

The Role of Local Police:
**Striking a Balance Between Immigration Enforcement
and Civil Liberties**

BY ANITA KHASHU

April 2009



The Police Foundation is a national, nonpartisan, nonprofit organization dedicated to supporting innovation and improvement in policing. Established in 1970, the foundation has conducted seminal research in police behavior, policy, and procedure, and works to transfer to local agencies the best information about practices for dealing effectively with a range of important police operational and administrative concerns. Motivating all of the foundation's efforts is the goal of efficient, humane policing that operates within the framework of democratic principles and the highest ideals of the nation.

©2008 by the Police Foundation. All rights, including translation into other languages, reserved under the Universal Copyright Convention, the Berne Convention for the Protection of Literary and Artistic Works, and the International and Pan American Copyright Conventions. Permission to quote is readily granted.

ISBN 1-884614-23-X
978-1-884614-23-1

Library of Congress Control Number: 2009924868



1201 Connecticut Avenue, NW
Washington, DC 20036-2636
(202) 833-1460 voice
(202) 659-9149 fax
pinfo@policefoundation.org
www.policefoundation.org

An executive summary and the full report of *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties* are available online at <http://www.policefoundation.org/strikingabalance/>.

Table of Contents

Contributors	vi
Foreword	vii
Acknowledgments	x
Executive Summary	xi
About the Project	1
History of the Role of Local Police in Immigration Enforcement	2
The Call for Greater Enforcement	6
Demographic changes	6
Perceptions of immigrant criminality	10
Economic costs and benefits of migration	11
Political pressure	12
Counterterrorism	14
Do Local and State Police Have Legal Authority to Enforce Federal Immigration Law?	15
Is Immigration Enforcement a Federal or Local Responsibility? The Local Police Perspective	17
The Various Ways in Which Local Law Enforcement and Federal Immigration Officials Collaborate	17
State and Local Law Enforcement of Immigration Law: Benefits and Costs	21
BENEFITS	21
Reduce jail population and save detention costs	21
Deterrent to unauthorized immigration	21
Criminal enforcement tool	22
Counterterrorism	22
Access to federal databases to verify identity	22
Immigration violators are lawbreakers	23
COSTS	23
Reduced trust and cooperation in immigrant communities. would undermine public safety	23
Increased victimization and exploitation	25
of undocumented immigrants	
Police misconduct	26
Large financial costs of immigration enforcement	26
divert resources from traditional law enforcement activities	
Complexity of federal immigration law and difficulty in verifying	27
immigration status	
Racial profiling and other civil litigation costs	28
Immigrants will fear accessing other municipal services	30

Table of Contents

Striking a Balance Between Immigration Enforcement and Civil Liberties: Recommendations	30
The costs of the 287(g) program outweigh the benefits	31
Police officers should be prohibited from arresting	31
and detaining persons to solely investigate immigration status in the absence of probable cause of an independent crime	
If a local agency enters the 287(g) program, it should limit	32
participation to serious criminal offenders and jail-based programs	
Implement policies and procedures for monitoring and	32
enforcing racial profiling violations	
Involve community members in developing immigration policies	32
Evaluation research should be conducted of the 287(g) program	33
and other local immigration enforcement initiatives	
Employ community-policing and problem-solving tactics	33
to improve police-community relations with immigrant communities and resolve tension caused by expanding immigration	
The federal government must enact comprehensive border security	34
and immigration reforms	
Conclusion	35
Notes	37
References	37
Appendices	40
A. <i>Focus Group Summary</i>	41
ANITA KHASHU	
B. <i>Legal Issues in Local Police Enforcement of Federal Immigration Law</i>	69
NANCY MORAWETZ AND ALINA DAS	
C. <i>Making Civil Liberties Matter in Local Immigration Enforcement</i>	91
RAQUEL ALDANA	
D. <i>Undocumented Immigration and Rates of Crime and Imprisonment: Popular Myths and Empirical Realities</i>	119
RUBÉN G. RUMBAUT	
E. <i>Why Integration Matters: The Case of Undocumented Immigrant Youth and Moving Beyond Enforcement</i>	140
ROBERTO G. GONZALES	
F. <i>Local Enforcement of Immigration Laws: Evolution of the 287(g) Program and Its Potential Impacts on Local Communities</i>	155
RANDOLPH CAPPIS	
G. <i>Immigration and Local Policing: Results from a National Survey of Law Enforcement Executives</i>	169
SCOTT H. DECKER, PAUL G. LEWIS, DORIS MARIE PROVINE, AND MONICA W. VARSANYI	

Table of Contents

H.	<i>Law Enforcement Executive Views: Results from the Conference Survey</i>	180
	KAREN L. AMENDOLA, KRISTIN N. WILLIAMS, EDWIN E. HAMILTON, and VERONICA PURYEAR	
I.	<i>Unauthorized Immigrants: Trends, Characteristics, and Surprises</i>	184
	JEFFREY S. PASSEL	
J.	<i>Conference Keynote Address</i>	188
	PHIL GORDON	
K.	<i>Collier County Sheriff's Office Criminal Alien Task Force</i>	194
	<i>An Overview of the 287(g) Program: Strategy, Outcomes, and Benefits of the Partnership</i> DON HUNTER	
L.	<i>Fear, Crime, and Community Trust: Community Perspectives</i>	199
	<i>on Immigration Enforcement by Local Police</i> KAREEM SHORA	
M.	<i>Remarks</i>	204
	JULIE ERFLE	
N.	Conference Agenda and Presenters' Bios	205
O.	Sample Police Department Policies on Immigration Enforcement	215

Illustrations

FIGURES

1.	Immigrant numbers keep growing	6
2.	New immigration growth centers	7
3.	Unauthorized number high	8
4.	Percentage of police departments that typically check immigration status and/or contact ICE, when encountering possible unauthorized immigrants in these situations	18
5.	1990-2000 immigration growth patterns and location	20
	of 287(g) programs across the states	
6.	Likelihood of crime perpetration and victimization	25

TABLES

1.	Highest ranked agency concerns	26
----	--------------------------------------	-----------

Contributors

RAQUEL ALDANA

Professor of Law
William S. Boyd School of
Law
University of Nevada
Las Vegas, Nevada

KAREN L. AMENDOLA

Chief Operating Officer
Research, Evaluation, and
Professional Services
Police Foundation
Washington, DC

RANDOLPH CAPPS

Demographer and Senior
Policy Analyst
Migration Policy Institute
Washington, DC

ALINA DAS

Immigrant Defense Fellow
New York University School
of Law
New York, New York

SCOTT H. DECKER

Professor and Director of
the School of Criminology
and Criminal Justice
Arizona State University
Tempe, Arizona

ROBERTO G. GONZALES

Acting Assistant Professor
School of Social Work
University of Washington
Seattle, Washington

EDWIN E. HAMILTON

Professional Services
Director
Police Foundation
Washington, DC

ANITA KHASHU

Former Director
Center on Immigration and
Justice
The Vera Institute of Justice
New York, New York

PAUL G. LEWIS

Associate Professor of
Political Science
Arizona State University
Tempe, Arizona

NANCY MORAWETZ

Professor of Clinical Law
New York University School
of Law
New York, New York

JEFFREY S. PASSEL

Senior Demographer
Pew Hispanic Center
Washington, DC

DORIS M. PROVINE

Professor
School of Justice and Social
Inquiry
Arizona State University
Tempe, Arizona

VERONICA PURYEAR

Senior Research Associate
Police Foundation
Washington, DC

RUBÉN G. RUMBAUT

Professor of Sociology
University of California
Irvine, California

MONICA W. VARSANYI

Associate Professor of
Government
John Jay College of
Criminal Justice
New York, New York

KRISTIN N. WILLIAMS

Research & Administrative
Coordinator
Police Foundation
Washington, DC

EDITOR:

MARY MALINA

Communications Director
Police Foundation
Washington, DC

Foreword

AMERICA'S EFFORTS TO FIND EFFECTIVE solutions to its undocumented immigration problem resulted in a series of debates at the federal, state, and local levels. These debates revealed the emotional intensity surrounding the issue and disclosed divisions in the political and social fabric of the country, all within the backdrop of a presidential election.

The failure of Congress to move forward with the development of a comprehensive national solution to this problem prompted states and localities to act unilaterally in passing legislation to curb immigration by penalizing employers who hire immigrants, prohibiting undocumented immigrant access to government benefits and services, and intensifying enforcement of immigration laws. These measures generated so much fear and uncertainty that large numbers of immigrants simply uprooted, leaving communities where they had lived for years.

This “immigration emergency” and demographic shift of the undocumented population resulted in an expansion of the role of federal immigration officials from maintaining the security of the borders to the enforcement of immigration laws in cities, towns, and villages throughout the United States. The relocation of immigrants from farming communities and predominately rural areas to cities and suburban communities has resulted in a cultural clash and generated a backlash against immigrants, who look different, speak foreign languages, and do not fit well within the social and political milieu of communities.

The influx of the immigrant population into cities and suburban communities has caused the federal government to reallocate a higher percentage of its resources to these areas and to encourage greater cooperation and support from state and municipal law enforcement agencies. Prior to 1996, the role

of local police in immigration enforcement had been limited to such things as sharing information, providing back-up support for field operations, coordinating efforts, and holding and transferring prisoners. In 1996, when the Illegal Immigration Reform and Immigrant Responsibility Act added Section 287(g) to the Immigration and Nationality Act, local police, upon entry into a memorandum of agreement with the U.S. Department of Homeland Security (DHS), were granted the authority to enforce federal immigration laws.

Pursuant to Section 287(g) agreements, police who meet the requisite federal training standards are authorized to enforce federal immigration law under the supervision of DHS. Local police are provided direct access to DHS databases and authorized to initiate the deportation process. This enables local police to remove serious criminal offenders from the community more expeditiously and in a less costly manner by leveraging federal resources to deport them. Notwithstanding the benefits derived from Section 287(g), only a fraction of a percentage of police and sheriffs' departments has opted to participate.

There are good reasons for this. Police chiefs know that to be effective at crime control in this community-policing era, they must have public support. If local police are perceived as immigration enforcement officers, immigrants—both documented and undocumented—will avoid contact with police because of fear of arrest and deportation of themselves or a family member; 85 percent of immigrants in the U.S. live in mixed-status families. During our focus groups, representatives of the immigrant community told us that they avoided going outside of their homes whenever immigration authorities were in town. One mother said that she would not even go to the store to buy milk for her baby due to fear of arrest and deportation.

Foreword

The reluctance of local police to enforce immigration law grows out of the difficulty of balancing federal and local interests in ways that do not diminish the ability of the police to provide for public safety, which depends heavily on public trust. In communities where people fear the police, very little information is shared with officers, undermining the police capacity for crime control and quality service delivery. As a result, these areas become breeding grounds for drug trafficking, human smuggling, terrorist activity, and other serious crimes. As a police chief in one of the focus groups asked, “How do you police a community that will not talk to you?”

In order to overcome these obstacles, police departments should take appropriate measures to improve relationships with immigrant communities. They can do so by learning more about the cultures and traditions of immigrants who live within their jurisdictions. They should develop the capacity to communicate with immigrants more effectively by encouraging officers to become more proficient in Spanish and ensuring that department representatives who can speak other languages are available. The police need to pursue these goals so that they can tap into the wealth of information and knowledge about things that are going on within the immigrant community. This in turn facilitates their ability to control crime, maintain public safety, and provide meaningful support to DHS in its efforts to prevent another terrorist attack within the United States.

Local police chiefs recognize the importance of mutually cooperative and supportive relationships among law enforcement authorities, especially in efforts to remove violent offenders from communities. They understand such cooperation strengthens the capacity of government at all levels to ensure that our communities and our nation remain safe and secure. Nevertheless, the states, in establishing a fed-

eral government, determined immigration enforcement to be a federal responsibility. Hence, the enforcement of federal laws do not supersede the responsibilities of local police to enforce state statutes and provide for the public safety as derived from the police powers embodied within the reserve clause of the Tenth Amendment to the United States Constitution.

As the role of local police shifts from a concentration on public safety issues to immigration enforcement, the perception that immigrants have of police presence changes from protection and service to arrest and deportation. Police chiefs must carefully weigh and balance these divergent responsibilities to ensure that the primary mission and purpose of the police department is not compromised by the voluntary assumption of immigration enforcement responsibilities. Therefore, the question for local police is not merely what they do, but how they do it. To the degree that police departments can support the efforts of DHS without sending a message to the public that local police have become immigration enforcement officers and that contacts with them could result in deportation, mutual cooperation can be beneficial to all parties.

When local police execute the powers of immigration enforcement officers—as is the case when they check for green cards at roadblocks, or stop people for motor vehicle violations and request documentation or information associated with immigration status—they execute an immigration enforcement function in contacts with the general public. As a result, they assume all of the attendant risks and consequences associated with such activities. These risks are diminished considerably when the exercise of police authority does not involve contacts with the general public, such as would be the case when officers are processing prisoners in connection with

Foreword

DHS to determine whether there are any outstanding warrants or holds against those individuals, or when transferring prisoners with warrants or holds into the custody of DHS.

Finally, local police are part of our nation's framework of institutions and organizations that insure the strength of our democratic republic by maintaining safe and secure communities. The effectiveness of the police is heavily dependent upon the nature of the relationship they have with the general public and the degree to which the police and community are able to work collaboratively to resolve

crime problems. Every effort should be made to establish a mutually cooperative and supportive working relationship between local police and the immigrant communities they serve. Police departments that opt to enforce federal immigration law should do so in a manner that does not erode their relationship with immigrant communities or subordinate municipal interests to those of the federal government.

HUBERT WILLIAMS

President
Police Foundation

Acknowledgments

AS IN ANY LARGE-SCALE PROJECT, THE POLICE Foundation owes a debt of gratitude to many people who shared their time, talent, insight, support, and experience to ensure its success. We are grateful to the Ford Foundation for its support and guidance. An advisory board of distinguished members of the legal, academic, and public policy communities guided the project from its inception and we gratefully acknowledge the following members for their contributions:

Pablo Alvarado
Executive Director
National Day Laborer Organizing Network

Professor Robert L. Bach
Center for Homeland Defense and Security
Naval Postgraduate School

George H. Bohlinger III
Managing Partner
Hanover Partners, LLP

Muzaffar Chishti
Director, Migration Policy Institute
at New York University School of Law

Professor David D. Cole
Georgetown University Law Center

Wade Henderson
Executive Director
Leadership Conference on Civil Rights

Professor Alex Piquero
Department of Criminology and Criminal
Justice
University of Maryland-College Park

Honorable Vanessa Ruiz
District of Columbia Court of Appeals

Kareem Shora
National Executive Director
American-Arab Anti-Discrimination
Committee

We learned a tremendous amount from the generous participation of all those who took part in our focus groups and especially thank the following law enforcement executives who organized participation in each of the sites: Chief Theron Bowman, Arlington (TX) Police Department; Sheriff Don Hunter, Collier County (FL) Sheriff's Office; Chief Ron Miller, Topeka (KS) Police Department; and Chief Richard Wiles, El Paso (TX) Police Department.

We thank the scholars, policy makers, law enforcement professionals, and immigrant community representatives from across the U.S. who participated in our national conference and greatly appreciate the distinguished assembly of conference presenters whose contributions informed both the conference and this report. The conference agenda and presenter information can be found in Appendix N. We appreciate Raquel Manso's work on the project, especially her efforts in coordinating the focus group process. We owe a special thanks to Anita Khashu, who carefully reviewed volumes of project material, data, and external resources to create both the focus group summary and final report narrative. We are grateful to Mary Malina, who served as editor and oversaw the production of the report.

Finally, this project, like all foundation projects, reflects the enormous talent, effort, and commitment of the staff of the Police Foundation.

HUBERT WILLIAMS
President
Police Foundation

Executive Summary

IN RECENT YEARS, THE UNITED STATES HAS experienced historically high rates of immigration. Not only has the population of immigrants increased four-fold since the 1970s, in the last fifteen to twenty years immigrants have also settled away from traditional gateway cities and into new destinations throughout the country that have had very little experience with integrating new immigrants. The immigrant population has also grown more diverse, originating from all parts of the globe, in particular Latin America and Asia versus the predominantly Caucasian European migration of the early twentieth century. These demographic shifts have produced racial tensions, particularly in new destination communities, and given rise to contentious debate about the nation's immigration policies and practices, with longstanding resident communities demanding that government—federal, state, and local—more aggressively enforce immigration laws.

Traditionally, the prevailing view was that the responsibility for enforcing federal immigration laws was solely in the purview of the federal government. In recent years, however, local law enforcement agencies throughout the country have been drawn into the middle of the immigration debate, especially since 9/11, through pressure placed on them by their elected leaders, their communities, and the media to engage in federal immigration enforcement, a responsibility that has not traditionally been part of their organizational mandate. Beginning in the 1990s, federal immigration agencies, overwhelmed by the enormity of the task of apprehending, detaining, and deporting the country's almost twelve million unauthorized immigrants, launched programs and initiatives to induce the cooperation and assistance of the nation's approximately 18,000 state and local law enforcement agencies in identifying and deporting unauthorized immigrants living in the interior of the country. Prior to 1996, these programs

were mostly directed at improving cooperation between local law enforcement and federal immigration authorities with respect to criminal detainees. In 1996, however, Congress passed legislation expanding the role of local law enforcement in federal immigration enforcement. The most well-known program is the U.S. Immigration and Customs Enforcement's (ICE) 287(g) program, which authorizes federal officials to enter into written agreements with state and local law enforcement agencies to carry out the functions of immigration officers, including investigation, apprehension, and detention.

While local law enforcement agencies collaborate with federal immigration authorities in a wide range of activities, most of this project's discussions focused on the ICE 287(g) program. Police executives have felt torn between a desire to be helpful and cooperative with federal immigration authorities and a concern that their participation in immigration enforcement efforts will undo the gains they have achieved through community oriented policing practices, which are directed at gaining the trust and cooperation of immigrant communities. Police are also concerned about the impact of local law enforcement of immigration law on already strained state and local resources, and particularly on the ability of local law enforcement to maintain its core mission of protecting communities and promoting public safety.

