department's efforts to deal with immigration-related problems are complicated by the fact that the Maricopa County Sheriff's Office (MCSO) has jurisdiction across the county, including within the city of Phoenix. The Maricopa County Sheriff, Joe Arpaio, has a much different approach to the immigration issue than Chief Harris. Arpaio, who won his fifth term as Sheriff in November 2008, calls himself "America's Toughest Sheriff."²⁵ He established a

22 | "A Proposal for Comprehensive Immigration Reform: A Police Chief's Perspective" by Jack F. Harris, October 2008.

23 | Ibid.

24 | Keynote Address at "The Role of Local Police: Striking a Balance between Immigration Enforcement and Civil Liberties" held on August 21, 2008.

25 | http://www.mcso.org/index.php?a=GetModule&mn=Sheriff_Bio

national profile by engaging in a variety of unusual inmate detention practices, such as forcing inmates to wear pink underwear.²⁶ The MCSO website cites other examples of the department's tough-on-inmates policy. "Sheriff Arpaio ... has the cheapest meals in the U.S. too," the website claims. "The average meal costs about 15 cents, and inmates are fed only twice daily, to cut the labor costs of meal delivery."²⁷

Sheriff Arpaio also is well-known for his aggressive tactics toward immigration enforcement, including workplace immigration raids and crime suppression sweeps (i.e., traffic checkpoints) that have resulted in thousands of arrests of undocumented immigrants. In February 2007, 100 Maricopa County deputies and 60 county detention officers completed training provided by the U.S. Immigration and Customs Enforcement (ICE) and were granted authority to identify and arrest illegal immigrants, including the power to arrest on the street and to issue detainers at the jail. MCSO became the largest participant in the country in this program, known as the 287(g) program. Statistics obtained by the Associated Press in July 2010 showed that since 2007, MCSO was responsible for the deportations or forced departures of 26,146 immigrants through its 287(g) program, accounting for nearly one-fourth of the nationwide total of 115,841 such deportations in that time period.²⁸

In October 2009, ICE declined to renew the portion of Maricopa County's 287(g) contract that allowed sheriff's deputies to arrest immigration violators during patrols. However, MCSO retained its authority to check the immigration status of all inmates booked into county jails. And MCSO continues to perform sweeps under the authority of Arizona state laws against human smuggling and the hiring of illegal immigrants.²⁹

Furthermore, in March 2009, the U.S. Justice Department launched an investigation into allegations of discrimination in MCSO's policing practices and jail operations. In September 2010, the Justice Department filed suit against Sheriff Arpaio, MCSO, and Maricopa County for failing to produce documents relevant to the investigation.³⁰

In addition, the immigration issue in Phoenix has been complicated by the passage of S.B. 1070, a state law signed by Governor Jan Brewer in April 2010 that expands police authority to question persons whom officers suspect of being illegal immigrants, and by the U.S. Justice Department's decision, in July, to file a lawsuit challenging the Constitutionality of that law. Prior to the announcement of that decision by the Justice Department, Arpaio stated, in a news release issued by his department, "I believe the federal government's

²⁶ | Ibid.

²⁷ | Ibid.

²⁸ | "Arizona Helped Deport Thousands Without New Law." *Associated Press*. <http://www.aolnews.com/nation/article/arizona-helped-deport-thousands-without-new-law/1957151211>

²⁹ | "Sheriff Arpaio may Lose Some Immigrant Authority." *The Arizona Republic*. <http://www.azcentral.com/arizonarepublic/news/articles/2009/10/03/20091003arpaio-ice1003.html>

³⁰ | <http://www.azcentral.com/ic/pdf/0902justice-department-lawsuit-on-arpaio.pdf>

threat to sue Arizona is an intimidation tactic aimed at quelling our collective efforts to fight illegal immigration.”³¹ Sheriff Arpaio vowed to continue enforcing all aspects of the state and federal immigration laws through the use of crime suppression operations, the MCSO Human Smuggling Unit, and the enforcement of employer sanction laws. Sheriff Arpaio said, “I will not be distracted nor deterred by civil rights activists, or Department of Justice officials, demonstrators or local and national politicians from continuing to do my job as the elected Sheriff of Maricopa County.”³²

Arpaio also has used the state’s anti-smuggling law, which took effect in 2005, to target undocumented immigrants after the county attorney issued an opinion that said that under that law, victims of smugglers could be charged as conspirators. Sheriff Arpaio’s response was to create the anti-smuggling unit. “It’s a felony; I am enforcing a new law,” he said. “I’m the elected sheriff and I’m going to do what I feel is right, regardless of any controversy.”³³

The Sheriff’s office has conducted crime suppression and employment enforcement actions in the city of Phoenix, often with little or no advance warning to the city’s Police Department. This has resulted in an unusual volley of attacks and counterattacks by the Mayor and the Sheriff. Mayor Gordon has accused the Sheriff of targeting immigrant neighborhoods, engaging in racial profiling, and misusing resources “to target brown skin and cracked taillights instead of killers and drug dealers.”³⁴ The Sheriff’s office denied that its tactics are discriminatory, and claimed that the Mayor has made Phoenix a “sanctuary city for illegal aliens.”³⁵ Mayor Gordon suggested that the Sheriff’s raids were reminiscent of the South in the 1950s, and Sheriff Arpaio accused the mayor of “insulting not only this sheriff, but all the deputy sheriffs, federal ICE agents and 160 of my officers who are risking their lives every night to enforce the immigration laws.”³⁶

Mayor Gordon’s concern about the violation of Constitutional rights of the city’s immigrant population prompted him to request the U.S. Justice Department investigation of the practices of the Sheriff’s Office. According to Gordon, “Maricopa County Sheriff Joe Arpaio has filled a political void created by the utter neglect and inaction on immigration issues by Congress and the president and he has exploited that void to suit his own political needs....The Sheriff’s method is to profile people with brown skin and to ignore the civil rights we should all be enjoying.”³⁷

31 | http://www.mcso.org/include/pr_pdf/Arpaio%20to%20arizona%20News%20Release.pdf

32 | http://www.mcso.org/include/pr_pdf/New%20Hampshire.pdf

33 | “Arizona Sheriff Uses Anti-Smuggling Law to Target Illegal Immigrants.” Fox News.com. May 11, 2006

34 | Mayor’s News Release. May 1, 2008. <http://www.ci.phoenix.az.us/mayor/media/articles/skinlights.html>

35 | “Illegal Immigration is just that – Illegal” Article by Sheriff Joe Arpaio, Latino Perspectives Magazine.

36 | “Gordon: Raids giving Arizona Bad Rap” by Scott Wong, Arizona Republic. March 28, 2009.

37 | Keynote Address at “The Role of Local Police: Striking a Balance between Immigration Enforcement and Civil Liberties” held on August 21, 2008.

Differing Approaches by the Police Department and Sheriff's Office

Separated by less than a half mile on Washington Street in downtown Phoenix, two of the nation's largest law enforcement agencies approach immigration in dramatically different ways. On one side of the street is the Maricopa County Sheriff's Office, which has focused resources on enforcing immigration law in ways that critics say dilute its attention to basic law enforcement functions. A report by the Goldwater Institute (a research and policy group named for the 1964 Presidential candidate Barry Goldwater, which describes its mission as expanding free enterprise and liberty) cited rising violent crime rates, decreasing arrest rates, and slow response times to 911 calls as evidence of the harmful impact of Sheriff Arpaio's decision to take on immigration enforcement duties.

"Although MCSO is adept at self-promotion and is an unquestionably 'tough' law enforcement agency, under its watch violent crime rates recently have soared, both in absolute terms and relative to other jurisdictions," the Goldwater Institute said. "It has diverted resources away from basic law-enforcement functions to highly publicized immigration sweeps, which are ineffective in policing illegal immigration and in reducing crime generally...."³⁸

Across the street, the Phoenix Police Department's approach to immigration enforcement has been to focus its efforts on addressing serious, violent crime that is associated with illegal immigration.

The Police Department has approximately 3,150 filled sworn positions and nearly 1,100 civilian support personnel. The city is divided into eight precincts, which are overseen by Commanders. The department handles approximately 700,000 dispatched calls for service annually. Overall, crime has been plummeting in Phoenix over the past two years. In 2008, the city saw a 10% decrease in the property crime rate and an 8% decrease in the violent crime rate compared to 2007, according to FBI Uniform Crime Reporting (UCR) figures. That was followed in 2009 by another 18% decrease in the violent crime rate and a 22% decrease in the property crime rate, compared to 2008.

Several factors have been credited with contributing to these startling decreases in crime, including specific efforts by the Phoenix police, who have developed a number of strategies to address immigration-related crime.

Revised Immigration Policy

In September 2007, a Phoenix police officer was shot and killed by an illegal immigrant with a felony record who had been previously deported. The incident ignited a controversy over the Police Department's existing policy prohibiting

38 | "Mission Unaccomplished: The Misplaced Priorities of the Maricopa County Sheriff's Office," Goldwater Institute Policy Report. <http://www.goldwaterinstitute.org/Common/Img/Mission%20Unaccomplished.pdf>

officers from contacting immigration officials. Some interpreted the policy as providing a “sanctuary city” for undocumented immigrants. The police union advocated giving officers more discretion in regard to contacting immigration officials when they encountered a person they suspected of being in the country illegally. Mayor Gordon appointed a blue-ribbon panel of former prosecutors to work with the Police Department to review the policy, which had been in place for many years. The panel was asked to consult with police officials to draft a set of recommendations that could be considered in a new policy that would protect Constitutional rights and prohibit racial profiling. Prior to the announcement of Mayor Gordon’s panel, Chief Harris formed an internal committee consisting of about two dozen employees representing various levels within the organization to also identify recommended improvements to the policy. Input was also received from the Department’s Hispanic Advisory Board. The Mexican and Guatemalan consulates reviewed the policy as well.

