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RESULTS

Police Executive Research Forum: Freeing Local Police from Immigration Enforcement

Dealing with immigration issues is one of the most critical and frustrating challenges police and sheriffs' departments currently face. To solve this problem and take some pressure off their members, PERF has conducted research and met with police leaders to frame immigration policy recommendations not only to guide local authorities, but to inform Congress and the Obama administration as well.

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Congress's failure to enact immigration reform has pushed local police into taking action against immigrants. But police departments don't want this assignment, which saps resources and undermines relationships essential to community policing. To solve this growing problem, the Police Executive Research Forum (PERF) has stepped up to put the immigration enforcement issue on the national agenda.

Community policing, widely considered the most useful law enforcement innovation in recent history, is based on the understanding that police need to develop close relationships with their communities and work with residents to identify and solve crime-related problems. Once local officials take on immigration enforcement, however, they find themselves struggling to maintain the confidence of the people they serve. Police leaders in many cities across the country share this problem, and have found diverse ways to cope depending on the needs and resources of their community. PERF has helped to disseminate these strategies through meetings and publications.

Using local police to enforce federal immigration law creates a climate of fear and division, according to PERF. Carnegie Corporation, which encourages the integration of immigrants into civic life, has supported PERF's efforts to assess enforcement practices, come up with more useful policies and make the problem part of the national debate. Geri Mannion, program director of the Corporation's U.S. Democracy and Special Opportunities Fund, says PERF gives policymakers and the public much-needed information about the effects of immigration laws, which "have had real consequences for many individuals—those who are undocumented as well as those who are legal immigrants but not citizens, and even those who simply *appear* to be immigrants or undocumented. These policies also have serious repercussions for the police who must enforce them."

PERF Makes the Case

"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." This is how PERF executive director, Chuck Wexler, characterizes the situation in cities throughout the United States. According to Wexler, the subject of immigration spontaneously turns into a hot-button issue in almost any open forum of police leaders.

Founded in 1977, the Police Executive Research Forum is a nonpolitical, professional organization made up of progressive law enforcement chief executives from city, county and state agencies who collectively serve more than half the country's population. "We primarily serve big cities," says Wexler. "Urban areas have different issues. There are about 17,000 police agencies in the country, and 90 percent have 25 officers or less. Their problems are fundamentally different than Philadelphia or Boston. PERF was created for big city issues."

PERF aims to improve police services and crime control via research, innovation and public debate. Objective studies determine best practices, which are then shared with criminal justice practitioners and the public at large. "We're not afraid to take on difficult issues," Wexler says, "and we're not afraid of controversy." Past projects have addressed community policing, officer safety, use of force, violence and victimization and racially biased law enforcement. In the case of immigration enforcement, PERF acted as the voice of its constituents and delivered their message in the strongest terms possible.

Beginning in 2008 Carnegie Corporation awarded PERF grants totaling \$850,000 for case studies, public education and outreach about the impact of immigrant policy on law enforcement at the local level. For some time, anti-immigrant groups had been advocating forcefully for more restrictive local ordinances and laws, pushing for local police to routinely check residents for legal status and detain those who lacked proof. Pushing back were pro-immigrant and civil rights groups who believed local law enforcement lacked the authority to enforce federal laws. Although local law enforcement officers do not have the legal authority or jurisdiction to enforce federal laws, growing numbers of states have passed new legislation to allow their police to take on a larger enforcement role.

PERF had conducted a survey of its members in 2007 to determine whether illegal immigration was a critical issue in their jurisdictions. Most of the survey participants felt the number of illegal immigrants had increased "substantially" in their cities over the previous five years and a large majority reported that their departments had no written policy for checking people's immigration status. Yet even without such policies, under certain circumstances they would conduct immigration status checks. PERF followed up this survey with an Immigration Summit for police chiefs, sheriffs, mayors, federal officials and other leaders in Washington, D.C. The organization then launched a multiphased, national-level project, collecting case studies on local policy and

police strategies, turning the findings into a landmark publication disseminated to police, advocacy groups, nonprofits and local, state and federal leaders nationwide.¹