With support from the Ford Foundation, the Police Foundation launched a national effort to bring together law enforcement agencies, public officials, and community stakeholders to collaboratively examine the implications of local law enforcement of immigration laws. The main goal of the project was to provide local law enforcement with a venue to debate and disseminate their perspectives on the issue of their role in immigration enforcement so that they may have an influence in the national policy

Executive Summary

debate. A central project component was a series of focus groups held across the country that included local police, public officials, and representatives of immigrant communities and designed to elicit the perspectives and insights of those directly impacted by the issues surrounding immigration. The conversations and questions raised in the focus groups influenced the development of the agenda for a national conference in Washington in August 2008, at which scholars, policy makers, law enforcement professionals, and immigrant community representatives from across the U.S. participated in facilitated discussions and presented data and research on the issues involved in the debate. Finally, a short written survey was distributed to law enforcement executives who attended the national conference.

Although there were clearly differences of opinion among the diverse group of law enforcement representatives participating in the various project activities regarding the costs and benefits of local law enforcement participation in federal immigration enforcement, a majority of police chiefs seem to regard the costs of participation in civil immigration enforcement efforts, where there is no criminal nexus, as outweighing the potential benefits. In particular, many police executives were concerned with the impact on the relationship between immigrant communities and police and the probability of reduced cooperation of witnesses and victims of crime, thereby having a negative overall impact on public safety. They were also concerned about increased victimization and exploitation of immigrants, a possible increase in police misconduct, the fiscal impact on law enforcement budgets, the high possibility of error given the complexity of immigration law, the possibility of racial profiling and other civil lawsuits, and the effect on immigrant access to other municipal services. It also became clear, despite a healthy

level of debate over specific issues, that certain recommendations and policy positions listed below were widely held among the group.

- The costs of participating in the U.S. Immigration and Customs Enforcement's (ICE) 287(g) program outweigh the benefits.
- Police officers should be prohibited from arresting and detaining persons to solely investigate immigration status in the absence of probable cause of an independent state criminal law violation.
- If a local agency nevertheless enters the 287(g) program, its participation should be focused on serious criminal offenders and should be limited to verifying the immigration status of criminal detainees as part of the 287(g) Jail Enforcement Officer program.
- Local and state authorities participating in federal immigration enforcement activities should develop policies and procedures for monitoring racial profiling and abuse of authority.
- In order to preserve the trust that police agencies have built over the years by aggressively engaging in community oriented policing activities, local law enforcement agencies should involve representatives of affected communities in the development of local immigration policies.
- There is a need for empirical research on ICE's 287(g) program and other methods of police collaboration with federal immigration authorities so that we have more objective data by which to better understand the way in which these programs are carried out in the field and their impact on public safety and civil liberties.
- Local law enforcement agencies should employ community-policing and problem-solving tactics to improve relations with immigrant communities and resolve tension caused by expanding immigration.

Executive Summary

■ Local law enforcement leaders and policing organizations should place pressure on the federal government to comprehensively improve border security and reform the immigration system, because the federal government's failure on both issues has had serious consequences in cities and towns throughout the country.

While much of the dialogue generated during the project centered on the specific benefits and costs of local law enforcement participation in immigration enforcement, the conversation often reverted to discussions about the core role of police and general principles of community policing. Local police must serve and protect *all* residents regardless of their immigration status, enforce the criminal laws of their state, and serve and defend the Constitution of the United States. As police agencies move away from their core role of ensuring public safety and begin taking on civil immigration enforcement activities, the perception immigrants have of the role of police moves from protection to arrest and deportation, thereby jeopardizing local law enforcement's ability to gain the trust and cooperation of immigrant communities. "How can you police a community that will not talk to you?" asked one police chief participating in the project. Without the cooperation of immigrant witnesses and victims of crime, local law enforcement's ability to identify, arrest, and prosecute criminals is jeopardized.

Over the past fifteen years, the community-policing movement has made significant gains in making communities safer, and police executives participating in the project expressed concern that local immigration enforcement efforts threaten to undo these gains. The community-policing movement has demonstrated that the effectiveness of

police is heavily dependent on the relationships the police have with the communities they serve. Therefore, in developing and monitoring local immigration policies, it is critical that local law enforcement regularly communicate with affected communities and make every effort to establish a mutually cooperative and supportive relationship with immigrant communities.

The final project report presents the most salient arguments, positions, points of consensus, and recommendations that arose during the focus groups, conference presentations and discussions, and survey responses. Also included, as appendices to the report, are a comprehensive summary of the focus group discussions, results of the conference law enforcement executive survey, the conference agenda, presenters' bios, selected presentations, sample police department policies on immigration enforcement, and six papers (abstracts below) prepared specifically for the national conference by scholars from various academic disciplines.

Abstracts of Papers Prepared for This Project

Legal Issues in Local Police Enforcement of Federal Immigration Law

by Nancy Morawetz and Alina Das,
New York University School of Law

As local police consider taking on enforcement of federal immigration law, they should carefully consider the legal complexity of their role and legal constraints on methods of enforcement in a legal and institutional system that operates quite differently from local criminal justice systems. Local police enforcement of federal immigration law must account for local, state, and federal laws that govern the rights of community residents and

Executive Summary

the obligations of localities. It must also account for the civil nature of most immigration violations. Most importantly, it must be conducted in a way that avoids several common misconceptions about the supposed targets of immigration law enforcement, including confusion over their rights, status, and place in the community. The risk of error is high, and already several localities have been subject to lawsuits over unlawful arrests and detentions, the use of racial profiling in enforcement, poor conditions of confinement, and other violations of law. This paper discusses the legal complexities of federal immigration law enforcement in the local setting and the changing demographics of communities. Risks of liability provide yet another factor for police departments to consider before making a decision about whether to tread into this new field of enforcement.

Making Civil Liberties Matter in Local Immigration Enforcement

**by Raquel Aldana, William S. Boyd
School of Law, University of Nevada-
Las Vegas**

The exponential rise in local law enforcement involvement in the enforcement of immigration laws raises significant questions regarding a state's source of power to enforce a traditionally federal power. As well, this trend presents local police with new challenges on how to protect the civil liberties and retain the trust of immigrant communities. In this paper, the author explains the unresolved controversy of the source and scope of local powers to enforce federal immigration laws and details the civil liberties concerns that arise from local law enforcement's involvement in immigration enforcement. The author then offers recommendations for ensuring greater civil rights compliance by

local law enforcement agencies that still choose to enforce immigration laws, as well as explains immigrants' rights during these police encounters.

Undocumented Immigration and Rates of Crime and Imprisonment: Popular Myths and Empirical Realities

**by Rubén G. Rumbaut, University of
California-Irvine**

The perception that the foreign-born, especially "illegal aliens," are responsible for higher crime rates is deeply rooted in American public opinion and is sustained by media anecdote and popular myth. In the absence of rigorous empirical research, stereotypes about immigrants and crime often provide the underpinnings for public policies and practices, and shape public opinion and political behavior. These perceptions, however, are not supported empirically; in fact, they are refuted by the preponderance of scientific evidence. In addition to reviewing previous literature on immigrant criminality, Rumbaut looks at national violent and property crime rates since the early 1990s, during the period of highest immigration. He then analyzes incarceration rates of young men eighteen to thirty-nine, comparing differences between the foreign-born and the U.S.-born by national origin and by education, and, among the foreign-born, by length of residence in the U.S. Rumbaut also examines findings from two major surveys (IIMMLA and CILS) in Southern California, the region of greatest immigrant concentration in the United States, and focuses comparative attention on those nationalities representing distinct modes of incorporation.

Executive Summary

Why Integration Matters: The Case of Undocumented Immigrant Youth and Moving Beyond Enforcement

by Roberto G. Gonzales, University of Washington-Seattle

Today's immigration debates have brought to the fore conflicting visions within the United States over how to address a population of eleven to twelve million undocumented immigrants. However, contemporary debates have yet to catch up to current realities and complexities of undocumented families and thus do not account, for the most part, for a growing population of undocumented children educated in the United States. Drawing upon three and a half years of fieldwork and over one hundred life histories with adult children of undocumented immigrants in Southern California, this paper seeks to address the complicated realities of contemporary immigration by examining the experiences of undocumented youth in the larger community context. It argues that while enforcement efforts are counterproductive, police and other community officials have an important role to play in the integration process of undocumented youth.

Local Enforcement of Immigration Laws: Evolution of the 287(g) Program and Its Potential Impacts on Local Communities

by Randolph Capps, Migration Policy Institute

By August 2008, sixty-two state and local agencies had entered into 287(g) agreements with U.S. Immigration and Customs Enforcement (ICE), although most were signed since 2005. Most of the jurisdictions adopting agreements are in southeastern and southwestern states, in conservative political areas, and in locations where recent growth in unauthorized immigration has been rapid. This paper begins with a brief timeline and overview of the 287(g)

program and discusses some of the broad outlines of how it has been implemented to date. Then, for further background, population and political trends that underlie the adoption of 287(g) programs across the country are discussed. The third section of the paper relates preliminary findings about the implementation of 287(g) in Arkansas, based on a site visit there in June 2008. The site visit to the adjacent communities of Rogers and Springdale, Arkansas, confirmed that 287(g) officers there were checking immigration status in a variety of operations, including: routine traffic stops, worksite investigations, drug raids, and at the county jails in both communities. Several hundred immigrants had been arrested, detained, and sent into the custody of ICE for deportation over the course of the first six months. Latino community leaders who had originally supported the program in Springdale had withdrawn their support due to the wide net that the 287(g) officers had cast, and the program's broad impacts on local residents, including schoolchildren. The paper ends with policy recommendations and general observations about potential impacts of 287(g) operations on cities, immigrant communities, and children.

Immigration and Local Policing: Results from a National Survey of Law Enforcement Executives

by Scott H. Decker, Paul G. Lewis, Doris Marie Provine, Arizona State University, and Monica W. Varsanyi, John Jay College of Criminal Justice

One of the most important challenges for law enforcement agencies in many communities is how to respond to immigration and the presence of undocumented residents. Departments often face conflicting pressures from local politicians, federal authorities, community groups, and the private sector. Yet they have

Executive Summary

little available information to help them make sound policy decisions. This paper reports on the results of a recent nationwide survey of police executives on several issues, including differences between departments and communities and their attitudes about immigration and local law enforcement; relationships with federal immigration and customs enforce-

ment authorities; and the range of policies on immigration policing being developed by cities and departments. The survey also explores levels of commitment to community policing practices and the potential for conflict with enforcement of immigration laws by local police.

About the Project

IN RECENT YEARS, THE UNITED STATES HAS EXPERIENCED HISTORIC LEVELS OF IMMIGRATION. During this time, not only did the immigrant¹ population increase significantly but it also became more dispersed. Prior to 1990, immigrants tended to settle in the major gateway cities; beginning in the 1990s, they began moving to regions that have not been traditional draws for immigration. In addition, unlike the last great period of immigration in the early twentieth century, when the vast majority of immigrants were of European origin, the current immigrant population arrives from all parts of the globe and they bring with them a host of new languages and cultures. As these demographic shifts started changing the racial and cultural landscape of communities throughout the country and as local governments were struggling to deal with the challenges of integrating these new immigrants into their communities, the public began to demand government do more to enforce immigration laws.

Even prior to the terrorist attacks of September 11, 2001, proponents of tightening immigration control measures have argued that greater investment in immigration reform will improve public safety by reducing crime, despite significant evidence to the contrary. Following the 9/11 attacks, public debate has become even more rancorous and has led to calls for greater involvement of local and state governments in immigration control. As the federal government struggles to resolve the complex and difficult issues surrounding immigration, local police are faced with a serious dilemma regarding their role and responsibility in this area. On the one hand, the federal government is telling them that the enforcement of immigration laws by state and local governments will assist the nation in controlling undocumented immigration. On the other hand, they realize that enforcing immigration laws could undermine their efforts to build trust with immigrant communities, whose cooperation they need to effectively provide public safety and policing services.

To address the dilemma facing so many local police agencies about how to balance civil rights protections, community-policing priorities, and immigration enforcement, the Police Foundation launched a national effort to bring together law enforcement leaders, public officials, scholars, and community stakeholders to collaboratively examine the implications of local law enforcement of immigration laws. The goals of the project were to review practices, constitutional issues, and budgetary factors; to provide state and local agencies with data and recommendations to inform policy; and to facilitate dialogue between immigrant communities and law enforcement in order to reduce fear and mistrust and enhance cooperation and improve public safety.

To accomplish these goals, the foundation hosted four sets of focus groups across the country that included law enforcement personnel, elected public officials, members of immigrant communities, and other interested groups. The hope was that by bringing immigrant communities together with local police to begin a dialogue on the role of police in immigration enforcement, we would also help to open up channels of communication and establish improved working relationships between local police and the immigrant communities they serve. A total of thirty-three local and state law enforcement agencies were represented in the four focus groups (see appendix A for a summary of focus group conversations).

The information derived from the focus groups was used to design an agenda for a national conference that was an invitation-only event at which over two hundred law enforcement leaders, policy makers, scholars, and community leaders participated in facilitated discussions geared toward generating concrete recommendations for how local law enforcement can strike a balance

between civil liberties and immigration enforcement. (Photos from the conference illustrate this report. See appendix N for the conference agenda and presenters' bios.) National conference attendees included over one hundred law enforcement executives, many of whom were police chiefs or elected sheriffs, as well as fourteen federal, state, and local government representatives. The foundation also invited scholars and other immigration experts to present papers on specific topics relating to the role of local and state police in immigration enforcement. The topics of the papers included the rights of undocumented immigrants and the legal framework for the enforcement of immigration laws, demographic research, immigration and criminality, evaluation of federal efforts to collaborate with local police on immigration enforcement (287(g) program), a national survey of local police immigration policies, and the experience of undocumented youth (see appendices B-G).

The foundation also distributed a survey to law enforcement executives who attended the conference. Fifty-four attendees completed the survey: forty police chiefs, nine deputy or assistant police chiefs, two sheriffs, one police superintendent, a major, and a respondent who is both a sheriff and police chief. Most of the participants were from urban agencies (n=29), while many were from urban/suburban areas (n=19). The remaining six were from rural type areas. The size of the jurisdictions ranged from just under fifteen thousand to more than four million. Also, the majority of respondents (n=47) were from municipal or local law enforcement agencies, while one was from a county police department, four were from sheriffs' offices, one was from an urban county metropolitan area, and one was from both a sheriff's office and a municipal department (Amendola, Williams, Hamilton, and Puryear 2008) (see appendix H).



Police Foundation President Hubert Williams and Phoenix Mayor Phil Gordon share a moment before the conference convenes.

This report presents an accumulation of the conversations, findings, and recommendations derived from the focus groups, conference sessions, and academic papers prepared for the conference.

The goal of the report is to discuss the implications of local police enforcing immigration laws with respect to building constructive relationships with minority communities, and to provide state and local law enforcement agencies with information and recommendations for reviewing their immigration law enforcement policies. Underlying the design of this project and report is a belief that encouraging dialogue between police and communities will enhance public trust in state and local law enforcement and promote a balanced approach to providing police services and protecting civil rights. The capacity of the police to prevent and respond to crime, including acts of terrorism, requires public cooperation that is anchored in public trust of the police.

History of the Role of Local Police in Immigration Enforcement

In 1952, Congress defined the nation's immigration laws in the Immigration and Nationality Act (INA), which contains both civil and criminal enforcement measures. Federal law, however, has never been clear about the role of local and state authorities in immigration enforcement; until recently, the prevailing position in the policing and immigration fields has been that enforcement of civil immigration laws is solely in the purview of the federal government and that local and state police have authority to make arrests for only a small subset of criminal immigration violations (Applesseed 2008, 11).

Federal law has never been clear about the role of local and state authorities in immigration enforcement.

The trend towards greater cooperation between local law enforcement and federal immigration officials began years before September 11, 2001, in the 1990s, when the United States began to experience historic levels of immigration. Overwhelmed by the task of detecting, arresting, and detaining the growing population of unauthorized immigrants in the United States, federal immigration authorities and proponents of greater immigration control began advocating for greater cooperation between local police and federal immigration authorities. Proponents argued that the nation's approximately 700,000 local and state police officers would be an effective "force-multiplier;" that is, they could dramatically increase the number of law enforcement officials who could detect undocumented immigrants in the interior of the country. In addition, proponents such as Alabama Senator Jeff Sessions argued that the failure of police to enforce immigration law created an incentive for greater inflows of unauthorized immigration into the United States (Venbrux 2006, 320).

Prior to legislative reforms of 1996, federal efforts towards increasing local law enforcement's role in immigration matters were limited to increasing communication and assistance to states regarding criminal detainees in violation of immigration law. For instance, in 1991, the legacy Immigration and Naturalization Service (INS) established the Alien Criminal Apprehension Program to foster greater cooperation between police and immigration authorities to deport criminal aliens. Under this program, state and local law enforcement officials would notify federal immigration officials of foreign-born nationals who had committed a crime and were taken into state or local custody (Seghetti, Viña, and Ester 2004, 3). Subsequently, in 1994, California politicians began advocating with the federal government for reimbursement of funds the state was expending to apprehend and incarcerate criminal aliens who had illegally reentered the country following a final order of deportation. Congress, in response to this advocacy, funded a program to reimburse states for costs incurred in the apprehension and incarceration of foreign nationals who had committed crimes (Appleseed 2008, 14).² Congress also appropriated funds to create the Law Enforcement Support Center (LESC) (Aldana 2008, 92).³ The LESL's mission is to provide federal, state, and local law enforcement with information on immigration status of individuals arrested, suspected, or detained for a criminal offense. The LESL has operators working twenty-four hours a day, seven days a week answering inquiries from law enforcement. These operators use information gathered from various Department of Homeland Security (DHS) databases, the FBI's national database, and state criminal history databases (Appleseed 2008, 21).

