



ARCHIVED - Archiving Content

Archived Content

Information identified as archived is provided for reference, research or recordkeeping purposes. It is not subject to the Government of Canada Web Standards and has not been altered or updated since it was archived. Please contact us to request a format other than those available.

ARCHIVÉE - Contenu archivé

Contenu archivé

L'information dont il est indiqué qu'elle est archivée est fournie à des fins de référence, de recherche ou de tenue de documents. Elle n'est pas assujettie aux normes Web du gouvernement du Canada et elle n'a pas été modifiée ou mise à jour depuis son archivage. Pour obtenir cette information dans un autre format, veuillez communiquer avec nous.

This document is archival in nature and is intended for those who wish to consult archival documents made available from the collection of Public Safety Canada.

Some of these documents are available in only one official language. Translation, to be provided by Public Safety Canada, is available upon request.

Le présent document a une valeur archivistique et fait partie des documents d'archives rendus disponibles par Sécurité publique Canada à ceux qui souhaitent consulter ces documents issus de sa collection.

Certains de ces documents ne sont disponibles que dans une langue officielle. Sécurité publique Canada fournira une traduction sur demande.

CRITICAL ISSUES IN POLICING SERIES:

Police Chiefs and Sheriffs Speak Out On Local Immigration Enforcement



POLICE EXECUTIVE
RESEARCH FORUM

CRITICAL ISSUES IN POLICING SERIES:

Police Chiefs and Sheriffs Speak Out On Local Immigration Enforcement

April 2008



POLICE EXECUTIVE
RESEARCH FORUM

This publication was supported by the Motorola Foundation. The points of view expressed herein are the authors' and do not necessarily represent the opinions of the Motorola Foundation or individual Police Executive Research Forum members.

Websites and sources listed provide useful information at the time of this writing, but authors do not endorse any information of the sponsor organization or other information on the websites.

Police Executive Research Forum, Washington, D.C. 20036
Copyright 2008 by Police Executive Research Forum

All rights reserved

Printed in the United States of America

ISBN: 978-1-934485-05-7

Edited by Craig Fischer

Cover and interior design by Dave Williams. Cover photos depicting protest rally, community meeting, and police training session courtesy of the Prince William County, Va. Police Department. Other cover photos courtesy of U.S. Immigration and Customs Enforcement.

Contents

Acknowledgments.....	i	Working with Immigration and Customs Enforcement (ICE)	22
Foreword.....	iii	Participation in the 287(g) Program Is Small, But Growing.....	25
Introduction.....	1	Should Illegal Immigrants Be Allowed to Obtain Official Driver’s Licenses or Other Identification Credentials?	27
Some Immigration Basics	3	The Need for a Federal Policy.....	30
State and Local Action On a National Issue	5	There Are Some Points of General Consensus	32
Why Is Illegal Immigration Such a “Hot-Button” Topic?	8	Conclusion	33
Most State and Local Jurisdictions Lack Written Policies on Immigration	11	<i>By PERF Executive Director Chuck Wexler</i>	
What Are the Relationships Between Illegal Immigrants And Crime?	12	About the Police Executive Research Forum	36
Illegal Immigrants as Victims Of, and Witnesses to, Crime	14	About the Motorola Foundation	38
If Local Police Enforce Immigration Laws, Will Illegal Immigrants Be Even Less Likely to Report Being a Victim of Crime?	15	Appendices	
What Are the Current Policies And Practices of Local Law Enforcement Agencies?.....	17	A. Major Cities Chiefs Immigration Committee Recommendations for Enforcement of Immigration Laws By Local Police Agencies	39
Should Immigration Status Be Checked for Minor Offenders?.....	19	B. Prince William County, Virginia, Police Department’s General Order on Law Enforcement Response to Illegal Immigration.....	50
“Probable Cause” and a Cloudy Legal Picture	20	C. 287(g) Memorandum of Agreement Between Immigration and Customs Enforcement (ICE) and the Collier County, Florida Sheriff’s Department.....	59

D. Mesa, Ariz. Police Field Manual, Subject: Arrest—Undocumented Foreign Nationals	77	I. New Haven, Conn. Department Of Police Service General Order 06-2, Re. Disclosure of [Citizenship] Status: Policies and Procedures.....	94
E. Gilbert, Ariz. General Order on Contacts with Immigration and Customs Enforcement.....	81	J. Seattle Police Department Directive: Inquiries into Immigration Status.....	98
F. Virginia Beach, Va. Police Department General Order Regarding Enforcement of Immigration Laws	83	K. Garden Grove, Calif. Police Department, General Order 17.3: Immigration Violations	100
G. Washington, D.C. Metropolitan Police Department, Statement By Chief Cathy L. Lanier Clarifying MPD Policy with Respect to Collaboration with Federal Immigration Authorities.....	87	L. Milwaukee Police Department Immigration Enforcement Policy.....	104
H. Indio, Calif. Police Department Policy 428: Immigration Violations.....	90	M. Chilling Effect and the Enforcement of Immigration Law..... <i>By Collier County, Fla. Sheriff Don Hunter</i>	108
		N. Participants at the PERF Immigration Summit Washington, D.C., November 2, 2007	115



Acknowledgments

PERF'S IMMIGRATION SURVEY WOULD NOT HAVE produced useful findings, and our Immigration Summit would not have been possible, without the strong cooperation of our member chiefs, sheriffs, and other law enforcement executives. I am grateful to the members of PERF for their constant willingness to provide us with information when we ask for it, to make time in their busy schedules to travel to our Summit conferences, and to share their wisdom with us on the critical issues in policing.

I'd like especially to thank several friends of PERF who helped write and test our immigration survey in order to ensure that it zeroed in on the key issues: Chief Charlie Deane (and Sgt. Eileen Welsh) of Prince William County, Va.; Chief Darrel Stephens of Charlotte-Mecklenburg, N.C.; Chief Kim Dine of Frederick, Md.; Chief Jim Burack of Milliken, Colo.; Deputy Director Craig Ferrell of Houston; Chief Al Najera of Sacramento, Calif.; and Chief Gil Kerlikowske of Seattle. Thanks also to the many police departments that sent us copies of their immigration policies.

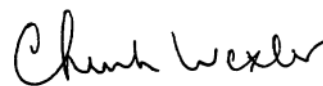
Thanks also to Chief Darrel Stephens and to Jim Pendergraph, a former sheriff and now Executive Director of State and Local Coordination at ICE, for reviewing a draft of this report and sharing their expertise with us.

And of course PERF's work on the immigration issue, like all of our initiatives in the "Critical Issues in Policing" Series, is made possible by the continued generous assistance of the Motorola Foundation. A special thank-you goes to Greg Brown, President and CEO of Motorola; Mark Moon, Corporate Vice President and General Manager; Gino Bonanotte, Vice President, Finance; Eileen Sweeney, Director, Corporate and Foundation Philanthropic Relations; and Rick Neal, Vice

President, Government Strategy and Business Development, who champions the Critical Issues in Policing Series and who came to Washington to participate in the Summit.

I also would like to recognize Chief Charlie Deane, for whom I have enormous respect. He inspired us to study this complex question of immigration enforcement.

Many PERF staffers contributed to the success of this project, starting with my indefatigable chief of staff, Andrea Luna, who provided overall direction along with her dedicated research associate, Elizabeth Sanberg. Our Senior Research Associate Bruce Kubu, Senior Associate Jim Cronin, and Research Assistant Nate Ballard did a terrific job compiling and analyzing the mountains of data produced by the survey. Emily Milstein-Greengart, Amanda Detterline, and Rebecca Neuburger made sure the Immigration Summit ran smoothly so that participants could devote themselves to the difficult issues under discussion. Freelance writer Debra Whitcomb pulled together all of the information and viewpoints from the survey and the Summit, and did an excellent job of synthesizing it into this report. And Craig Fischer deserves special appreciation once again for making sense of this issue and for working with Debra and with PERF's talented graphic design guru, Dave Williams, to produce the final document.



**Executive Director
Police Executive Research Forum
Washington, D.C.**



Foreword

SOMETIMES WE AT PERF HAVE TO THINK HARD WHEN we try to identify the emerging issues in policing that we believe will be the most important or difficult problems for police chiefs and sheriffs in the future. Often it isn't easy to predict the future accurately and to say with any certainty, "Here is something that will be occupying the attention of thousands of police executives next year, or two years from now."

The immigration issue is not one of those issues that remained hidden and then surfaced suddenly and unexpectedly. The immigration issue is a freight train that has been barreling down the tracks toward us for some time, whistle blaring. Here's one example of what I mean by that: For more than a year, anyone who has been attending PERF's Town Hall Meetings, where police chiefs and other leaders are invited to speak out on any issue they choose, cannot help but have noticed that the immigration issue spontaneously becomes the hot-button issue whenever there is an open forum of police leaders.

I've also noticed that at our meetings, chiefs, sheriffs, and others express differing views about what the immigration issue means in their jurisdictions, but the range of opinions is relatively limited, compared to the shout-fests that you see on TV news and opinion programs.

Some chiefs do not believe that local law enforcement agencies should spend much of their limited resources to take on what has essentially been the federal responsibility for illegal immigration enforcement in our communities. And many are concerned that tougher immigration enforcement on the local level will threaten the advances we have made in community policing over the last 20 years.

Some chiefs and sheriffs point to facts and figures indicating that illegal immigrants commit a sizeable portion of their local crimes, and these police executives think they have no choice but to work as closely as they can with federal authorities to arrest, prosecute, incarcerate, and eventually deport these offenders. For these chiefs, immigration enforcement is a primarily a matter of local crime control and public safety.

On the immigration issue, as with so many other issues, I have noticed that police leaders' views are far more reasonable, measured, based on solid facts, and "grounded in reality" than the views of so many of the pundits and elected officials that you hear on the airwaves.

Unfortunately, often the most extreme views are expressed by everyday people at local city council meetings and other public hearings. It seems that the exaggerated and overwrought opinions expressed by TV pundits or politicians get "adopted" by their listeners, and then these immoderate views become the basis of discussion at the public forums where real policies are hammered out.

Often I wish that when the American people take up a difficult issue like immigration, the views of police chiefs and sheriffs would receive a larger share of the attention, commensurate with the knowledge and wisdom that police executives have gained from working on the front lines of many of the nation's most difficult problems for so many years.

Perhaps this report can take us a step in that direction, by providing a base of information about what police and sheriffs' departments currently are doing regarding immigration enforcement, along with a reporting of police executives' views on the

issue, the views they expressed to each other at a recent Summit meeting convened by PERF.

Specifically, PERF conducted a survey of its members in October 2007, in which we asked police executives whether illegal immigration was a high-profile issue in their jurisdiction, whether their department has written policies on immigration enforcement, what their practices are regarding checking the immigration status of arrestees and others, whether they work with federal authorities from Immigration and Customs Enforcement (ICE), and many other questions.