By analyzing what has and has not worked in various cities around the country, PERF aims to help struggling police leaders formulate a program that suits their own community. For this project, six cities and counties were selected where law enforcement agencies had found a unique way to cope: Phoenix, Arizona; Mesa, Arizona; New Haven, Connecticut; Minneapolis, Minnesota; Montgomery County, Maryland and Prince William County, Virginia. A case study of each site's strategy was compiled explaining how local police had been affected and how leadership had responded to the immigration issue. These locations were chosen in large part because the patchwork of laws and policies compensating for lack of federal immigration reform was affecting law enforcement in complex and troubling ways:

- Lack of communication from undocumented immigrants, who were frequently victims of crimes such as domestic violence or robbery.
- Lack of community cohesion caused by undocumented immigrants living on the fringes of town.
- Unclear understanding of state and local police authority to enforce federal immigration laws.
- Difficulty in identifying suspects, and potential racial profiling.
- Problems managing demonstrations and maintaining order.
- Unclear relationships between illegal immigration and local crime rates.

Police Under Pressure

“There are no easy answers to this contentious issue,” Chuck Wexler stresses. “Police have to use discretion. Each city is trying to patch something together, and what works in one place probably won’t work elsewhere.” The six programs in PERF’s study demonstrate the need for distinct approaches. While each has a unique perspective and experiences immigration differently, Wexler believes, “by and large, behind the variations in enforcement they all have common values. No one wants legislation that puts distance between police and the community.”

¹ The publication *Police and Immigration: How Chiefs Are Leading Their Communities through the Challenges* can be downloaded at: <http://www.policeforum.org/library/immigration/PERFImmigrationReportMarch2011.pdf>

One of the featured case studies, Prince William County (Virginia) responded to immigration concerns with transparency and a public education campaign that may offer useful lessons for other police agencies attempting to navigate this terrain. The county’s police department is led by Charlie Dean, a 40-year police department veteran who’s spent half his career as chief. Several years ago Chief Dean found himself in the midst of the overheated immigration debate as his once-bucolic community, 35 miles outside Washington, D.C., dealt with the near doubling of its population in 25 years—including a jump in the Hispanic segment from 9.7 percent to 19.2 percent.

“These were significant changes,” Dean says, “and we saw groups like Help Save Manassas come along as a result.”² In 2006, Prince William’s Board of County Supervisors, reacting to residents’ increasing complaints about overcrowding and day labor sites as well as a spate of robberies targeting immigrants, asked the chief about adopting a resolution on the federal 287(g) program, Secure Communities—a partnership initiative of U.S. Immigration and Customs Enforcement (ICE) that allows a state or local entity to have authority for immigration enforcement within their jurisdictions.

Dean feared the program would mean a huge increase in his department’s workload. “I said no, that enforcement should be handled by personnel at the jail, not police in the field,” he recalls. “But the Board passed the resolution six months later.” This change made Dean’s department responsible for checking any individual’s immigration status whenever there was probable cause. Dean says he tried to limit the drain on departmental resources by handling immigration issues “as narrowly as possible, which was what I thought made sense.” His department set up the Criminal Alien Unit, a small group that would receive the required 287(g) training and would only handle serious crimes. As it turned out, within three months even this program had to be changed to a post-arrest policy—the more efficient approach Dean had originally recommended.

“We were under great pressure to implement the program quickly, but we needed several months to train our 560 officers,” he explains. “We invited attorneys and the press to the training, too.” Transparency and training are key, according to Dean. “The average citizen doesn’t understand that we don’t have the authority to arrest just anyone. We often

² Help Save Manassas is a self-described grassroots advocacy organization dedicated to “helping preserve our communities and protect them from the effects related to the presence of illegal aliens in our community.”

hear, ‘*What about illegal don’t you understand?*’ But we can’t simply pick people up.”

An aggressive public education program was needed once the policy was in place, Dean explained. “We spoke with 300 different groups in 2007 and 2008 and always delivered the same message: we’re going to focus on catching criminals and we’re going to protect victims and witnesses and prohibit racial profiling. The overall policy had to be *fair, lawful and reasonable*. It was the same message no matter who we were speaking to.” Dean says that throwing law enforcement at the situation isn’t the answer. Enforcement should be limited to people who violate the law, while law officers protect others. “That’s how we need to approach the problem.”

