

Testimony

of

**Hubert Williams
President
Police Foundation**

U. S. House of Representatives Committee on the Judiciary

Subcommittee on the Constitution, Civil Rights, and Civil Liberties

**Subcommittee on Immigration, Citizenship, Refugees, Border Security,
and International Law**

**Hearing on Public Safety and Civil Rights Implications of State and
Local Enforcement of Federal Immigration Laws**

**Thursday, April 2, 2009
10:00 a.m.**

Mr. Chairman, Madam Chairman and distinguished committee members. Thank you for this opportunity to present my testimony on state and local law enforcement of federal immigration laws.

My name is Hubert Williams. My law enforcement career began in the Newark, New Jersey Police Department more than three decades ago and I served as its Director of Police for eleven years. I was founding president of the National Organization of Black Law Enforcement Executives and am a lifetime member of the International Association of Chiefs of Police.

I am currently president of the Police Foundation, a national, nonpartisan, nonprofit organization established in 1970 to improve American policing. Motivating all of the foundation's efforts is the goal of efficient, effective, humane policing that operates within the framework of America's constitutional standards and democratic values.

Over the past year, the Police Foundation conducted a national project entitled, *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties*, that examined the implications of state and local law enforcement of federal immigration laws. A main goal of the project was to provide local law enforcement with a venue to debate and disseminate their perspectives about their role in immigration enforcement so that they may have an influence in the national policy debate. The project brought together police executives, policy makers, elected officials, scholars, and community representatives in a series of focus groups across the country and at a national conference here in Washington. The project included reports on the rights of undocumented immigrants and the legal framework for the enforcement of immigration laws, demographic research, immigration and criminality, evaluation of federal efforts to collaborate with local police on immigration enforcement (specifically, the 287(g) program), a national survey of local police immigration policies, the experience of undocumented youth, and a survey of law enforcement executives attending the conference about their views on local immigration enforcement issues. The final report of this project will be published in the next few weeks.

My testimony here today will focus on our findings and recommendations regarding the role of local law enforcement in enforcing federal immigration laws.

Traditionally, the prevailing view was that the responsibility for enforcing federal immigration laws was solely in the purview of the federal government. In 1996, however, Congress passed legislation expanding the role of local law enforcement in federal immigration enforcement. The most well-known program is the U.S. Immigration and Customs Enforcement's (ICE) 287(g) program, which authorizes federal officials to enter into written agreements with state and local law enforcement agencies to carry out the functions of immigration officers, including investigation, apprehension, and detention. The trend toward greater involvement of state and local law enforcement in federal immigration enforcement gained significant momentum after the terrorist attacks of 9/11, through pressure placed on them by their elected leaders, their communities, and the media.

To-date, only a fraction of a percentage of police and sheriffs' departments has opted to participate in the 287(g) program. There are good reasons for this. Police executives have felt torn between a desire to be helpful and cooperative with federal immigration authorities and a concern that their participation in immigration enforcement efforts will undo the gains they have achieved through community oriented policing practices, which are directed at gaining the trust and cooperation of their communities, including immigrant communities.

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

Law enforcement leaders are also concerned about the impact of local law enforcement of immigration laws on already strained state and local resources, the high possibility of error given the complexity of immigration law, a possible increase in police misconduct, the possibility of racial profiling and other civil lawsuits, and increased victimization and exploitation of immigrants.

The following recommendations and policy positions were widely held among law enforcement executives participating in our project.

- The costs of participating in the U.S. Immigration and Customs Enforcement's (ICE) 287(g) program outweigh the benefits.
- Police officers should be prohibited from arresting and detaining persons to solely investigate immigration status in the absence of probable cause of an independent state law criminal violation.
- If a local agency nevertheless enters the 287(g) program, its participation should be focused on serious criminal offenders and should be limited to verifying the immigration status of criminal detainees as part of the 287(g) Jail Enforcement Officer program.
- Local and state authorities participating in federal immigration enforcement activities should develop policies and procedures for monitoring racial profiling and abuse of authority.
- In order to preserve the trust that police agencies have built over the years by aggressively engaging in community oriented policing activities, local law enforcement agencies should involve representatives of affected communities in the development of local immigration policies.

- There is a need for empirical research on ICE's 287(g) program and other methods of police collaboration with federal immigration authorities so that we have more objective data by which to better understand the way in which these programs are carried out in the field and their impact on public safety and civil liberties.
- Local law enforcement agencies should employ community-policing and problem-solving tactics to improve relations with immigrant communities and resolve tension caused by expanding immigration.
- The federal government must enact comprehensive border security and immigration reforms, because the federal government's failure on both issues has had serious consequences in cities and towns throughout the country.

Local police chiefs recognize that mutually cooperative and supportive relationships among law enforcement authorities strengthen the capacity of government at all levels to ensure that our communities and our nation remain safe and secure. But when local police execute the powers of immigration enforcement officers—as is the case when they check for green cards at roadblocks, or stop people for motor vehicle violations and request documentation or information associated with immigration status—they execute an immigration enforcement function in contacts with the general public. As a result, they assume all of the attendant risks and consequences associated with such activities. These risks are diminished considerably when the exercise of police authority does not involve contacts with the general public, such as would be the case when officers are processing prisoners in connection with DHS to determine whether there are any outstanding warrants or holds against those individuals, or when transferring prisoners with warrants or holds into the custody of DHS.

The effectiveness of local police is heavily dependent upon the nature of the relationship they have with the general public and the degree to which the police and community are able to work collaboratively to resolve crime problems. Local police must serve and protect *all* residents regardless of their immigration status, enforce the criminal laws of their state, and serve and defend the Constitution of the United States. Local law enforcement agencies that opt to enforce federal immigration law should do so in a manner that does not erode their relationship with immigrant communities or subordinate municipal interests to those of the federal government. Local law enforcement must be careful to strike a balance between immigration concerns, civil liberties, and maintaining public safety.

Thank you and I will be pleased to answer any questions.