The survey produced an introductory base of knowledge about immigration enforcement at the local level. For example, most of the survey respondents reported a perception that the number of illegal immigrants arriving in their jurisdiction has increased “substantially” over the last five years. However, a large majority said their departments had no written policy on checking people’s immigration status. Despite this lack of written policies, most departments said they do conduct immigration status checks under certain circumstances.

PERF followed up its survey by hosting an Immigration Summit on November 2, 2007 in Washington, D.C. Police chiefs, sheriffs, mayors,

federal officials, and others convened to compare information about how the hot-button immigration issue is playing out in their jurisdictions, and what they are doing to shape the direction of policies in their communities.

This report summarizes what we learned from the PERF Immigration Survey and the November Summit meeting. And we attempted to go beyond summarizing the various officials’ experiences and recommendations. To the extent possible, we tried to find areas of consensus, where there was strong general agreement among the PERF chiefs and sheriffs. This report looks to build on these points of consensus in order to provide guidance to the many chiefs and sheriffs who will be addressing immigration issues in their communities.

It is clear that the immigration issue will not go away any time soon. Rather, it appears that thousands of American communities are just beginning to ask themselves how they want their local police and sheriffs’ departments to handle the immigration question. We hope that this report will help inform these debates, and will serve as a launching pad for further discussion of immigration-related questions within the policing community.

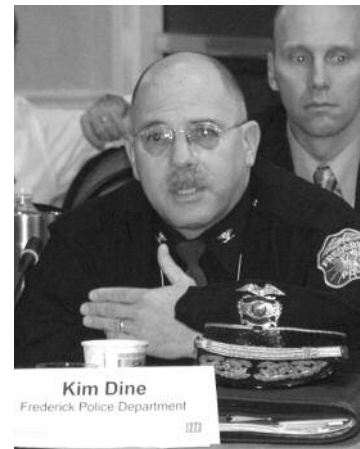
Chuck Wexler

Introduction

“We need a rational, logical, thoughtful policy, some kind of bright line by which police departments can operate. I think there’s general agreement in law enforcement that once someone is arrested for an offense, it makes sense to check their immigration status, just as we would check to see if there was an outstanding warrant from some other state. Because this takes place on the ‘back end,’ after the person has been arrested and is in jail, it obviates complaints of racial profiling and discrimination, and focuses on lawbreakers. On the other hand, I think we can all agree, from what we have heard from ICE officials, that if everyone who’s arrested and determined to be here illegally were turned over to ICE, they could not handle the workload.

“What is missing is a sensible national policy with a standardized approach regarding immigration, including defined sanctions for illegal immigrants who commit various crimes. Without such a policy, we spin our wheels and end up in the middle of a political debate that seems to generate hate and fear. This is not productive, because most local departments continue to believe that building trust and communication with all of our communities, especially our minority communities, is a key component of effective and enlightened policing.”

—FREDERICK, MD. CHIEF KIM DINE



ACROSS THE COUNTRY, IN COMMUNITIES LARGE AND small, residents and policy makers are grappling with the issues raised by a population of immigrants who have entered the United States illegally. For state and local police and sheriffs’ departments, the main issues are the extent to which they should be involved in inquiring about immigration status during encounters on the street, reporting non-criminal illegal immigrants to federal authorities, and otherwise helping to enforce federal immigration laws. Most police departments have traditionally considered immigration law a federal responsibility. Indeed, the federal government has clear authority

over immigration enforcement, while the authority of local police in this area is a complicated legal issue, largely because federal immigration laws have both criminal and civil components, and the role of local police is generally limited to criminal matters. State and local laws place additional layers of complexity on the question of the role of local police in this area.

However, local political leaders increasingly are asking local police departments to take a larger role in immigration enforcement, and state and local governments have been adopting varying and sometimes conflicting policies.

In October 2007, the Police Executive Research Forum (PERF) surveyed its members to learn their perspectives on the nature and magnitude of the problem, its impact on their communities, and the actions their departments are taking. PERF then followed up by convening a one-day Summit conference of 69 police chiefs, sheriffs, and other law enforcement executives, representing a cross-section of the PERF membership, along with nine of their local officials (mayors, town managers, and county executives), and federal government officials and others. The goals of the Summit, held on November 2, 2007 in Washington, D.C., were to articulate the issues facing police departments today, to identify areas of consensus, and to highlight promising policies and practices.

This report summarizes the experiences, observations and recommendations that emerged from the survey and the Summit.



Tom Wolfe attended the Summit at the invitation of Chief John Timoney. Mr. Wolfe, author of *The Right Stuff*, *The Bonfire of the Vanities*, *The Electric Kool-Aid Acid Test*, and other best-sellers, is conducting research for a book about immigration.

Some Immigration Basics

THE DIVISIVENESS OF ILLEGAL IMMIGRATION AS A political issue is reflected in the fact that the terms used in the debate are themselves sensitive and politically charged. The term “alien” is used in the federal Immigration and Nationality Act (INA) to refer simply to “any person not a citizen or national of the United States.” This includes temporary visitors and lawful permanent residents. “Illegal alien” refers to anyone who has entered the United States illegally and is deportable, or anyone who has “overstayed a visa” or otherwise violated the terms of a legal admission.

However, the terms “alien” and “illegal alien” have come to have a political meaning as well. Those in favor of strict enforcement of immigration laws often use the terms to emphasize that people are breaking the law. Those favoring more limited enforcement tend to avoid using those words, saying that “alien” has a connotation of “less than human” and that calling a person “illegal” suggests that the person is inherently illegal, as opposed to the illegality of a person’s actions in entering the United States without permission. Those who avoid saying “illegal alien” often prefer the term “undocumented immigrant.” Advocates of strict policies consider that term a euphemism.

The term “illegal immigrant,” which will generally be used in this report, includes several categories of individuals who are subject to removal from the United States for a variety of reasons defined by the federal Immigration and Nationality Act. In general, an individual may be considered

“removable” because he or she does not qualify for admission to the United States, has entered the country illegally by crossing the border without formal inspection, or has violated the terms of a legal admission, for example, by entering the country on a student visa and then dropping out of school.¹

A key point that is critical to understanding the issues for local police is that the Immigration and Nationality Act is a very complex mix of both criminal and civil components. Being illegally present in the United States is a civil, not criminal, violation of the INA, and subsequent deportation processes are civil proceedings. For example, lawfully admitted persons may become deportable if their visitor’s visa expires. Criminal violations of the INA can include the illegal entry of aliens, bringing and harboring certain undocumented aliens, and the reentry of persons who have already been deported on one or more occasions.

Persons who are identified as illegal immigrants may be brought before the Immigration Court for a removal proceeding. Individuals who fail to appear for this proceeding, or who fail to comply with a resulting court order, are considered absconders. Their identifying information is then entered into the National Crime Information Center (NCIC) database, which is routinely accessed by federal, state and local law enforcement agencies across the country to check for outstanding warrants. NCIC entries include both civil and criminal violations of immigration laws. A federal immigration “warrant” may be an administrative, or civil, document.

1. Executive Office for Immigration Review, *FY 2006 Statistical Yearbook*, Appendix A, Glossary, p. 16.

The key federal agency in this area, Immigration and Customs Enforcement (ICE), was created in March 2003 as part of the newly established Department of Homeland Security (DHS). ICE is the largest investigative arm of DHS, and its missions include enforcing immigration laws and protecting the United States against terrorism.

On September 30, 1996, the Illegal Immigration Reform and Immigrant Responsibility Act added Section 287(g), “Performance of immigration officer functions by State officers and employees,” to the Immigration and Nationality Act. Section 287(g) cross-designates local law enforcement officers, detectives, investigators and correctional officers to perform some immigration enforcement activities, provided that the officers have received appropriate training and that they function under the supervision of sworn ICE officers.²

ICE administers the Law Enforcement Support Center (LESC), which provides information from NCIC and other databases (the Interstate

Identification Index, the Student and Exchange Visitor Information System, other ICE databases, etc.) to state and local law enforcement officers about foreign nationals (persons who are not U.S. citizens or permanent residents) whom they encounter in their daily duties. LESG operates 24 hours a day, 365 days a year. In the 2007 fiscal year, LESG received 728,243 requests for information, setting a new record for assistance to other law enforcement agencies, according to ICE.

ICE investigates violations of immigration laws and identifies illegal immigrants who are removable from the United States. In the 2007 fiscal year ICE removed 276,912 illegal aliens from the United States, a record high number, according to the agency’s annual report.³ As a result, ICE was able to reduce the backlog of fugitive alien cases for the first time in history, from 632,726 on October 1, 2006 to 594,756 on October 1, 2007. On an average day, ICE houses nearly 30,000 illegal aliens in detention facilities nationwide.

2. http://www.ice.gov/partners/287g/section287_g.htm.

3. See http://www.ice.gov/doclib/about/iceo7ar_final.pdf.

State and Local Action On a National Issue

ACCORDING TO THE DEPARTMENT OF HOMELAND Security, Office of Immigration Statistics, the number of illegal immigrants in this country is growing steadily, from an estimated 8.5 million in 2000 to 10.5 million in 2005 and nearly 11 million by January 2006.⁴ Mexico was by far the leading source country, followed by El Salvador, Guatemala, India and China.⁵ To date, most illegal immigrants have settled in California, Texas, and Florida; but Georgia, Arizona, Nevada and North Carolina experienced the greatest percentage increases from 2000 to 2005.⁶

In June 2007, the Bush Administration introduced legislation with several strategies to address illegal immigration: tightening security at the borders; cracking down on employers who knowingly hire undocumented workers; establishing a legal mechanism for the hundreds of thousands of workers who enter the country each year to fill low-skill jobs; and providing a path to legal status for illegal immigrants now living in America. Congress failed to pass this bill, however, due to conflicts between those who favored stronger border enforcement and those who favored offering a path to citizenship.

Because federal lawmakers have been unable to set policy for the nation, state legislatures and local councils have been adopting various immigration

policies and programs, in response to increasing demands for action by local constituents. In the first six months of 2007 alone, 41 states passed new legislation related to immigrants and immigration.⁷ The national picture can perhaps best be described as a “crazy quilt,” running the gamut from requiring local police departments to enforce federal immigration law, to expressly prohibiting local law enforcement in so-called “sanctuary” communities from cooperating with their federal counterparts.

These variations were highlighted by two PERF members who attended the Immigration Summit, both from suburban Washington, D.C. area jurisdictions. Chief Charlie T. Deane of the Prince William County, Virginia, Police Department noted that elected officials in his community



Prince William County, Va. Chief Charlie T. Deane, Sacramento, Calif. Chief Albert Najera, and Collier County, Fla. Sheriff Don Hunter

4. M. Hoefer, N. Rytina, and C. Campbell (August 2006). “Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2005.” *Population Estimates*. U.S. Department of Homeland Security, Office of Immigration Statistics, Policy Directorate.

5. *Ibid.*

6. *Ibid.*

7. Immigrant Policy Project (August 6, 2007). *2007 Enacted State Legislation Related to Immigrants and Immigration*. National Conference of State Legislatures.

made national headlines last summer when they proposed legislation that would require county police officers to check the citizenship status of everyone they detain or arrest for a violation of a state law or municipal ordinance, even traffic violations.

