



Police Department

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Joint Hearing on the "Public Safety and Civil Rights Implications of State and Local Enforcement of Federal Immigration Laws"

The application of 8 USC 1357(g) (hereinafter 287(g)), by local police has created a variety of challenges for public safety. Increased political pressure on local law enforcement to reduce undocumented immigration coupled with the Federal deputation of local police to enforce federal immigration statutes is jeopardizing sound and well established policing practices.

It is imperative that federal government act to remedy this situation. First, we need clear guidelines that provide police with the tools necessary to deal effectively with serious criminal activity committed by removable undocumented immigrants. Second, we need to ensure that any federally sponsored program for this purpose contains clearly stated constitutional protections to ensure communities and individuals are not being racially profiled. Finally, it needs to ensure that sound community policing practices are encouraged. To do so, positive and respectful public engagement and partnerships must be embedded into any federally supported process aimed at addressing serious criminality by undocumented immigrants through the use of local police.

To be sure, providing local and state police with the tools necessary to address serious criminal behavior by non-citizens here without authority is a priority. Our police officers need the tools and support necessary to do their job safely. To that end, fast access to relevant information concerning wanted criminal aliens must be made available to police field personnel so that they can protect themselves and our communities. Currently, that level of information is not readily available in the field for police personnel regardless of their 287(g) status.

At the same time, the constitutional concerns created by the current state of affairs should be troubling to all of us. The impact on local law enforcement in this politically charged environment can be devastating. In some cases it is setting the police profession back to the 1950s and 60s, when police officers were some times viewed in minority communities as the enemy.

According to Richard Stana, Director of Homeland Security and Justice at the Governmental Accountability Office¹, the main objective of “the 287(g) program is to enhance the safety and security of communities by addressing serious criminal activity committed by removable aliens”. Unfortunately, in some cases enforcement decisions are being based on politics instead of professional public safety concerns, and the goal of dealing with serious criminal activities has been replaced by a numbers game. Often these poorly conceived and politically motivated enforcement efforts are placing officers in harms way leading to accusations of police misconduct.

¹ Testimony Before the Committee on Homeland Security, House of Representatives, “Immigration Enforcement: Controls over Program Authorizing State and Local Enforcement of Federal Immigration Laws Should Be Strengthened” (March 9, 2009).

The impact of the 287(g) program in some predominantly Hispanic communities has been equally problematic. Often allegations of race-based enforcement practices are driving a wedge between the police and the impacted communities. Community policing efforts are being derailed where immigrants who fear that the police will help to deport them rely less on the local authorities and instead give thugs control of their neighborhoods.

Community policing requires effective partnerships between the police and the various communities served. At the local level, sustainable public safety strategies require active community participation in problem solving efforts. For this level of community engagement to flourish the public must trust the police. It is nearly impossible to gain the required trust to make community policing a reality in places where the community fears the police will help deport them, or deport a neighbor, friend or relative.

In conclusion, America's police officers deserve thoughtful federal leadership so that we can continue doing our best to provide our country with the security that defines a civilized society. In the case of the 287(g) program, any future participation should be predicated on clearly stated guidelines that ensure (1) all field officers of the concerned agency have immediate access to information regarding non citizens who are charged with or convicted of serious criminal conduct; (2) strict constitutional requirements are placed on any participating agency; and (3) engagement strategies by the impacted community in the form of participation and problem solving partnerships must be required to part take in the program.