Operations Order 1.4 was revised and implemented in May 2008. The revised policy required that officers question every person arrested about their citizenship. It allowed officers to contact federal authorities, after receiving supervisory approval, when they encountered arrestees they suspected were in the country illegally. It also required documentation of all contacts with ICE. The policy did not permit officers to question crime victims or witnesses about their immigration status. In the case of traffic stops or other non-criminal contacts, officers could submit a referral form to ICE if they believed a person was undocumented.³⁹

The documentation and supervisory approval requirements were included to address concerns that giving officers more leeway in questioning persons about their status might lead to racial profiling or other civil rights abuses. Department supervisors received classroom training on the new policy, and patrol officers were shown a video during roll call. According to some officers, the new policy had little impact on their day-to-day activities because it just formalized the street-level practices of officers.

Community reaction to the new policy was generally positive. According to some immigrant representatives and advocates, the immigrant community benefitted from the policy because it provided consistency in terms of interactions with undocumented persons. However, some advocates believed that the policy didn’t always reflect the reality on the street and that some officers had not “bought in” to the new policy and procedures. Some have suggested that not all officers complied with the new requirements, citing anecdotal evidence that fear remains high and immigrants are still hesitant to report crime or come forward as witnesses.

The development and implementation of the Phoenix policy were watched closely by police departments in surrounding jurisdictions, and many of the neighboring agencies developed policies similar to those in Phoenix.⁴⁰

³⁹ | <http://www.azcentral.com/members/Blog/CaseyNewton/24141>

⁴⁰ | After the passage of S.B. 1070, the Phoenix Police Department revised Operations Order 1.4 and adopted a new immigration policy to ensure it complied with the effective provisions of the new law. The new policy, Operations

Targeting Serious Immigration-Related Crime

In addition to making the changes in its immigration policy, the Phoenix Police Department developed strategies to reduce violent crime associated with illegal immigration. The cross-border activities of drug cartels and human smugglers create a dangerous trend that impacts the safety of Phoenix residents.

In early 2008, the Police Department noticed a disturbing trend. Kidnappings and home invasions were increasing, and the level of violence occurring during those crimes also was worsening. The police determined that the types of kidnapping and home invasion incidents experiencing notable increases were often connected to border-related crimes, including human smuggling and drug trafficking. In 2008, there were 299 reported kidnappings, compared to 260 reported in 2007. Home invasions increased to 369 reported incidents in 2008, up from the 340 incidents reported in 2007.⁴¹ In response, the Police Department created the Home Invasion Kidnapping Enforcement Unit (HIKE), dedicated to handling only those two types of crime.

Kidnapping incidents investigated by the HIKE Unit frequently involve the threat of violence against the victim in order to secure a ransom from the victim's family. In some cases, victims have been tortured while the kidnapper is on the phone demanding payment.

For the police, these incidents are time- and resource-intensive, often involving as many as 60 officers; and they are considered high-risk situations. Members of the HIKE Unit work around the clock, conducting surveillance, managing negotiations, and arranging the exchange of ransom money in the hope of securing victims' safety and arresting kidnappers. Because many of the kidnappings involve victims who are engaged in illegal drug activity, victims are often unwilling to cooperate in the prosecution of suspects. Initially, HIKE focused primarily on rescuing victims and arresting suspects. Now, working in coordination with other agencies and the prosecutor's office, they also focus on gathering intelligence that will support more proactive efforts associated with identifying and dismantling organized criminal groups involved in border-related crimes as well as successful prosecutions of these cases.

Police report that home invasions in Phoenix generally are "bad guy on bad guy." Homes of drug smugglers are often targeted by "crews" who use SWAT-type tactics, and who are heavily armed and wear clothing similar to police uniforms,

Order 4.48, contains some of the same or similar features that were included in the 2008 policy revision. For example, it requires that officers question every person arrested about their citizenship status and it requires officers to document their contacts with ICE. However, additional documentation is now required on all immigration-related contacts through the use of the ICE referral form or through an internal departmental report. Contrary to Operations Order 1.4, the new policy provides officers with greater discretion in the enforcement of federal immigration laws because under the effective provisions of S.B. 1070, agencies are not permitted to have policies that limit or restrict the enforcement of federal immigration laws to less than the full extent permitted by federal law. Therefore, officers can now question victims and witnesses about their immigration status if they deem it appropriate, and they are not required to receive supervisory approval before contacting federal authorities.

41 | The reported numbers exclude "information only" reports. Also, due to the investigative process, case status and classifications are dynamic and subject to change, so the total represented in this report may differ from numbers released at a different point in time.

when they invade a home. They steal drugs, money and other valuables, and some of the victims are illegal immigrants.

To address the increases in these certain types of crime associated with illegal immigration, the Phoenix Police Department also participates in the Illegal Immigration Prevention and Apprehension Co-op Team (IIMPACT). This multi-agency project is managed by the Arizona Department of Public Safety (DPS) and includes participation by ICE. The mission of this unique partnership is to deter, disrupt and dismantle criminal organizations profiting from illegal immigration.

IIMPACT provides investigative resources to local jurisdictions plagued by illegal immigrant drop houses. Multi-agency squads conduct independent investigations and provide assistance with the investigation of property, financial and violent crimes associated with illegal immigration and human smuggling in the greater Phoenix and Maricopa County areas.

Phoenix investigators are also assigned to the Arizona Financial Crimes Task Force which focuses on the financial transactions connected to human smuggling rings. This frequently involves wiring money to bank accounts set up by smugglers. The investigators work with state and federal partners to identify and arrest the agents who enable smugglers to receive payment, including drivers, hotel operators, travel agents, etc.

Phoenix is the only city in Arizona that has ICE agents embedded within its Police Department to combat violence associated with illegal immigration. The agents are co-located with Phoenix detectives on various task forces focused on human smuggling and weapons violations. The partnership gives Police Department detectives access to federal databases that support their investigations. A few detectives within the department's Investigations Division have 287(g) authority, and they focus on human smuggling cases.

Phoenix also established an International Criminal Apprehension Team (ICAT) a number of years ago to ensure that criminals cannot use the border to escape prosecution in U.S. courts. Phoenix police officers, in collaboration with the U.S. Attorney's Office, work with Mexican authorities on extraditing criminals to ensure prosecution.

Managing Tension in the Community

The Police Department's Community Response Team (CRT) works closely with various components of the Phoenix community to resolve and mediate issues that impact the safety of the city's residents. CRT members monitor the "pulse" of the community on a regular basis and stay updated on the concerns of residents. One of the CRT's main purposes is to respond to incidents that can ignite emotions, and help to diffuse them by communicating via their established ties to community leaders.

In Phoenix, there are sometimes as many as 10 protests a week, many of which are related to the immigration debate. Outside organizations on all sides of the issue are drawn to the city, particularly in response to the activities of the Maricopa County Sheriff's Office. Because the approach of the Sheriff's office

regarding illegal immigration is much more enforcement-oriented than most of the other jurisdictions in the Phoenix area, there are some groups that strongly support the Sheriff's crackdown on illegal immigration, while others view his tactics as racial profiling and violations of civil rights.

In recognition of the potential explosiveness of protests, the CRT works closely with the various groups to ensure the safety of all persons involved. This includes meeting with the groups prior to scheduled events and providing guidance to organizers about how to “police” themselves to avoid confrontations and violence. “Very rarely does an event occur that we don’t know about,” a CRT official said. “We are really dialed-in to the community.”

Conclusion

As a large city in a border state, Phoenix has been affected by violent criminal activity that impacts immigrants as well as the community in general. The city's Police Department has taken many steps, in partnership with state and federal agencies, to address border-related violent crime. The department's decision to focus resources on violent border-related crime, as opposed to lesser violations of federal immigration laws, was supported by a revised policy that required officers to ask arrested persons about their immigration status and permitted officers to contact ICE, after obtaining supervisory approval, under certain circumstances. At the same time, it focused the Police Department's resources on violent criminals and on maintaining the positive relationship that the department has carefully crafted with the immigrant community. According to one officer, “The Phoenix Police Department can't afford to squander the trust issue....When we come out of the immigration cloud, we must have our reputation and trust intact.”

Immigration enforcement is a local decision that is impacted by politics, community pressure and media attention, among other factors. The Phoenix experience offers lessons that could be helpful in other jurisdictions across the country:

- **See the big picture** — Immigration affects the community and the police in a variety of ways, and the Phoenix Police Department has been effective in developing policies and programs that are appropriately geared to each aspect of the issue. The department expends resources to improve communications with the immigrant community, to respond to criminal activity irrespective of immigrant status, and to prevent dangerous confrontations between advocacy groups on opposite sides of the immigration debate.
- **Balance law enforcement concerns with community concerns** — The Phoenix Police Department's revised policy balanced community pressure to “do something” with the department's decision to make another tool available to assist officers with their duties and ensure officer safety. The revised policy required officers to ask all arrested persons about their

immigration status and to obtain supervisory approval and document contacts with ICE, in order to ensure that the policy was being used appropriately and to protect officers from accusations of racial profiling.

