“How do we police a community that won’t talk to us?” Police Chief Ron Miller (Topeka, Kansas)

Public Safety on ICE:  
*How Do You Police a Community That Won’t Talk to You?*

August 2011

The principle behind community policing is straightforward: in order to investigate crimes, lock up criminals, and protect the public, police need the trust and cooperation of everyone in their communities. When immigrants worry that contact with the police could lead to deportation, they are much less likely to report crimes and assist in investigations. This makes the job of police much harder, and the “job” of criminals much easier. The result: an entire community is less safe.

For this reason, scores of cities and police departments have formal policies in place that limit their role in immigration enforcement. To them, a person’s status as a crime victim or witness is more important than their visa status. But increasingly, lawmakers are bringing immigration politics into police departments, encouraging and even requiring state and local police to assist in the deportation of people who have not been convicted of crimes. When local police get involved in immigration enforcement, any person who comes into contact with local police—whether convicted of a crime or not—can have his or her immigration status checked, and be put into deportation proceedings if he or she turns out to be undocumented. This is destroying the relationship between police and the immigrant community, scaring immigrants away from having any contact with the police, and undermining public safety for all.

Although some police-Department of Homeland Security (DHS) collaboration programs are described as targeting foreign-born criminals, their scope is often much broader. For example, the Secure Communities program has recently come under fire from law enforcement, crime victim advocates, Members of Congress, and community leaders because it goes far beyond its stated goal of targeting dangerous criminals. Secure Communities facilitates immigration status checks of thousands of people who have contact with the local police, whether they were arrested for a heinous crime or stopped for a traffic violation. As it’s been expanded rapidly under the Obama Administration, it has brought immigration enforcement into thousands of

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police departments across the country. Government statistics show that as of June 2011, more than a quarter (28%) of the immigrants who have been deported through Secure Communities have not committed any crime. Fifty-nine percent have either committed no crime or were charged with low-level offenses, such as traffic violations.

Secure Communities and the related DHS program known as 287(g), Arizona's S.B. 1070 law and similar state bills, and the “inherent authority” doctrine first implemented by the Bush Administration (which asserted that local police have the “inherent authority” to enforce federal civil immigration laws) all undermine the relationship between police and the immigrant community. They undercut the top priority of state and local police: protecting the public from crime and criminals.

This report reviews research by academics and advocates, the perspectives of law enforcement leaders, and stories from around the country that illustrate how the relationship between police and immigrants is harmed by programs like Secure Communities. It also provides ideas for rebuilding that relationship and putting public safety ahead of immigration politics.

Secure Communities Creates Insecure Communities

First with the “inherent authority” doctrine and 287(g) agreements, and now through Secure Communities, coordination between federal immigration agents and state and local police has significantly expanded over the past decade. Members of the immigrant community now know that contact with the police—even if they haven’t committed any crime—can lead to deportation.

Over the past year, Secure Communities has come under increased scrutiny from local and state officials and grassroots groups around the country who are concerned about the program’s impacts. The Uncover the Truth campaign, led by the National Day Laborers Organizing Network, Center for Constitutional Rights, and Benjamin H. Cardozo School of Law, revealed that the Department of Homeland Security’s rapid expansion of Secure Communities has created serious dysfunction and confusion. As more and more troubling information has come to light, a growing number of cities and states have tried to remove themselves from the program, citing the harm it is doing to community policing and public safety.

Governors Pat Quinn of Illinois, Andrew Cuomo of New York and Deval Patrick of Massachusetts have all announced that they want to end their states’ participation in Secure Communities. In a letter to the Department of Homeland Security announcing Gov. Cuomo’s decision, Counsel to the Governor Mylan Denerstein wrote that “The heart of concern is that the program, conceived of as a method of targeting those who pose the greatest threat to our communities, is in fact having the opposite effect and compromising public safety by deterring witnesses to crime and others from working with law enforcement.” In Massachusetts, Chelsea Chief of Police Brian Kyes applauded Gov. Patrick’s decision, saying that Secure Communities has

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created “mistrust of local police, discouraged people from reporting crime, and made everyone more vulnerable to crime by breaking down hard earned relationships."