The Board of County Supervisors scaled back the legislation significantly, adding a requirement that officers have probable cause to believe a person is in the country illegally in order to conduct a status check, after Chief Deane made a strongly worded statement to the board, warning of unintended consequences of the Board's initial proposal. "Community policing efforts will end," he said in written testimony. "This method of policing, which our county has embraced with impressive results, is based on the trust between the public and the police. Approximately 18 percent of our population is Hispanic, and that population will not respond to the current proposed legislation in a positive manner, but rather in a hostile and distrustful one."

Furthermore, Chief Deane warned the legislators, "Perceptions of racism will increase. Prince William County, which over the past few decades has had an outstanding reputation of inclusion, could be painted by the nation as a racist community intent on driving out a single population."

"I know we're all feeling the need for the county to do more about illegal immigration," Chief Deane concluded. "However, I'm concerned that if we don't strike the right balance in our policy, we will polarize the community and create more problems than we solve."

The elected officials heeded Deane's warnings and adopted a more moderate proposal in July 2007. Since then, the chief has been working with the legislators to implement the policy. Most recently, in February 2008 the chief recommended that the county install video cameras in patrol cars, in order to protect officers and the department against complaints of racial profiling as they implement the new requirements for immigration status checks.

At the other end of the spectrum is Takoma Park, Maryland, which has had a sanctuary ordinance since 1985. In 2007, when the ordinance came up for renewal, Chief Ronald Ricucci asked the city council to make one modification that would allow police, when encountering a person wanted on an immigration warrant in the NCIC, to call ICE to obtain more information about the warrant. Under Chief Ricucci's proposal, if ICE advised the local police that the subject had previously been deported for committing a violent felony, the local police could detain the person. But the city council unanimously refused to make the change. Councilmember Terry Seamens said that if Chief Ricucci's amendment has been approved, "Takoma Park would no longer be a sanctuary city. It would have allowed our police to treat people differently based on where they were born."

Chief Ricucci said the outcome was that "we do not check anything to do with immigrant status. If we get an ICE hit, we can go no further. We cannot talk with ICE, we cannot cooperate with ICE."



FAR LEFT: Takoma Park, Md. Chief Ronald Ricucci and Framingham, Mass. Chief Steven Carl

LEFT: Richmond, Calif. Chief Chris Magnus

“We’re going to continue to do our job; it just handcuffs us,” Ricucci added. He expressed concern about the possibility of a police officer or resident of the community being hurt by an illegal immigrant with a long criminal record because the sanctuary policy did not allow police to investigate a suspect’s legal status. “I told the council and my mayor that they have to realize, ‘If something goes wrong, it’s on you. It’s on you if one of my officers gets killed in the line of duty because we couldn’t go that one step further.’”

Like Chief Ricucci, Chief Deane noted that the immigration issue is a divisive one. “From the beginning we knew this would polarize the community,” Chief Deane said. “On the radio the other day I was asked how I would approach this if I were making all the decisions. I said I’d like to go into this in a non-election year. Already, the community

reaction has been very dramatic. We had a 12-hour public hearing recently. Citizens were given three minutes to speak, so you can imagine how many people spoke.”

As mentioned, even the terms used in the debate are hotly contested. Federal immigration law uses the term illegal “alien” to describe foreign nationals in the United States, but the term “illegal alien” is politically volatile in many communities. In Richmond, California, the limits on terminology go farther. “I have been counseled not to use the term ‘illegal immigrant’ by some elected officials,” said Richmond Chief Chris Magnus. “They prefer to say ‘undocumented’ immigrants. We are not allowed to use in any of our materials the word ‘citizen.’ We are to refer to ‘residents,’ not ‘citizens.’ When it comes to this issue, there is no question that there are very strong feelings about immigration.”

Why Is Illegal Immigration Such a “Hot-Button” Topic?

MORE THAN HALF OF THE POLICE AND SHERIFFS’ departments that responded to PERF’s immigration policy survey believed that the population of illegal immigrants in their communities has increased more than 10 percent over the last five years.

Four out of five respondents said that illegal immigration issues figured “some” or “quite a bit” in local concerns.

Why is illegal immigration such a controversial issue across the country? Many chiefs and sheriffs at the PERF Immigration Summit said that the public dialogue often fails to differentiate between immigrants who entered the country illegally and others who arrived through lawful means. At community meetings, people often complain about problems in their neighborhoods that may or may not be attributable to illegal immigrants. For example, some contend that immigrants crowd too many people into houses, driving down property values. Or they create parking problems because there are so many adults living in the same house. Or they congregate at the local convenience store, or drive without licenses and insurance, or force local schools to shift priorities toward English-as-a-second-language courses, and so on. Some complain that illegal immigrants work at jobs that pay them in cash, so they don’t pay taxes, yet their children attend local schools, driving up class sizes. And others believe that illegal immigrants commit a disproportionate amount of crime.

All of those types of things can add up to residents of a community feeling uncomfortable and threatened, said Irving, Texas Police Chief Larry Boyd. “Immigration has created a rapid change

Figure 1. Trends in Illegal Immigration
Respondents perceived that the illegal immigrant population in their jurisdiction over the last 5 years has...

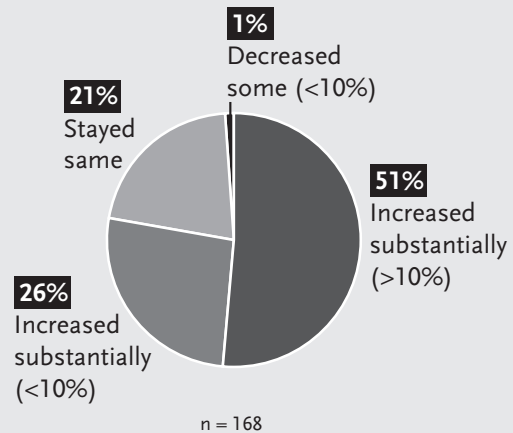
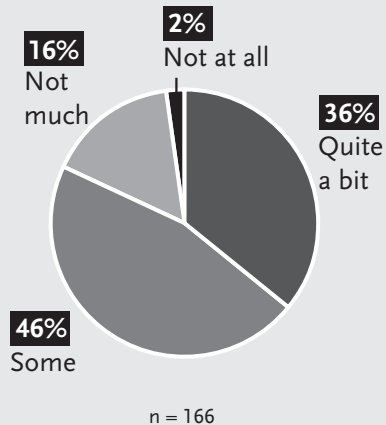


Figure 2. How prominently do illegal immigration issues figure in local concerns?



from what Irving looked like to residents who have been there for the last 30 years,” Chief Boyd said. “Irving looks much different today than it did 15 or 20 years ago, and it’s frightening to a lot of people.”

Chief Darrel Stephens of Charlotte-Mecklenburg agreed that concern about immigrants in general has driven the recent push to have police crack down on illegal immigration. And he noted that the feeling about immigrants has changed over the last decade: “When I first went to Charlotte [in 1999], the biggest immigration issue was not having enough police officers who spoke Spanish,” he said. “There were newspaper articles condemning the police and other agencies for not having enough people who could communicate in the same languages as our immigrants. We were busy trying to hire people who were bilingual, trying to fill the gap to stem the criticism. And up until about two years ago, most people in the community said ‘That’s really great; you guys are responsive, and you’re trying to deal with the problem [of not having enough bilingual officers] the best you can.’ But about two years ago, it hit us like a ton of bricks, people in the community were looking around and seeing signs that weren’t in English, feeling pressure in the schools, and all of a sudden, people said, ‘It’s illegal; it’s a crime to be here illegally; and you guys need to do something about it.’”

Sacramento Chief Albert Najera indicated that in his view, the immigration issue is controversial because there is another controversial issue

underlying it: racism. “There’s an 800-pound gorilla sitting in the corner that we’re not talking about, and that’s the race issue,” he said. “There’s all these brown people who are coming into our communities. We have a long history of this. The Japanese were interned during World War II, completely illegally. Their property was taken from them and they were put in prison camps. We didn’t put Germans in prison camps, we didn’t put Italians in prison camps, but we did with the Japanese-Americans. And their perspective is that it’s because they look different. That is a human failure, that we tend to ostracize people who look different.”

Other participants noted that the cataclysmic impact of the September 11, 2001 attacks has tended to make people more fearful of others whose appearance is not like their own.

Finally, many chiefs at the PERF Summit said that the immigration issue has proved too tempting for politicians looking for a “wedge” issue. “Politicians have been using this issue to frighten people for political gain,” one chief said. Another chief said: “I can tell you that where I come from, people are getting elected on this issue alone. We had a council member come up for reelection, a young Latino council member, and somehow he got labeled as pro-immigration. Well, that’s a death knell. This particular councilor was voted out and another councilor was voted in, just for being ‘anti-immigrant,’ whatever that means.” Another chief said his jurisdiction has been conducting citizen



Montgomery County, Md. Chief Thomas Manger



Irving, Texas Chief
Larry Boyd



Sacramento, Calif. Chief
Albert Najera

surveys about police services for years, and until recently, immigration was not even mentioned as an issue. But suddenly immigration became the top issue in his jurisdiction. Asked why he believed that happened, the chief responded: “Why now? Local elections, that’s why now.”

Providence, Rhode Island Chief Dean Esserman predicted that the immigration issue will not vanish as quickly as it arrived, because it is part of a global “megatrend” toward urbanization: “I think what we’re facing is part of a much bigger megatrend,” he said. “And the trend is we are becoming

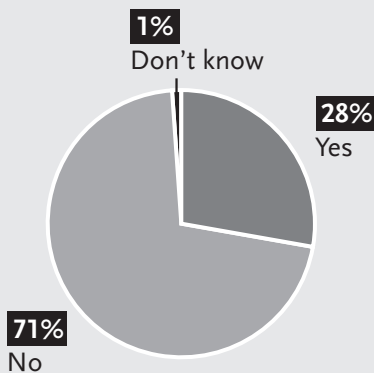
more urban. This is the year that the planet becomes majority urban. It’s a huge trend taking place on the planet. The United States is already predominantly an urban nation; the majority of all of us live in cities, and it’s been that way for some time. There’s a new migration inflow, people moving out of the countryside toward cities, across the globe. This conversation about immigration is going on with the same passion right now in London, Paris, Rome, Dublin.... Immigration will become an even more passionate issue in the years ahead.”

Most State and Local Jurisdictions Lack Written Policies on Immigration

DESPITE THE INTENSITY OF EMOTION IN THE DEBATE over illegal immigration, fewer than one-third of the jurisdictions represented in the PERF survey had enacted any policy, law or mandate concerning local enforcement of immigration laws.

Among those jurisdictions where a relevant policy, law or mandate exists, 11 departments are prohibited from checking the immigration status of detainees, 13 “may” check immigration status, and only 4 departments “should” check the status of *all* detainees.