Bridging the Gaps

PERF held another National Immigration Summit, in July 2009, and attendees there echoed the widespread immigration problems—and the solutions—described in PERF’s case studies. More than 125 police executives, local and state officials, federal homeland security and law enforcement leaders and stakeholders on all sides of the issue came to Phoenix to talk about how enforcement mandates at the local level were affecting growing numbers of police departments.

Participants candidly discussed concerns such as victimization of immigrants as well as the stormy political atmosphere that undercut police efforts in many jurisdictions. A common problem was the irregularity—or absence—of local guidelines to determine how officers should deal with immigration enforcement. Maintaining contact with Immigration and Customs Enforcement (ICE) was another issue, since at the time only a few agencies had a formal agreement such as the 287(g) program that authorized and trained designated officers to take on an enforcement role. A significant number of police chiefs complained about the effect ICE actions had on their communities, especially when their departments were held accountable for fallout from incidents such as workplace raids.

This unprecedented meeting resulted in 18 points of consensus plus policy recommendations for both the federal government and local police agencies. Another outcome was the realization that more research and forums were needed. These sessions could not only provide more material for the upcoming publication, but might also build momentum among local leaders to press for federal immigra-

tion reform—something the White House participants at the earlier summit seemed to favor.

Police Chief Rick Myers hosted one of the executive sessions in his home city of Colorado Springs in March 2010.³ His city is representative of the immigration situation out West, he says, where population shifts have been dramatic in the last four to five years, particularly with the influx of immigrants from Mexico. “We have a greater and greater Spanish language-only population that we are servicing,” Chief Myers says. “We also have a significant amount of gang-related and organized crime activities (drugs) that involve Mexican nationals—some documented and some not. It poses an interesting challenge for us.

“Also somewhat challenging is that this is a very conservative community. There are many residents who would like to see local police do more immigration enforcement. We’re resisting—mostly for pragmatic reasons due to significant cuts to staffing. We’re far below national averages already. As a result, we work hard just to keep our heads above water *without* taking on a federal role.” Colorado Springs City Council members are painfully aware of the low ratio of officers to high demand for service, according to Myers, yet at the same time there are state legislators who are noteworthy for their anti-immigrant passion. “They’ve written or called to express their enmity toward me for not being in the rounding-up business,” he says.

Colorado Springs’ geography helps explain why its police department is spread so thin. At about 200 square miles, its city limits could contain Miami, Boston, Minneapolis and San Francisco, Myers explains. The city is located on the I-25 corridor, which he describes as a major pipeline, in other words a path for drugs from Mexico north, going through New Mexico and into Colorado up to Denver, where it “spokes out like a wheel.”

Myers says the state legislature has grappled with the immigration issue, even introducing an Arizona-style bill that did not make it out of committee.⁴ The Colorado legislature and governor are encouraging the federal government to fix the policy. “We’re desperate for federal reform that’s balanced, reasonable and can actually be implemented—not pie in the sky that federal agencies could never carry out. Meanwhile, we’re watching Arizona, New Mexico, Texas

³ Other sessions took place in Raleigh, North Carolina; Washington, D.C. (Police Chief Meeting with U.S. Attorney General); Laredo, Texas; Prince William County, Virginia.

⁴ Arizona’s SB 1070, a new state law expanding the role of local police in immigration enforcement, is discussed on page 6.

and California with close interest, particularly regarding drugs and cross-border violence. We haven't got that level of trouble here yet," he says. Similar sentiments were expressed by other police executives who attended the Colorado Springs PERF workshop.