In 1996, Congress expanded the role for state and local law enforcement in the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA) and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Section 439 of the AEDPA amended federal immigration law to provide authority to states to arrest and detain an immigrant who had a previous order of deportation and had been previously convicted of a crime, to the extent authorized by state law (Appleseed 2008, 15). The law also required that state or local officials confirm immigration status with INS and prohibited detention for a period longer than necessary to transfer to federal custody (Appleseed 2008, 15). In addition, Section 372 of IIRIRA amendments to the INA provided authority to INS to deputize local and state law enforcement officials in the event of a mass influx of immigrants (Appleseed 2008, 15). IIRIRA also added section 287(g) to the INA, which authorized federal officials to

The trend toward greater involvement of state and local officials in federal immigration enforcement gained significant momentum after the terrorist attacks of September 11, 2001.

enter into written agreements with state and local law officials to carry out the functions of an immigration officer, including investigation, apprehension, and detention “at the expense of the State or political subdivision and to the extent consistent with State and local law” (ICE Fact Sheet: 287(g)). Moreover, by expanding the categories of criminal offenses that would subject immigrants (legal and unauthorized) to mandatory detention and deportation, IIRIRA reforms resulted in an increase in the number of criminal detainees subject to immigration deportation or removal proceedings (Chishti 2006, 462-463).

In 1999, INS Interior Enforcement Strategy included the tactic of developing partnerships with local and state law enforcement agencies to assist the INS with their interior immigration enforcement efforts (Chishti 2002, 372). In this same year, Congress appropriated funds for INS to create Quick Response Teams that responded to requests from state and local law enforcement officers who believed they had an unauthorized immigrant in custody. The INS established Quick Response Teams in regions that had experienced increases in the unauthorized immigrant population (Seghetti, Viña, and Ester 2004, 3).

The trend toward greater involvement of state and local officials in federal immigration enforcement gained significant momentum after the terrorist attacks of September 11, 2001, when federal, state, and local officials began to promote efforts at tightening immigration control as a counterterrorism measure (Venbrux 2006, 317). The most significant change that occurred in the aftermath of September 11 was the U.S. Department of Justice (DOJ) Office of Legal Counsel’s (OLC) reversal of its long-standing position that involvement of state and local authorities in immigration enforcement should be limited, declaring that state and local police had inherent authority to make arrests for civil immigration violations (Chishti 2006, 467). Prior to 2002, DOJ officials had made statements and drafted memoranda arguing that state and local police did not have authority to enforce federal civil immigration law. In 1978, for instance, DOJ released a statement that, “INS officers are uniquely prepared for this law enforcement responsibility because of their special training, and because of the complexities and fine distinctions of immigration laws” (Appleseed 2008, 13). In 1983, the Reagan Justice Department encouraged a little more cooperation but limited that role to primarily informing INS about suspected deportable immigrants taken into police custody for state criminal violations (Seghetti, Viña, and Ester 2004, 7-8). The Reagan DOJ position also stated that where “state law authorizes local officers to enforce criminal provisions of federal law, “state and local police could exercise their authority to enforce criminal provisions of federal immigration law” (Appleseed 2008, 13). This position was confirmed as late as 1996, when the DOJ OLC issued an opinion concluding that state and local police do not have the authority to enforce civil immigration law violations (Seghetti, Viña, and Ester, 8). At a 2002 press conference, however, Attorney General John Ashcroft announced a reversal of DOJ’s long-standing opinion, stating that state and local officials have inherent authority to enforce federal immigration law (Seghetti, Viña, and Ester, 8).

After September 11, in an effort to increase assistance from state and local police in the identification of unauthorized immigrants, DOJ also began putting information on civil immigration violations into the FBI's National Crime Information Center (NCIC) database. The NCIC database is a computerized index of criminal justice information operated by the FBI. In 1930, Congress first authorized the DOJ to maintain a clearinghouse for fingerprint records, rap sheets, and warrants (Gladstein, Lai, Wagner, and Wishnie 2005, 6-7). Over time, Congress has expanded the categories of records that can be included in the NCIC database. For the first time, in 1996, Congress authorized the entry of immigration records relating to previously deported felons (Gladstein et al. 2005, 6-7). Congress has never authorized entry of civil immigration records other than those relating to previously deported felons into the NCIC database (Gladstein et al. 2005, 6-7). Yet, as stated earlier, soon after September 11 the federal government began entering thousands of absconder records, most of which are purely civil violations. In December 2003, DHS officials stated intention to include student visa violators and persons deported for minor criminal offenses into NCIC (Gladstein et al. 2005, 6-7). Understanding that state and local law enforcement are the entities that mostly query the NCIC database, and given the federal government's interest in increasing involvement of state and local law enforcement as a "force multiplier" in immigration enforcement, it seems that the government's purpose in adding these immigration records to the database was a form of inducing local and state police to enforce immigration law when they routinely check the database in the course of regular police work (Kalhan 2008, 10). Policing organizations such as the International Association of Chiefs of Police (IACP) and the Major Cities Chiefs Association (MCCA) have criticized DOJ's decision to include civil warrants in the NCIC database because most state and local law enforcement agencies do not have authority to arrest for federal civil law violations according to state law governing the scope of their authority (IACP 2004, 4; MCC 2006, 10).

Since the 1996 immigration reforms, the federal government has had the authority to enter into agreements with state and local law enforcement agencies to train and then deputize local officers to perform immigration enforcement functions. However, prior to September 11, 2001, no state or local law enforcement agency had chosen to enter into such an agreement with the INS. Immediately after the terrorist attacks of September 11, the Florida State Police signed a memorandum of agreement with INS to train and deputize their officers. Since then, sixty-three law enforcement agencies in the country have taken advantage of the 287(g) program (ICE Fact Sheet: 287(g)).

For years, counter-balancing the movement toward greater federal/state/local cooperation on immigration enforcement, several states and municipalities throughout the country have passed local and state ordinances and laws limiting state and local government employees' ability to collaborate with federal immigration officials in the identification of unauthorized immigrants. In 1996, Congress passed two laws explicitly to counter such policies, by disallowing a federal, state, or local government entity from prohibiting their employees from communicating with federal immigration officials regarding the immigration status of any individual (Aldana 2008, 98). The legislative history, however, makes it clear that the purpose of this provision was not to require local or state governments to communicate with federal officials regarding immigration status (Pham 2005, 15). Since 1996, state and local governments have continued to limit their employees' ability to cooperate with federal immigration entities; however, rather than prohibiting communication with the federal government regarding immigration status, these state and local laws limit when employees can question individuals regarding their immigration status (Pham 2005, 23; Seghetti, Viña, and Ester 2004, 21). These municipalities have been labeled by many as "sanctuary cities." But as several conference participants argued, this term is

a misnomer because these communities do not and cannot provide sanctuary for individuals from federal immigration enforcement officials. Moreover, many local and state law enforcement agencies not only do not provide sanctuary from federal immigration agents but indeed collaborate with federal officials to deport criminal aliens.

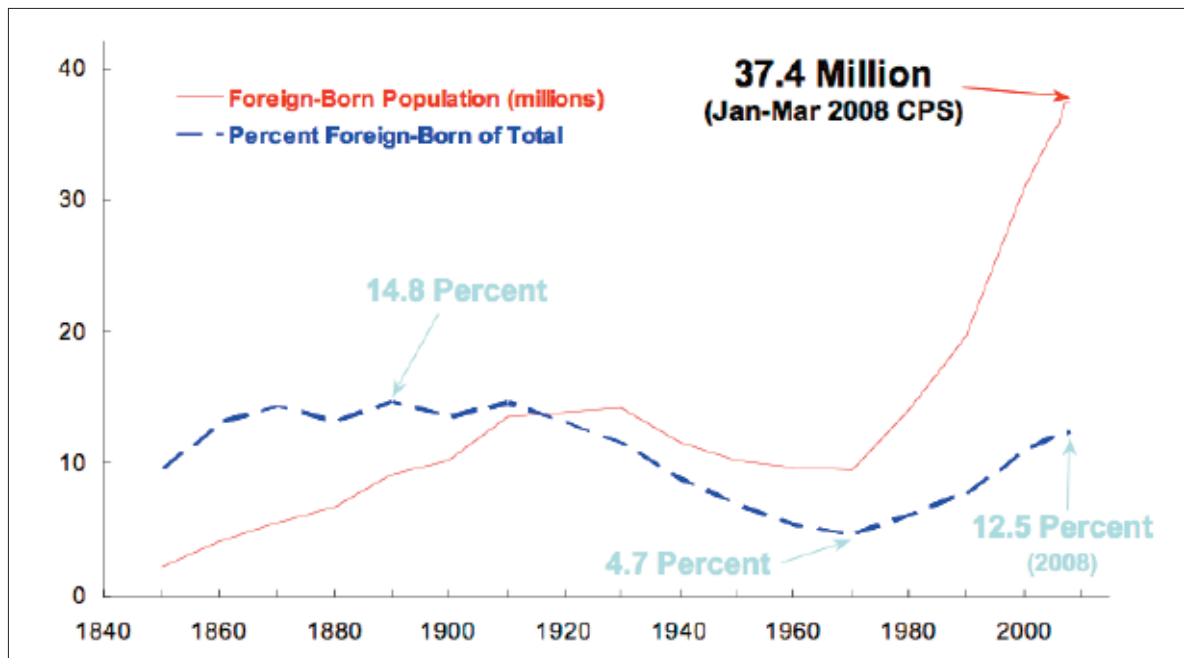
The Call for Greater Enforcement

During discussions, conference workshops, and presentations, participants provided various theories of factors influencing the movement towards greater participation in immigration enforcement by state and local officials. Some of these reasons are described below.

Demographic Changes

As stated early in this report, in the last fifteen to twenty years, the United States has experienced historically high levels of immigration. The immigrant population has quadrupled since 1970. In the 1990s, the size of the foreign-born population grew by 57.4 percent (Singer 2004, 1). By March 2008, the foreign-born population reached a historic high of 37.4 million people, or 12.5 percent of the population (Passel 2008) (see figure 1).

FIGURE 1. IMMIGRANT NUMBERS KEEP GROWING —PERCENT APPROACHES HISTORIC HIGHS

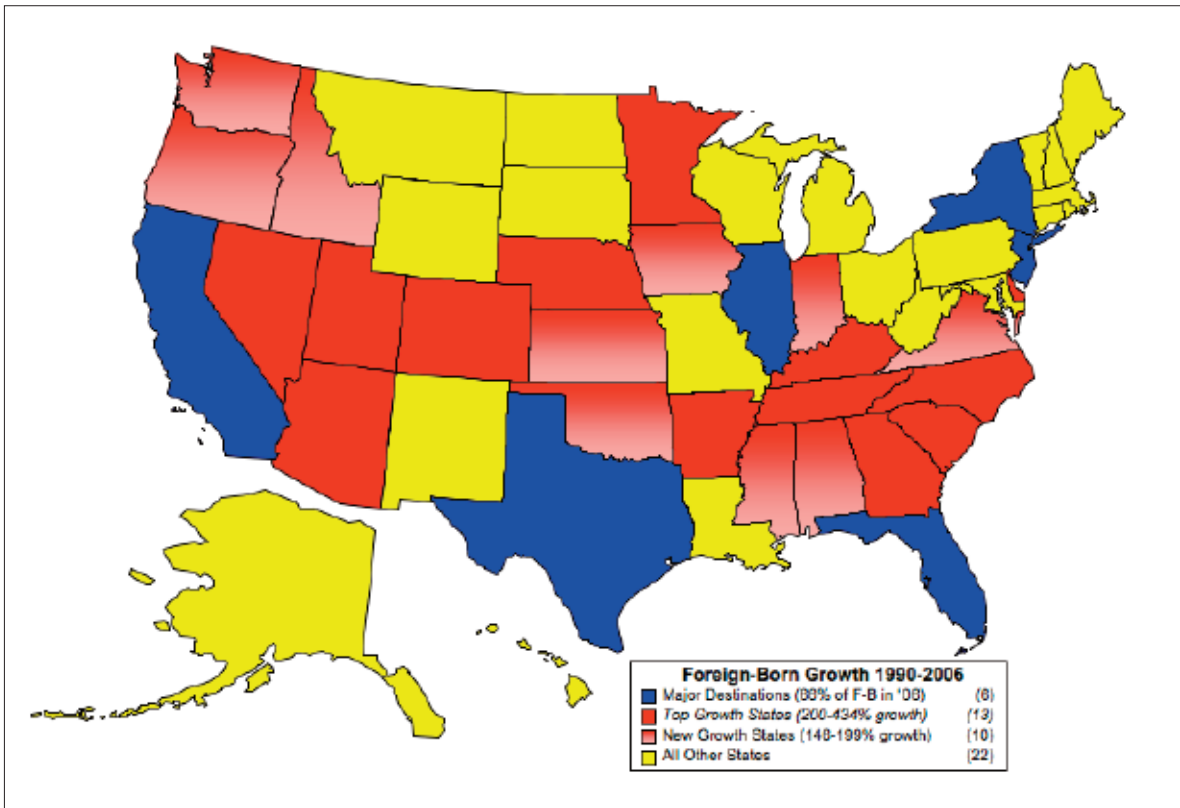


Source: *Unauthorized Immigrants: Trends, Characteristics, and Surprises*. Jeffrey S. Passel, Pew Hispanic Center. Presentation prepared for Police Foundation conference, *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties*, Washington, DC, August 21, 2008 (see appendix I).

Not only is the number of immigrants in the United States reaching historically high levels, the population is also becoming more dispersed and areas of the country with no history of immigration are experiencing large influxes of immigrants (Singer 2007). In 1990, the top six immigrant states had 75 percent of the immigrant population. In 2008, these six states had merely 65 percent of the immigrant population (Passel 2008) (see figure 2).

The United States has also experienced great increases in the unauthorized population in recent years. Undocumented immigrants currently make up 30 percent of the foreign-born popu-

FIGURE 2. NEW IMMIGRATION GROWTH CENTERS



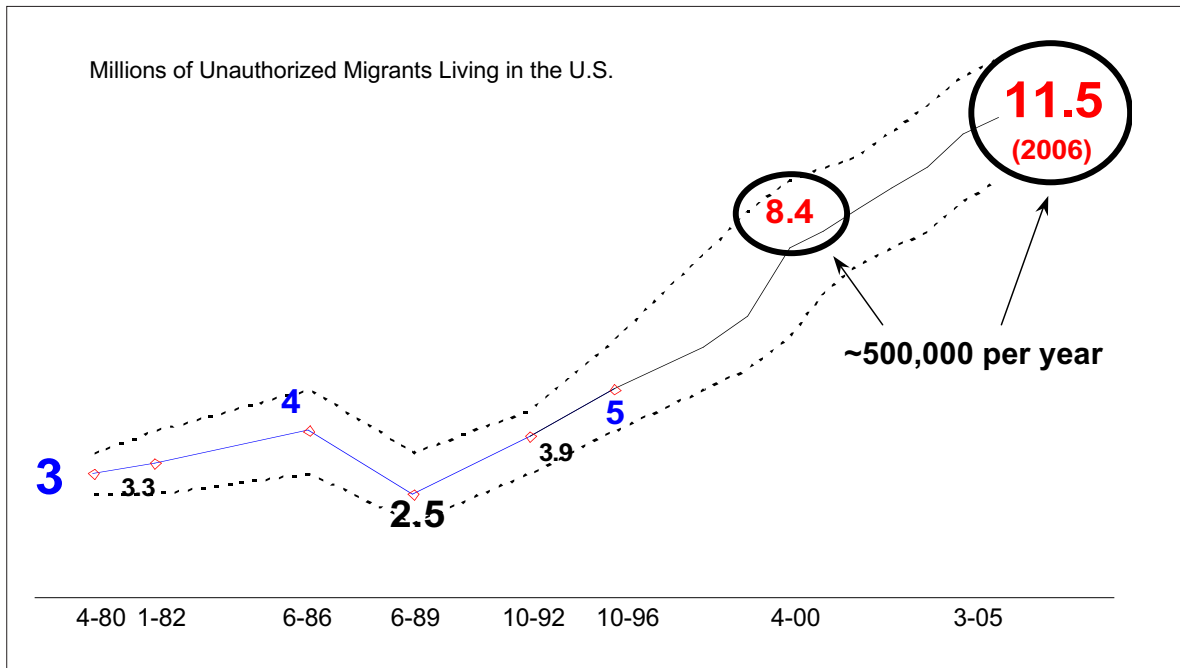
Source: *Unauthorized Immigrants: Trends, Characteristics, and Surprises*. Jeffrey S. Passel, Pew Hispanic Center. Presentation prepared for Police Foundation conference, *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties*, Washington, DC, August 21, 2008 (see appendix I).

lation. Almost twelve million unauthorized immigrants were living in the United States in March 2008, constituting approximately four percent of the total U.S. population. Since the beginning of this decade, the unauthorized immigrant population increased by forty percent (Passel and Cohn 2008, i) (see figure 3).

The new emerging destination gateways tend to have immigrants who are from Asia and Mexico, are poorer than the native-born population, have low English proficiency, and lower rates of citizenship than traditional gateway cities that have longer-residing immigrant populations (Singer 2004, 1). New growth states are also seeing particularly high levels of unauthorized immigrants. Eighty percent of the undocumented population lived in six traditional immigrant gateway states in 1990, whereas in 2006 this percentage decreased to 60 percent (Passel 2008) (see appendix I).

In recent years, the average inflow of unauthorized immigrants appears to have slowed from 800,000 a year from 2000 to 2004 to approximately 500,000 yearly from 2005 to 2008. Yet, four out of ten unauthorized immigrants arrived in the United States since 2000. While growth of the unauthorized population may have slowed in recent years, the legal immigrant population inflow has now surpassed the undocumented population inflow, and thus communities continue to receive new immigrants (Passel and Cohn 2008, i-ii). The unauthorized population is largely Latino, with four out of five unauthorized immigrants originating from Latin America (Passel and Cohn 2008, iii).

FIGURE 3. UNAUTHORIZED NUMBER HIGH — TREND UNCERTAIN, BUT SLOWING (?)



Source: *Unauthorized Immigrants: Trends, Characteristics, and Surprises*. Jeffrey S. Passel, Pew Hispanic Center. Presentation prepared for Police Foundation conference, *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties*, Washington, DC, August 21, 2008 (see appendix I).