Figure 3. Has your city, county or state government enacted any policy, law or mandate concerning the enforcement of immigration laws by local law enforcement?



n = 163

Of the departments that answered “yes”:

- 9 departments are **prohibited** from checking status of detainees
- 12 departments **may** ask/check status of detainees if illegal immigration is suspected
- 4 departments **should** check status of all detainees

What Are the Relationships Between Illegal Immigrants And Crime?

AMONG THE CONCERNS EXPRESSED IN THE PUBLIC debate is a perception by some that illegal immigrants contribute to increased crime. Some chiefs at the Summit expressed a strong belief that illegal immigrants are a significant factor in their local crime problems. Others said they believe that illegal immigrants are *less* likely to commit crime because most are here to work, and they try to avoid being noticed by the police for any reason.

Of course, it is possible that both perceptions reflect reality, because there may be wide variations in the extent to which illegal immigrants commit crimes in different communities. And even if illegal immigrants commit crimes at the same rate as legal residents and citizens of the United States, that can be a significant crime problem in jurisdictions with large numbers of illegal immigrants. Some chiefs believe they have a responsibility to do all they can to remove from their jurisdictions criminals who should not have been in the United States in the first place.

There has been surprisingly little research into the question of whether illegal immigrants increase crime levels in the community, and many of the existing studies have methodological problems, a recent report by the RAND Corporation noted.⁸ But participants at the Immigration Summit expressed strong views about whether illegal immigrants



Mesa, Ariz. Chief George Gascón

are contributing to crime in their jurisdictions.

Chief George Gascón of Mesa, Arizona, took issue with those who contend that illegal immigrants are responsible for a large proportion of crime. “I often hear talk about the scourge of crimes by immigrants who are here illegally,” Chief Gascón wrote in a recent op-ed article.⁹ “In fact, I have heard how unauthorized immigrants are responsible for as much as 90 percent of the serious crime in Mesa. The problem with this assertion is that it is not supported by the facts.” Specifically, Gascón wrote, Hispanics—whether legally in this country or not—accounted for 31.6 percent of all arrests in Mesa, and accounted for approximately 30 percent of the city’s population. Incarceration figures also led to the conclusion that “the criminality rate among Hispanics, whether they are here legally or not, is proportionate to their representation.”

From Chief Gascón’s perspective, local law enforcement officials “have a moral obligation to be honest with ourselves and with the people that we serve and to try to stop the spreading of misinformation. You see reports that ‘9,000 Americans are killed by illegal aliens every year.’ Even conservative think tanks have debunked that as mathematically impossible.”

Larry Mulvey, police commissioner in Nassau County, N.Y., also indicated that he does not

8. Hickman, Laura J. “Are Deportable Aliens a Unique Threat to Public Safety?” See <http://rand.org/news/press/2008/02/22/index1.html>.

9. George Gascón, “Crime and Immigration,” *The Arizona Republic*, Oct. 15, 2007, accessed at www.azcentral.com/arizonarepublic/viewpoints/articles/1015gascon1014.html.



**Collier County, Fla. Chief
Donald Hunter**



**San Diego Assistant Chief
William Maheu**



**U.S. Justice Dept. Civil
Rights Division Deputy Chief
Dan Weiss**

believe immigrants commit a disproportionate amount of crime in his jurisdiction. “Hispanics account for about 15 percent of our population and about 19 percent of our reported crime,” he said. “The gap is not huge.” And considering that demographic studies show that Hispanic males are more likely to be in the crime-prone years of the late teens and early 20s, he concluded that “Latino involvement in crime is no different.”

Conversely, Sheriff Don Hunter of Collier County, Florida, said that statistics justify a concern about illegal immigrants’ involvement in crime in his jurisdiction. “To get at the actual specifics of our local crime pattern regarding illegal immigration, we looked at our local jail population. We simply asked the people in jail, at five ‘snapshots’ in time, and we discovered that on average 24 percent of our jail population was willing to report that they were illegally present foreign nationals. I think I can translate the percentage of people in our jail to street crime. [Considering that 24 percent of the jail inmates *admit* being illegal immigrants,] I suspect that 24 to 30 percent of our crime problem would likely be associated with the presence of illegally present foreign nationals.”

Sheriff Hunter added: “We also looked at our felony warrants, and of all the warrants outstanding in our jurisdiction, 40 percent are for illegal aliens. We looked at our homicide warrants and verified that 60 percent are for illegal aliens. I may be cast as a zealot on this, but I think that represents a pretty significant public safety issue. For us not to be involved in enforcing immigration laws would constitute an unnecessary public safety and officer safety risk.”

Sheriff Hunter also noted that “mere presence

is not the only violation. Other violations of law must be committed simply to remain here. For instance the undocumented person must acquire some form of identification and authorization in order to get employment, and you have to have an employer who’s willing to look the other way—also a violation of law.” Illegal identification credentials often are manufactured by organized criminal groups, he added.

“My position has been that we should not equivocate in our law enforcement duties by applying wholesale discretion on the application of law,” Hunter concluded. “I think we should enforce the immigration law.” At the same time, he added, police exercise situational discretion in many areas. “If I stop a mom for a speeding violation and find that she’s on the way to the ER with a sick child, I’d probably escort her there. I certainly won’t issue a traffic citation to her. I think the same situational discretion can be applied in the immigration realm.”

Some chiefs noted that one type of crime attracts their attention more than any other. “Several months ago one of my officers was killed by an illegal immigrant,” said Phoenix Chief Jack Harris. The chief was referring to Officer Nick Erfle, who was shot to death as he tried to arrest Erik Martinez, a Mexican national with warrants for aggravated assault and other crimes. After shooting Officer Erfle, Martinez escaped by committing a carjacking and taking the driver hostage. A short time later, a Phoenix police tactical squad spotted the car and shot Martinez to death when he raised his gun to the hostage. Officer Erfle, who was 33, left a wife and two sons under the age of five.

Illegal Immigrants as Victims of, And Witnesses to, Crime

SEVERAL SUMMIT PARTICIPANTS EXPRESSED CONCERN over the victimization of illegal immigrants. “Not only do we have heavy involvement in terms of illegal immigrants involved in crimes, in particular gang-related crimes, but we found on the other side we also have disproportionate involvement as victims of crimes,” said Chief Chris Magnus of Richmond, Calif. “A lot of our crime involves individuals who are here illegally who are victims or witnesses to it, and getting them to report that is very difficult.”

Chief Charlie Deane of Prince William County, Va. agreed. “I think that we would conclude that illegal immigrants are victimized more often, in a very specific way,” he said. “They’ve been a significant part of our increase in robberies.” Because illegal immigrants often lack identification papers, they may have trouble opening bank accounts, and even if they can open an account, many are reluctant to do so because they don’t know whether the bank might report them to the authorities. “Illegal immigrants are being robbed because they are known to carry cash,” Chief Deane said.

Sheriff Don Hunter of Collier County, Fla. agreed that illegal immigrants may well not contact the police when they are victims of crime, especially those illegally present victims from Central and South American countries where there is significant corruption in police forces. “If as a result of cultural disposition they don’t trust us, they don’t come forward to report, as best as we can determine,” he said. “Law enforcement agencies across this nation



**Washington, D.C. Assistant Chief
Joshua Ederheimer**

discover crimes that haven’t been reported, so I know that some of that is happening. The National Institute of Justice reports that only 42 percent of the victimization in the U.S. is currently reported to law enforcement even now, while sanctuary cities flourish in some of our largest jurisdictions.”

Chief Darrel Stephens of Charlotte-Mecklenburg, N.C. agreed. “Latinos in Charlotte are victimized much more than the rest of the population,” he said. “They’re considered an easy ‘hit.’ They’ve got cash on them. A lot don’t report being victimized. In fact, a few years ago our robbery rate increased significantly after we established our International Relations Unit. In the past couple of years, however, we have seen indications that crime reporting has declined. That is a huge concern to me.”

If Local Police Enforce Immigration Laws, Will Illegal Immigrants Be Even Less Likely to Report Being a Victim of Crime?

MANY PARTICIPANTS PREDICTED THAT INCREASED enforcement of immigration law will have a significant chilling effect on crime reporting in immigrant communities. Fear of arrest and deportation will give illegal immigrants an even greater incentive to stay “under the radar” and avoid drawing attention to themselves. If crimes are being committed that are not reported, it can undercut a police department’s overall crime-fighting efforts, many chiefs noted. “If you’re a victim, we need to know, regardless of your resident status,” said Miami Chief John Timoney.

As shown in Figure 4, a majority of survey respondents believed that greater immigration enforcement at the local level would cause reported crime to decrease.

Many chiefs also expressed concern that the recent focus on immigration is jeopardizing the value of years of work they have done attending to their relationships with their local community.

“This definitely has the potential to impact unreported crime,” said Irving, Texas Police Chief Larry Boyd. “It will definitely impact our ability to interact with the Latino community in Irving.”

Chief Steven Carl of Framingham, Massachusetts, described three homicides in a 12-month period among the undocumented Brazilian community in his jurisdiction, all of which could have been prevented, in his view, if the illegal immigrants had not feared calling the police. In one case, for example, a woman and her 11-year-old son were beaten to death after a long history of domestic violence that had not been reported. Framingham is a Boston suburb of approximately 65,000 people, not including a Brazilian immigrant community estimated as high as 25,000. As Chief Carl explained, the homicides prompted his department to examine its effectiveness with the Brazilian community:

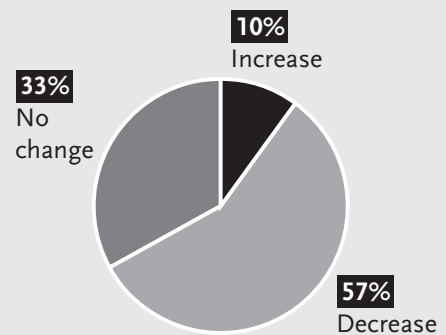
“We started looking at this problem of underreporting. We all feel good when the



Miami Chief and PERF President John Timoney

Figure 4. Perceived Impact of Enhanced Local Enforcement on Reported Crime

What impact do you estimate enhanced immigration enforcement at the local level would have on the overall crime reported in your jurisdiction?



crime statistics are driving down. But after these incidents we started wondering, if 25 percent of the population is not reporting crime, are we really driving the crime statistics down, or are we fooling ourselves? As we started getting more involved with the community and getting intelligence from some of the Brazilian community who were courageous enough to talk to us off the record, we realized that there's a lot of crime, a lot of victimization going on in the community. We learned there are Brazilian gangs with connections to Brazil, creating fear and intimidation problems. Their only targets are illegal immigrants."

David Alejandro of the ICE Office of Detention and Removal reminded Summit participants that some immigrants fear police for another reason. "There are a lot of cultural differences that we misinterpret," Mr. Alejandro said. "A lot of the foreign-born population are not really afraid of being deported, but in their culture, law enforcement officers are corrupt. We have to learn more about these cultures before we deal with them."

