



Should Local Police be on the Front Lines of Immigration Enforcement?

Doris Marie Provine, Arizona State University-Tempe

A local cop stops a speeding motorist – and asks for her citizenship papers as well as her license and registration. Detectives round up a burglar – and check to see if he might be eligible for deportation, not just arrest. Scenes like this are playing out across the country, as the United States launches into a new era of immigration law enforcement. Not long ago, local police aided federal immigration authorities only in extraordinary efforts, like rounding up Mafiosi. But local immigration enforcement efforts are now ramping up under the national “Secure Communities Program.”

At one level this looks like an efficient means to detect and remove persons from the country who have no right to remain. Amidst their regular daily routines, local police and sheriffs can boost immigration enforcement at very little cost to taxpayers. But if this is so obviously a good idea, then why is the Secure Communities Program drawing strong opposition from many mayors, law-enforcement organizations, and community groups across the country?

The Role of Local Police in Immigration Enforcement

The transformation of local police from occasional adjuncts to regular junior partners in immigration enforcement is a recent development.

- Back in 1996, Congress launched a voluntary partnership program to train municipal officers and sheriffs in how to make immigration arrests and how to book arrested persons suspected of being in the country illegally. But this program attracted no takers until 2003, and even then, got only a smattering of interest. At its height, 70 local agencies took advantage of the training, mostly to learn how to find the immigration status of arrested immigrants being booked into local jails.
- In 2011, the federal executive branch unrolled Secure Communities as a comprehensive, mandatory program. *Every local jail or holding facility in the nation is now expected to check the immigration status of everyone booked for an offense against national immigration databases.* Law-enforcement officials inform federal immigration authorities of arrestees who match the federal information, and suspected illegal immigrants are held for up to three days, rather than released on bail or their promise to reappear, in order to give federal authorities time to decide whether to pick up the person and begin deportation proceedings.

Does the New Approach Really Make Communities More Secure?

Worries about effectiveness and possibilities for abuse prompt local authorities and civic advocates to question the new federal approach.

- **Muddying the law enforcement mandate.** The recruitment of local police and sheriffs as junior partners in an effort to detect and remove unauthorized immigrants conflicts with “community policing,” the currently dominant approach to local law enforcement. Residents who trust the police, this approach presumes, will be more likely to report crimes and cooperate with enforcement. To build trust with all residents within the jurisdiction, officers visit schools, local events and meetings, conduct patrols on bicycles, and engage their communities in any way they can. But if cops are involved in ferreting out illegal immigrants, they are likely to feel “caught in the middle” between public worries about illegal immigration and what they know works best to build trust and enhance overall safety.
- **Making abuses more likely.** The mundane realities of law enforcement make abuses under Secure Communities all too likely. An officer who sees unauthorized immigrants as a threat might find excuses

to stop and arrest individuals who “look illegal.” This is easy with traffic stops. Minor violations, including unsafe lane changes, broken tail lights, and cracked windshields, can allow a stop and, potentially, an arrest (for the infraction or for driving without a license – most states make them unavailable to unauthorized immigrants). The record under the earlier voluntary program suggests the likelihood of misused discretion. In 2008, for example, in Montgomery County Maryland, out of the 221 non-citizens arrested, 117 were originally charged with driving without a license and 24 others were charged with traffic offenses.

Police and sheriffs have been left on their own to figure out how to prevent immigration-related abuses. They have received little guidance from city officials or the federal government. Even at the department level, there is usually no written policy, because the issues are controversial. This silence invites abuses. As local involvement ramps up, the impact reverberates in immigrant communities – particularly among Latinos, who comprise 77% of the unauthorized population but 93% of those arrested. Citizens as well as non-citizens are affected in a deeply personal way, because (as a recent study found) 39% of those arrested through Secure Communities report that they have a U.S. citizen spouse or child. Public safety also suffers when immigrant neighborhoods become fearful about dealings with police. Why report a crime if any engagement with law enforcement could lead to deportation of oneself or a loved one?

Rethinking the Role of Local Police in Immigration Enforcement

The nation’s founders thought it important to locate the policing function at the local level. Police, they believed, need to be accountable to the communities that know them best. The federal government’s co-option of local police for immigration enforcement violates that basic principle and makes policing harder. This approach also tends to mix the functions of criminal law with civil enforcement, resulting in an unappetizing mix that undercuts due-process protections against over-zealous police work and prosecution. The consequences of a simple infraction can suddenly become dire for immigrants and their families and friends, yet basic guarantees like the right to a lawyer and the right to bail and prompt arraignment are not available to those facing deportation.

There is much that needs fixing in the U.S. immigration system and all potential reforms are complex and inevitably controversial. But it should not be controversial to maintain the longstanding separation between local policing and federal deportation efforts. A small efficiency gain cannot justify compromising core American values. Individual rights, community safety, and democratic accountability must be given priority in a free society.