As the size of the immigrant population grows and immigrants move to new destination regions that have little or no experience with immigration, states and localities are struggling to figure out how to integrate these new residents. In the absence of a comprehensive and effective federal immigration policy, immigration becomes a local policy challenge (Chishti 2006, 464). Moreover, as the racial and cultural landscape of these communities change as a result of these new demographic trends, long-standing resident communities have begun to put pressure on local government, including police, to take measures to reduce levels of unauthorized immigration.

A biannually conducted national survey of the non-institutionalized English-speaking population in the United States (General Social Survey) administered in 2000 confirmed that perceptions of increasing minority population size influenced attitudes towards immigration. The survey found that respondents tended to overstate the size of the minority population; roughly half of the respondents stated that Whites had become a numerical minority in the United States. Residents of rural areas were more likely to exaggerate minority-group size than urban residents. The survey also showed that perceptions of immigration issues



A significant share of unauthorized families can be characterized as “mixed status” in which there is one or more unauthorized parent and one or more children who are U.S. citizens by birth, according to Dr. Jeffrey Passel of the Pew Hispanic Center.

become more unfavorable as the perception of group size moves away from Whites as a majority. In other words, the larger the non-Hispanic White population perceives minority-group size, the more it supports greater immigration restrictions. Moreover, respondents that overstated minority-group size also tended to believe that Blacks and Hispanics are more violent than other racial groups (Alba, Rumbaut, and Marotz 2005).

Law enforcement executives participating in the focus groups and the conference agreed that the changing demographics were driving the pressure from communities for a greater role for local police in federal immigration enforcement. As one police executive in the Arlington, Texas, session stated:

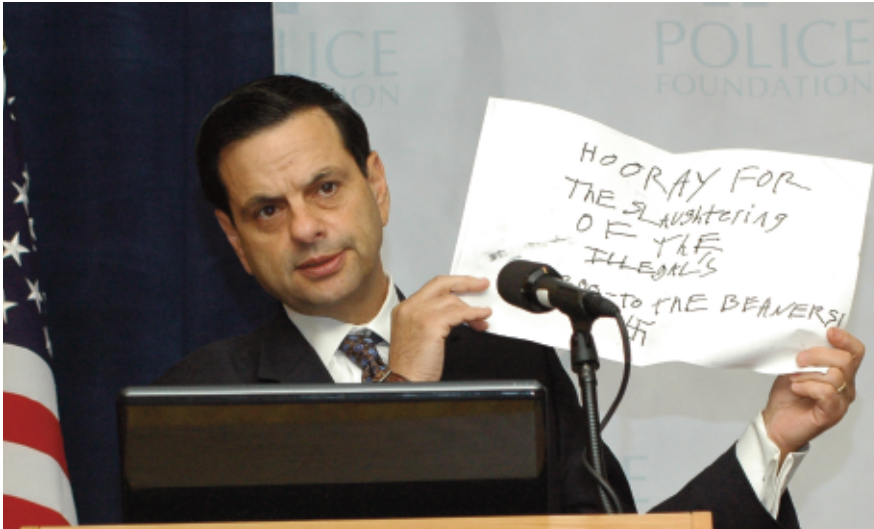
I don't think, generally speaking, people are complaining about the fact that someone is here in this country without official legal authorization to be here . . . All of a sudden their community is becoming more heavily populated with people who are different from them, who enjoy doing things that are unlike what other people in the community have historically done. And so rather than addressing the uneasy feeling about differences among the newcomers, they just cast this label "illegal immigration" over that, and then they want us to enforce immigration laws to get rid of the people who are different from what they are accustomed.

Providing concrete evidence of the argument that racial tensions are underlying the anti-immigrant sentiment, one Dallas-Fort Worth Metroplex chief recounted that the morning of the focus group he received a complaint about a Puerto Rican family that had moved into his community and set up a landscaping business that they ran out of their home. Throughout the day, Puerto Rican workers were coming in and out of the house. Some neighbors complained to the police requesting that the police do something to deport these new residents. The community members clearly did not understand that these new residents were U.S. citizens. The chief provided this example to demonstrate that the problem with this family was not their immigration status but rather their race or ethnicity that disturbed other community members.

Several other participants in the focus groups and conference also strongly believed that attacks against "illegal immigration" are often motivated by racial discrimination. An El Paso participant stated, "It's been easy for them to hide this whole racism that is happening against the immigrant Mexicans, especially Latin America people, with the issue of the legality or illegality." As stated by a police chief from New Jersey:

Where I see it is [when] people come to council meetings and talk about [undesirable] people out in front of their homes or hanging out in a public park in a particular neighborhood. My question is, well, how do you define who is undesirable? And essentially what it comes down to when you cut through the veneer of the issue is there are people in front of their homes and in the parks who speak a different language, have different customs, and then also engage in some problematic behavior.

Some participants expressed concern that racial tensions were going beyond mere pressure to control immigration into potentially violent and threatening behavior from a public safety perspective. In his conference keynote address (see appendix J), Phoenix Mayor Phil Gordon reported that public protests over immigration are a regular occurrence in Arizona and participants are sometimes armed with knives and guns, thereby requiring a strong police presence to ensure that demonstrations do not spin out of control and turn violent. He displayed a protester's sign with a swastika at the bottom that stated: "Hooray for the slaughtering of the illegals. Boo to the Beaners!!"



Phoenix Mayor Phil Gordon shows conferees an anti-immigrant sign, which says, "Hooray for the slaughtering of the illegals. Boo to the Beavers!!".

Mayor Gordon also reported an incident in which a United States Marine, in full uniform, was harassed, insulted, and called a traitor by a group of protestors, who shouted at the marine, "It's too bad you didn't die in the war; you're a disgrace to your uniform. Go back to your own country." Mayor Gordon added:

Well, this American hero of Hispanic heritage is in his own country. He fought for this country. These stories have nothing to do with green cards. They have everything to do with brown skin. They were about racism and nothing else.

Mayor Gordon also warned that if the federal government fails to reform the immigration system, communities in the interior of the country would begin to experience the racial tension they do on the border. In fact, communities throughout the nation are already experiencing a rise in hate crimes. Recently in Patchogue, New York, for instance, an Ecuadorian man was murdered by a group of teenagers looking for Latino immigrants to beat up (Macropoulos 2008). At the conference, a representative of the National Council of La Raza, Clarissa Martinez De Castro, stated that in recent years the organization has observed a rise in anti-immigration groups with direct links to hate groups.

Perceptions of Immigrant Criminality

Despite considerable empirical evidence to the contrary, much of the public believes that immigrants are more prone to engage in criminal behavior than the native-born population, which many project participants contended influenced the debate on the role of police in immigration enforcement. Seventy-three percent of respondents to the 2000 General Social Survey believed that immigration is causally related to more crime (Rumbaut 2008, 119). Stereotypes of immigrant criminality are enforced through the media, in particular coverage of singular criminal events involving immigrant perpetrators (Rumbaut 2008, 119). Several focus group participants provided examples of singular criminal events or actors resulting in community pressure on local police to "do something about the immigration issue." For example, a Dallas-Fort Worth Metroplex chief gave the example of a drug-trafficking cartel setting up base in his city, and the public's outrage that immigration had brought this problem to their community.

Several studies, however, have demonstrated evidence contrary to this perspective (Rumbaut 2008, Butcher and Piehl 2007, Nadler 2008). Rubén Rumbaut, professor of sociology at the University of California at Irvine, presented findings from his research on immigrants and crime

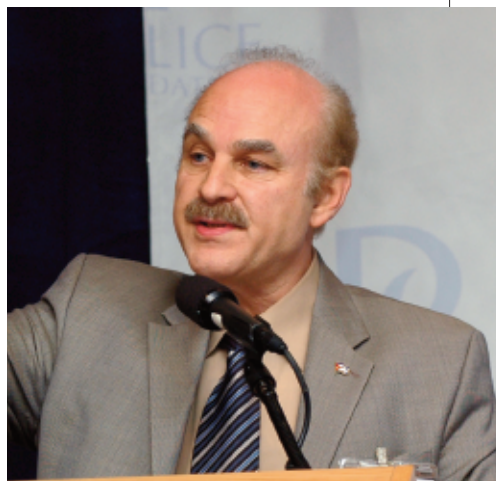
at the national conference (see appendix D). He argued that empirical evidence has consistently refuted the popular myth that influxes of immigrants lead to increases in crime. Since the early 1990s, over the same time period as legal and especially illegal immigration was reaching and surpassing historic highs, crime rates have *declined*, both nationally and most notably in cities and regions of high immigrant concentration (including cities with large numbers of undocumented immigrants such as Los Angeles and border cities like San Diego and El Paso, as well as New York, Chicago, and Miami). The FBI Uniform Crime Reports showed a decline in both violent and property crime during the era of mass migration of the 1990s. Data from the National Crime Victimization Survey showed even more significant decreases in violent crime during this period of time (Rumbaut 2008).

This period of time also coincided with an era of mass incarceration; the number of incarcerated adults in U.S. federal or state prisons quadrupled from 500,000 in 1980 to over 2.2 million in 2006. The incarcerated population is composed of mostly young men from ethnic minority groups, who are low-wage workers and have low levels of education. These characteristics are also common among the immigrant population in the United States, in particular the undocumented population; and thus logic would suggest that immigrants would have higher incarceration rates. To the contrary, Rumbaut's analysis of incarceration rates of males between the age of eighteen and thirty-nine who were in federal or state prisons at the time of the 2000 U.S. Census showed lowest rates of incarceration for the foreign-born population. The incarceration rate for the U.S.-born population (3.51 percent) was five times the rate of the foreign-born (.68 percent). The foreign-born incarceration rate was less than half the incarceration rate for non-Hispanic Whites (1.71 percent). Rumbaut's research also points out that in the state of California, which has higher overall incarceration rates than the rest of the country (4.5 versus 3.4 percent) and the largest percentage foreign-born population, the foreign-born incarceration rates are lower than they are nationally (.4 to 1.0 percent) (Rumbaut 2008). A study of the Americas Majority Foundation disaggregated data by states, finding that from 1999 to 2006 the total crime rate declined 13.6 percent in the nineteen highest immigration states as compared to a 7.1 percent decline in the other thirty-two states (Nadler 2008, 9).

Further evidence was presented at the national conference by Mayor John Cook of El Paso, who pointed out that El Paso—with its large immigrant population and proximity to the border—has been named the second safest city with 500,000 or more people in the United States.

Economic Costs and Benefits of Migration

One of the arguments put forth by proponents of immigration enforcement is that immigration, and in particular undocumented immigration, places financial burdens on government services because undocumented immigrants do not pay their fair share of taxes. In Collier County, Florida, participants cited the costs of undocumented immigration to include the drains to school budgets to support bilingual education, emergency medical costs for undocumented who are uninsured, and law enforcement costs. One participant stated that because the vast majority of undocumented he arrests do not have social security numbers, he assumed they did not pay taxes.



Although deeply rooted in American public opinion and sustained by media anecdote and popular myth, the perception that the foreign-born, especially “illegal aliens,” are responsible for higher crime rates is not supported empirically, according to research by Professor Rubén Rumbaut and others.

Professor Stephen Legomsky presented an overview of undocumented immigration and Professor Raquel Aldana discussed civil liberties concerns that arise from local law enforcement's involvement in immigration enforcement.

At the conference, Professor Stephen Legomsky of Washington University School of Law, in his overview of the current debate surrounding immigration, argued that, to the contrary, studies show that a majority of undocumented immigrants do pay income taxes, although they pay a below-average amount because of their relatively low incomes. He explained they can pay taxes using either a false social security number or under an individual tax identification card.

A tax attorney who was a participant in the Topeka focus group confirmed that he often prepares tax returns for undocumented immigrants without social security numbers. Additionally, the U.S. Social Security Administration has estimated that three quarters of undocumented immigrants pay payroll taxes, and that they contribute six to seven billion dollars in social security funds that they will be unable to claim (Capps and Fix 2005; Porter 2005).

Experts have also argued that undocumented immigrants pay the same real estate taxes—whether as homeowners or through their rent payments—and the same sales and other consumption taxes as everyone else (Immigration Policy Center 2007). Most state and local services, such as schooling, are paid through these taxes.

A study by the Americas Majority Foundation showed that regions with high resident population growth and high inflows of immigrants tend to have high levels of growth in gross state product, personal income, per capita personal income, disposable income, per capita disposable income, median household income, and median per capita income. By 2006, high immigrant jurisdictions also had lower rates of unemployment, individual poverty, and total crime than other states (Nadler 2008, 7-9).

Political Pressure

Conference and focus group law enforcement participants spoke openly about the political pressures that politicians and communities place on local police to enforce immigration law. Some participants attributed the rise in this political pressure in part to the media's sensationalized coverage of immigration issues. Other commentators have noted that conservative media's coverage of immigration and its ability to connect with the public's frustration on the issue have been particularly influential in pushing for stronger enforcement policies (Rodriguez, Chishti, and Nortman 2007, 2).

A study conducted by a media watchdog organization of three conservative news programs, Lou Dobbs Tonight, The O'Reilly Factor, and Glenn Beck, showed that during 2007 the allegation that undocumented immigrants drain social services and/or do not pay taxes was discussed on seventy-one episodes of Lou Dobbs Tonight, thirteen episodes of Glenn Beck, and eight episodes of The O'Reilly Factor. Dobbs and Beck have also repeatedly discussed two myths—that there are plans to construct a NAFTA superhighway running from Mexico to Canada, and there are plans to join Mexico, Canada, and the U.S. into a North American Union. Dobbs discussed the North American Union on fifty-six separate programs during the past two years (Media Matters Action Network 2008).

Media pressure and the public's frustration with the federal government's inability to control unauthorized immigration have led to elected officials placing pressure on their police chiefs to



**Media pressure and the public's frustration
with the federal government's inability to control
unauthorized immigration have led to elected officials
placing pressure on their police chiefs
to enforce federal immigration law.**

enforce federal immigration law. Law enforcement participants noted that while some of these politicians are merely responding to the political pressures they are facing from the public and media, others cynically use the immigration issue to gain votes. One participant recounted an incident in which a local politician in his community “was quoted in the media as saying that we should sit at the border and shoot the illegal immigrants as they come across the border.” Another participating police chief noted:

Immigration was not such a big problem until the last national election . . . when the Republicans were worried about losing control of Congress. Then, all of a sudden, we have this big problem and we need to fix it and they were thinking, where are we going to find the people to do it because we do not have the people in the federal government. Oh, we will get state and local law enforcement involved.

Another law enforcement participant in the Arlington, Texas, focus group explained:

In my city and in other cities around here, [people] are getting elected and unelected on this issue alone. It's that big . . . So people at the municipal level are running scared on this issue and are just trying to find their way, regardless of what their personal beliefs are . . . You have to figure out how far you are willing to go and what you are willing to get fired for on this issue.

Seventy-four percent of participants responding to the conference survey (Amendola et al. 2008) stated that they are facing changing expectations and new demands as a result of the immigration issue, and forty-four percent stated that they are responding to political pressure in their communities as a result of the immigration issue. While few law enforcement agencies represented in the focus groups and conference were in favor of entering agreements with federal immigration officials to deputize their officers to perform immigration enforcement functions, many explained that they have increased collaboration with DHS in recent years because of the politics surrounding the immigration issue. For instance, one Texas police chief explained that his agency has had a policy of asking detainees their citizenship status since 1991 to ensure compliance with consular notification requirements. If they would encounter someone who they believed was illegally present in the United States, they would on an ad hoc basis check the NCIC database for possible detainers. Occasionally, they would find a detainer and contact immigration officials. More recently, because there has been so much focus on the department's immigration policy, they formalized the process of questioning persons arrested and detained in the jail about whether they are U.S. citizens or were born in the U.S.; if the detainee answers “no” to either question, they check the NCIC database. In sum, it seems as if many police departments have begun to formalize their processes of checking status of arrestees due to political pressure and media attention being paid to the immigration issue.

.....

**Since the terrorist attacks of September 11, 2001,
the federal government has made use
of immigration law as a tool
to identify or investigate suspected terrorists.**

A survey of police chiefs in large and medium-sized jurisdictions (60,000 residents or more), conducted by researchers at Arizona State University (ASU) and presented at the conference, provides some insight into the reasoning behind the political pressure police are under to engage in civil immigration enforcement and why they are more resistant than many of their communities and politicians to engage in immigration enforcement. The survey found that on the question of immigration enforcement, there was a difference of opinion between community members and police, with police executives more frequently responding that immigration was a controversial topic within their community versus within the department. The survey also found that, according to police executives, community members are more likely than police to believe that it is simple to determine a person's immigration status. Finally, chiefs also reported that gaining the trust of unauthorized immigrants is a much greater priority for their department than for their community (Decker, Lewis, Provine, and Varsanyi 2008) (see appendix G).



Professors Scott Decker, Doris Marie Provine, Paul Lewis, and Monica Varsanyi present findings from their national survey of law enforcement executives on immigration and local policing.

Counterterrorism

Prior to September 11, 2001, economic and social concerns were driving the debate about unauthorized immigration. After the terrorist attacks, however, with immigration law becoming a tool in the fight against terrorism, those who had long opposed rising levels of immigration from Latin America reframed their arguments in terms of the counterterrorism and national security objectives (Harris 2006, 19).

Since the terrorist attacks of September 11, 2001, the federal government has made use of

Clarissa Martínez De Castro, National Council of La Raza, and Kareem Shora, American-Arab Anti-Discrimination Committee, discuss the community impact of local immigration enforcement.

immigration law as a tool to identify or investigate suspected terrorists. Because violations of civil immigration law are not criminal, the government does not have to respect the same constitutional protections they would for a criminal defendant and thus can detain suspects while seeking removal,

without any proof of involvement in terrorist activities. However, according to Kareem Shora, national director of the American-Arab Anti-Discrimination Committee, who presented at the conference, federal counterterrorism programs using immigration tools have in practice become just another tool in immigration law enforcement of noncriminal members of particular nationalities (see appendix L).



Do Local and State Police Have Legal Authority to Enforce Federal Immigration Law?