- **Work collaboratively with federal agencies** — The Police Department regularly collaborates with ICE and other federal agencies, which encourages information-sharing, resulting in better cases. In addition, the co-location of ICE agents with Police Department units has enhanced the department's efforts to combat the violence associated with illegal immigration.
- **Maintain the trust of the immigrant community** — Immigrants, both those who are in the United States legally and those who are in the country illegally, are a significant part of the Phoenix community. The Police Department recognizes that it needs the cooperation of all residents in order to ensure the safety of the community. Through its Hispanic Advisory Board and the work of the Community Response Team, the department works continuously on preserving the trust it has established with the immigrant community.
- **Focus resources on the criminal activity** — In Phoenix, the benefit of applying resources toward reducing serious, violent criminal activity has proven effective, as evidenced by the sharply declining crime rates in the city.

CHAPTER 4

Focusing on the Public Safety Mission: Mesa, Arizona

Introduction

Immigration enforcement is not a new issue in the city of Mesa. It is an emotional and political issue that has placed a number of demands and pressures on the city and the Mesa Police Department (MPD). During the past three years, MPD has responded to the challenges of a growing Hispanic population, many of whom are undocumented, with a practical and measured approach that focuses on improving the quality of life for all residents of the city.

The city of Mesa is located in central Arizona, approximately 15 miles east of Phoenix. It is an area of 128 square miles with a population of about 478,000. According to the U.S. Census Bureau's 2005–2007 American Community Survey 3-Year Estimates, Mesa is approximately 67% white, 26% Hispanic, 3% African American and 4% Asian/American Indian. The city is governed by a six-member elected city council, a council-appointed city manager, and an elected mayor.

Mesa is located in Maricopa County, an area of approximately 9,200 square miles with a population of almost 4 million persons. The county had the fifth largest Hispanic population in the country in 2007 and the second fastest-growing Hispanic population between 2000 and 2007.⁴² The County Attorney's Office estimates that nine percent of the county's population is undocumented. It also estimates that a disproportionate amount of crime in the county is committed by undocumented immigrants.⁴³

The Mesa Police Department has approximately 800 sworn and 480 civilian members. MPD has five police stations, including police headquarters, and is divided into four patrol divisions, each led by a commander. Like Phoenix, Mesa's Police Department shares jurisdiction with the Maricopa County Sheriff's Office (MCSO).

⁴² | <http://pewhispanic.org/states/?stateid=AZ>

⁴³ | "Illegal Immigration Report" prepared by the Maricopa County Attorney's Office, 2008.

Crime has dropped significantly in Mesa over the past three years. Some credit may go to a number of organizational changes and strategic improvements implemented by Police Chief George Gascón. But even as crime declined, the MPD received criticism for what was perceived as a lack of enforcement of immigration laws and a sanctuary policy regarding undocumented immigrants. In order to clarify the Police Department's role in immigration enforcement, MPD developed a new policy that focuses on targeting criminal behavior. Special Order 2009-01 provides an effective tool for police officers to deal with illegal immigrants engaged in criminal activity. The new policy provides clarity to officers and city residents about the types of encounters in which officers are not permitted to inquire about immigration status, as well as the circumstances in which officers ask about immigration status and federal immigration authorities are contacted.

The Police Department's policy was not embraced by everyone. It has been openly criticized by groups calling for stricter enforcement of immigration laws and by the Maricopa County Sheriff's Office. The differing approaches of MPD and MCSO create tension between the departments and confusion among the city's residents. This tension is an additional challenge for MPD in its efforts to maintain the trust of immigrant communities.

The Cost of Immigration Enforcement in Mesa

The Maricopa County Sheriff's Office has jurisdiction throughout the county and exercises that authority, regardless of whether or not a city has its own police force. MCSO has full police powers and also operates the county jails. The jails are used by the 26 police departments in the county to process and detain criminal suspects.⁴⁴

In the spring of 2008, MCSO began conducting what it calls "crime suppression" operations in the county (the news media and others often refer to these operations as "sweeps").⁴⁵ Concerned about the potential risk to both the police and the public, MPD requested that MCSO provide at least two days' notice before conducting these operations in the city.

However, MCSO has been inconsistent about notifying MPD prior to its planned enforcement actions. In instances where notification has occurred, MPD was alerted just hours before the event, which, according to MPD officials, did not allow sufficient time for planning and deployment of resources to ensure community and officer safety. The lack of timely notice created tension between the agencies and heightened MPD's concern for officer safety.

⁴⁴ | In the fall of 2007, the Sheriff's Office closed its three satellite booking facilities, located in Surprise, Avondale and Mesa. This action had a significant negative effect on not just the Mesa Police Department, but on law enforcement agencies throughout Maricopa County. Travel time to the county jail in Phoenix added additional time (2 – 3 hours) to the out-of-service time for officers making arrests in outlying areas.

⁴⁵ | <http://www.foxnews.com/politics/2009/10/12/arizona-sheriff-vows-continue-immigration-sweeps-despite-federal-downgrade/>

Tensions between MPD and MCSO were aggravated in October 2008, when the MCSO conducted an early morning immigration raid on City Hall and the downtown public library. Prior to the raid, dozens of heavily armed and uniformed county deputies and volunteer “MCSO Posse” members⁴⁶ gathered in a park area not far from City Hall.⁴⁷ A 911 call alerted Mesa officers to “armed men” in the park. Upon their arrival, Mesa officers recognized the men as MCSO deputies, but in the MPD’s view, this lack of communication created a threat to officer safety for both agencies and to the community.

Mayor Scott Smith criticized the raid, which MCSO said was prompted by a tip from a former city employee about a cleaning company, under contract to clean city buildings, which was hiring illegal aliens. The mayor told reporters, “I believe the safety of our citizens was gravely compromised. I believe we had set the scene where bad things could have happened.”⁴⁸ In response to the Mayor’s concerns, Sheriff Arpaio defended the tactics of his deputies, claiming that the operation was a legitimate part of his crackdown on illegal immigration.⁴⁹ Arpaio presents himself as a staunch law enforcement advocate who resists political pressure to let immigration laws go unenforced. MCSO says that as of September 2010, its Human Smuggling Unit has booked 2,137 suspects for human smuggling, with a conviction rate of 96%. In addition to those bookings, the Sheriff’s Office said it has also placed immigration holds on more than 36,000 arrestees, making them subject to deportation.⁵⁰

MCSO’s immigration enforcement practices also undermine MPD’s relationship with the immigrant community, in MPD’s view. Immigrant residents are confused by the conflicting approaches to immigration enforcement, even though the Police Department strives to communicate its policy to city residents. Immigrant communities can be close-knit, and stories of deportations of family members caught up in MCSO crime suppression operations fuel fear and mistrust of the police. Rumors of upcoming crime suppression operations disrupt school attendance and cause businesses in immigrant communities to close because immigrants are afraid to go out in public. According to District Commander Steve Stahl, “When word of a sweep is out, people stay indoors and kids won’t go to school....We have many community meetings and make progress, but a sweep sets back the Police Department’s efforts to build trust.”

One Mesa patrol officer described the city’s immigrant neighborhoods, in general, as “willing to put up with 100 times more [crime and disorder] than a community that is not afraid to call the police.” Officers indicated that undocumented immigrants are taken advantage of by other Hispanics as well as

46 | The “MCSO Posse” is an officially sanctioned program of several thousand volunteers who help MCSO with a variety of tasks, “from assisting with animal cruelty to searching for lost hikers,” according to the MCSO website. <http://www.mcsoposse.org/>

47 | MCSO’s posse is comprised of civilian volunteers who assist deputies in a variety of capacities.

48 | “Mesa Mayor Angry over Raid; Sheriff Defends Tactics,” *Arizona Republic*, October 17, 2008. <http://www.azcentral.com/community/mesa/articles/2008/10/16/20081016mr-mesaraid.html#ixzz0zhyudigw>

49 | Ibid.

50 | http://www.mcso.org/include/pr_pdf/New%20Hampshire.pdf

non-Hispanics, but they are reluctant to make official reports out of fear of retaliation and/or deportation. One officer who had been working in an immigrant community for almost 15 months said he spent the first six months of the assignment building relationships and assuring members of the immigrant community that the Police Department was not interested in deporting them. However, the distinctions between federal, county and local law enforcement are still confusing to the immigrant population. As a result, it is difficult to establish trust. In the officer's words, "You're not sure if you ever gain the trust. Maybe you just lessen the mistrust."

The tactics of the Maricopa County Sheriff's Office have sparked protests and demonstrations in the city. Groups on either side of the issue have "faced off" in public. Mesa police officials are concerned about officer and citizen safety, due to the emotional atmosphere generated by the sheriff's actions. MPD devotes significant resources to ensuring public safety during these events and uses "citizen observers" to monitor protester and police activity and help diffuse confrontations.

In March 2009, the U.S. Justice Department launched a civil-rights investigation of MCSO's enforcement of federal immigration laws to determine whether Sheriff's deputies were engaging in "patterns or practices of discriminatory police practices and unconstitutional searches and seizures."⁵¹

Later, in September 2010, the Justice Department filed a lawsuit against MCSO, Maricopa County, and Sheriff Arpaio for refusing full cooperation with the department's investigation. The Justice Department said it had "attempted to secure voluntary compliance," but that "MCSO's refusal to cooperate with the investigation makes it an extreme outlier," in that the Justice Department was "unaware of any other police department or sheriff's office that has refused to cooperate in the last 30 years."⁵²

Within an atmosphere of controversy and conflicting law enforcement approaches, MPD approaches the immigration issue from a practical perspective.