The concern many chiefs showed about improving their relationship with immigrants hit home with Myers. " Oftentimes law enforcement in other countries does not have a social contract with the people, so trust is nonexistent. In those cases immigrant populations really fear police. How much information sharing do you think goes on with recent immigrants who base their ideas on their home country?" Meyers says that many police officers have worked tirelessly to bridge huge gaps and build trust with immigrants from all over. But making immigration enforcement the job of local police wipes out trust. Added to that, the immigrants are victims of crimes much more than they are perpetrators, he contends. For instance, undocumented day laborers without bank accounts are known as 'walking ATM machines.' Robbers know this well and prey on them.

Attendees at the Colorado Springs workshop included police executives from most other Colorado cities with populations over 25,000, as well as from adjoining states. Myers had expressed an interest in hosting the event and considered it an honor when his city was chosen, he says. "One thing distinguishes this organization; they not only bring together practitioners to talk over what does and doesn't work, they document this information and convey it to policymakers and tell them, 'This is what's on the mind of police trying to do the right thing out in your community.' When you're far away from the Beltway you may feel you have no advocate. PERF takes this on willingly and ably, and they make it clear to the administration and Congress. I value them a great deal."

Coping on the Border

No two cities are affected by immigration issues in quite the same way. Consequently, communities have radically different philosophies about what enforcement approach to use. While citizens are usually willing to let the police figure out how to keep things orderly and peaceful, more complex immigration issues polarize communities and evoke strong passions. Some residents want "illegal aliens" to be deported—period. Others believe immigrants, documented or not, should be valued because they play an important role in the

economy. Most people fall somewhere in between.

With political leaders demanding that police departments step up enforcement, chiefs can find themselves in the midst of an ugly public debate. Police departments today do more than respond to crimes after they happen; they aim to solve problems that cause crimes and prevent them from being committed in the first place. But this can only happen if all residents, regardless of immigration status, have confidence in law enforcement and are willing to report crimes and come forward as victims or witnesses.

Reaching out to the community is vital, says Chief Carlos Maldonado of Laredo, Texas, a town on the edge of Mexico, where immigration issues can be tough to untangle. "Being on the border gives people a very different view of the issue than you get from the country's interior," he points out. Maldonado is a firm believer in enforcement. "If you commit a crime and you're here illegally—you're out of here. End of story," he says. But situations are rarely so simple. "Familial ties are very intricate and interlocked, with families on both sides. We have many Mexican nationals residing in Laredo who may be victims of a crime, but they won't report it because they fear being deported. But we need the community to be our eyes and ears," he insists. His department is trying to educate potential witnesses and victims, particularly women, that reporting doesn't mean being deported.

The chief is getting help from community advocates like Sister Rosemary Welsh, an intermediary Maldonado's department relies on for bridging and mediating with the community, because she "gets" the dilemma police are facing. "Victims are looking at self-preservation when a loved one might be deported," he says. "Sister Rosemary understands their fear and does a tremendous job with faith-based outreach. When PERF held a meeting in Laredo, she spoke and brought perspective."

A native of Springfield, Missouri, Sister Rosemary Welsh has lived in Laredo since 1976. She is a nurse by training and has been a Sister of Mercy for 44 years. Before coming to Texas she worked in hospitals in Guatemala and Honduras, and now divides her time between a clinic for underfunded patients and a shelter for abused women and their children. She speaks fluent Spanish.

Sister Rosemary is outreach director of Mercy Ministries and executive director of Casa de Misericordia, which serves hundreds of women and children annually. "My job is community organizing. I say, 'God will provide, but we need to help.'" Clinic staffers don't ask people what country

they come from, she says, but to get medical care they have to show proof of residency in Webb County, to assure that they can receive follow-up treatment. People who come to the shelter to escape abuse can be from anywhere, however. “We’ve had women from Kenya, Haiti, Mexico, Guatemala. We help domestic violence victims from here or from out of the country. When we hold our fundraisers, the diversity among our supporters is unbelievable.”

It’s unfortunate that many of the immigrant women they serve are terrified that if they call the police to report being victimized they’ll be deported, Sister Rosemary says. She calls it a Catch 22; the perpetrator says, ‘if you tell on me I’ll tell on you. Then they’ll deport you and I’ll get the kids.’ In one case the mother-in-law of a woman at the shelter threatened to turn her in to the border patrol. “We’ve had many such sad cases,” she reports. “People are beginning to say, if you call the police or sheriff, don’t give your address or they’ll deport you. This misinformation has spread.”