While the proposition that Congress has exclusive authority to regulate immigration is uncontroverted, courts have had few opportunities to address the authority of state and local officials in the realm of immigration enforcement (Venbrux 2006, 312-313). Many legal experts believe that federal immigration law preempts local police from engaging in immigration enforcement (Rodriguez, Chishti, and Nortman 2007, 34-35). While Congress has never explicitly prohibited state or local involvement in federal immigration enforcement, these experts contend that where Congress demonstrates intent to preempt a field of legislation, state and local governments may be preempted from acting on this area of legislation (Applesseed 2008, 12). These experts argue that Congress's express delegation of authority to state and local officials to enforce immigration law under a narrow set of circumstances implicitly preempt state and local enforcement of immigration violations (civil and criminal) that fall outside this narrow scope (Rodriguez, Chishti, and Nortman 2007, 35).

Congress has expressly authorized state and local police to arrest for violations of certain criminal violations of the Immigration and Nationality Act (INA). Specifically, they can make arrests for the federal immigration crimes of smuggling, transporting, or harboring illegal immigrants (§ 274 of the INA) and illegal reentry after a final order of removal (§ 276 of the INA) (Aldana 2008, 92). Congress has also authorized federal immigration officials to deputize state and local law enforcement in the event of a mass influx of immigrants (§ 103 of the INA) (Aldana 2008, 92). As stated earlier, in the AEDPA of 1996 Congress authorized state and local law enforcement to arrest and detain an individual who is illegally present in the United States and has been previously convicted of a felony and deported or left the United States after such conviction (§ 8 U.S.C. § 1252c) (Seghetti, Viña, and Ester 2004). Finally, the 1996 IIRIRA reforms amended the INA to include section 287(g) that gave the legacy INS authority to

Whether or not local police have inherent authority under federal law to enforce immigration laws, they must still abide by state laws regarding the scope of their arrest authority.

enter into formal agreements with state and local law enforcement agencies to train and deputize some of their officers to perform immigration enforcement functions (Rodriguez, Chishti, and Nortman 2007, 34). Given these statutory provisions, legal experts have argued that state and local activity that extends beyond the scope of these narrow express delegations of authority are likely preempted (Rodriguez, Chishti, and Nortman 2007, 34-35). Courts, however, have diverged on the question of whether state and local authorities have inherent authority to arrest apart from these express grants of authority (Seghetti, Viña, and Ester 2004, 9-13).⁴ But even the attorney general, who in his 2002 legal opinion reversing the long-standing opinion of the federal government that civil immigration enforcement was solely a federal function, argued that local police's inherent authority to arrest is limited to a narrow set of circumstances. According to the attorney general's public statement in 2002:

When federal, state and local law enforcement officers encounter an alien of national security concern who has been listed on the NCIC for violating immigration law, federal law permits them to arrest that person and transfer him to the custody of the INS. The Justice Department's Office of Legal Counsel has concluded that this narrow, limited mission that we are asking state and local police to undertake voluntarily—arresting aliens who have violated criminal provisions of the Immigration and Nationality Act or civil provisions that render an alien deportable, and who are listed on the NCIC—is within the inherent authority of states (Seghetti, Viña, and Ester 2004, 8).

Much of the police activity in the realm of immigration enforcement occurs in the course of routine policing duties, rather than in the course of patrolling for immigration violators. Under such circumstances, police typically stop or arrest an individual upon suspicion of violation of a state law, and thus they do not need to rely on inherent authority to arrest or detain for violations of immigration law (Aldana 2008, 93). It is important to note, however, that such inquiries must not prolong the duration of detention beyond that necessary for criminal law enforcement purposes (unless the federal government places a detainer on the detainee), and individuals have the right to refuse to answer police questions and to request an attorney (Rodriguez, Chishti, and Nortman 2007, 36).

Whether or not local police have inherent authority under federal law to enforce immigration laws, they must still abide by state laws regarding the scope of their arrest authority. For this reason, many state attorneys general have issued legal memoranda on the issue of the authority of police working within their state to make arrests for immigration violations. The New York attorney general, for example, opined that state law on warrantless arrests would apply to the realm of federal immigration enforcement, which requires that criminal immigration offenses occur in the presence of the officer in order to make a warrantless arrest. The New York attorney general also stated that police in New York State do not have authority to arrest for purely civil violations. The

Ohio attorney general concluded that Ohio sheriff offices may arrest and detain someone for violation of criminal provisions of federal immigration law but not for purely civil violations, based on an interpretation of state law defining the general powers and duties of a county sheriff. South Carolina's attorney general concluded that state law authorizes law enforcement officers to enforce state criminal laws, and thus no inherent authority to enforce immigration law exists in the state of South Carolina. (Aldana 2008, 94).

Is Immigration Enforcement a Federal or Local Responsibility?

The Local Police Perspective

While there is clearly a significant difference of opinion among this nation's approximately 18,000 law enforcement agencies regarding whether state and local police share responsibility for immigration enforcement, a majority of police chiefs seem to regard immigration enforcement as the responsibility of the federal government.

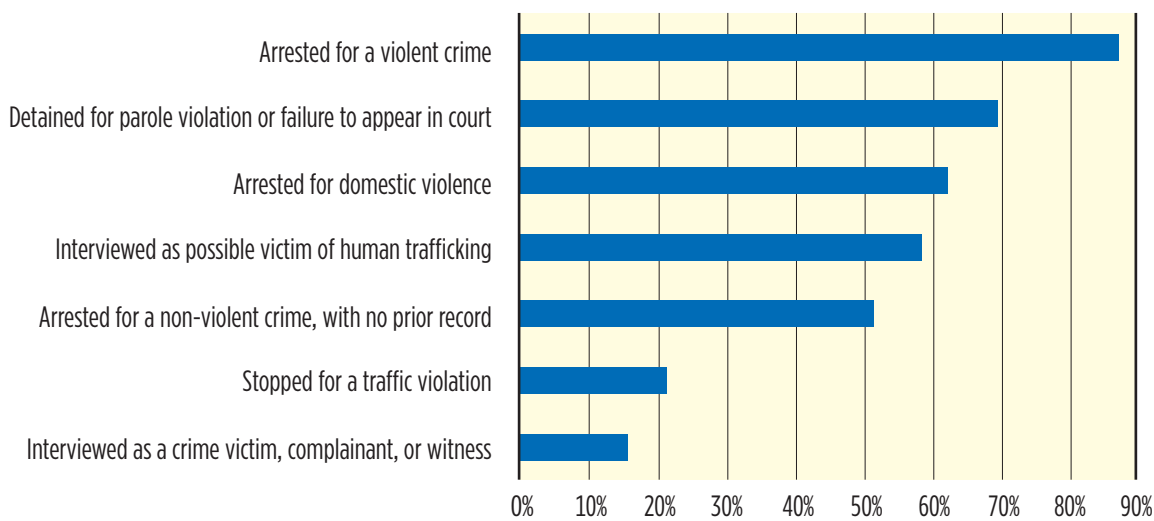
The ASU study found that 72 percent of police chiefs surveyed stated immigration enforcement was a responsibility of the federal government (Decker et al. 2008, 175). Some policing experts believe that strains on local policing budgets, particularly as homeland security responsibilities have increased and as state and local budgets have shrunk, have contributed to this opposition (Harris 2006, 7). But much of the opposition is due to a shift in the policing field in the past fifteen to twenty years towards more community- or problem-oriented policing, which requires the cooperation and participation of communities in ensuring public safety (Harris 2006, 7). While the number of 287(g) agreements has increased in recent years, the number (sixty-three) (ICE Fact Sheet: 287(g)) is still very small compared with the total number of law enforcement agencies in the country (nearly 18,000). Most police chiefs believe that local police activity in the realm of immigration enforcement would make communities less safe (Harris 2006, 37).

The majority of respondents to the conference survey felt that local law enforcement should not even be partially responsible for enforcement of immigration laws (54 percent), whereas 24 percent said they should. The remaining 22 percent neither agreed nor disagreed that local law enforcement had at least partial responsibility. However, the majority (62 percent) of law enforcement leaders believed that officers should ask for documentation of citizenship status when in contact with those who break the law (including those violating traffic laws). Only 17 percent agreed they should do so when in contact with crime witnesses, and even fewer (15 percent) when in contact with crime victims. While 13 percent of respondents felt such decisions should be at the discretion of officers, just 7 percent said that officers should *never* ask for proof of citizenship (Amendola et al. 2008).

The Various Ways in Which Local Law Enforcement and Federal Immigration Officials Collaborate

Most conversations and dialogues on the role of state and local police in immigration enforcement during the focus groups, at the conference, and in the media have focused on ICE's 287(g) program of deputizing local and state police to perform immigration enforcement functions. However, as we learned from project participants, state and local police collaborate with federal immigration officials in a wide range of activities. Some of these activities only incidentally involve immigration enforcement, while having a principally criminal law enforcement purpose (such as joint anti-gang task forces), while other methods of collaboration involve local and state officials performing in the role of immigration enforcement agents (such as the 287(g) program). Some agencies collaborate with federal immigration officials in a formal program,

FIGURE 4. PERCENTAGE OF POLICE DEPARTMENTS THAT TYPICALLY CHECK IMMIGRATION STATUS AND/OR CONTACT ICE WHEN ENCOUNTERING POSSIBLE UNAUTHORIZED IMMIGRANTS IN THESE SITUATIONS



Source: *Immigration and Local Policing: Results from a National Survey of Law Enforcement Executives* (Decker et al. 2008). Presentation prepared for Police Foundation conference, *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties*, Washington, DC, August 22, 2008 (see appendix G).

whereas others collaborate more informally and in a more ad hoc manner.

The most common forms of collaboration take place in the regular course of criminal law enforcement. Either on a formal or informal basis, most agencies participating in the Police Foundation project check the status of individuals arrested and detained for a criminal law offense and inform ICE when they encounter noncitizens. Feedback at the conference suggests that this form of collaboration has always existed to some extent but not in such a systematic or formalized manner as in recent years. Participants cited political pressure as the reason behind the trend towards formalization of the process of verification of immigration status of criminal detainees. They also stated that this political pressure sometimes is sparked by media attention on cases where unauthorized immigrants have committed serious crimes after being released upon a prior arrest.

The ASU survey of police executives found that the more serious the violation of criminal law, the more likely responding agencies were to contact ICE regarding criminal detainees in violation of immigration law (see figure 4). Thus, for instance, only slightly more than 20 percent of respondent agencies check immigration status of traffic violators, whereas over 80 percent check immigration status of those arrested for a violent crime.

Only state and local agencies that participate in the 287(g) program have direct access to DHS immigration databases. However, non-participating state and local law enforcement officials can contact the LESC to query its databases to check the status of an arrestee. In the El Paso law enforcement focus group, one small police agency with few resources mentioned it has on occasion also called U.S. Customs and Border Protection (CBP) to run a check on an arrestee or detainee because the agency does not have access to criminal justice databases and needs to confirm identity. This has on occasion resulted in deportation. In addition, as described above in the section describing the history of local law enforcement's role in immigration, many law enforcement officers do not make an affirmative decision to cooperate with federal immigration

efforts but end up doing so as a result of running a check on criminal detainees in the FBI's NCIC database.

Some law enforcement agencies, such as the Phoenix Police Department, have chosen to embed ICE officers within the police department, rather than have the local police be responsible for verification of immigration status and other immigration enforcement functions. At the conference, Mayor Gordon of Phoenix contended that in terms of cost and effectiveness, this model of collaboration makes more sense than turning police officers into immigration agents. Many departments, such as the Houston Police Department, have also collaborated with ICE on inter-agency task forces, such as the Houston Police Department's collaboration with ICE and other federal agencies on an anti-gang task force. The federal government has also signed on state and local police in various joint operations, such as the Absconder Apprehension Initiative, in which local police assist DHS in identifying and arresting individuals with outstanding removal orders (Seghetti, Viña, and Ester 2004, 3).

DHS also collaborates with state and local law enforcement to address criminal activity associated with border security. Some of the participants in the El Paso focus group discussed DHS's Border Enforcement Security Task Force initiative (BEST), whose mission is to disrupt criminal organizations posing threats to border security. Operation Community Shield, an ICE anti-transnational gang initiative, also sometimes engages local police in joint operations (ICE Fact Sheet: Operation Community Shield).

Finally, the most intensive immigration enforcement role for state and local law enforcement occurs as part of the ICE 287(g) program. As discussed above, this section authorizes DHS to enter into formal agreements with state and local law enforcement agencies to deputize local and state officers to perform immigration law enforcement functions, under the supervision of sworn ICE officers. Each agency that enters the 287(g) program must sign a memorandum of agreement (MOA) that defines the scope and limitations of the authority designated to the local or state officers. These agreements also must articulate a supervisory and monitoring structure for the program. Section 287(g) also requires that state and local officers are trained in the enforcement of immigration laws (ICE Fact Sheet: 287(g)).

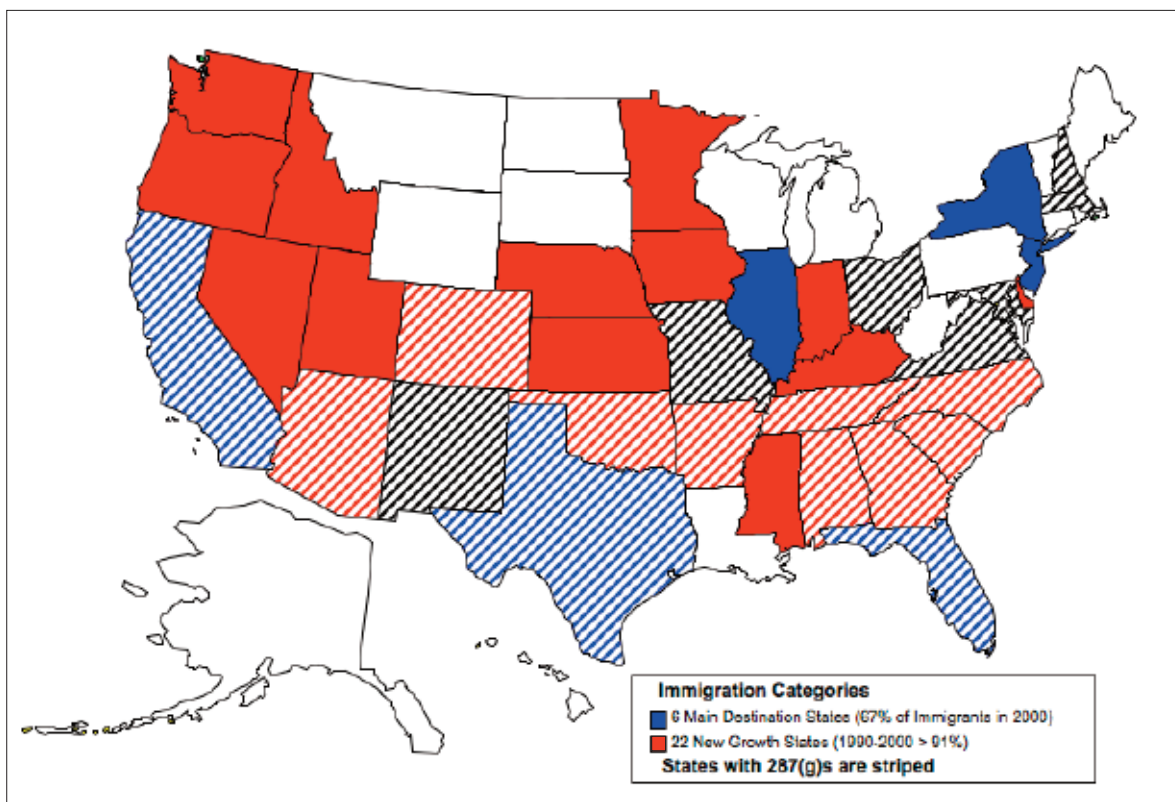
Not until after September 11, 2001, did any state or local agency sign a 287(g) agreement with the federal government. In 2002, the Florida State Police became the first 287(g) partner (Capps 2008, 156) (see appendix F). Florida described the intent behind the agreement as to "address the counter-terrorism and domestic security needs of the nation and the state of Florida by enhancing those efforts through the authorization of selected state and local law enforcement officers ... to perform certain functions of an immigration officer." In 2003, the Florida MOA eliminated the emphasis on counterterrorism in favor of greater emphasis on general domestic security (Appleseed 2008, 23).

In 2003, the state of Alabama followed Florida, and then there were a half dozen more agreements signed in 2005 and 2006 in Arizona, California, and North Carolina. The number of local and state agencies joining the 287(g) program started to increase more rapidly in 2007 when twenty-six law enforcement agencies signed MOAs, and during the first seven months of 2008 when twenty-eight more agencies entered agreements with ICE (Capps 2008, 156). Currently, there are sixty-three local and state law enforcement agencies participating in the 287(g) program. The program has identified more than 70,000 people suspected of violating immigration law and trained more than 840 officers (ICE Fact Sheet: 287(g)).

Geographically, agencies that have chosen to join the 287(g) program seem to be disproportionately located in regions with large immigrant populations or are emerging gateways that

have recently begun seeing large influxes of immigrants. Forty-one out of sixty-two programs (as of August 2008) were located in the twenty-two new immigrant destination states (see figure 5).

FIGURE 5. 1990-2000 IMMIGRATION GROWTH PATTERNS AND LOCATION OF 287(G) PROGRAMS ACROSS THE STATES



Source: *Local Enforcement of Immigration Laws: Evolution of the 287(g) Program and Its Potential Impacts on Local Communities*. Randolph Capps, The Urban Institute. Presentation prepared for Police Foundation conference, *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties*, Washington, DC, August 21, 2008 (see appendix F).

These new growth states tend to also have large unauthorized immigrant populations, high numbers of Latin American immigrants, and fewer citizens. In August 2008, thirty-seven of the 287(g) participating agencies were located in the Southeastern part of the United States, eighteen in the Southwest, five in the Northeast, and two in the Midwest (Capps 2008, 160).

The 287(g) program has two categories of agreements or classes of trained officers, Jail Enforcement Officers (JEO) and Task Force Officers (TFO). JEOs are trained solely to verify legal status of detainees in local jails, whereas TFOs can verify legal status of persons encountered in their regular policing duties and can participate with ICE in joint enforcement operations. As of August 2008, there were twenty-three law enforcement agencies with Task Force agreements, twenty-seven with Jail Enforcement agreements, and twelve with joint Task Force/Jail Enforcement agreements (Capps 2008, 159).