Taking Stock of Immigration and Crime

In 2006, Mesa's City Manager, with approval from the City Council, appointed a new Chief of Police, George Gascón. (In August 2009 Gascón took a new position as chief of police in San Francisco.) When Gascón took over as chief in Mesa, the illegal immigration issue was gaining steam and becoming increasingly contentious. Chief Gascón was confronted with a generally accepted public belief that the large majority of the city's crime was committed by illegal immigrants. He also found that the relationship between the police and the immigrant community was generally one of suspicion and mistrust. At about the same time, the

51 | "Arpaio to be investigated over alleged violations," *The Arizona Republic*. March 11, 2009. <http://www.azcentral.com/arizonarepublic/news/articles/2009/03/11/20090311investigation0311.html>

52 | Justice Department press release. <http://www.justice.gov/opa/pr/2010/September/10-crt-993.html>

MCSO was moving forward with a cooperative agreement with ICE that granted deputies broad authority to arrest illegal immigrants. In addition, the State of Arizona had recently enacted several aggressive immigration enforcement laws.⁵³

Chief Gascón recognized that failing to address the immigration issue would place the Police Department at risk of losing the confidence of citizens who were asking why the department “wasn’t enforcing the law.” At the same time, Gascón was cautious about reacting to political pressure by groups and leaders demanding tougher enforcement of federal immigration laws. He was afraid that such policies would damage the trust of a significant segment of the population who were often victims of and/or witnesses to crime in their own neighborhoods. At that time, MPD’s policy on handling Undocumented Foreign Nationals (UFN) was vague and described as a “hands off” approach that provided little guidance to officers about what they could or could not do. Meanwhile, the Police Department in nearby Phoenix had launched a blue ribbon panel to revise its immigration enforcement policy.⁵⁴ In his early months of leadership at MPD, Chief Gascón found himself facing multiple pressures from all sides of the issue.

Connecting with the Community

One of the first steps the Police Department took to address concerns about the immigrant population was to explore the public perception that undocumented immigrants were primarily responsible for the crime in Mesa. The department’s newly established Compstat Unit conducted an analysis of arrest data and determined that the number of Hispanic arrestees was proportional to their representation in the community. That finding was particularly relevant to the allocation of resources to the immigration “problem.” Gascón believed that decisions needed to be made based on facts and not mere perceptions.

At the same time, the Police Department was engaging the community in discussions about immigration. Community forums were held and advisory groups were formed at each of the district police stations. The goal was to encourage the community to identify neighborhood priorities and to improve the communication between the community and the local police. Nine forums were established, and they continue to serve in an advisory capacity to the police chief. (The forums are referred to as: African-American, Business, Clergy, Disabilities, Hispanic, Human Rights, Native American, Senior, and Youth).⁵⁵ For example, the Hispanic Advisory Forum, which includes leaders from the Hispanic community, meets monthly with the Chief to discuss issues in their community. The Hispanic Advi-

53 | The Arizona Workers Act was passed in 2008. It prohibits businesses from intentionally or knowingly hiring illegal immigrants. Proposition 100 was passed in 2006. It prohibits bail for undocumented immigrants charged with committing a serious felony offense. Under Arizona’s Anti-Smuggling law, passed in 2005, undocumented workers can be charged with criminal conspiracy for paying smugglers to bring them into the country.

54 | The blue ribbon panel members were former prosecutors who were studying a policy change that would allow Phoenix Police Officers to question people they stop about their immigration status.

55 | <http://mesaaz.gov/police/forums/default.aspx>

sory Forum helps to educate the community regarding the policies and practices of MPD and to promote positive relations with the police.

According to Hispanic Advisory Forum members, Chief Gascón improved relations with the immigrant community on a grass-roots level. A significant change mentioned was the Chief's outreach to immigrant communities and the promotion of transparency in police operations and decision-making.

Developing the Policy

The revision of its immigration policy was a significant undertaking for the Mesa Police Department. It was driven, in part, by the need to clearly define the agency's role in immigration enforcement, not just for the officers, but for the community as well.

Input was solicited from inside and outside the department, including community groups, advisory boards, city officials, the city attorney's office, the police unions, and police focus groups. The Hispanic Forum was involved in the review and revision of the department's Immigration and Customs Enforcement protocol, and its members were provided with the same training on the policy that is provided to Mesa police officers.

MPD also met with ICE officials to establish a protocol, consistent with federal law, for referrals to and other contacts with ICE. The process was transparent and inclusive. Chief Gascón also met with each member of the City Council to explain the policy, answer questions, and garner support for a successful implementation.

After 17 revisions over a period of almost one year, the policy was completed in late 2008. The policy focuses on utilizing department resources to fight crime and target the serious criminal behavior of both citizens and non-citizens alike, while respecting the Constitutional rights of all persons.

Prior to release of the policy, the Police Department conducted training for its officers over three to six months. The training was presented by the same high-ranking department officials in small group sessions, in order to ensure consistency in the information that was provided. Scenarios were developed that reflected the types of day-to-day situations that officers would encounter involving immigration issues. The department also created a pocket-size card for the officers that serves as a quick reference guide and is based on the common situations encountered on the street. The same training that was given to the Mesa officers was also provided to the various advisory forums and to the news media, to help ensure the accurate representation and understanding of the policy in the community. While it was recognized that there would not be total agreement in the community on the new policy, MPD made a significant effort to ensure that the policy was understood by the community.

Support from the City

Although the Police Department was clearly the lead agency in developing a new immigration enforcement policy, Mayor Scott Smith chose to enact it (rather than merely adopting it as internal Police Department regulations) in order to emphasize that it was a “city policy.” From a political standpoint, the Mayor did not believe it was fair to place sole responsibility on the Police Department. In addition, Mayor Smith believed that the policy needed to take into consideration the allocation of resources, strike a balance between federal and local policies, and deal with questions of human rights. He also believed that the Mesa Police Department needed to talk more about the actions it was already taking to deal with immigration-related crime in the community, in order to offset the perception that MPD was not enforcing the law and that the city was a “sanctuary” for undocumented immigrants.

The Mayor believed that the consequence of not spending time to explain the policy to the community would be to risk losing public confidence overall. He also noted that people have a tendency to vent their frustrations on the local police, regardless of the actions police take to meet the expectations of the community. According to the Mayor, “It’s hard to have a rational discussion on either side of an intensely political issue, [and] we have to recognize that we can’t change everyone’s mind on the issue.” The reasonable goal was to strike a balance and clarify how the police would respond to the immigration issue within the context of meeting its mission to provide for the safety of *all* residents of the city.

The revised policy was implemented in January 2009 and generated little negative response from the community or police officers. It is similar to the policies of surrounding jurisdictions. The policy is clear in regard to the actions that officers can and cannot take in various encounters with illegal immigrants within the context of crime control, Constitutional protections, public confidence in the police, and trust with the communities that are being served. The policy does not require police to ignore the immigration status of people they encounter, but allows an assessment of immigration status of persons who are arrested for criminal offenses. It clearly targets persons who violate laws other than the immigration violation itself. It does not permit an assessment of the immigration status of persons who are reporting crimes, are victims of crime, or are involved in minor misdemeanors or civil infractions, such as traffic offenses. In effect, the revised policy codified the street-level practices of the officers.

The Mesa Police Department continues to make a concerted effort to ensure that the community understands the policy. Because of the transient nature of the immigrant population, this involves continuous outreach and ongoing education.

Keeping the Focus on Quality of Life

The Red Mountain Division of the Mesa Police Department serves a population of approximately 157,000 residents in an area of 33 square miles. This is the most

populated area of the city, generating the greatest number of calls for service and ranking first in Part I crimes reported. The Red Mountain Division's area of responsibility includes numerous immigrant communities and neighborhoods, many of which are perceived as havens for drugs and are vulnerable to burglaries and home invasions. The Commander of the division, Steve Stahl, described the relationship of the police and the immigrant community as "way too tenuous" for a variety of reasons, including the transient nature of the immigrant population, immigrants' mistrust of police based on their experience with law enforcement in their native countries, language barriers, cultural differences, and fear of deportation.

Officers find themselves handling complaints regarding the immigrant community that emerge as a result of cultural differences. For example, in the Hispanic community, families and friends often gather in large groups at a single home. These gatherings are often noisy, are sometimes hosted in the front yard, and may extend into the later hours of the evening. Officers said they find the immigrant community cooperative and willing to adjust their behavior to accommodate generally accepted practices.

Mesa's Community Action Team, comprised of two officers and a community prosecutor, described an ongoing effort to overcome obstacles to good relations between the police and immigrant communities, while addressing another issue that often sparks complaints: day laborer hiring sites. In Mesa, a busy intersection bordered by a number of small businesses became a common pick-up site for unskilled, low-wage day laborers who were predominantly immigrants and more than likely, illegal immigrants. Complaints were received from business owners and customers shopping at the stores. Common problems associated with the site included persons loitering in the parking lots and approaching store customers to ask about employment.

Using a problem-solving approach, the Team focused on the quality of life aspect of the problem, rather than pursuing it as an immigration issue. From that perspective, the activity at the pick-up site was viewed as a trespassing violation. Prior to any enforcement activity, the Team conducted an extensive educational campaign with the business owners, day laborers, and contractors by conducting meetings, distributing flyers, installing signs and working through the local churches to communicate messages to the community.