Opening positive lines of communication is essential to getting law enforcement and immigrants on the same page, Sister Rosemary stresses. “Some folks think you need to be adversarial, but we think the opposite. We’ve called people from every law enforcement office. That’s how I got involved with PERF. We have very good relations with everyone, including the border patrol. If they’re taking action against someone we can ask them to stop and they will. And ICE will call the shelter to request protection for someone who is going to testify.” According to Sister Rosemary, many people claim ‘we can’t have sanctuary cities here,’ meaning places where police look the other way on immigration status. “But enforcement is something police don’t want to touch,” she says, noting that she already sees how immigrants’ confidence has been broken, even people who have been in the United States for 25 years or more.

Going National

In April 2010, as PERF was conducting education and outreach workshops across the country, Arizona was enacting legislation that put the immigration story in the spotlight. The passage of SB 1070, a new state law expanding the role of local police in immigration enforcement, solidified Arizona’s position as “ground zero” in the battle. Governor Jan Brewer hadn’t signed the bill before President Obama suggested it would “undermine basic notions of fairness that we cherish as Americans.” The most restrictive immigration measure in decades, it made failure to carry immigra-

tion documents a state crime (the first state to institute this requirement) and gave police the power to hold anyone suspected of being in the country illegally. Demonstrators quickly flocked to the Arizona capitol plaza to protest what many viewed as state-supported racial and ethnic profiling.

“We had already been to Phoenix to convene a summit well before the law was proposed and had developed our recommendations,” Wexler recalls. “This was very significant because we had a relationship with the police department when this controversial legislation was passed. Soon I found myself talking to the Phoenix police chief on the phone and we came up with an idea—to request a meeting with Attorney General Eric Holder and think the situation through on the national level.” The crux of the matter was that what was happening in Arizona had relevance all around the country, Wexler says. Police chiefs from Los Angeles, Minneapolis, Houston, Salt Lake City, Tucson, Philadelphia and Montgomery County, Maryland volunteered to be part of the effort.

Salt Lake City Chief Chris Burbank was a member of the PERF delegation. According to Burbank, his city’s immigration debate has been raging for over four years. He says there are many misperceptions about Salt Lake City, which has a large LGBT community and a 25 percent Hispanic population and tends to be more liberal and diverse than the surrounding state. A fair number of immigrants there are undocumented, he says, and the ski and tourism industries need them to keep going. The city’s police are prohibited from asking about immigration status, but “with about 15 different agencies in the valley it’s difficult to separate out all the badges. There’s a misperception that *all* law enforcement is taking up the anti-immigrant cause.

“As soon as the Arizona law passed, people were drafting similar bills here.” Burbank says legislators claimed to have softened the language, but he argues that local police simply should not be involved in immigration enforcement. Until the Arizona case is decided, he says, other states will just “wait and see.” But Burbank thinks the real problem is the effect controversy about the law is having on community relations. “The rhetoric is more damaging than any law. . . Hatred has come out. People who want to be re-elected are playing off that hatred. It’s vile and outright racist. It may not be the lawmakers themselves, but their supporters have caused a rift that will never be reconciled. The negative effect on the community has been dramatic.”

There are also funding issues. “Our jails release hundreds of criminals every month because of overcrowding,” Burbank says. “If we take up bed space for immigrant de-

attention, there's no room for criminals." Immigration is a civil *not* a criminal issue, he stresses. "Illegal is the wrong term. Running a red light is a more serious offense." In fact, he notes, a Rand study shows that undocumented immigrants subject to deportation who are released into the community from a local jail do *not* pose a greater threat to public safety than nondeportable immigrants released at the same time.⁵

Having already testified in Congress, Burbank was more than willing to support PERF's outreach to the Department of Justice. "I said 'absolutely!' It was a good opportunity to act collectively and share our concerns in Washington." He was "very pleased" with the meeting, reporting that compared to typical 10-minute courtesy meetings with government officials, "in this case Eric Holder was very much engaged. It was more of a discussion than we had anticipated and he understood the issues and had perspective. It was a real conversation and as we talked about situations, he had already heard about them and was prepared. We had an opportunity and an impact on decision making."