Illegal immigrants also are often witnesses to crime. Austin Chief Art Acevedo emphasized how

damaging it can be to the law enforcement mission if substantial numbers of residents are afraid to have any contact with police:

"As I talk to folks, I try to talk about it strictly from a public safety perspective, and I talk about the unintended consequences. And so I ask them, 'If your child was kidnapped by a person at the bus stop, and the only witness is the little old lady or the man on the corner who is an illegal immigrant, and they're afraid to come forward, do you want to create that environment where your child is not rescued by law enforcement because we're not getting full cooperation from the community?' Some of those same people who want us to be involved at the ground level will look at you and say, 'Well, when you put it that way, maybe it's not such a good idea.'"

In fact, as shown on Table 1, the potential erosion of trust between the police department and the immigrant community is second only to insufficient personnel on the list of concerns that police officials have about increasing their role in immigration enforcement, according to PERF's survey.



Austin, Tex. Chief Art Acevedo

Table 1. Top Concerns About Enhanced Local Enforcement

Insufficient personnel	65%
Undermines trust between department and immigrant community	61%
Insufficient \$\$\$ resources	60%
Insufficient jail space	51%
Distract from dept core mission	49%
Inability of ICE to assist	38%
Civil liability issues	29%
Law is too complex	27%
No concerns	9%

n = 168

What Are the Current Policies And Practices of Local Law Enforcement Agencies?

ONLY 35 PERCENT OF THE POLICE AGENCIES RESPONDING TO PERF’S Immigration survey said their departments have a written policy relating to checking immigration status.

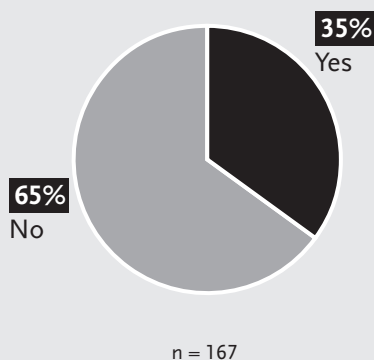
Overall, 60 percent of all responding departments conduct checks on the immigration status of persons who are stopped, arrested and/or detained for cause. Even among departments that lack written policies, 56 percent conduct status checks. Among those departments that conduct immigration status checks, the most frequent circumstances leading to a status check are arrest (57%), booking (36%),* and when there is probable cause to believe the person is an illegal immigrant (33%). Smaller numbers of departments check immigration status during an investigative detention (18%) or a traffic stop (7%).

As Sheriff Jim Pendergraph of Mecklenburg

County, North Carolina, observed, “the way to avoid the system [of immigration status checks] is three simple words: *Don’t get arrested*. If you don’t get arrested, you will never be fingerprinted and checked. But if you *do* get arrested, you can rest assured that you’re going to be checked.” (Pendergraph recently resigned as sheriff in order to take a new job as ICE’s first Executive Director for State and Local Coordination.)

Even departments in some sanctuary cities check immigration status after an arrest and notify ICE if the suspect is found to be in the country illegally. “We are a sanctuary city,” said Assistant Chief Howard Jordan of Oakland, California. “But we do allow our officers to investigate the status of illegal immigrants *if they’re arrested or stopped for something other than their status*—a high misdemeanor, a felony, or drug-related charge. When they fill out

Figure 5. Does your department have a written policy relating to checking immigration status?



Immigration Status Checks

Out of 163 departments, 60% of departments check status of persons who are stopped, arrested or detained for cause.

Of the departments that check persons’ immigration status, they do so:

- 57% Upon arresting a suspect
- 36% When booking a suspect into a holding facility following arrest*
- 33% At any time when they have probable cause to believe a person is in the country illegally
- 18% During an investigative detention
- 7% During a traffic stop

n = 97
* Arrest and booking are listed separately because some agencies “arrest and release” without booking.

an arrest report, they're questioned and we're allowed to ask regarding their immigration status. But we don't allow our officers to stop or detain someone solely to investigate their status in the United States."

Most chiefs agreed that status checks are appropriate in the case of serious crimes. Seattle Deputy Chief John Diaz said that even though Seattle has a reputation as a very "liberal" city, "We aren't going to ask them about immigration status—*unless they're involved in a serious crime.*"



Tulsa, Okla. Chief Ron Palmer

Should Immigration Status Be Checked For Minor Offenders?

A CASE CAN ALSO BE MADE FOR CHECKING THE immigration status of less serious offenders. Some participants at the Immigration Summit observed that checking immigration status in misdemeanor cases often results in finding that the suspect has a more serious criminal record. “We’re finding multiple [removable persons] on misdemeanor traffic violations with no driver’s license,” said Sheriff Jim Pendergraph. “Felony convictions from other states, people who should have been deported a long time ago. *These are time bombs ready to explode somewhere.*”

But Chief Larry Boyd of Irving, Texas, said some in his community would object if misdemeanor arrestees were subject to status checks. “In my community there’s no consensus about identifying people after arrest,” he said. “Regardless of which side you are on, very few people have trouble with felonies or DWI, turning them over to ICE. But the debate starts when it comes to lower-level misdemeanors, especially traffic violations. The number one reason for someone coming into our jail and getting identified is traffic warrants. They get stopped for a speeding ticket and there’s a warrant out for their arrest. I know there’s not a consensus in my community that that’s where immigration status checks need to start.”

Many chiefs also noted that ICE does not have anything close to the number of detention beds or



Lawrence, Mass. Mayor Michael Sullivan and San Antonio Deputy Chief David Head

other resources to house all of the illegal immigrants that local police could identify. According to ICE’s latest report, ICE houses an average of 29,786 illegal aliens in detention facilities on any given day—a small fraction of the estimated 11 million illegal aliens in the United States. Many chiefs told stories of calling ICE to report having an illegal immigrant in custody on a relatively minor charge, only to be told to call back when they had more serious offenders to report. “If every department reports everyone who’s here illegally, but ICE can’t deport them, what are we doing it for?” said Frederick, Md. Chief Kim Dine.

“Probable Cause” and A Cloudy Legal Picture

AS NOTED IN FIGURE 5 (P. 17), 60 PERCENT OF DEPARTMENTS surveyed by PERF check the immigration status of persons they stop, arrest, or detain under various circumstances. Of those departments, 33 percent check when they have probable cause to believe the person is in the United States illegally. Thus, approximately 20 percent of all the departments check immigration status for probable cause.

“Probable cause” is a higher standard of evidence than “reasonable suspicion,” but lower than the “beyond a reasonable doubt” standard required to secure a criminal conviction. And an officer may use any trustworthy information to establish probable cause, even if rules of evidence would bar the information from being admitted at trial—such as hearsay information or a person’s prior criminal record. But it is important that police officers thoroughly document all of the factors that entered into their belief that probable cause existed.

While there is a large body of case law regarding what constitutes probable cause in the areas of arrests and searches and seizures, chiefs and sheriffs noted that it is less clear how to translate “probable cause” into day-to-day practice in the context of immigration enforcement.

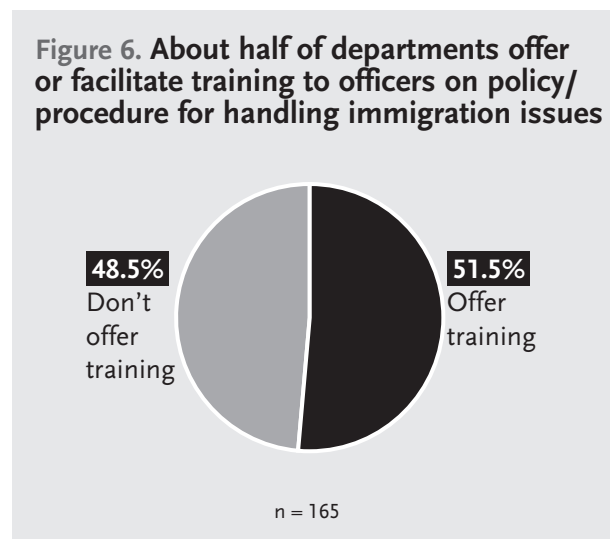
Some police leaders are trying to formulate real-world guidelines on how to proceed. For example, Commissioner Larry Mulvey of Nassau County, New York said that in his view, “Merely being at a labor site looking for work is not reasonable suspicion to inquire about status.”

Chief Deane of Prince William County, Virginia, whose department has been directed by elected officials to inquire about immigration status when there is probable cause to believe an individual is in this country illegally, offered some guidance: Probable cause means “factors that would lead a reasonable and experienced police officer to believe that this person is probably guilty of this violation, in this case, that they’re here unlawfully.” As an example, Deane said probable cause “could possibly come in the form of a person presenting a foreign driver’s license, not being able to speak English, and giving two or three names.”

And in the experience of Chief Deane and others at the PERF Summit, some detainees volunteer that they’re here illegally.

“I think the key to making this new policy lawful is that we’re going to train our officers to make sure that the first step is a lawful, routine stop,” Deane said. “And they don’t go any further than that unless there is clear evidence, probable cause, without any aspect of racial profiling.” Deane emphasized the importance of careful training of officers. “We’re going to train each officer in the

Figure 6. About half of departments offer or facilitate training to officers on policy/procedure for handling immigration issues





**Colorado Springs Chief
Rick Myers**



**White Plains, N.Y. Commissioner
Frank Straub**



**Gaithersburg, Md.
Chief John King**

spirit of our policy, which is, we want to deal with the serious criminal offenders in our community who are threats. We want to first prosecute them, have them serve their sentence, and then deport them.”

(Figure 6 shows that slightly more than half the departments responding to the PERF survey offer or facilitate training for their officers on policy and procedure for handling immigration issues.)

As police try to define what constitutes probable cause to believe a person is an illegal immigrant, the potential for charges of racial profiling loomed large for some Summit participants. Chief Rick Myers of Colorado Springs observed that, “prior to 9/11, racial profiling was a huge issue in the United States, but today these concerns seem to carry less weight.” He worried that “even with tremendous training, there are some officers who are going to base probable cause on appearance.”

Chief Albert Najera of Sacramento raised an additional concern about the legalities of heightened enforcement of immigration laws: how *Miranda* warnings fit into the picture. “Did we forget *Miranda*

along the way here someplace?” he asked. “Especially if they’re in custody? Did we forget their rights to representation before that? Remember, they’re supposed to understand *Miranda*, and they’re supposed to knowingly waive *Miranda*. Once we start down that slippery slope of forgetting Constitutional issues, it gets dangerous, it truly does.”

White Plains, New York, Police Commissioner Frank Straub echoed these concerns, emphasizing the value of maintaining the principles of community policing despite the increased emphasis on immigration enforcement. “We have an obligation to protect all people, legal or illegal, and to do it within the framework of the Constitution, and we have to be very careful with that,” he said. “We in policing have taken a very strong, positive approach to helping people integrate into our community. Our obligation under community policing is to make sure people’s rights are protected, that they’re not victimized by crime, and that they become viable members of our communities. That’s the essence of community policing.”

Working with Immigration and Customs Enforcement (ICE)

ACCORDING TO THE PERF SURVEY (SEE TABLE 2), A large majority of departments contact ICE when there is an NCIC warrant (76 percent) or when a suspect has been determined to be in the United States illegally (64 percent).