Conference presenter Raquel Aldana, a University of Nevada Professor of Law, reviewed thirty-four of fifty-five 287(g) agreements. Aldana found that the agreements varied in nature and scope. Some granted a broad range of powers to local officers, while others were more restrictive (see appendix C for descriptions of these powers) (Aldana 2008, 95).

Forty-six percent of respondents to the ASU survey reported that their local government had

no official policy on immigration enforcement, while 12 percent reported that their local government expects that the police take a proactive role in immigration enforcement. Four percent of respondents reported that they had an agreement with ICE for local police officers to investigate and arrest immigration law violators and three percent had jail-based 287(g) programs. Eight percent reported that they had ICE officers embedded within one or more units of the police department. Only 4 percent of chiefs reported that their local governments have openly declared themselves as “sanctuary cities” for unauthorized migrants who are not engaged in criminal activities, while another 15 percent report that their cities unofficially operate under a “don’t ask-don’t tell” policy (Decker et al. 2008).

State and Local Law Enforcement of Immigration Law: Benefits and Costs

During the conference and the focus groups, there was a healthy level of debate over the role of local law enforcement in enforcing federal immigration law. Law enforcement participants, community members, elected officials, and researchers presented varying arguments on the benefits and costs associated with immigration enforcement. The great majority of comments made during the focus groups and at the conference opposed local law enforcement’s participation in purely civil immigration enforcement. However, some participants in the Collier County focus group and at the conference also articulated some of the benefits of state and local law enforcement sharing responsibility with the federal government for immigration enforcement. Below we describe the main arguments for and against local participation in federal immigration enforcement that were raised during project activities.



Sheriff Don Hunter discusses his agency’s participation as a 287(g) partner.

Benefits

1. Reduce Jail Population and Save Detention Costs

Sheriff Don Hunter of Collier County, Florida, stated that Collier County decided to participate in the 287(g) program as part of their overall strategy to reduce jail crowding. The sheriff’s office had conducted a study of its jail population and found that 25 percent were removable aliens. Twenty-seven officers from the sheriff’s office were trained to identify, arrest, and detain immigration law violators. As a result, Sheriff Hunter argued, the jail population had dropped 14 percent between July 2007 and July 2008 (the program did not begin until October 2007) (see appendix K). It is not clear if there were other factors contributing to the decline in jail population.

2. Deterrent to Unauthorized Immigration

One argument mentioned during the focus groups in favor of local participation in federal immigration efforts, in particular the 287(g) program, is that communities where agencies participate in the program receive a lot of media attention as places where unauthorized immigration is not tolerated. This reputation, they argue, could serve as a deterrent to unauthorized immigrants settling in the area and/or could lead to unauthorized immigrants moving out of these regions. But as one Collier County focus group participant pointed out, this deterrent effect would merely displace unauthorized immigrants from a pro-enforcement community to one in which the police and local government do not engage in immigration enforcement. For this reason, the participant argued, there is a need for a nationally consistent policy or approach.

Another project participant, who favored local participation in immigration enforcement,

stated that the size of the undocumented population in the United States is simply too large for federal law enforcement agencies to manage; therefore, without the assistance of state and local police, the federal government will never be able to solve its undocumented immigration problem. One law enforcement conference participant challenged this argument, stating, “If you have people who are undocumented but are good, law-abiding, contributing citizens, I’m not sure all the negative impacts of this issue are worth removing a law-abiding person. There are other ways to work with federal agents than to use 287(g) to arrest otherwise good citizens.”

3. Criminal Enforcement Tool

Proponents of local police participation in immigration enforcement, such as some of the Collier County focus group participants, argue that immigration enforcement, and in particular the 287(g) program, could serve as a criminal enforcement tool. A Collier County participant argued that when sophisticated criminals successfully evade criminal prosecution, an agency could use immigration enforcement as a tool to rid that community of the individual if he or she is unauthorized to be present in the United States. James Pendergraph, executive director of ICE’s Office of State and Local Coordination, also asserted that deportation of a person who has previously committed a crime would reduce overall crime rates. Conference survey participants were also asked to describe the advantages and disadvantages of local participation in immigration enforcement; merely nine stated that it would help fight crime (Amendola et al. 2008).

4. Counterterrorism

Proponents of increased immigration enforcement, such as Kris Kobach, former counsel to Attorney General John Ashcroft, have argued that because several of the September 11 terrorist attackers had overstayed their visas without significant interference from federal or local law enforcement, the abuse of U.S. immigration laws was responsible for the deaths resulting from those attacks (Olivas 2007, 47). Others have criticized this argument, stating that the real failure, as pointed out by the bipartisan 9/11 Commission, was the failure of the federal government’s various intelligence offices to collaborate and to take seriously radical Islamic movements following the earlier bombing of the World Trade Center in New York (Olivas 2007, 50).

These proponents argue that increased local immigration enforcement may identify individuals suspected of engaging in terrorist activities. For instance, in the course of routine policing, police may encounter an immigrant with an individual warrant in the NCIC database, and who may have plans at some point to engage in terrorist activities. However, as stated by Kareem Shora during his presentation at the national conference, a local department’s participation in immigration enforcement efforts may result in isolating communities, making them less willing to provide intelligence to police on possible terrorist and other criminal activity (see appendix L).

5. Access to Federal Databases to Verify Identity

Some participants who favored local police immigration enforcement argued that participation in the 287(g) program has the advantage of giving local agencies access to federal databases to verify identity of suspects. One participant claimed that undocumented immigrants often give false names but that through the use of federal immigration databases it might be possible to accurately identify a suspect. As James Pendergraph noted, an agency has access to the various federal immigration databases only if it is a 287(g) partner. However, a non-participating agency can always contact the LESC if it needs additional information, and ICE is currently piloting an integration of the NCIC database with federal immigration databases so that when an agency runs a check on NCIC, it automatically searches federal immigration databases as well (Carroll 2008).

**Policing experts and project participants
have expressed concern that local police involvement
in immigration enforcement could have a chilling effect
on immigrant cooperation.**

6. Immigration Violators are Lawbreakers

A common argument heard in the media and mentioned during project conversations is that, like criminal law violators, those individuals who have violated federal immigration law are lawbreakers. Some participants argued that police are bound to enforce federal immigration laws just as they are violations of criminal law and cannot pick and choose which laws to enforce. Conference participants engaged in lively discussion about whether police have discretion to choose which laws to enforce. While some argued police have no discretion, others disagreed, maintaining that police everyday make choices about which laws to enforce. Furthermore, some pointed out, police officers take an oath to uphold state not federal law.

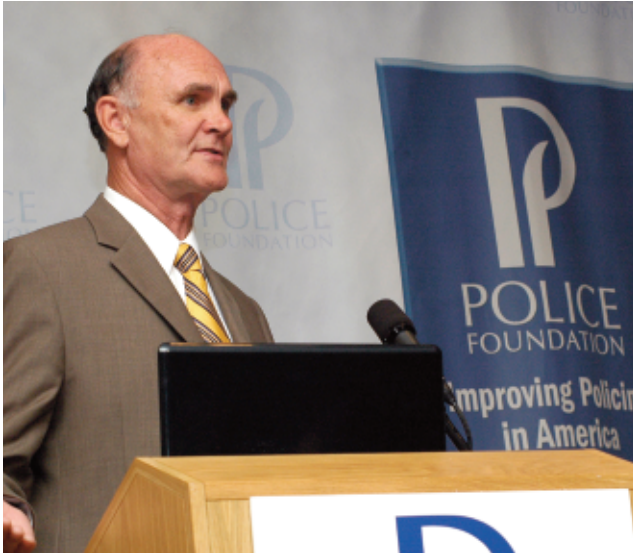
Costs

1. Reduced Trust and Cooperation in Immigrant Communities Would Undermine Public Safety

Policing experts and project participants have expressed concern that local police involvement in immigration enforcement could have a chilling effect on immigrant cooperation. Immigrant witnesses and victims of crime, many of whom already bring with them fear and mistrust of police due to experiences with authorities in their home countries, would be less likely to report crimes and cooperate as witnesses. Without this cooperation, law enforcement will have difficulty apprehending and successfully prosecuting criminals, thereby reducing overall public safety for the larger community. Immigrants need assurances that they will not be subject to deportation proceedings if they cooperate with police.

To demonstrate the fragility of the relationship between the police and immigrants, one mid-western police chief recounted an incident where an unauthorized immigrant was a witness to a crime and agreed to testify in a criminal case. The witness's name appeared on a witness list in preparation for the trial. As the court began to vet the background of this witness, defense attorneys revealed that he was an undocumented alien. A few days after the witness testified in the court case, ICE arrested him and initiated deportation proceedings. Word of this incident rapidly spread throughout the immigrant community and, as a result, the police have had difficulty securing the cooperation of other immigrant witnesses. Even residents who were victimized and exploited feared approaching the police because trust between the immigrant community and the police had been destroyed.

El Paso focus group participants and Mayor John Cook in his conference presentation also reported a similar experience. Years earlier, the El Paso Police Department had a practice of conducting joint patrol operations with CBP in El Paso City. They later discontinued this practice because the joint operations had a chilling effect on immigrant communities. In particular, in the context of domestic violence, they found a troubling decrease in reports.



Mayor John Cook of El Paso, where the population is over 80% Hispanic and there are 8.3 million pedestrian border crossings annually between the U.S. and Juarez, Mexico.

The Police Foundation has done much of the research that led to a new view of policing—one emphasizing a *community* orientation—that is widely embraced today, and has played a principal role in the development of community policing research, training, and technical assistance. Over the past fifteen to twenty years, community policing and problem-solving policing initiatives—a philosophy of policing that requires significant col-

laboration and cooperation with community members—have become increasingly commonplace in the policing profession (Harris 2006, 7). Community policing is an approach to policing where police officers engage communities in a working partnership to reduce crime and promote public safety. It thus requires police to interact with neighborhood residents in a manner that will build trust and improve the level of cooperation with the police department (Moore 1992, 123). Proponents of community policing have expressed concern that policies and practices that sanction police officers to act as immigration agents will undo the successes they have gained over years of developing police relations with immigrant communities (Appleseed 2008, 8). As pressure for local police to proactively get involved with immigration enforcement increases, the public safety gains achieved through the community-policing movement are placed in jeopardy, particularly in communities and cities with significant immigrant populations.

The majority of respondents to the conference survey indicated that aggressive enforcement of immigration law would have a negative impact on community relationships by decreasing (1) community trust of the police (74 percent), (2) trust between community residents (70 percent), and (3) reporting of both crime victimization (85 percent) and criminal activity (83 percent). Adding to those concerns are beliefs that aggressive enforcement of immigration laws would weaken (1) public trust initiatives (77 percent), (2) community-policing efforts (77 percent), (3) youth outreach (74 percent), (4) intelligence/information gathering (63 percent), (5) criminal investigations (67 percent), and (6) even recruitment (31 percent), thereby impacting operations significantly (Amendola et al. 2008).

Project participants expressed concerns that the loss of trust and cooperation would not be limited to undocumented immigrants. Eighty-five percent of immigrant families are mixed-status families, families with a combination of citizens, undocumented immigrants, and documented immigrants (Morawetz and Das 2008, 73). The loss of cooperation resulting from local police involvement in immigration enforcement would extend to authorized immigrants living in mixed-status households who fear contact with police would lead to deportation of family members and other loved ones (Harris 2006, 39). A recent Pew Hispanic Center survey found that the majority of Latinos in the United States worry about deportation of themselves, a family member, or a close relative (Lopez and Minushkin 2008, ii).

2. Increased Victimization and Exploitation of Undocumented Immigrants

Many law enforcement participants also emphasized their duty as police executives to ensure public safety for all community members, regardless of legal status, and expressed their concerns that criminal predators take advantage of undocumented immigrants' fear and tendency not to report crimes. As one northeastern city police chief stated:

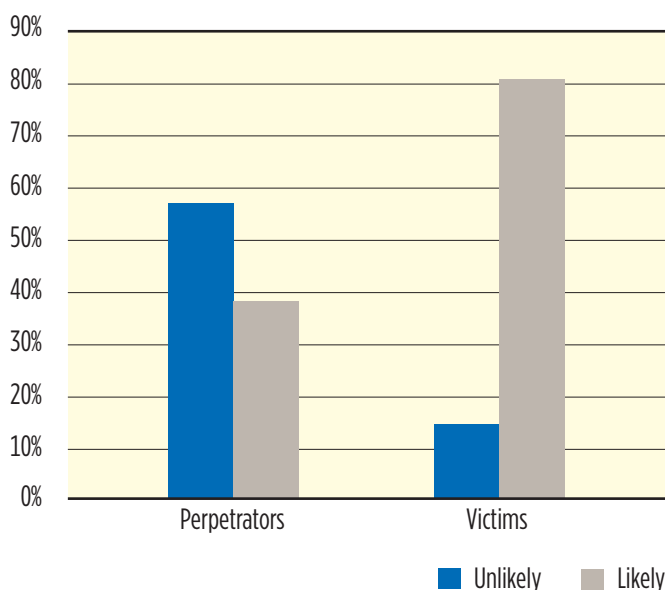
They [undocumented immigrants] refer to themselves as walking ATMs because everybody knows that they don't have documentation enough to get bank accounts, checking accounts, and those kinds of things, and that their savings and whatever they have is on their person, not anywhere else. First of all, they live in an apartment with eight other people, so you can't leave it behind. They carry it with them and the people who seek to victimize them take advantage of that.

Fifty-three percent of respondents to the ASU survey stated that undocumented immigrants are more likely to be victims of theft or robbery (Decker et al. 2008). Similarly, respondents to the conference survey were asked whether undocumented immigrants were likely or unlikely to be crime perpetrators and crime victims. As figure 6 shows, respondents believed that undocumented immigrants were more likely to be crime victims (81 percent) than crime perpetrators (39 percent) (Amendola et al. 2008).

Any police actions that result in exacerbating fear of police in immigrant communities could lead to increased victimization and exploitation of immigrants as perpetrators of crime take advantage of heightened immigrant fear to target them for criminal activity. At least one El Paso focus group participant believed that more enforcement would specifically lead to more human trafficking, as smugglers or traffickers are more able to use the threat of deportation to coerce undocumented immigrants into situations of forced labor. Several participants also believed there would be an aggravation of employer abuse and exploitation of undocumented immigrants.

Participants' perceptions of immigrant victimization were confirmed by research conducted in Memphis, Tennessee, on victimization of undocumented immigrants and their interaction with police. The study found that undocumented workers experienced high rates of victimization, yet they were unlikely to report the crimes to law enforcement officials. The study also found perceived deportation risk to be a factor driving both undocumented workers' particular risk of victimization and their reluctance to report crimes. Memphis is a city that reports interactions with undocumented victims and perpetrators to immigration officials (Bucher, Tarasawa, and Manasse 2007).

FIGURE 6. LIKELIHOOD OF CRIME PERPETRATION AND VICTIMIZATION



Source: *Law Enforcement Executive Views: Results from the Conference Survey* (Amendola et al. 2008) (see appendix H).

3. Police Misconduct

For similar reasons that immigration enforcement by local police could lead to increased victimization and exploitation of undocumented immigrants (fear of police and deportation), some participants expressed concern that it could lead to an increase in police misconduct. As one El Paso focus group law enforcement executive stated, “I might have issues out in the field with officers who are doing things they’re not supposed to be doing, but people are afraid to tell us, simply because they’re afraid.” At the conference, Professor Raquel Aldana also argued that the extremely limited application of the exclusionary remedy in immigration court proceedings creates an additional risk of abuses of power not subject to judicial review and oversight (Aldana 2008, 99). In another project that brought together police officials from the New York/New Jersey metropolitan area, one police official working in a jurisdiction that in the past collaborated with federal immigration officials confirmed that his agency’s prior involvement in immigration enforcement had indeed led to corruption and extortion (King 2006, 25).

4. Large Financial Costs of Immigration Enforcement Divert Resources from Traditional Law Enforcement Activities

In recent years, police departments throughout the country have experienced budget cuts because of the diversion of federal funds from traditional law enforcement funding streams, such as the Office of Community Oriented Police Services (COPS) and Bureau of Justice Assistance (BJA) Byrne grants, to homeland security programs, while simultaneously their workloads have increased as a result of current homeland security and counterterrorism responsibilities (Harris 2006, 12). In addition to having to take on additional counterterrorism responsibilities, local law enforcement has to make up for reductions in federal law enforcement manpower that was previously devoted to federal criminal enforcement, such as drug trafficking and bank robbery (MCC 2006, 6). In this fiscal environment, local law enforcement simply does not have the resources to add immigration enforcement responsibilities (MCC 2006, 10). As one participant stated, “Law enforcement is struggling just to keep up with the things [we] need to do every day. So taking on an additional responsibility is probably impossible.”

Federal immigration enforcement agencies contend they do not have adequate resources to accomplish their immigration enforcement mandate. Local agencies have even fewer resources given all their competing demands (MCC 2006, 6). Moreover, focus group participants warned that were the federal government to change its current practice and begin funding local agencies to collaborate in immigration enforcement, those resources should not come at the expense of traditional crime fighting resources, such as what little is left in the COPS and BJA Byrne grant funding streams.

Indeed, respondents to the conference survey ranked resources as their highest agency concern, followed by staffing. Immigration ranked merely seven after the concerns listed above (see table 1) (Amendola et

TABLE 1. HIGHEST RANKED AGENCY CONCERNS

In general, what do you consider to be the most critical issues facing you and your agency? Please list them in priority order, from highest to lowest.

1. Resources
2. Staffing
3. Violent Crime
4. Gangs
5. Community Relations; Drugs (tie)
6. Property Crime
7. Immigration Issues

Rankings were based on a weighted scoring system. Those ranked first were given a score of 5, second scored 4, third scored 3, and so forth.

Source: *Law Enforcement Executive Views: Results from the Conference Survey* (Amendola et al. 2008) (see appendix H).