Officers found that enforcing the trespassing law had a significant impact on the problem, although it took a number of sessions of "babysitting" the corner to effect a change in activity at the site. Officers found that the main behavior that changed was that laborers stopped approaching vehicles and frightening the drivers. With cooperation from the immigrants as well as the contractors seeking to hire workers, the process became more orderly and less threatening to business customers. One officer described the approach this way: "It's easy to put people in jail. It's not very challenging. The challenge is to make a difference in a long-standing problem."

Conclusion

The Mesa Police Department carefully developed and implemented a practical and clearly written policy that offers a balanced approach to the department's interactions with undocumented immigrants. MPD recognized the challenge of working with a population that generally mistrusts the police, and focused on strengthening its relationship with the immigrant community. Guided by community policing strategies, MPD's approach acknowledges that establishing trust and encouraging participation by the immigrant community in maintaining public safety is good for the entire community. The Mesa experience offers insight for police departments that want to integrate community policing principles in their approach to immigration-related problems.

- **Focus on the Public Safety Mission** — Mesa's approach was to focus on preventing and reducing crime in the city, not on immigration enforcement, which is viewed as the mission of other agencies, not local police.
- **Understand Public Perception** — Effective decision-making relies on factual information and should not be driven by perceptions that may be incorrect or on misinformation. Chief Gascón used careful reporting and analysis to get an accurate picture of the scope of criminal activity by undocumented immigrants in Mesa.
- **Reach out and Engage the Community** — The effectiveness of a police department's efforts relies heavily on support from the community. Mesa established community forums and district-level advisory groups to understand the community perspectives and to engage the city's residents in their efforts to improve public safety in Mesa.
- **Be Inclusive and Transparent** — Working collaboratively with stakeholders from inside and outside the department ensures a broad understanding and assessment of issues. Including interested persons in discussions and encouraging community participation create an opportunity for critical assessment and evaluation of policies and operations.
- **Communicate Your Policy Clearly and Consistently to the Community** — The Mesa Police Department used a variety of methods to educate the community regarding its new immigration policy. It used its network of advisory groups and district-level community panels to assist with the effort in the immigrant community. Each of the groups, as well as the news media, was provided the same training that was given to MPD officers.
- **Provide Training that is Interactive and Relevant to Daily Work Activities** — The Police Department prepared and delivered a comprehensive training package to its officers. The training was delivered in small group sessions by the same two persons, both of whom had been involved in the development of the policy. Case scenarios provided officers

with real-life examples of the application of the new guidelines. A pocket card was created that provides a handy reference for officers on the street. Finally, the training was delivered to the entire department *prior* to the roll-out of the policy—so that officers were clear about the policy and procedures.

Mesa Postscript

In March 2010, Frank Milstead assumed command of the Mesa Police Department (MPD) after serving 25 years with the Phoenix Police Department. His predecessor, George Gascón, had left Mesa in July 2009 to become Chief of Police in San Francisco. In the short time that he has been chief, Milstead has faced a variety of challenges relating to immigration, including working with the Maricopa County Sheriff's Office (MCSO), assessing the impact of Arizona S.B. 1070⁵⁶ on the agency's policies, and developing relationships with community groups.

After a long career in the Phoenix Police Department, Chief Milstead knew firsthand the value of strong and positive working relationships among the law enforcement agencies in the "Valley of the Sun." Milstead believed that he could build a positive working relationship with Maricopa County Sheriff Joe Arpaio, particularly because he knew Arpaio and had worked with him and MCSO when he was in the Phoenix department. Adding to this positive relationship was that many years earlier, Chief Milstead's father, as Director of the Arizona Department of Public Safety, provided assistance to the Drug Enforcement Administration in Arizona when Arpaio was a member of a DEA task force there.

Chief Milstead's primary interest in working cooperatively with MCSO is to provide Mesa patrol officers with a positive and safe working environment when interacting with MCSO deputies. MCSO and the Mesa Police Department have an unusual situation in which MCSO's county-wide authority includes jurisdiction in the city of Mesa. In addition, MCSO deputies police a number of unincorporated areas that are surrounded by the city of Mesa. Mesa officers sometimes respond to emergency calls in these "islands" because they are closer or because MCSO deputies need back-up.

The relationship began on a positive note when Sheriff Arpaio attended Chief Milstead's swearing-in ceremony, and since then Milstead and Arpaio have met on several occasions to discuss operational priorities and practices. Chief Milstead has reinforced the idea that when Mesa police officers interact with undocumented foreign nationals, their primary focus is on any criminal activity. According to Chief Milstead, MCSO has not conducted any crime suppression operations (sometimes referred to in the media as sweeps) in Mesa during the past nine months.

At about the same time that Milstead started as Chief in Mesa, the Arizona state legislature passed S.B. 1070. Although it was subsequently challenged by

⁵⁶ | The "Support Our Law Enforcement and Safe Neighborhoods Act" (introduced as Arizona Senate Bill 1070 and thus often referred to simply as Arizona SB 1070) is a legislative act that was signed into law by Governor Jan Brewer on April 23, 2010, and went into effect on July 29, 2010.

the U.S. Department of Justice, some parts of the law were unaffected and were implemented in July 2010.

The provisions of S.B. 1070 that took effect required the Mesa Police Department to revise its policy regarding the handling of undocumented immigrants. The overarching principles of the Mesa policy have not changed. However, in accordance with the relevant provisions of S.B. 1070, MPD's policy now allows officers to ask crime victims, witnesses, and juveniles about their immigration status,⁵⁷ whereas the earlier Mesa policy had generally prohibited such inquiries.⁵⁸

Anticipating concerns within the community about his philosophy and the ramifications of S.B. 1070, Chief Milstead met with community groups, including the already established Clergy Forum and Hispanic Forum, to discuss the policy revisions. He reassured the community that the MPD is committed to ensuring the safety and well-being of all persons, regardless of their immigration status, and that the policy was adapted only to meet the requirements of the state law.

57 | Mesa Police Department Policy FLD 441, effective September 15, 2010.

58 | Mesa Police Department Special Order 2009-01, effective January 1, 2009.

CHAPTER 5

Challenges of Policing an Immigrant Community: Minneapolis, Minnesota

Introduction

The city of Minneapolis is home to the largest population of Somali immigrants in the United States and a hub for a much larger Somali population in the twin cities. The influx of Somali immigrants began in the 1990s and escalated when a civil war in Somalia forced many to leave their homeland and seek refuge in other countries. Many Somalis fled to Minneapolis, attracted by the welcoming atmosphere and strong social service network provided by the city and religious organizations. The accessibility of housing and economic and medical assistance, along with the availability of jobs, attracted a generation of Somalis. The city soon became the center of the Somali community in the United States. It is estimated that between 30,000 and 40,000 Somalis live in Minneapolis.⁵⁹

Recently, the Somali community in Minneapolis became the focus of a federal investigation into a recruitment operation designed to lure young men to Somalia to defend their homeland against an invasion of Ethiopian troops. Over a two-year period, 20 men left Minneapolis and reportedly attended terrorist training camps in Somalia.⁶⁰ The ongoing investigation is considered one of the most extensive in recent years focused on domestic terrorism.⁶¹ Somalis in Minneapolis have been concerned not just about the missing young men, but about the negative attention that has spotlighted a community still struggling to settle in a new country.

The majority of Somalis in Minneapolis are refugees or legal immigrants. It is generally believed that there are undocumented Somali immigrants residing in Minneapolis, but the number is believed to be small in comparison to the number of Somalis who are in the city legally. According to city police department officials,

⁵⁹ | The estimated range of the Somali population in Minnesota is based on numbers reported in newspaper articles and from interviews with government officials.

⁶⁰ | "Somalis in U.S. draw FBI Attention." *The Washington Times*. December 29, 2008.

⁶¹ | "Charges Detail Road to Terror for 20 in U.S." *The New York Times*. November 24, 2009.

a number of Somalis are in deportation status, but because of the ongoing war in their country, they cannot be returned to Somalia at this time.⁶²

The Minneapolis Police Department (MPD), unlike many other police agencies in the country, is not struggling with the debate about local enforcement of immigration laws. MPD has had a policy in place for many years that prohibits officers from asking about immigration status. The Police Department policy predates a city ordinance, passed in 2003, that prohibits all city employees from inquiring about immigration status.

However, according to Chief Tim Dolan, MPD does face a variety of issues related to the acclimation of immigrants, who are generally from rural areas, to life in an urban environment. Many of the problems in the Somali community are a product of cultural differences, which is not unusual for a relatively new immigrant population.⁶³ These cultural differences create challenges for the MPD, including building trust, developing relationships, solving problems, and preventing and responding to crimes such as robberies, gang activity, homicides, and terrorism.

The Somali Community

The Somali population resides predominantly in the Cedar-Riverside neighborhood of Minneapolis. It is a diverse community of businesses, educational institutions, hospitals and residences on the outskirts of the downtown area. An imposing set of high-rise apartment buildings known as “the towers” dominate the landscape and are occupied almost exclusively by Somali families. There are a number of Islamic mosques, as well as many Somali-owned businesses and restaurants in the neighborhood. The neighborhood’s bars and ethnic restaurants are frequented by students from nearby Augsburg College and the University of Minnesota.