Many Summit participants draw the line at enforcing civil, administrative warrants for absconders that they find in the NCIC during their routine police activities. “We draw a bright red line. We don’t get involved on civil; we do get involved on criminal. Our job is to enforce criminal laws, not civil,” said Craig Ferrell, deputy director and general counsel to the Houston Police Department.

Chiefs reported varying experiences with ICE. On the positive side, for example, the Phoenix Police Department has homicide detectives working side by side with 10 ICE agents to target violent criminals who are illegal immigrants. “We have a really good relationship with ICE,” Chief Jack Harris said. “We go after violent criminals who are illegal immigrants. Basically, if you’re a landscaper going to work every day, we don’t arrest you and turn you over to ICE, even with a traffic stop. But if you’re a criminal, you’re going to jail. And if you

happen to be illegal, you’ll be turned over to ICE and deported.”

But involvement with ICE can be a very divisive issue for police in some communities. “We probably have more organized protests related to ICE coming into our community and making arrests than probably any other issue, even though we have many other issues,” said Chief Chris Magnus of Richmond, Calif. “We have as many as 500 or 600 people show up to council meetings to protest and make clear they don’t want local law enforcement involved in any way, shape or form working with ICE or making arrests that have to do with immigration status. That’s been tough, because we have done some good work with ICE around MS-13 [the violent Latin American gangs known as Mara Salvatrucha]. We have a very active MS-13 presence in Richmond and ICE has been very helpful with that. It’s really frustrating when people are almost willing to tolerate illegal gang activity like MS-13 rather than have any cooperative relationship with immigration authorities.”

On the negative side, Commissioner Larry Mulvey of Nassau County, N. Y., described a raid in



Phoenix Chief Jack Harris

Table 2. When do departments contact ICE?

When there is an NCIC warrant for a suspect	76%
When a suspect or offender has been determined to be in U.S. illegally	64%
To verify the immigration status of a person	36%
To report a crime victim who is in the U.S. illegally	10%
To report a crime witness who is in the U.S. illegally	8%

n = 168



Herndon, Va. Chief Toussaint Summer, Commissioner Larry Mulvey of Nassau County, N.Y., and Danbury, Conn. Chief Al Baker



Houston Deputy Chief Craig Ferrell, Jr., Bureau of Justice Assistance Deputy Director Jim Burch, National Institute of Justice Deputy Director Thomas Feucht, and NIJ Acting Principal Deputy Director David Hagy

which his officers cooperated with ICE agents to remove 131 identified gang members who were deportable because they had been arrested in the past. “They asked for assistance from my department in terms of a bus to transport subjects to Manhattan and to have uniformed officers present, so when they did consensual knocks on doors, people would look out and see *our* department, which they recognize and trust and they’d answer the door,” he said.

The raid did not go well, he indicated. “We entered 131 homes at 4:30 in the morning,” he said. “We woke up citizens, legal residents, and undocumented immigrants who were not the focus of the operation. It caused tremendous turmoil in my community.” All but six out of 96 administrative warrants issued in this search for gang members had wrong or outdated addresses, and only three of the 40 individuals arrested on the first night of the operation were gang members.¹⁰ From Commissioner Mulvey’s perspective, this experience was antithetical to his department’s philosophy and potentially damaging to its relationship with the community. Mulvey withdrew his department’s support before the third night of the operation.

“I will not support it until we iron out these issues,” Mulvey added. “But I believe in the intent of the operation. If there are gang members in the county who have been involved in criminality, if they’re undocumented I would like to get them out of our county.”

There was agreement that ICE is unable to respond to every call from local law enforcement. “There are about 12 million illegal immigrants in the United States,” said David Alejandro of the ICE Detection and Removal Office. “ICE has about 10,000 officers and 30,000 beds. All of those beds are occupied today. Depending on where they’re coming from, the type of violation, and the procedure they must go through, some of these individuals can occupy these beds for anywhere from a month to a couple years. These beds are continuously being filled by individuals who are being apprehended.”

“If every police agency in America went out and said, ‘I’m going to find one, two, three of those absconders today,’ ICE would not have the capacity to deal with it,” Chief Darrel Stephens said. “It’s not practical. And if it’s not practical, then we’d better think of other ways to deal with it.”

¹⁰ Nina Bernstein, “Raids Were a Shambles, Nassau Complains to U.S.” *The New York Times*, October 3, 2007.

As Sheriff Jim Pendergraph of Mecklenburg County, North Carolina, observed, “It all boils down to resources. The level of detainment is such that you have to have committed an aggravated felony to be detained for removal, or they are right back in the community.”

The situation is similar in police agencies and their own local criminal justice systems, Pendergraph noted. “I have 3,000 beds in my jail and 44,000 outstanding arrest warrants on file. If everyone got arrested the same day, we’d be in a heck of a mess,” he said.



Participation in the 287(g) Program Is Small, But Growing

ONLY A SMALL FRACTION (4 PERCENT) OF PERF'S survey respondents participate in the Section 287(g) program, which establishes a memorandum of agreement between local law enforcement agencies and ICE, under which local departments can perform immigration enforcement functions after participating in ICE-sponsored training. Another 6 percent have applied to participate in the program, and 29 percent are considering participation (see Table 3).

Nationwide, 34 state and local law enforcement agencies in 15 states participate in 287(g), another 77 have applied,¹¹ and more than 400 local and state officers have been trained.¹²

Summit participants who have joined the 287(g) program said they have found it to be useful. "Members of our gang task force, as well as department officers, are trained in 287(g)," said Chief Toussaint Summers of Herndon, Va. "We refer to it as just another tool in the tool box available to us to ensure the safety of our community. When ICE officers are not available, we now have officers who are authorized to step in and take over those functions and complete whatever task needs to be done. It has been a success from the standpoint that it makes us more efficient, and it allows us access to a database that we wouldn't have normally."

Chief Summers was referring to a database maintained by the Law Enforcement Support Center (LESC), which gathers information on immigration status and identity from eight

Department of Homeland Security databases, NCIC, the Interstate Identification Index, and other state criminal history indices. Available to law enforcement agencies around the clock, LESL runs data on criminal suspects to determine whether they are subject to ICE intervention.¹³

In Collier County, Florida, 27 members of the Sheriff's Office have 287(g) authority to identify the immigration status of all persons arrested and to work on gangs, fugitive warrants, and organized crime. Sheriff Don Hunter reported that this effort appears to have effectively defused the primary gangs in his county by reporting their leaders to ICE.

Chief Jack Harris of Phoenix noted that the Maricopa County Sheriff participates in 287(g) and checks the status of everyone who is booked into

Table 3. Participation in 287(g)

287(g) establishes a Memorandum of Agreement between departments and ICE allowing departments to perform immigration enforcement functions after participating in an ICE training program.

Of departments responding to survey:

4%	Currently participate in 287(g)
96%	Do not participate in 287(g)
6%	Have applied to participate in 287(g)
29%	Are considering participating in 287(g)

n = 165

11. Daniel C. Vock, "Police join feds to tackle immigration," www.stateline.org, November 27, 2007.

12. <http://www.ice.gov/partners/dro/iceaccess.htm>.

13. <http://www.ice.gov/partners/dro/iceaccess.htm>.



**Herndon, Va. Chief
Toussaint Summers**



**Mecklenburg County, N.C.
Sheriff Jim Pendergraph**



**Las Vegas Sheriff
Douglas Gillespie**

the jail. Last year, of 45,000 individuals booked from Phoenix alone, 6,000 were held for immigration authorities.

Several chiefs reported strong support from their communities for their participation in the 287(g) program—even among the immigrant population. Communication with community groups is the key, they indicated. “I am pursuing the 287(g) program for inside the jail facility, for the criminal element,” said Sheriff Douglas Gillespie of Las Vegas. “I have reached out to the Hispanic community, bringing together roughly 50 people, including political activists in the community, and they are in support of us going after the criminal element. And I think from a local law enforcement standpoint, from my perspective, that’s where we need to keep our focus.”

Chief Summers of Herndon, Va. agreed. “Before entering into the 287(g) program, we met with residents, including immigrant groups, and explained the program. We assured these groups that our actions under 287(g) were defined clearly in the Memorandum of Agreement we have with ICE, and that any officers who act outside the parameters defined in the MOA will be held accountable.”

Sheriff Jim Pendergraph of Mecklenburg County, N.C. said the 287 (g) program has helped Mecklenburg County rid itself of many criminal offenders. “We were seeing people we knew had to be illegal aliens, getting arrested on every charge in the book, making bond and walking out the front door—and we really didn’t know who they were; there was no good way to identify who they were.” The 287 (g) program has helped the Sheriff’s Office work with ICE on identifying those offenders and removing them, he said. “In the last 18 months we have identified 3,200 people in Mecklenburg County who have committed a crime and whom we have identified as illegal aliens, and who are in the removal process or have been removed,” he said.

Pendergraph added that immigrants from 58 different countries have been arrested in Mecklenburg County. “We’re finding people from countries of interest, countries that have made it know that they’re involved in terrorism,” he said. “And it is a national security issue that you know who is in the community.” However, Sheriff Pendergraph added that “the people who are here to hurt us [with terrorism] aren’t going to get arrested for drunk driving.”

Should Illegal Immigrants Be Allowed to Obtain Official Driver's Licenses or Other Identification Credentials?

DISCUSSION ABOUT THE NEED FOR PROPER IDENTIFICATION of illegal immigrants arose in the context of traffic incidents coming to the attention of local law enforcement. As with other immigration issues, the police executives were not of like mind on the question of identification cards. A number of chiefs noted that because illegal immigrants are not allowed to obtain driver's licenses, they often flee when they are involved in a traffic accident.

Allowing illegal immigrants to obtain a driver's license would help alleviate this problem, some chiefs believed. Issuing driver's licenses to illegal immigrants would also enable them to open bank accounts, so they would be less likely to carry large sums of cash and might be targeted for street robberies less often.

"The vast majority of these people are not criminal aliens; they're economic aliens," said Austin, Texas Chief Art Acevedo. "They are not a threat to our public safety. They want a state driver's license; they want to get insurance. Imagine if we had 12 million people paying insurance, the positive economic impact that would have on all of us."

"In California, the driver's license issue is an enormous topic," said Sergio Diaz, deputy chief of the Los Angeles Police Department. As he sees it, "With this driver's license issue in California, we're isolating, alienating, forcing underground a huge part of the population. They're

driving of necessity, we don't know who they are, and there are all these incentives for them to stay underground. We're forcing them further and further to the margins and away from where we can have some positive effect on them. People who would otherwise be inclined to follow the law, are obligated by our own poor public policy into being outlaws."

In July 2007, the city of New Haven, Conn. began issuing resident identification cards that give illegal immigrants access to community services. According to Chief Francisco Ortiz, "We look at this in the police department as a human dignity issue, reaching out to folks who don't normally reach out to the police department. It is consistent with our community policing philosophy."