Federal immigration law is very complicated, technical, and constantly changing.

al. 2008). One of the biggest concerns discussed in policing today—as confirmed by the choice of staffing as the second most urgent agency concern—is the challenge of police officer recruitment (Raymond, Hickman, Miller, and Wong 2005). Therefore, even if the federal government provided financial resources for local immigration enforcement, many police agencies would have difficulty hiring quality police recruits to meet the additional workload demands of enforcing immigration law.

Because of the resource issues above, opponents of local law enforcement participation in federal immigration enforcement contend that there could be a diversion of police resources away from criminal investigations to immigration enforcement (Seghetti, Viña, and Ester 2004, 25). Financial costs listed by conference and focus group participants included the patrol resources and overtime costs resultant from arresting and processing immigration detainees, costs of providing temporary detention space, transportation costs, and potential medical costs incurred during detention. This diversion of resources, participants argued, could have a negative public safety impact. Mayor Gordon gave the example of the immigration enforcement initiatives of the Maricopa County Sheriff’s Office being responsible for its failure to investigate at least thirty violent crimes, including a dozen sexual assaults, in the past year in a small city of 32,000 people. “He [sheriff of Maricopa County] allows sexual assaults, homicides, and other serious crimes to go unsolved, by arresting victims and witnesses and sending them to jail for violating immigration statutes. That’s a direction that makes our community less safe.”

5. Complexity of Federal Immigration Law and Difficulty in Verifying Immigration Status

One of the arguments articulated against local participation in federal immigration enforcement is that federal immigration law is very complicated, technical, and constantly changing. Indeed, it has often been compared to the tax code in complexity (Harris 2006, 36). A conference participant who supports local enforcement of immigration law argued that police are used to enforcing all types of laws and that immigration would be no different. However, IACP has stated that immigration enforcement would require specialized knowledge of “suspect’s status and visa history and the complex civil and criminal aspects of the federal immigration law and their administration. This is different from identifying someone suspected of the type of criminal behavior that local officers are trained to detect” (IACP 2004, 4). MCCA has also said that immigration law is very complicated and nothing like criminal violations, such as murder, assaults, narcotics, robberies, burglaries, and so forth (MCC 2006, 7). If police departments employ insufficiently trained officers to perform federal immigration enforcement duties, they may also risk exposing themselves to substantial civil liability (Venbrux 2006, 330).

At the conference, Nancy Morawetz, New York University Professor of Clinical Law, presented a paper that describes in detail some of the complexities of immigration law enforcement and reveals the challenges to local police participation in immigration enforcement activities (see appendix B). Professor Morawetz begins by challenging the assumption that the immigration status of an individual is easy to identify. Firstly, she points out that approximately 70 percent of the foreign born in the United States are legal permanent residents or citizens. Of the remaining 30 percent, substantial numbers

have some form of lawful status or are in the process of obtaining lawful status. About 300,000 of these immigrants have temporary protected status (TPS), which allows them to live and work in the United States; and 617,000 are in the process of applying for legal permanent residency and have official permission to work. Every year, approximately one million people receive legal permanent resident status. In addition, there are millions of people each year who are present in the United States with a lawful business, visitor, or student visa. The challenge this creates for police engaging in immigration enforcement is that there are no distinguishable factors that allow police to distinguish between the authorized and unauthorized immigrant population.

Furthermore, Professor Morawetz notes that police will have difficulty verifying immigration status because many people do not have the necessary documentation to prove their lawful status, in part because immigration documents were not designed to function as identity documents. Thirteen million U.S. citizens lack papers proving they are citizens, permanent residency card (“green card”) renewals are frequently delayed, and there is no national database of citizens and the status of other people.

Both Professors Morawetz and Aldana also observed that federal immigration databases are notoriously inaccurate; thus, police reliance on these databases will most likely lead to error. The DHS Inspector General estimates that the immigration records relied upon by ICE’s fugitive teams are inaccurate in up to 50 percent of cases (Morawetz and Das 2008, 82). DHS also commissioned a study of Social Security Administration (SSA) databases and found that they were able to verify employment eligibility in less than 50 percent of work-authorized noncitizens (Aldana 2008, 101). The SSA itself has estimated that 17.8 million of its records contain errors with respect to name, date of birth, and citizenship status; and that 4.8 million of 46.5 million noncitizen records in its database contain errors (Aldana 2008, 101). A mismatch between employee records when checked against the SSA databases can turn into an immigration administrative warrant (Aldana 2008, 101). Immigration warrants and information contained in the NCIC database have also proven to be inaccurate. A study by the Migration Policy Institute of calls to the LESC showed that 42 percent of all police inquiries to the LESC were false positives that DHS was unable to confirm (Gladstein et al. 2005, 3).

6. Racial Profiling and Other Civil Litigation Costs

Because local law enforcement agencies lack sufficient and ongoing training in federal immigration law, are prohibited from racial profiling, lack clear authority to enforce civil immigration laws, and are limited by state law on making warrantless arrests, those police agencies that get involved in civil immigration law enforcement risk being subject to civil litigation (MCC 2006, 8). Prohibitions on racial profiling and state laws limiting the scope of police authority exist to protect community members from being victim to police error or abuse. Were these laws to be violated in the context of immigration enforcement, and given the complexity of federal immigration law, it is likely that citizens and immigrants with lawful status would be arrested and detained. These errors are then likely to result in litigation.



Professor Nancy Morawetz describes the legal complexity of local law enforcement’s role in immigration enforcement and legal constraints on methods of enforcement in a legal and institutional system that operates quite differently from local criminal justice systems.

Prohibitions on racial profiling and state laws limiting the scope of police authority exist to protect community members from being victim to police error or abuse.

Indeed, there have been several lawsuits where citizens or legal permanent residents have been arrested, detained, and in some cases deported. For instance, Pedro Guzman, a cognitively-impaired U.S. citizen who had been arrested and detained in a Los Angeles County jail for misdemeanor charges, has sued the sheriff of Los Angeles County who erroneously identified Mr. Guzman as an unauthorized immigrant and turned him over to federal immigration officials who later deported him to Mexico. It took months for Mr. Guzman's family to locate him after he was deported to Mexico (Morawetz and Das 2008, 78).

The likelihood of error in the context of immigration enforcement is higher for poor and minority communities. A recent study showed that citizens with incomes under twenty-five thousand dollars are twice as likely to lack citizenship documents as those earning more than twenty-five thousand dollars. Twenty-five percent of African Americans lack any form of government-issued photo identification. As many as thirty-two million American women do not have citizenship documents reflecting their current name. And, as stated above, there is no national database of citizens to verify status (Morawetz and Das 2008, 77).

Even well-intentioned police officers risk racial profiling and resultant lawsuits in the course of enforcing immigration laws. As stated above, there are no discernible indicators of immigration status; thus, it is difficult for police officers to observe behavior that indicates immigration status as they would be able to observe criminal activity. As a result, police officers may use ethnic or racial characteristics as a basis for stopping and questioning, and possibly detaining, people from certain racial and ethnic groups (Chishti 2002, 374). The practice of using race or ethnic characteristics to determine whether to investigate immigration status also wastes valuable law enforcement resources. The number of erroneous stops or detentions resulting from false positives will be particularly high in regions with high Hispanic and Asian populations (Harris 2006, 51). Furthermore, many communities of color already have strained relations with police, which will be further exacerbated as they feel targeted by immigration enforcement efforts (Appleseed 2008, 10). A recent survey of Hispanic residents in the United States found that nearly one out of ten Hispanic adults (native-born 8 percent and immigrants 10 percent) have been stopped and questioned about their immigration status in the past year (Lopez and Minushkin 2008, i). Thus, it seems the trend towards greater participation by local law enforcement in federal immigration enforcement has already begun to impact the Hispanic community.

Professor Morawetz emphasized during her conference presentation that 287(g) agreements contain language clarifying that officers are bound by federal civil rights statutes and regulations and specifically prohibit the practice of racial profiling. The 287(g) agreements are also narrowed to authorize behavior only to the extent that it is consistent with state and local law (Morawetz and Das 2008, 76). Some state and local law enforcement officials participating in the project were under the impression that the federal government would assume liability under the Federal Tort Claims Act (FTCA). However, because 287(g) limits police behavior as described

above, local agencies will not be protected or covered by the agreement where they have violated federal civil rights statutes, state or local law, or engaged in racial profiling in the course of immigration enforcement (Morawetz and Das 2008, 76).

Several major lawsuits have already been filed alleging racial profiling by police departments engaging in immigration enforcement. For instance, residents, alleging racial profiling among other violations, sued the Chandler, Arizona, Police Department as a result of a joint operation with CBP. Complainants alleged that police officers were stopping and questioning dark-skinned, Spanish-speaking residents (who appeared “Mexican”) and requesting proof of citizenship (Venbrux 2006, 327-328). In addition to costing the city money as a result of the lawsuits, the police department created deep distrust in the Latino community, harming its ability to effectively police the city.

Sheriff Joe Arpaio of the Maricopa County, Arizona, Sheriff’s Office (an ICE 287(g) partner) has faced several lawsuits, the allegations of which include racial profiling (Aldana 2008, 105). Mayor Gordon commented during his conference remarks that the sheriff, himself, says he can identify an unauthorized immigrant “by the way they dress and where they are coming from.” As Mayor Gordon stated, that is “the very definition of racial profiling.” Mayor Gordon further explained that sheriff’s deputies are stopping citizens in Maricopa County because they are brown and detaining them, even when they have documentation proving their legal status. Even a member of Mayor Gordon’s staff and her husband, who are third-generation Latino citizens, were stopped and asked for their social security cards by Maricopa sheriff deputies.

7. Immigrants Will Fear Accessing Other Municipal Services

The increased fear of deportation resulting from local law enforcement participation in immigration enforcement will not only impact police-community relations with immigrant communities but might also lead to fear among immigrant communities of accessing other state and local government services. Several focus group participants who worked for city agencies discussed the difficulty they already have encouraging immigrants to access municipal services. In a paper presented at the conference, Professor Roberto Gonzales of the University of Washington discusses the impact of immigration enforcement efforts on schools, including increased absences and students distracted by their anxiety over deportation (Gonzales 2008, 142) (see appendix E).

Striking a Balance Between Immigration Enforcement and Civil Liberties: Recommendations

The goal of the Police Foundation project was to begin a dialogue among police executives and professionals, scholars, public policy and community groups over the role of local law enforcement in federal immigration law enforcement, in order to improve law enforcement’s understanding of the issue and to begin to develop some consensus on how to strike the balance between the competing federal need of immigration enforcement with local public safety priorities and civil liberties. As stated earlier in the About the Project section, the foundation conducted a series of focus groups throughout the country with police executives, local government officials, and community members; convened a national conference of leaders in the policing, public policy, academic, and immigrant communities; commissioned academic papers on pertinent topics; and conducted a written survey of police executives. Throughout this process, there was a healthy level of dialogue and disagreement about specific questions and issues. However, it also became clear that certain recommendations and policy positions were widely held among the group. In this section of the report, we describe some of these positions and recommendations.

Almost all project participants agreed that agencies should not be patrolling for immigration violators and that immigration enforcement activity should be limited to contacts incidental to a lawful arrest for a state criminal law violation.

The Costs of the 287(g) Program Outweigh the Benefits

As outlined earlier, the majority of police executives participating in the project did not see the benefits to local agencies of participating in the 287(g) program. They felt that the 287(g) program created substantial additional work for local agencies to fulfill a federal mandate for which they would not receive any compensation or funding and, therefore, would divert resources from traditional law enforcement functions. Because of the complexity of immigration law, they would have to invest significant labor hours and resources to provide and update training on developments in immigration law. They also were concerned that public safety would suffer because of destroyed trust and cooperation with immigrant communities. Participation in the 287(g) program, or at least the media coverage and fear generated by it, would undermine years of community-policing efforts, which in turn would compromise public safety. Finally, police leaders were concerned about racial profiling and litigation costs: if state and local law enforcement officers engage in racial profiling, violate federal civil rights laws, or violate state and local law defining the scope of police authority, 287(g) agreements will not protect them from liability.

Police Officers Should be Prohibited from Arresting and Detaining Persons to Solely Investigate Immigration Status in the Absence of Probable Cause of an Independent Crime

Almost all project participants agreed that, at the very least, local law enforcement agencies should not be patrolling for immigration violators and that immigration enforcement activity should be limited to contacts incidental to a lawful arrest for a state criminal law violation. Even under the best of circumstances, many participants expressed the concern that the use of racial profiling is almost inevitable where local police patrol for immigration violations. One police chief from Arizona stated that in many parts of the country, particularly Arizona, race is being used as a predictor of criminal behavior, which violates the equal protection clause of the Constitution. He explained that citizens and legal residents are being targeted by local immigration enforcement efforts because of the color of their skin. Many participants contended that there are no objective, visibly discernible factors indicating immigration status. “You cannot see immigration status,” one participant stated. Therefore, Chief Harold Hurtt of Houston contended that were local law enforcement to begin engaging in civil immigration enforcement activities, they would have to ask everyone they stop for proof of citizenship. For example, he stated, the Caucasian wife of a member of the chamber of commerce is pulled over for a traffic violation and is without proof of citizenship. The police officer would have to ask her about her citizenship status and, in the absence of such proof, arrest and detain her. “Imagine,” Chief Hurtt said, “the community outrage you would get then.”



Chief Harold Hurtt describes the Houston Police Department's policy of focusing on the criminal nexus in immigration enforcement.

If a Local Agency Enters the 287(g) Program, it Should Limit Participation to Serious Criminal Offenders and Jail-Based Programs

Many participants believed that if state and local law enforcement agencies were to enter a 287(g) agreement with the federal government, it should be limited to jail-based programs and that the delegated immigration enforcement powers should be selectively used to target serious felony offenders. One former INS official mentioned that, in response to political pressure to deport more unauthorized immigrants and the lack of available federal resources to do so, federal immigration officials designed the 287(g) program initially with the intent to focus on jails and prisons.

Implement Policies and Procedures for Monitoring and Enforcing Racial Profiling Violations

Because of grave concerns about racial profiling, in particular in jurisdictions operating 287(g) programs in the patrol context (versus solely in the jail), it is important that both local agencies themselves and the federal government implement policies and procedures for monitoring and enforcing civil rights violations. While 287(g) agreements contain provisions prohibiting racial profiling, comments at the conference seem to suggest that the federal government has not been effectively policing compliance with these provisions of the 287(g) agreements. Indeed, Mayor Gordon of Phoenix stated that he had written a complaint letter to the U.S. Department of Justice's Civil Rights Division arguing that the Maricopa County Sheriff's Office has been using racially-biased enforcement practices, but the mayor stated that the federal government had not yet taken any steps towards investigating the allegations. Participants recommended that agencies engaging in immigration enforcement activities need to put into place their own racial profiling and civil rights violation self-monitoring policies and practices to prevent potential abuses of immigrant rights.

Involve Community Members in Developing Immigration Policies

Local law enforcement agencies depend on the trust and cooperation of immigrant communities to effectively police these communities. In order to preserve this trust that they built over the years by aggressively engaging in community-oriented policing trust-building activities, state and local law enforcement agencies should open lines of communication with immigrant communities to establish collaborative partnerships for public safety and crime control purposes and to obtain input from the immigrant community on the impact of police department policies. Police departments should regularly meet with representatives of immigrant communities to educate them about their immigration policies, obtain their perspectives on immigration enforcement and other issues involving immigrant communities, and to monitor impact of their efforts. As a result of efforts by the Houston Police Department to educate the immigrant community on the content and purpose of department policies and the rationale necessitating changes, a more aggressive posture in the enforcement of immigration laws adopted by the department had no discernible negative effects on police-community relations.

Whether or not a local agency is involved in immigration enforcement, it is important that it make efforts to build trust with immigrant communities and ease tensions between different communities.

Evaluation Research Should be Conducted of the 287(g) Program and Other Local Immigration Enforcement Initiatives

Several participants suggested that there was very little research and empirical evidence of the costs and benefits of the different forms of local law enforcement collaboration in federal immigration enforcement efforts. As a result, we are asked to rely on subjective perspectives of law enforcement executives and politicians who may be influenced by a need to support their own policies. There is a great need for evaluation research of these programs, their outcomes, and their impact. Some research questions suggested by program participants included (1) who conducts the immigration status inquiry, (2) who is being arrested and detained, (3) who is being questioned but released, (4) is there any racially disparate impact, (5) how often is error occurring, (6) how often do civil rights violations occur, (7) what happens to those agencies that violate 287(g) agreements, and (8) how many people are being jailed and deported because of these efforts.

Employ Community-Policing and Problem-Solving Tactics to Improve Police-Community Relations with Immigrant Communities and Resolve Tension Caused by Expanding Immigration

Whether or not a local agency is involved in immigration enforcement, it is important that it make efforts to build trust with immigrant communities and ease tensions between different communities. Rapidly changing demographics, tougher enforcement of immigration laws, and stricter limitations on the privileges and benefits authorized by the government for undocumented immigrants have created an environment in which increased tension between communities and police exist. In this environment, police-community relations will be impacted regardless of what local policy is. Several participants provided some good examples of strategies that not only improved police-community relations but also diffused local tensions over immigration.

For instance, one northeastern city police executive reported that they were experiencing tensions between communities over concerns attributed to increased immigration. The police department, in response, organized dialogues in various neighborhoods, including representatives of new immigrant communities and established communities. In these dialogues, using problem solving policing techniques, the police department facilitated discussions that led communities and police to jointly work out resolutions to neighborhood problems. In other words, they focused the energy of the group on specific behavioral issues and jointly problem-solved. Over time, the police executive stated, “We’re not yelling. They’re not yelling anymore. They know each other’s names now. They know the children. They know the teenagers. And we’re working at it. And it’s not solved. And it probably never will get solved because they’re opposing cultures.

We're like a mediator. But it's not a crime problem. It's a community problem and that's how we're dealing with it."

Another police chief from an east coast beach city gave a similar example. They were having trouble with complaints about migrant workers coming to town during weekends, when they get a very large Hispanic population at the beach. These migrants sometimes would hang up hammocks underneath the pier and they would drink and bring their own food, at times creating a trash problem. For years, the police department had received complaints from the business community but since there was no real crime problem, there was little they could do. A few years ago, the department put up signs in Spanish explaining that drinking in public was illegal and could lead to arrest, placed garbage bins along the beach, and added showers to the beach. As a result, the chief explained, "Now we don't have the same complaints we had before. We used problem solving to help overcome some of the complaints that citizens were having."