As with many immigrant populations, the Somali community in Minneapolis faces a variety of problems, many of which are related to the challenge of assimilating into American society. Somalis generally are a traditional tribal community that is divided into clans with differing politics and loyalties. It sometimes appears that the Somali community can be insular, preferring to protect itself from embarrassment or shame by self-policing, rather than involving outside authorities and drawing attention to itself. On the other hand, the Somali community in Minneapolis relies on the city to solve problems and can be vocal about its expectations regarding government services. In particular, the Somali community is sometimes critical of the Police Department for not administering the “swift justice” that they are familiar with in their own country (even though that justice may not include many of the legal safeguards of the U.S. justice system to ensure fairness).

⁶² | Deportation status refers to a condition in which a person has engaged in conduct that disqualifies a non-citizen from remaining in the United States, usually when the person has been found to have committed certain crimes.

⁶³ | Somalis in Minneapolis are predominantly first-generation immigrants.

Thus, many Somalis do not understand the procedures of the American justice system and accuse the police of failing to take action against criminals. “We know who did it; you know who did it; why are they walking down the street?” is a question that Somali community members often ask the police. In addition, the community expectation is that the police will take low-level offenders into custody as well as serious criminals.

At the same time, even as the Somalis hold the police accountable for perceived failures of the criminal justice system, there have been instances where suspects have been hidden in the community or sent away to avoid detection by the police. This sympathetic response reflects the community’s embarrassment about crime.

Many in the Somali community are reluctant or unwilling to report crime or share information with the police. In Somalia, the police are known to be corrupt and abusive and are feared by most of the population. This experience is reflected in Minneapolis in the community’s mistrust of the police and the misinterpretation of police actions. Police protocols, such as not covering the body of a homicide victim at a crime scene, are interpreted as a sign of disrespect for Somali religious beliefs.

The Somali community in Minneapolis is well-informed about the ongoing problems in their home country, and many believe that “what’s happening in Somalia today will affect what goes on here.” Many Somali residents get this information because they listen extensively to public radio news, which often is the only source of information about their homeland. Heated discussions and loud arguments are common at the local Starbucks coffee shop, which is a gathering place for “elders” and male members of the community. The “elders” are the leaders and designated representatives of the different clans in the Somali community. Their role includes serving as problem-solvers and mediators to resolve disputes within the community, often through financial payment to victims of crime. As a result, many crimes are not reported to the police. Kathy Waite, the sector lieutenant assigned to the predominantly Somali community, described a community meeting where it was suggested that the elders handle domestic disputes, rather than the police. That discussion “took us ten steps back,” the lieutenant said. Many of the community leaders prefer to continue the practices of their native country. This is a source of conflict for Somali youths who are “Americanized” and less willing to adhere to the conservative views and traditional practices of their country.

Challenges Faced by the Police

Police departments rely on the cooperation of all members of the community to prevent crime. Working with immigrant communities can present special challenges, including building trust, overcoming communication barriers, getting residents to report crime and share information, and developing effective working relationships. According to Lt. Waite, “We have a lot of cultural hurdles to jump over” in the Somali neighborhood. In addition, the Somali community has

its share of crime problems, including a growing concern about gangs and youth violence.

Overcoming Communication Barriers

Somalis in Minneapolis rely upon a strong word-of-mouth social network to communicate. Information, good or bad, spreads quickly through the community. Many Somalis, however, do not speak English, so communication is a challenge for the Police Department. The police use a variety of methods to provide information to the community, including Somali radio, distributing flyers in the neighborhood, and making door to door contacts with an interpreter. The police also have found that providing information to key leaders in the community is an effective method for spreading the word throughout the neighborhood.

Building Trust

In early 2002, the Minneapolis police shot and killed a young Somali immigrant with a history of mental illness, who was brandishing a machete. This incident outraged the Somali community and led to a meeting with the police.

This meeting was the first formal meeting between the MPD and the Somali community and, according to Lt. Waite, “It became apparent that the community and police didn’t know each other at all.” The community’s perception of the police was very poor, in part because of previous experience with the police in their own country. In addition, about 80% of the community came from rural towns in Somalia, and they had little familiarity with urban life. At the same time, the police were not well-informed about the Somali immigrant community.

Ultimately, however, the meeting was seen as a positive experience and led to a commitment by the Police Department to meet regularly with Somali community representatives. Quarterly safety meetings between the police and the community have been occurring now for many years. The meetings include representatives from all the communities in the precinct and are a forum for sharing information, dispelling rumors, and discussing crime trends. The police also meet regularly with Somali elders, particularly when there is an incident that creates tension in the Somali neighborhood.

Lt. Waite has been assigned to the Cedar-Riverside neighborhood for four years. She runs the quarterly meetings and the monthly meetings with the elders. She described her first months in Cedar-Riverside as challenging. She found that women were not well-received, particularly by the elders. She also discovered that the Somali community was very aware of the ranking structure in the Police Department. At her first meeting in the community, she was told that “we expected someone of higher rank to be here.” In time, regular contact and dialogue helped to establish the lieutenant’s credibility and trust among the elders and community members.

Building relationships may be the most significant component of establishing trust in the Somali community. Officer Jeanine Brudenell, the Police Department’s Somali liaison officer said that “although Somali residents won’t call 911 to report a crime, they will chase me down to file a police report. They rarely go to a police station to report a crime.”

The issue of building trust and establishing relationships is even more complex when the Police Department is faced with a community that is divided by clan politics and loyalties. One of the city's Somali police officers advised that the community sees him first as a Somali and then as a police officer. Because many members of the community know him, the officer indicated that he sometimes is not taken seriously as an officer. While the community is very proud of the officer and respect his career choice, they also seem to expect him to treat them differently. The officer described an interaction with Somali community resident who challenged his authority. Later, the resident told one of the community leaders, "I didn't see the officer's uniform, I just saw a Somali."

Reporting Crime and Providing Information

Crime in the Somali community is generally Somali-on-Somali about 75% of the time, according to Lt. Waite. Somalis are victims of homicides, burglaries, robberies, assaults, auto thefts, domestic violence, and extortion. However, it is difficult to get Somali residents to report crime or provide information when they witness a crime. Sometimes, crimes are reported days or weeks after they have occurred. Given their deep-rooted mistrust of the police, some Somalis think they may be viewed as suspects if they report a crime. According to one community leader, "People—even Somalis from other Minnesota towns—will come to Cedar-Riverside to commit crime because they know that Somalis are reluctant to report."

Part of this reluctance to report crime stems from Somalis' unfamiliarity with the American criminal justice process. They expect court decisions to be issued quickly and are frustrated by the time and process it takes to resolve a case. According to Lt. Waite, "Until they see a successful prosecution on their behalf, they are very reluctant to report or press charges."

Witness intimidation is common, and fear of retaliation, especially if gangs are involved, hinders crime investigations and prosecutions. Recently, a Somali college student, who had just started working at the community center in Cedar-Riverside, was shot and killed outside the center.⁶⁴ Witnesses were reluctant to come forward until another Somali youth was killed nearby about a week later. A teenage suspect was eventually arrested but was released when the witnesses recanted their statements and refused to testify. The killing of the college student followed a series of shootings of Somali youths during 2008, when there was a notable increase in violent crime in the community. Seven Somali young men were killed, and three of the homicides were considered retaliatory violence.⁶⁵ Police believe that the men were killed by fellow Somalis connected to gang activity.

Gangs

The Somali community faces a number of issues related to gangs and youth violence. It is a concern that has been a focus of discussion in recent years. According to one community leader, "Our challenge right now lies with our youths."

⁶⁴ | The community center is the hub of social services but had recently become a hangout for gang members.

⁶⁵ | David Chanen, *Minneapolis Star Tribune*, November 19, 2008.

The emergence of gangs in the Cedar-Riverside neighborhood is attributed to a number of factors, including the difficulty that the youths encounter bridging the traditional culture of their own country with modern American society.

While many young Somali women from the community go to college, young men often drop out of high school and gravitate toward gangs. Some of the young men were child-fighters in Somalia or lived in refugee camps. They frequently suffer from depression and post-traumatic stress syndrome as a result of their childhood experiences. But mental health issues are rarely acknowledged in the Somali community. Some Somali children in Minneapolis lost one or both parents as a result of the war, and there are many households headed by women. Many Somali young men in the community live with relatives and are not treated the same as if they were with their own family, which may contribute to their alienation from the community. They are less likely to receive the kind of guidance and support that the family structure generally provides to children, and as a result, they seek attention and recognition through gang activity.

The “gang network” is shunned by the Somali community, yet one community representative pointed out that “these troublemakers take refuge and hide in the community.” The neighborhood community center has become a hangout for gang members, because the leaders at the center sympathize with them and seem disinclined to work with the police to address the problem. The recent shooting at the center and the lack of witness cooperation illustrate one of the many challenges that MPD faces in dealing with gang-related youth violence in the Somali community.

The Somali community wants more action from the police and additional resources and programs from the city government. They also want the police to do more to recruit young Somalis into the policing profession and indeed, the Police Department would welcome more Somalis in its ranks, according to Chief Tim Dolan. Some community representatives have suggested a citizen’s academy geared toward youths, or monthly meetings to bridge the gap between young people and the police.