PERF had sent an important signal to its membership by taking police professionals' concerns about the impact of the Arizona law to the highest level. The Justice Department has since intervened and raised the question of whether that law is constitutional. A July 2010 preliminary order blocking SB 1070 meant Arizona could not enforce it. In April 2011, the U.S. Court of Appeals in San Francisco upheld the lower court ruling, stating that Arizona was interfering with the federal government's authority. "I wouldn't say we were the ones responsible," Wexler says, "but we demonstrated our concern to the attorney general, and we made it clear that this is not just an Arizona issue, but a national one. Immigration enforcement needs to be a federal responsibility, and we used high-level visibility to educate the attorney general and the American people through the media."

Media attention was again focused on PERF in March 2011 with the release of the organization's Carnegie Corporation-funded publication, *Police and Immigration: How Chiefs Are Leading their Communities through the Challenges*.⁶ The feedback was everything Wexler could have wished for. *The New York Times* article with the headline "Police Chiefs Wary of Immigration Role" ran on March 3, the publication date. The lead said it all: "As many state legislatures consider laws to expand the role of local police departments in immigration control, police chiefs across

⁵ Read more about this research at <http://www.rand.org/news/press/2008/02/22/index1.html>

⁶ <http://policeforum.org/library/immigration/PERFImmigrationReportMarch2011.pdf>

the country say they are reluctant to take on these tasks and want clear lines drawn between local crime-fighting and federal immigration enforcement..." An editorial in the *Los Angeles Times* came soon after, and then articles appeared in regional papers and on local TV news. "When you talk about results, one way to demonstrate them is, do the media think it's relevant enough to report?" Wexler says. "We know it was because the report got a lot of national visibility."

Secure Communities

Wexler's own understanding of immigration and community policing, as well as his reputation as head of PERF, led to his being tapped by director of Immigration and Customs Enforcement John Morton to lead a task force charged with examining current policies and making recommendations regarding Secure Communities. Secure Communities is a federal information-sharing partnership between the FBI and ICE to identify criminal aliens. For many years, local law enforcement agencies have routinely sent the FBI fingerprints of arrestees to see if the arrestees have a criminal record or are the subject of an arrest warrant in another jurisdiction. Under Secure Communities, the FBI automatically forwards these arrestees' fingerprints to ICE to check against its immigration databases. If these checks reveal that a local arrestee is unlawfully present in the United States, ICE may seek to detain the person and may consider various types of enforcement action, up to and including removal from the United States.

Because ICE has limited resources, it has issued written policy memoranda detailing its priorities for enforcement action, which include focusing enforcement on persons who pose the most serious threats to national security or public safety. Thus, when persons arrested at the local level are being considered for federal immigration enforcement actions, memoranda by ICE Director Morton instruct ICE employees to consider certain specified factors, including whether the arrestee has a record of serious criminal convictions. However, a number of state and local officials and immigrant advocacy groups have raised questions about whether ICE's record of enforcement under Secure Communities actually reflects its stated policies, or whether low-level offenders who are not in any priority category are also being subjected to immigration enforcement.

The nonpartisan task force led by Wexler, which includes police chiefs, sheriffs, ICE employee union representatives, and community and immigration advocates, is

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 RESULTS Fall 2011

continued from page 7

looking into possible reforms of the Secure Communities program in this area, in particular with regard to persons arrested at the local level for minor traffic offenses or other misdemeanors. “The Task Force brings together a variety of people with different perspectives and areas of expertise that are important to understanding the challenge of Secure Communities,” Wexler said. “We are aiming to find common ground and make recommendations that are based on the collective wisdom of the panel.”

The task force’s recommendations, to be presented to the Department of Homeland Security in September, will address the question of prosecutorial discretion and related issues regarding immigration enforcement. One major consideration is the view of many local law enforcement officials that a perception of improper enforcement actions by local police can undo years of work to build strong relationships with all parts of their communities.

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