But several chiefs disputed the validity of credentials that are based on an oath or affidavit, as is New Haven's identification card. Chiefs also cast

doubt on any driver's license or other form of identification that is based on the "Matricula Consular," a card issued by the Mexican government to identify Mexican nationals who are living outside their country. According to the web site of the Mexican consulate,¹⁴ in order to obtain a Matricula Consular, an applicant must appear in person, present an original birth certificate, provide an official government-issued photo I.D., and provide proof of address (utility bill, lease, etc.)



**New Haven, Ct. Chief
Francisco Ortiz**

14. <http://www.mexico.us/consulate.htm>.



FAR LEFT: **Lawrence, Mass.**
Chief John Romero

LEFT: **Brookline, Mass.**
Chief Daniel O'Leary

under the same name. The Matricula includes a picture, a signature, and a brief description of the individual it identifies (name, date, place of birth, and address). Security features include lamination, a watermark and a magnetic strip. The Matricula is normally valid for a period of five years, but it may be issued for lesser terms as indicated by the expiration date.

Despite these apparent precautions, the U.S. Department of Justice and the FBI have determined that the Matricula Consular is not a reliable form of identification because there is no way to verify the true identity of the card holder. As a result, the cards are vulnerable to fraud and forgery.¹⁵

Sheriff Don Hunter called the cards “an illusion of legitimacy,” and commented that “[just] any form of identification is not necessarily a good thing.” Chief Daniel O’Leary of Brookline, Mass. said, “I wasn’t satisfied with what the Mexican government uses for backup documentation and how we could check on it. In our roles as police officials, if we’re asked to endorse something that people are going to rely on, we should feel comfortable doing that.”

Yet some chiefs observed that U.S. identification credentials are likewise subject to fraud. Chief

Albert Najera of Sacramento cited the false IDs ubiquitously obtained by underage college students as one example. Chief John Romero of Lawrence, Massachusetts noted that when the Massachusetts Registry of Motor Vehicles implemented a facial recognition program as part of the screening process for new driver’s license applications,¹⁶ they found people with three or four different driver’s licenses and state ID cards.

Chief Rick Myers of Colorado Springs said, “We aren’t any better at it in the United States. We don’t have a national ID. I got my Social Security card when I was 12 years old—and the signature looks like a 12-year-old’s. The card looks like it came out of a Cracker Jack box, but it’s an official U.S. document. Some communities don’t want to look at the matricula cards because of the questions about whether they’re verifiable; other cities say they’re better than nothing. But presumably, if every time I stop someone they have the same card, does it matter if their name is spelled right?”

There was general agreement that a more secure, national ID card based on biometrics would be helpful. Chief Harris of Phoenix recommended tying the availability of this type of national ID to a “reasonable immigration and citizenship policy”

15. “Consular ID Cards in a Post-9/11 World,” Testimony of Steve McCraw, Assistant Director of the Office of Intelligence, FBI, Before the House Judiciary Subcommittee on Immigration, Border Security, and Claims, June 26, 2003, accessed at <http://www.fbi.gov/congress/congress03/mccraw062603.htm>.

16. Facial recognition capabilities employ a computer algorithm to examine an applicant’s photo against all other photos of registered drivers in Massachusetts to determine whether the applicant may be attempting to obtain a duplicate license using a false claimed identity.

and work visa, whereby immigrants could obtain the ID, get a driver's license, and have the opportunity to become a U.S. citizen over three to five years.

On the other hand, Chief Deane of Prince William County advised caution before issuing identification to illegal immigrants. "Once you start giving identification credentials to people who are here illegally, I think that opens up a lot of other issues that have more negatives than positives," he said. Lawrence, Mass. Chief John Romero added, "With a state ID card or driver's license, you can build an entire identity."

To illustrate the scope of the credentialing problem, David Alejandro of ICE described situations at the airport in San Juan, Puerto Rico, in which U.S. authorities seize packages of fraudulent identification documents. These packages contain duplicates of original birth certificates, unsigned Social Security cards, and driver's licenses lacking photographs. If these packages make their way into the United States, the recipients can sign the Social Security cards, affix their photos to the drivers' licenses, and use these documents to obtain passports.

The Need for a Federal Policy

SUMMIT PARTICIPANTS REPEATEDLY RETURNED TO A strongly held conviction that the federal government is responsible for immigration policy:

“Congress has to pass some type of immigration legislation. I think it’s a horrible mistake for local police, in the absence of federal policy, to take on this role when we don’t have the authority and we don’t have the resources—to wrestle with issues like Charlie [Deane] has with his Board, establishing a policy that forces them to take a very active role in dealing with immigration issues when their authority still hasn’t been made clear and federal resources are not sufficient to support them.”

— CHARLOTTE-MECKLENBURG, N.C.
CHIEF DARREL STEPHENS

“Our national government has let us down because they haven’t addressed this issue.”

— CHIEF MELVIN HIGH,
PRINCE GEORGE’S COUNTY, MD.

“This is a federal responsibility, so the federal government needs to be realistic and prioritize what we should be focusing on. If we’re trying to get the ‘worst of the worst’ out of the country, instead of saying we’re going to use 287(g) and we’re going to pick up anybody who’s illegal, we really need to give local law enforcement some clear direction. We’re really looking for people who have committed serious felonies, because those are the people that we really stand the best of chance of a) keeping detained, and b) deporting, versus just picking up anyone

who is here illegally. We need clear focus, direction, and structure.”

— WHITE PLAINS, N.Y. COMMISSIONER
FRANK STRAUB

“If we really wanted to stop this, we would make it tremendously costly to American businesses to hire illegal immigrants, but we recognize the economic impact would be horrible. As a consequence, we in policing are being forced to step into this political, economic debate that we should not be involved in.”

— AUSTIN, TEXAS CHIEF ART ACEVEDO

Chief Dean Esserman of Providence, R.I. expressed a different view. “My best guess is that it’s going to be a much more passionate issue in the years ahead,” he said. “This isn’t going to be a bump that’s going to subside. It’s going to be an increasingly front-burner issue. But this trend is going on across the globe, and I think that’s going



Charlotte-Mecklenburg, N.C. Chief Darrel Stephens and Providence, R.I. Chief Dean Esserman



FAR LEFT: Prince George's County, Md. Chief Melvin High

LEFT: Peabody, Mass. Chief Bob Champagne

to transform the immigration issue from a nation-states' issue to a very local issue, and we're going to be more involved, and we are not going to be able to rely on our nation-states to tell us. We will regulate this issue. For practical reasons, we will be forced to develop our own policies and procedures."

Regardless of whether policies will be set nationally or at the local level, some chiefs exhorted their colleagues to speak up and take a leadership role in defining the illegal immigration issues and setting policy. "It's time for us to step up and say, 'This really is about the right thing to do,'" said Chief Bob Champagne of Peabody, Mass.

Sheriff Douglas Gillespie of Las Vegas agreed. "We in law enforcement maybe have to become more involved in pushing national policy, because we're being thrust into this. Without us getting our ideas and thoughts out there, I believe some policy will probably come down that a lot of us won't like or agree with. When this topic comes up in communities that I read about or hear about, for the most part I don't see elected officials other than the sheriff *defending* a position, I see them *taking* a position. The challenge that I have as a sheriff is taking a position, and doing it in such a way that protects the rights of all the people in the community."

Commissioner Frank Straub of White Plains, N.Y. noted that a number of PERF members had visited the Holocaust Museum in Washington, D.C. on the day before the Immigration Summit. "We can't allow American policing to become corrupted

by a political agenda," he said. "The Holocaust Museum stands to show how the police and the military were co-opted by a political agenda and turned against a whole segment of the population. We can't become a wedge between the federal government and the communities we serve."

Finally, Sacramento Chief Najera offered a personal experience that exemplified the dilemma for local law enforcement:

"Two or three years ago, I was coming home from a high school event with my daughter. I pulled into line at a DUI checkpoint. My officers had stopped a pickup truck, a young man, his pregnant wife and two little kids, an old pickup truck full of lawn equipment. This guy was an unlicensed driver, undoubtedly an illegal immigrant. In California we're required to tow vehicles for at least a 30-day impound for unlicensed drivers. But they were also taking away the livelihood from this guy. He's here trying to do whatever he could do, and those kids were probably American citizens, born here. It is the law, but we were taking the livelihood away from this guy. How is he going to get the truck and his equipment back? He has to be a licensed driver, he has to register his truck, he has to have insurance. We've put the guy in a Catch-22 situation. Everything that we did was legal; the guy was here illegally. *But is this what we really want?*"

There Are Some Points Of General Consensus

THE DISCUSSION AT PERF'S IMMIGRATION SUMMIT was spirited, and participants offered a wide range of strongly held and sometimes opposing views on many of the thorny issues that come up in the public debate on illegal immigration.

However, the chiefs who participated in PERF's Summit generally agreed on three points:

1. IT IS APPROPRIATE TO CHECK IMMIGRATION STATUS AT THE TIME OF ARREST AND BOOKING FOR SERIOUS OFFENSES.

This practice is routine in many of the communities represented among Summit participants and survey respondents. Even many departments in so-called sanctuary cities check the immigration status of suspects in serious or violent crimes.

There was some debate, however, about the value of checking the status of misdemeanants. A few chiefs argued that stops for misdemeanor offenses often reveal more serious crimes. Others pointed to two potential drawbacks: 1) objections from their communities to a perceived heavy-handed reaction to relatively minor transgressions, and 2) the limited resources of ICE to respond to lesser offenses. Of paramount importance to many of the chiefs was the potential damage to their relationships with immigrant communities in their jurisdictions.

2. A NATIONAL IDENTIFICATION CARD BASED ON BIOMETRIC TECHNOLOGY WOULD BE HELPFUL.

Despite efforts in some communities to provide some form of acceptable credentials for the illegal immigrant population, all existing forms of identification—whether U.S. driver's licenses, Mexican Matricula Consular cards, or credentials issued by some municipalities such as New Haven, Conn.—were found lacking because they are too easily falsified. Many chiefs called for the development of a national identification card based on biometric technology such as fingerprints or DNA.

3. THE U.S. CONGRESS NEEDS TO SET POLICY FOR THE NATION

Time and again throughout the day, Summit participants decried the lack of federal leadership. They urged their colleagues across the nation to be more vocal on these issues, to take a stand, and to use their collective political clout to move Congress and the executive branch to provide more guidance and resources.

Conclusion

By PERF Executive Director Chuck Wexler

THE ROLE OF LOCAL POLICE AND SHERIFFS' DEPARTMENTS in immigration enforcement is one of the most difficult issues confronting police executives.

Our approach to many issues in policing is fairly straightforward: conduct solid research, survey the field, seek out the knowledge and wisdom of law enforcement executives and other experts about “best practices” and other aspects of the issue, and based on all of that, try to devise a single set of recommendations that we believe all departments would be well-advised to consider.

On immigration enforcement, however, we have a special problem: No one set of recommendations can account for the extreme differences in the political climate of various jurisdictions on the immigration issue. A measure that seems to make perfect sense in one city—working with ICE in a 287(g) program, for example—is political anathema in another jurisdiction.