Investigating Terrorism

Recently, another challenge involving Somali youths drew national attention to the Cedar-Riverside neighborhood. During the past two years, a number of Somali young men disappeared from Minneapolis and are suspected of having been recruited to join Al-Shabaab, an extremist group in Somalia associated with Al-Qaeda. An Ethiopian invasion of Somalia in 2006 is believed to have provided the impetus for the young men to return to Somalia to defend their country against an invader trying to destroy Islam. Many of the young men had attended the same Minneapolis mosque, and suspicions arose that it had served as a recruiting site in the Minneapolis area.⁶⁶

⁶⁶ | “A Call to Jihad, Answered in America.” *The New York Times*. July 11, 2009. <http://www.nytimes.com/2009/07/12/us/12somalis.html>

The Somali community was shocked by the disappearances and even more so when it was reported that one of the men had committed a suicide attack in Somalia. This created internal tension as well as concern that the entire community would be associated with terrorism.

Federal investigators came to the Somali community, asking questions that focused on who may have led the recruiting effort and how it was financed in the United States. Questions were raised about the involvement of the local mosque that was frequented by several of the young men. The mosque leaders denied involvement and blamed the young men's families for not taking responsibility for their children.⁶⁷

Initially, the FBI investigation was confusing for Somali community members who don't easily distinguish between local, state and federal authorities. However, according to Chief Dolan, the MPD has been able to establish some distance between itself and the federal investigation, which seems to have helped the relationship between the local police and the Somali community. The Somali community, which has a longer history with MPD, has been more forthcoming about providing information to the city officers.

The increased pressure of the investigation may have helped MPD because it placed the Cedar-Riverside community under a law enforcement microscope. The investigation put pressure on the elders and made it harder to protect suspects or move someone out of the community who might be of interest to the police or the investigation. The MPD saw a reduction in Somali gang violence during that time.

Maintaining Productive Relationships

The relationship between the police and the Somali community has grown and improved over the past 10 years, but both the police and community representatives agree that more is needed on both sides. The community feels that diversity training is needed on a regular basis for the police officers. From the Somali perspective, it is critical that the police "understand the collective psyche" of the community. MPD advised that training was provided by community leaders several years ago, but it did not go as well as was hoped. Since that time, efforts to acclimate officers to the diversity of the city and particular neighborhoods occur at a precinct level, so that officers receive training appropriate to the communities in which they are assigned to work. For officers in the Somali neighborhood, the training is usually provided by MPD's Somali Liaison Officer.

MPD is also challenged by the reluctance of the Somali community to take ownership of its issues and not rely on the police to solve all of its problems. That challenge is best illustrated by the youth violence in the Somali community. According to one community leader, "Our community has been in denial about the problem; we don't talk about our problems, except when we're angry with the police." In addition, the relationship between Somali youths and police officers is strained. One Somali representative advised that young men are being challenged by the police, but are afraid to report police misbehavior. From his perspective,

67 | Ibid.

the relationship between youths and the police has become one of “I’ll stay away from you; you stay away from me.”

Others in the Somali community have a more positive outlook. “We are in a positive place right now,” one community leader said. “We have access, and residents and police are talking.” Another concluded that the community must take greater responsibility, saying, “We can’t always delegate to the police.”

Conclusion

The Minneapolis Police Department’s commitment to the principles of community policing has allowed the department to overcome many of the barriers that law enforcement agencies encounter in working with immigrant communities. This commitment begins with Chief of Police Tim Dolan and permeates through all levels of the organization. It is evidenced not just in words, but in actions that occur on a daily basis. The Minneapolis Police Department’s experience working with the Somali community may be instructive to any city or police department that is committed to encouraging dialogue, cooperation, and mutual understanding with immigrant residents.

- **Establish trust and build relationships** — Relationships and the trust built on those relationships are a key component in working with immigrant communities.
- **Ensure that dialogue is ongoing and maintained** — Police agencies must develop and sustain an ongoing dialogue with the community—a dialogue to which both the police and the community share a commitment.
- **Acknowledge and address language and cultural barriers** — It is important to acknowledge and address language and cultural barriers, and find ways to overcome those barriers.
- **Educate the immigrant community about police practices and procedures** — Educating the immigrant community about police practices and procedures as well as the criminal justice system is important to managing the expectations of the immigrant community and fostering cooperation from the community.
- **Educate police department employees about the culture of the immigrant community** — Educating police officers about the cultures of the immigrant communities they serve is important to developing an effective working relationship that serves both the community and the police.
- **Develop strategies to recruit and retain police officers that reflect the diversity of the community** — Immigration is changing the ethnic composition in many communities across the United States. A workforce that mirrors the community it serves will help the department build trust and overcome barriers that often challenge police in serving immigrant communities.

CHAPTER 6

Law Enforcement's Voice in Immigration Reform

The case studies described in the previous chapters identified a variety of issues related to immigration enforcement. Each site has taken significant steps to meet the needs of their communities in difficult circumstances—the conflicting pressures of advocates on both sides of the issue, the current realities of a growing immigrant population, a patchwork of legislation that is being developed by cities and states, and an increasing consensus that federal policy is inadequate. There were similarities among the sites as well as differences that highlight the complexity of the immigration issue.

In an effort to further understand this complexity, PERF convened a National Summit on Immigration Enforcement in July 2009 in Phoenix, Arizona. More than 100 police chiefs and other local stakeholders from across the nation spent the day with officials from the Department of Homeland Security headquarters, U.S. Customs and Border Protection, Immigration and Customs Enforcement, the U.S. Border Patrol, and the U.S. Department of Justice. This unprecedented meeting allowed DHS officials to engage police chiefs and local political leaders in a discussion on the effects of immigration in their communities.

The goals of this national meeting were to examine how policy decisions are affecting law enforcement agencies at all levels of government, to discuss the implications of immigration policy for the national immigrant population and the policing profession, and to identify areas of consensus to provide the groundwork for policy recommendations.

Summit participants expressed a number of concerns, including a disproportionate victimization rate of immigrants in some communities, a reluctance among immigrants to contact police as victims or witnesses to crime, a concern about crime within the immigrant community, tensions between community policing efforts and close relationships with the federal agencies that enforce immigration laws, and a “hothouse” political atmosphere in some jurisdictions that may limit the discretion of police professionals to deal with immigration enforcement in ways they consider best.

Most agencies at the Summit reported having some relationship with Immigration and Customs Enforcement (ICE), but a large majority of agencies have no formal agreement, such as a 287(g) program. While some police chiefs expressed satisfaction with ICE, especially regarding the useful flow of information in both directions, others expressed frustration with the responsiveness of ICE to police concerns. Several chiefs discussed their displeasure with ICE actions in their community, including the fact that local agencies often have to account for the consequences of ICE enforcement operations.

The Summit included a presentation by Dr. Paul G. Lewis of Arizona State University on a survey of 237 law enforcement executives regarding their local enforcement of immigration laws. The survey revealed that police chiefs see significant differences between how they perceive certain aspects of the immigration issue and how they believe their communities perceive the issue. Many police chiefs believe that unauthorized immigration is a more controversial issue in their communities than it is within their police departments.

The survey also found that many police agencies lack guidelines for their officers regarding immigration enforcement, although agencies in communities that have experienced a contentious public debate about immigration have developed policies. Many participants said their local government has no official city policy on the issue. Of those with policies, some said their city government has a “don’t ask/don’t tell” or “sanctuary” policy, while others said their city has an enforcement-oriented official policy, in which the police work with federal agencies or take a proactive role to deter illegal immigration.

Perhaps most importantly, the Summit highlighted the varied and complex ways that local police are affected by immigration policy. It also confirmed what was learned in the case studies: that no two communities or police agencies are affected in the same way, either in how they manage immigrant issues in their communities or how they work with federal law enforcement officials.

In light of the experiences of local police, the Summit participants produced two sets of recommendations. One set of recommendations is intended for Congress and the Obama Administration to consider when they begin work on a national immigration reform bill. The other set of recommendations is for local police agencies to consider as they develop policies for providing police services to immigrants in their communities.

Immigration Summit Participants' Recommendations For the Administration and Congress

1. United States borders should be made more secure, not only in terms of preventing illegal immigration, but also in preventing the illegal trafficking of drugs and firearms.

Efforts to secure the border to prevent illegal immigration must also consider the threat that the flow of illegal drugs and firearms poses to the United States and Mexico. The impact is most often felt at the community level, and local police must respond to the increased violence that often accompanies drugs and guns. Border security must also include preventing deported criminals from re-entering the country to ensure that the border is not a revolving door for dangerous foreign-born criminals.

2. Federal agencies and the Congress should consult with state and local police agencies as they craft immigration policies and legislation. The inclusion of local law enforcement in the policy-making process will result in more realistic, practical and informed policies that have the support of local communities.

Local police should be consulted *early* in the process of policy development or modification when local law enforcement agencies will be affected. Federal agencies and Congress should seek out and utilize the perspectives and experiences of local police leaders and address their concerns. An inclusive process will offer an increased opportunity for understanding between federal and local agencies and will likely result in a more informed policy.

3. The motivation for involving local police agencies with the federal agencies that are charged with immigration enforcement should be to improve public safety and information-sharing among all law enforcement agencies.

Public safety is a shared responsibility among local, state and federal agencies. Thus, information related to ensuring public safety must be accessible in a timely manner across all levels of law enforcement.

4. National comprehensive immigration reform legislation should not be delayed any longer. New legislation should include provisions regarding guest workers, provision of permanent legal status, and employer and family-based visa systems.