Most of the conference participating agencies engaged in some form of outreach to immigrant communities. Respondents to the conference survey were asked to describe the strategies they have developed or would develop to engage the immigrant community. The most frequently cited strategies in the forty-five received responses were: organizing and/or attending community meetings, events, and forums (n=19), establishing community outreach programs or using community liaisons (n=17), attempting to educate the community through the media and bilingual pamphlets (n=13), or creating specialized department positions or programs to focus on the immigrant community (n=13) (Amendola et al. 2008).

The Federal Government Must Enact Comprehensive Border Security and Immigration Reforms

One of the most universal recommendations made during the project was for police organizations to urge Congress and the federal government to make a real commitment to comprehensive border security and immigration reform. Participants expressed their frustration with Congress's inability to comprehensively reform the immigration system. They explained that Congress's failure has had severe consequences on cities and towns throughout the country that struggle to deal with the fiscal and administrative challenges of integrating immigrant communities and must figure out how to manage the racial and ethnic tension generated by the presence of an increasingly large population of immigrants.

Mayor Gordon, for instance, stated:

I am calling upon this Congress and the next one, this president and the next one, to make the dual issues of border security and immigration reform their first order of national business. I don't believe that certain members of Congress understand...the impact of their neglect...on cities. They don't see the hate. They don't see the division. They don't hear the rhetoric. They don't see the civil rights violations. And they don't understand the costs.

At the conference, Julie Erfle, the widow of a Phoenix police officer killed by an unauthorized immigrant who had previously been deported, discussed the psychological and social costs of Congress's failure to pass comprehensive immigration reform, not only on law enforcement and their families but also on the undocumented and their families. She, like Mayor Gordon, suggested, "My solution is comprehensive immigration reform....It is time to stop pandering and time to stop talking about the issue and time to start enacting a real policy" (see appendix M).



Julie Erfle, an advocate for comprehensive immigration reform, told conferees, “We need to put compassion and humanity on an equal footing with immigration enforcement.”

One of the ultimate goals of the foundation project was to give police a voice on this critical issue. And, indeed, during much of the national conference, participants openly and passionately discussed a range of issues relating to the role of local police in federal immigration enforcement: from the legal rights of the unauthorized immigrant population; to empirical evidence and research conducted on the demographic characteristics of the population, immigrant criminality, the experience of the undocumented, and the impact of immigration enforcement programs; to the diverse perspectives of law enforcement executives and community leaders on the issue. The conversations were always lively but respectful and they included specificity, empirical evidence, and detail often absent in national conversations about immigration enforcement.

Ultimately, however, the conversations at the conference always came back to the core role of local police and core principles of community policing. One police chief quoted the police officer’s oath of office: “To support and defend the Constitution of the United States and to be faithful and bear true allegiance to state laws, and to the best



of our skill and judgment diligently and faithfully without prejudice or partiality execute the office of the police officer.” As this chief and many other law enforcement executives stated, police have a duty to uphold state and local laws but must do so while respecting and protecting the Constitution. This includes the equal protection clause, which prohibits racially discriminatory enforcement practices. In fact, great concern was expressed throughout the conference about the impact on the Latino community, in particular, and the risks of racial profiling where local law enforcement becomes involved in immigration

Coatesville, PA, Chief of Police William Matthews moderates the open forum on the final day of the conference.

Conclusion

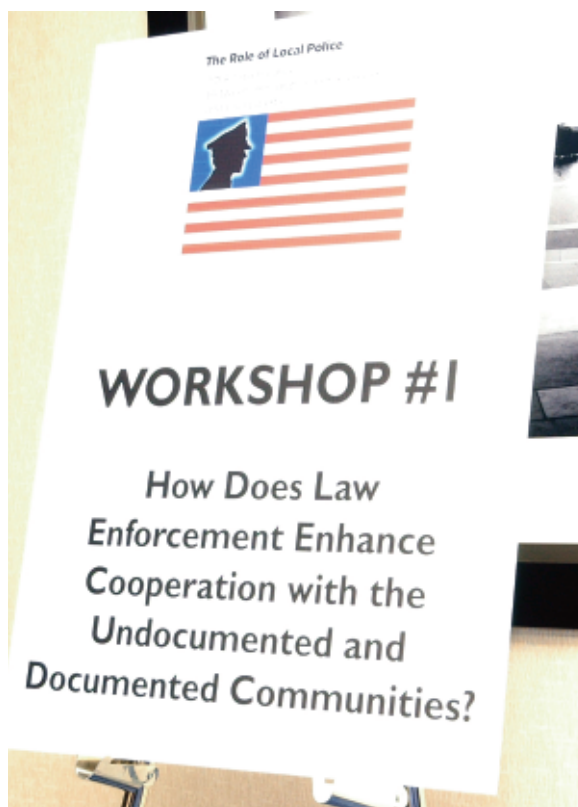
Immigration issues are some of the most contentiously debated in the United States today. Increasing levels of immigration, the dispersal of immigrants to communities throughout the country that have no experience with immigration, and the federal government’s failure to secure the borders and comprehensively reform the immigration system have created tensions between communities in regions throughout the country and the resultant pressure on state and local law enforcement to control unauthorized immigration. As one police chief stated, “Once again we [police] are found to be in between. In fact, much of the civil unrest in this country goes back to some conflict that erupted in one of our communities across this country, where police were at the fulcrum.” During conversations throughout the project, we repeatedly heard law enforcement officials discuss the pressure they are feeling to take sides in the immigration debate.

.....

As one police chief asked, “How do you police a community that will not talk to you?”

enforcement. Moreover, the participants generally agreed that their duty as a police executive is to provide public safety to *all* residents in their community, whether documented or undocumented. One police chief stated, “We need to draw the line and stand for justice and civil liberties. This has to be done by the police because others will not do it. It goes back to our oath of office to uphold the Constitution and justice.”

Many police executives, particularly those working in communities with significant immigrant populations, also expressed concern that police participation in immigration enforcement efforts has threatened to undo years of community oriented policing efforts to build trust with immigrant communities. Police participants discussed the difficulties they have gaining the trust and cooperation of immigrant communities because of fears of deportation and imported distrust and perceptions of police from their home country. Participants felt that they needed the support of these communities in order to effectively provide public safety. As one police chief asked, “How do you police a community that will not talk to you?” For this reason, one of the core recommendations discussed in this report is that law enforcement agencies engage communities in the process of developing immigration policies and educate them about agency policy and practices. By inviting communities to participate in the process of generating policies, agencies can make great headway towards striking a balance between immigration concerns, civil liberties, and maintaining public safety.



Endnotes

¹ The terms “immigrant” and “foreign-born” are used interchangeably throughout the report to describe individuals who were not born in the United States, including unauthorized immigrants, legal permanent residents, and naturalized citizens.

² The Bureau of Justice Assistance of the U.S. Department of Justice administers the State Criminal Alien Assistance Program (SCAAP), in conjunction with the Bureaus of Immigration and Customs Enforcement and Citizenship and Immigration Services, Department of Homeland Security (DHS). SCAAP provides federal payments to states and localities that incurred correctional officer salary costs for incarcerating undocumented criminal aliens with at least one felony or two misdemeanor convictions for violations of state or local law and incarcerated for at least four consecutive days during the reporting period. In 1995, Congress appropriated \$130,000,000 to the program, Public Law 104-208 accessed at <http://www.lib.umich.edu/govdocs/text/104208.txt>. SCAAP awards totaled \$377,323,723 in 2007, \$287,143,095 in 2005, \$281,605,292 in 2004, \$239,999,996 in 2003, and \$545,090,055 in 2002. Accessed at http://www.ojp.usdoj.gov/BJA/grant/scaap_site.html. Totals not posted for 2000, 2001, and 2006.

³ In 2005 alone, LESC responded to 676,502 inquiries by state and local law enforcement officials (Aldana 2008).

⁴ Citing *Gonzalez v. City of Peoria*, 722 F.2d 468 (9th Cir. 1983) (Court held that local police have authority to arrest for criminal provisions of INA but no inherent authority to arrest for civil violations.); *United States v. Vasquez-Alvarez*, 176 F.3d 1294 (10th Cir. 1999) (Court held state and local law enforcement officers have the general authority to investigate and make arrests for federal immigration law. Case premised on Oklahoma law allowing local officers to make arrests for violations of federal law.); and *United States v. Santana-Garcia*, 264 F.3d 1188 (10th Cir. 2001) (Court held local law enforcement had authority to investigate and make arrests for violations of immigration law, relying partially on Utah statute defining scope of authority of peace officers.).

References

Alba, Richard, Rubén Rumbaut, and Karen Marotz. 2005. “A Distorted Nation: Perceptions of Racial/Ethnic Group Size and Attitudes toward Immigrants and Other Minorities.” *Social Forces* 84: 901-919.

Aldana, Raquel. 2008. “Making Civil Rights Matter in Local Immigration Enforcement.” Paper presented at the Police Foundation conference, The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties, Washington, DC, August 21-22, 2008.

Amendola, Karen L., Kristin N. Williams, Edwin E. Hamilton, and Veronica Puryear. 2008. “Law Enforcement Executive Views: Results from the Conference Survey.” Survey from the Police Foundation conference, The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties, Washington, DC, August 21-22, 2008.

Appleseed. 2008. “Forcing Our Blues into Gray Areas: Local Police and Federal Immigration Enforcement.” Appleseed: Washington, DC. http://neappleseed.org/docs/local_police_and_immigration_enforcement.pdf.

Bucher, Jacob, Beth Tarasawa, and Michelle Manasse. 2007. “Hidden Victims: An Examination of Crimes Against Illegal Immigrants.” Paper presented at the annual meeting of the American Society of Criminology, Atlanta, Georgia, November 14.

Butcher, Kristin F. and Anne Morrison Piehl. 2007. “Why are Immigrants’ Incarceration Rates So Low? Evidence on Selective Immigration, Deterrence, and Deportation.” NBER Working Paper No. 13229. National Bureau of Economic Research: Cambridge, MA, July. <http://www.nber.org/papers/w13229>.

Capps, Randolph. 2008. “Local Enforcement of Immigration Laws: Evolution of the 287(g) Program and Its Potential Impacts on Local Communities.” 2008. Paper presented at the Police Foundation conference, The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties, Washington, DC, August 21-22, 2008.

Capps, Randolph and Michael E. Fix. 2005. “Undocumented Immigrants: Myths and Reality.” Urban Institute: Washington, DC, November 1. <http://urban.org/publications/900898.html>.

Carroll, Susan. 2008. “Harris County Jailers Can Access Huge Immigration Database.” *Houston Chronicle*, October 27.

Chishti, Muzaffar. 2002. “The Role of States in U.S. Immigration Policy.” *NYU Annual Survey of American Law* 58: 371-376.

Chishti, Muzaffar. 2006. “Enforcing Immigration Rules: Making the Right Choices.” *NYU Journal of Legislation and Public Policy* 10: 451-471.

Decker, Scott H., Paul G. Lewis, Doris Marie Provine, and Monica W. Varsanyi. 2008. “Immigration and Local Policing: Results from a National Survey of Law Enforcement Executives.” Paper presented at the Police Foundation conference, The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties, Washington, DC, August 21-22, 2008.

- Gladstein, Hannah, Annie Lai, Jennifer Wagner, and Michael Wishnie. 2005. "Blurring the Lines: A Profile of State and Local Police Enforcement of Immigration Law Using the National Crime Information Center Database, 2002-2004." Migration Policy Institute: Washington, DC, December. http://www.migrationpolicy.org/pubs/MPI_report_Blurring_the_Lines_120805.pdf.
- Gonzales, Roberto G. 2008. "Why Integration Matters: The Case of Undocumented Immigrant Youth and Moving Beyond Enforcement." Paper presented at the Police Foundation conference, The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties, Washington, DC, August 21-22, 2008.
- Gordon, Phil. 2008. Keynote address at the Police Foundation conference, The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties, Washington, DC, August 21-22, 2008.
- Harris, David A. 2006. "The War on Terror, Local Police, and Immigration Enforcement: A Curious Tale of Police Power in Post-9/11 America." *Rutgers Law Journal* 38: 1-60.
- Immigration Policy Center (IPC). 2007. "Undocumented Immigrants as Taxpayers." Immigration Policy Center: Washington, DC, November 29. <http://immigration.server263.com/images/File/factcheck/Undocumented%20as%20Taxpayer%2011-29-07.pdf>.
- International Association of Chiefs of Police (IACP). 2004. "Enforcing Immigration Law: The Role of State, Tribal, and Local Law Enforcement." International Association of Chiefs of Police: Alexandria, VA. <http://www.theiacp.org/Portals/0/pdfs/Publications/ImmigrationEnforcementconf.pdf>.
- Kalhan, Anil. 2008. "Immigration Enforcement and Federalism After September 11, 2001." In *Immigration, Integration, and Security: America and Europe in Comparative Perspective*, edited by Arianne Chebel d'Appollonia and Simon Reich. Pittsburgh: University of Pittsburgh Press. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1145666#.
- King, Martha, ed. 2006. *Justice and Safety in America's Immigrant Communities*. Policy Research Institute for the Region, Woodrow Wilson School of Public and International Affairs. Princeton University: Princeton, NJ.
- Lopez, Mark Hugo and Susan Minushkin. 2008. "2008 National Survey of Latinos: Hispanics See Their Situation in U.S. Deteriorating; Oppose Key Immigration Enforcement Measures." Pew Hispanic Center: Washington, DC, September 18. <http://pewhispanic.org/reports/report.php?ReportID=93>.
- Macropoulos, Angela. 2008. "In Mourning an Immigrant, a Call for Unity on Long Island." *The New York Times*, November 15. NY/Region section.
- Major Cities Chiefs Association. 2006. *MCC Immigration Committee Recommendations for the Enforcement of Immigration Laws by Local Police Agencies*, June. http://www.majorcitieschiefs.org/pdfpublic/mcc_position_statement_revised_cef.pdf
- Media Matters Action Network Report. 2008. "Fear & Loathing in Prime Time: Immigration Myths and Cable News," May 21. http://mediamattersaction.org/reports/fearandloathing/online_version.
- Moore, Mark H. 1992. "Problem-Solving and Community Policing." In *Modern Policing*, edited by Michael Tonry and Norval Morris, 99-158. Chicago: University of Chicago Press.
- Morawetz, Nancy and Alina Das. 2008. "Legal Issues in Local Police Enforcement of Federal Immigration Law." Paper presented at the Police Foundation conference, The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties, Washington, DC, August 21-22, 2008.
- Nadler, Richard. 2008. "Immigration and the Wealth of States." Americas Majority Foundation: Overland Park, KS, January. <http://www.amermaj.com/ImmigrationandWealth.pdf>.
- Olivas, Michael. 2007. "Immigration-Related State and Local Ordinances: Preemption, Prejudice, and the Proper Role for Enforcement." *University of Chicago Legal Forum* 27-56.
- Passel, Jeffrey. 2008. "Unauthorized immigrants: Trends, characteristics, and surprises." Presentation at the Police Foundation conference, The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties, Washington, DC, August 21-22, 2008.
- Passel, Jeffrey and D'Vera Cohn. 2008. "Trends in Unauthorized Immigration: Undocumented Inflow Now Trails Legal Inflow." Pew Hispanic Center: Washington, DC, October 2. <https://pewhispanic.org/files/reports/94.pdf>.
- Pham, Huyen. 2005. "The Constitutional Right Not to Cooperate? Local Sovereignty and the Federal Immigration Power." *bepress Legal Series*, Working Paper 771, September 11. <http://law.bepress.com/expreso/eps/771>.
- Porter, Eduardo. 2005. "Illegal Immigrants Are Bolstering Social Security With Billions." *The New York Times*, April 5, Business/Financial Desk.
- Raymond, Barbara, Laura J. Hickman, Laura Miller, and Jennifer S. Wong. 2005. "Police Personnel Challenges After September 11: Anticipating Expanded Duties and a Changing Labor Pool." RAND Occasional Paper. RAND Corporation: Santa Monica, CA. http://www.rand.org/pubs/occasional_papers/2005/RAND_OP154.pdf.

Rodriguez, Cristina, Muzaffar Chishti, and Kimberly Nortman. 2007. "Testing the Limits: A Framework for Assessing the Legality of State and Local Immigration Measures." Migration Policy Institute: Washington, DC. http://www.migrationpolicy.org/pubs/NCIIP_Assessing%20the%20Legality%20of%20State%20and%20Local%20Immigration%20Measures121307.pdf.

Rumbaut, Rubén. 2008. "Undocumented Immigration and Rates of Crime and Imprisonment: Popular Myths and Empirical Realities." Paper presented at the Police Foundation conference, The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties, Washington, DC, August 21-22, 2008.

Seghetti, Lisa M., Stephen R. Viña, and Karma Ester. 2005. "Enforcing Immigration Law: The Role of State and Local Law Enforcement." Congressional Research Service, updated October 13.

Singer, Audrey. 2004. "The Rise of New Immigrant Gateways." Center on Urban and Metropolitan Policy, The Brookings Institution: Washington, DC, February. http://www.brookings.edu/reports/2004/02demographics_singer.aspx.

Singer, Audrey. 2007. "The Impact of Immigration on States and Localities." Testimony presented before the House Committee on the Judiciary, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, May 17. http://www.brookings.edu/testimony/2007/0517demographics_singer.aspx.

U.S. Immigration and Customs Enforcement (ICE). 2008. "Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act," last modified November 17. http://www.ice.gov/partners/287g/Section287_g.htm.

U.S. Immigration and Customs Enforcement (ICE). 2008. "Operation Community Shield: Targeting Violent Transnational Street Gangs," last modified November 12. <http://www.ice.gov/pi/news/factsheets/opshieldfactsheet.htm>.

Venbrux, Greg K. 2006. "Devolution or Evolution? The Increasing Role of the State in Immigration Law Enforcement." *UCLA Journal of International Law and Foreign Affairs* 11.