Compounding the problem is the fact that the immigration issue is amazingly dynamic. Not only are cities and counties across the country rushing to craft their own policies because federal lawmakers and policy-makers have been unable to set a national policy, but local jurisdictions are also being affected by the policies of their *neighboring* states, counties, and cities. The *Houston Chronicle* recently ran a story that started with this:

Illegal immigrants are flowing into Texas across its long borders. But they aren't just swimming across the Rio Grande from Mexico or making dangerous treks through the rugged desert.

Instead, a new rush of illegal immigrants are driving down Interstate 35 from Oklahoma, or heading east to Texas from Arizona, to flee tough new anti-illegal immigrant laws in those and other states.

“They're really tightening the screws,” said Mario Ortiz, an undocumented Mexican worker who came to Houston after leaving Phoenix last year. “There have been a lot coming—it could be 100 a day.”¹⁷

Similarly, stricter immigration enforcement policies being implemented in Prince William County, Va. reportedly have caused illegal immigrants there to move north to jurisdictions like Arlington, Va., which has a reputation for welcoming immigrants. In a story titled “Immigrants Haven't Worn Out the Welcome Mat in Arlington,” a *Washington Post* reporter wrote:

When nearby counties began trying to drive out illegal immigrants this summer, Arlington said it would treat everyone with “dignity and respect, regardless of immigration status.”

Other counties felt overwhelmed by immigrants, but Arlington officials said they would happily provide them with every service allowed by law.

“The attitude has always been: They're here. They're part of the community. Let's help them succeed,” said Chris Zimmerman, a longtime County Board member.¹⁸

17. See <http://www.chron.com/disp/story.mpl/front/5509022.html>

18. See <http://www.washingtonpost.com/wp-dyn/content/article/2007/11/14/AR2007111402322.html>

So police executives not only have to work with local lawmakers to develop immigration policies that make sense for their own jurisdiction; they need to pay attention to what's going on in the next city, the next county, and the next state, and analyze how other jurisdictions' policies may impact their own situations.

Having said that, let me rush to add that the situation is far from intractable. We still know certain things.

We know that solid research can help inform the debate. For example, we need more research on issues like the extent to which official crime statistics may be understated because immigrants, fearing deportation, are afraid to report being victimized. In coming years, we should conduct research on whether increasingly strict immigration enforcement policies exacerbate this problem.

We also know that principles of community policing are always helpful. So police chiefs and sheriffs, recognizing that immigration enforcement is an extremely polarizing issue, should strive to maintain open lines of communication with all of their community groups on the immigration issue, to maintain a sense of transparency and fairness. Chiefs told us this at our Summit.

We know that the capacity of federal authorities to respond to local immigration enforcement efforts is sharply limited, so it makes sense to focus any immigration enforcement efforts on immigrants who have committed serious crimes. This also helps to guard against complaints of racial profiling. Many chiefs and sheriffs have made that point.

And we know that some departments already have been working on these issues for years, so there is much to be gained by looking at existing policies and recommendations. For example, more than a year ago the Major Cities Chiefs (MCC) issued a set of principles for Congress and the President to keep in mind in devising federal policies on the role of local law enforcement in immigration enforcement.¹⁹ (See Appendix A.) This report highlights the MCC's concerns in several areas,

including: the risk that immigration enforcement will undermine the trust that immigrant communities have in the police; local law enforcement agencies' lack of resources; the extremely complicated nature of federal immigration laws and lack of training of local officers in this area; and the lack of local authority on civil aspects of federal immigration law.

On the other hand, Collier County, Fla. Sheriff Don Hunter has produced a legal analysis that argues against any general unwillingness to enforce immigration laws based on a fear of losing the trust of immigrant communities. (See Appendix M.) "Unbiased, unprejudiced and influence-free enforcement of law is a keystone principle of professional U.S. law enforcement," Sheriff Hunter states. "Trust is not inspired in the idea that certain crimes will not be enforced. The reverse is true. Trust is built on a foundation of predictability; consistent application of law creates predictability, which inspires trust."

Many police departments' policies can be found in appendices to this report. Law enforcement executives trying to help shape the debate in their own jurisdictions can pick and choose elements from various policies that seem most compatible with the direction they want to take.

For PERF, it appears that the immigration issue will be a flashing light at the center of our radar screen for years to come. We already are pursuing new possibilities for immigration enforcement research and other initiatives. And of course, the immigration issue will remain a key issue in PERF's daily contacts with its member law enforcement executives.

In a sense, this publication should be considered an interim report, a "work in progress." It is too soon to know the consequences, intended and unintended, of many of the immigration policies being developed across the country. Law enforcement policies are evolving as we write this report. Prince William County, Va., for example, is doing the nuts-and-bolts work on implementing the

19. See http://www.majorcitieschiefs.org/pdfpublic/mcc_position_statement_revised_cef.pdf

policies that it enacted last summer; other jurisdictions are just starting to review their practices. There was a time when many local law enforcement agencies simply considered immigration enforcement a federal responsibility, but I think we can say that that time has passed. The new paradigm seems to be that local police and sheriffs will supplement

the federal role, to greater or lesser degrees, depending on local community input. There is a lot of fear, concern, and uncertainty about the implications of that change.

We hope that this publication will serve as an early-2008 status report on the immigration issue and a springboard for further analysis and discussion.



About the Police Executive Research Forum

THE POLICE EXECUTIVE RESEARCH FORUM (PERF) is a professional organization of progressive chief executives of city, county and state law enforcement agencies who collectively serve more than 50 percent of the U.S. population. In addition, PERF has established formal relationships with international police executives and law enforcement organizations from around the globe. Membership includes police chiefs, superintendents, sheriffs, state police directors, university police chiefs, public safety directors, and other law enforcement professionals. Established in 1976 as a nonprofit organization, PERF is unique in its commitment to the application of research in policing and the importance of higher education for police executives. Besides a commitment to police innovation and professionalism, PERF members must hold a four-year college degree.

PERF continues to conduct some of the most innovative police and criminal justice research and provides a wide variety of management and technical assistance programs to police agencies throughout the world. PERF's groundbreaking work on community and problem-oriented policing, racial profiling, use of force, less-lethal weapons, and crime reduction strategies has earned it a prominent position in the police community. PERF continues to work toward increased professionalism and excellence in the field through its publications and training programs. PERF sponsors and conducts the Senior Management Institute for Police (SMIP). This program provides comprehensive professional management and executive development training to police chiefs and law enforcement executives. Convened annually in Boston, SMIP instructors include professors from leading universities, with the core faculty from Harvard University's Kennedy School of Government.

PERF's success is built on the active involvement of its members. The organization also has types of membership that allow it to benefit from the diverse views of criminal justice researchers, law enforcement professionals of all ranks, and others committed to advancing policing services to all communities. PERF is committed to the application of research in policing and to promoting innovation that will enhance the quality of life in our communities. PERF's objective is to improve the delivery of police services and the effectiveness of crime control through the exercise of strong national leadership, the public debate of criminal justice issues, the development of a body of research about policing, and the provision of vital management services to all police agencies.

PERF has developed and published some of the leading literature in the law enforcement field. Recently, PERF's work on the increase in violent crime during the past two years has received national attention. A series of reports in the "Critical Issues in Policing" series—*A Gathering Storm—Violent Crime in America*; *24 Months of Alarming Trends*; and *Violent Crime in America: A Tale of Two Cities*—provides in-depth analysis of the extent and nature of violent crime and countermeasures that have been undertaken by police. In addition, PERF recently released two publications on contemporary law enforcement issues. The books—entitled *Exploring the Challenges of Police Use of Force* and *Police Management of Mass Demonstrations: Identifying Issues and Successful Approaches*—serve as practical guides to help police leaders make more informed decisions. In addition, PERF has released a series of white papers on terrorism in the local law enforcement context, *Protecting Your Community from Terrorism: Strategies for Local Law Enforcement*, which examined such issues as local-federal

partnerships, working with diverse communities, bioterrorism, and intelligence sharing. Other recent publications include *Managing a Multijurisdictional Case: Identifying Lessons Learned from the Sniper Investigation* (2004) and *Community Policing: The Past, Present and Future* (2004). Other PERF titles include the only authoritative work on racial profiling, *Racial Profiling: A Principled Response* (2001); *Recognizing Value in Policing* (2002); *The Police Response to Mental Illness* (2002); *Citizen Review Resource Manual* (1995); *Managing Innovation in Policing* (1995); *Crime Analysis Through Computer*

Mapping (1995); *And Justice For All: Understanding and Controlling Police Use of Deadly Force* (1995); *Why Police Organizations Change: A Study of Community-Oriented Policing* (1996); and *Police Antidrug Tactics: New Approaches and Applications* (1996). PERF publications are used for training and promotion exams and to inform police professionals about innovative approaches to community problems. The hallmark of the program is translating the latest research and thinking about a topic into police practices that can be tailored to the unique needs of a jurisdiction.

To learn more about PERF, visit www.policeforum.org.

About Motorola and the Motorola Foundation

MOTOROLA IS KNOWN AROUND THE WORLD FOR innovation in communications. The company develops technologies, products and services that make mobile experiences possible. Its portfolio includes communications infrastructure, enterprise mobility solutions, digital set-tops, cable modems, mobile devices and Bluetooth accessories. Motorola is committed to delivering next generation communication solutions to people, businesses and governments. A Fortune 100 company with global presence and impact, Motorola had sales of \$36.6 billion in 2007.

Today, Motorola comprises three business units: Enterprise Mobility Solutions, Home & Networks Mobility, and Mobile Devices.

Enterprise Mobility Solutions includes the mission-critical communications offered by our government and public safety sectors and our enterprise mobility business, including analog and digital two-way radio as well as voice and data communications products and systems. Motorola delivers mobile computing, advanced data capture, wireless infrastructure and RFID solutions not only to clients in the public sector, but also to retail, manufacturing, wholesale distribution, healthcare, travel and transportation customers worldwide.

Home & Networks Mobility provides integrated, end-to-end systems that seamlessly and

reliably enable uninterrupted access to digital entertainment, information and communications services over a variety of wired and wireless solutions. Motorola provides digital video system solutions and interactive set-top devices, voice and data modems for digital subscriber line and cable networks, and broadband access systems (including cellular infrastructure systems) for cable and satellite television operators, wireline carriers and wireless service providers.

Mobile Devices has transformed the cell phone into an icon of personal technology—an integral part of daily communications, data management and mobile entertainment. Motorola offers innovative product handset and accessory designs that deliver “must have” experiences, such as mobile music and video—enabling seamless connectivity at work or at play.

The Motorola Foundation is the independent charitable and philanthropic arm of Motorola. With employees located around the globe, Motorola seeks to benefit the communities where it operates. The company achieves this by making strategic grants, forging strong community partnerships, fostering innovation and engaging stakeholders. Motorola Foundation focuses its funding on education, especially science, technology, engineering and math programming.

For more information go to www.motorola.com.