There are an estimated 12 million undocumented immigrants in the United States. Issues related to illegal immigration impact local law enforcement on a daily basis. Immigration-related problems are fast becoming a drain on the shrinking resources/budgets of local police departments and, left unattended, will continue to affect public safety. Until the federal government enacts comprehensive legislation to address the existing population of undocumented immigrants as well as those who continue to enter the country illegally on a daily basis, local police agencies will bear the consequences of a broken system.

5. Improvements should be made to ensure tamper-proof identification and work authorization documents for persons allowed into the country.

One of the major challenges associated with managing the immigration issue is the ability to identify persons entering the country, whether to visit or to work. Currently, foreign visitors provide documents that are acceptable in their native countries. For law enforcement, verifying the authenticity of foreign documents can be difficult and time-consuming. Some efforts are being made at local levels to provide identification cards to city residents, including undocumented immigrants. The response in these selected communities is positive, but does not address the need for a national identification system that will provide another level of border security.

6. Recognizing the federal government's recent shift in emphasis regarding the enforcement of illegal immigration law in the employment arena, with less attention to worker violations and greater attention to employers who cultivate illegal workforces, there should be comprehensive plans and setting of priorities for enforcement in this area. Local police should be consulted prior to major enforcement actions in their communities and should be informed about arrests in their communities.

Enforcement activities by ICE have a major impact on businesses, neighborhoods and families in the community, particularly in immigrant neighborhoods. Consultation with local police prior to an enforcement action will minimize the risk to officers and to workers/employees. In the aftermath of immigration enforcement actions, it is

common for children to stay home from school, businesses to remain closed, and families to seek information from local police about the status of a family member who may have been detained/arrested. Local police should be notified of the names of persons detained/arrested and should be given sufficient information regarding post-arrest procedures in order to alleviate uncertainty for family members.

7. Immigration and Customs Enforcement (ICE) should increase its coordination with and responsiveness to local police agencies. ICE officials should be more visible in communities to explain their policies and actions and should be available when local police request assistance.

Local police agencies have been working in coordination with ICE and other federal agencies for many years in efforts to identify and remove criminals from the community. However, the focus on immigration enforcement in recent years has overwhelmed ICE, resulting in delays in responding to requests from local law enforcement for assistance in immigration matters. The frustration of local law enforcement is exacerbated by community concerns that not enough is being done about the immigration problem. Efforts by ICE to inform the local community about its policies, priorities and actions through participation in local forums and events will reduce the burden on local law enforcement. In addition, the federal government's public message regarding priorities with respect to immigration enforcement must be consistent with the capabilities and resources of ICE, in order to ensure realistic expectations from the community.

8. The authority of local police agencies and their officers to become involved in the enforcement of federal immigration laws, and limitations on that authority, should be clearly defined.

Police departments are frequently criticized by misinformed community members who believe that local police have the authority to enforce immigration laws. As a result, police often receive unfair criticism and allegations of being derelict in their duties. The federal government must provide information, in language that is clear to the general public, that differentiates the role of the federal government in immigration enforcement from that of local police agencies. At the same time, the federal government must be clear about what is expected of local police in terms of supporting immigration enforcement.

- 9. Stricter controls should be put into place regarding whose names are entered into the National Crime Information Center (NCIC) on civil immigration detainers. Controls are needed to eliminate the entering of civil detainers into a system intended for criminal warrants, which creates confusion for local police, and may cause them to exceed their authority by arresting a person on a civil detainer.**

The National Crime Information System has traditionally been a source of information for criminal warrants and fugitive information. The job of local police is compounded when civil and administrative warrants are included for common immigration violations that are beyond the enforcement authority of local police. The inclusion of civil immigration detainers should be related to an investigative purpose or a national security issue.

Immigration Summit Participants' Recommendations For Local Police

- 1. Officers should be prohibited from arresting or detaining persons for the sole purpose of investigating their immigration status.**

Historically, local police have focused on criminal law violations to protect their communities and have left immigration enforcement to the federal government. To date, most local police departments support strategies that prohibit arresting immigrants solely for being undocumented and limit police inquiries about immigration status to circumstances that indicate criminal involvement. This reasoned approach puts the focus on criminal conduct that is a threat to the community at large, including the immigrant community, and does not interfere with the federal government's ability to enforce immigration laws.

- 2. Officers should arrest persons who violate the criminal laws of their jurisdictions without regard to the immigration status of the alleged perpetrator or the victim.**

When an agency focuses on criminal behavior and the safety and security of all members of the community, the immigration status of the perpetrator or the victim becomes immaterial to enforcing and ensuring the equal application of the law.

3. Local police must uphold the Constitutional and civil rights of persons regardless of their immigration status.

A lack of legal immigration status does not negate a person's right to the protections afforded by the Constitution of the United States or to the right to equal protection and treatment under the law. Police officers, in accepting the responsibility of policing in a democratic society, are bound by their oath to uphold and defend those protections, regardless of the citizenship status of persons whom they encounter.

4. Local police must protect crime victims and witnesses regardless of their immigration status, and should encourage all victims and witnesses to report crimes, regardless of their immigration status.

Undocumented immigrants are often victims of crimes which go unreported because the immigrants are fearful of reporting to the police. Local police must provide assurances to the undocumented community that, as victims or witnesses, they will be protected. Any other policy will undermine the ability of police to solve crime in their communities.

5. Local police should engage immigrant communities in dialogue about department policies and programs.

Police agencies must consider that many immigrants have had their perspective of police framed by experiences in their native countries, where corruption and police brutality are common. Working with immigrant communities will require significant outreach, not only to gain the trust of the community, but to ensure that policies and programs of the agency are understood. Ongoing dialogue will be an important component of maintaining the trust of the community.

6. Local police agencies should educate their communities about their role in immigration enforcement, especially the legal authorities and responsibilities of local police and federal law enforcement.

The community, including the immigrant community, should have a reasonable understanding of what the local police can do in regard to illegal immigration. It is incumbent upon the police agency to manage the expectations of the community by providing them with information that lessens confusion and offers reassurance about the role of local law enforcement in immigration matters. At the same time, the community should be aware of the responsibility of ICE to carry out immigration investigations, enforcement, and deportations.

7. Local police should develop comprehensive written policies and procedures regarding handling of undocumented immigrants.

Currently, the enforcement of immigration laws by local police is a decision that remains at the local level, and policies should be developed that are appropriate for each community. Immigration is a community issue, not just a police issue, so representatives from the community should be engaged in the development of the police agency's policy. A collaborative effort will likely reduce the tension that generally surrounds this sensitive topic. Subsequently, written policies should be shared and clearly communicated to the community.

8. Local police agencies should monitor indicators of racial profiling by employees, investigate violations, and sanction offenders.

Local agencies must take appropriate steps to ensure that indicators of targeting of persons based on ethnicity or appearance are monitored and that complaints of racial profiling are promptly investigated. Policies that prohibit racial profiling should provide clear guidance to agency employees, ensure that training is provided, and establish procedures for monitoring, investigating and sanctioning actions or practices that violate the civil rights of any individual.

9. Local police agencies should become knowledgeable about programs such as 287(g), Secure Communities, and state or local initiatives to ensure that the programs meet the agency's specified goals for participation.

New programs or policies are sometimes implemented without consideration of the short-term and long-term impact of changed policies and practices. Agencies that choose to participate in immigration programs should ensure that these programs are consistent with the agency's enforcement priorities. Police agencies and their communities will be well-served by the use of appropriate performance measures to ensure that the results reflect the intended outcome of the program.

Conclusion

While others debate the merits of immigration reform, police chiefs have been thrust into the middle of the controversy, where they are working to develop policies and solutions that are best suited to their local situations. Most police chiefs see this as a fundamental question of the trust they have built up over the years with their communities. They recognize that much is at stake, including the willingness of a crime victim to report the crime, the willingness of a witness to step forward and provide information, and the continued support of the community when the police are caught in the middle of such a divisive issue. What we have found in the case studies outlined in this report is that the leadership of the police chiefs in these communities is helping to produce policies that are balanced and oriented toward reducing crime and maintaining citizen confidence and trust. Absent a federal reform of immigration statutes, police leaders are stepping up and helping to shape local and federal policy. There is much emotion on all sides of the debate, but the police departments cited in this report are resisting extreme rhetoric and instead are developing practical policies that are sensible and fair, and that are designed to maintain the trust of all segments of the community.

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ABOUT PERF



Founded in 1976, the Police Executive Research Forum (PERF) is a police research organization and a provider of high-quality management services, technical assistance, and executive-level education to support law enforcement and the criminal justice system. As a private, nonprofit organization, PERF was formed to improve the delivery of police services through:

- the exercise of strong national leadership;
- public debate of police and criminal justice issues;
- research and policy development; and
- the provision of vital management and leadership services to police agencies.

PERF's founding principles include improving police service by continuing to professionalize police executive management; fostering research, growth, and knowledge of police science and administration; and supporting the continuing development and implementation of standards to improve police performance. PERF has an extensive history of measuring all aspects of police agency performance, striving to find the best policing practices, and disseminating that knowledge to police agencies.

PERF conducts innovative police and criminal justice research and provides a wide variety of management and technical assistance programs to police agencies throughout the world. PERF's groundbreaking projects on community and problem-oriented policing, racial profiling, use-of-force issues, and crime reduction strategies have earned it a prominent position in the police community.

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- Racially Biased Policing: A Principled Response (2001)

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- Problem-Oriented Policing: Crime -Specific Problems, Critical Issues and Making POP Work (3 volumes, 1998-2000)

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