Additionally, California’s state legislature is considering the TRUST Act, a bill that would end Secure Communities at the state level and require local governments that want to participate to affirmatively opt-in. San Francisco Police Chief Michael Hennessey wrote that he supports the TRUST Act because “It is vitally important for San Francisco law enforcement to create a bond of trust with all the city's residents. My department has consistently reported felons to ICE for more than a decade, and ICE typically picks up close to 1,000 people from the San Francisco County Jail each year. But I don't think people should be deported for a traffic ticket or for operating a tamale cart in the Mission.” As Art Venegas, former police chief of Sacramento and Director of the Law Enforcement Engagement Initiative, put it: “The TRUST Act would restore the trust necessary for law enforcement to do our job.”

In the summer of 2011, after months of pressure from community members, law enforcement, governors, and Members of Congress to reform or end the program, the Department of Homeland Security convened a Secure Communities Task Force to examine the program and make recommendations to improve it. In a letter to the Task Force, the National Latino Peace Officers Association expressed concern that the program has “strayed far from its stated goal of deporting serious criminals, and is having a dangerous effect on community policing.” Drawing upon their experience as law enforcement professionals and as members of the Latino community, NLPOA’s leaders recommended extensive reforms to the program, including focusing it on serious, convicted criminals only and clarifying the limits of police roles in immigration enforcement so that crime victims are no longer afraid of the police.

The Task Force held field hearings in Dallas, Los Angeles, Chicago, and Arlington, VA, where hundreds of community members expressed frustration and anger with the program and called for it to be terminated. The impact on community policing and public safety was a recurring theme. In Dallas, a representative from the Greater Dallas Korean Chamber of Commerce testified, “when I have twenty Korean businesses looted and robbed in Dallas, nobody spoke because if they spoke up, they could be fingerprinted and everything becomes known. The program is a tool to keep us quiet.”

Crime Victims’ Advocates Report that the Chilling Effect is Harming Public Safety

Stories from around the country show that the experience of this Dallas businessman is replicated nationwide, and that police-DHS collaboration is destroying the relationship between immigrants and local police.

Charlie McAteer from One America in Washington state related the story of Maria from Whatcom County. This incident was later reported in the Seattle Weekly:

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There was a family birthday party for my friend’s daughter. The kids were outside running around and playing, and the little girl had an accident – she fell between two cars in the driveway. Her mother was scared and called 911, asking that an ambulance come pick up her daughter. The mother spoke English with an accent and gave her last name (she has a Spanish surname). Shortly afterwards, the ambulance, firemen, Sheriff, and the border patrol arrived. The border patrol began to walk around the house asking people their names. The host family was made up of U.S. citizens, but many of their guests ran inside the home and closed the door. The people that came to the party left scared.

I don’t understand why so many law enforcement officials arrived and why the border patrol was present. Now, whenever those people have an accident they will be fearful to call 911 because the men in green will show up. They see police/ICE as the same, as dangerous for their families.

In Illinois, organizers from the DreamActivist network are working to stop the deportation of Marcelo Castañeda Llamas. He was put into deportation proceedings after an innocent interaction with local police. According to a recent email petition:

Marcelo was born in Mexico and was brought to the United States, in 1994, when he was only 9 years old. Now 25, he has been living in the United States for the majority of his life. On July 12, 2011, Marcelo’s family member contacted the police in Illinois to assist her in getting into her locked car. The police opened the car door, but then they also arrested Marcelo and turned him over to ICE without filing any criminal charges or claiming that he had committed any crime. Despite having lived in the United States for over 16 years, Marcelo finds himself fighting his deportation to a country he no longer remembers.

Local and national groups who work with immigrants report the dramatic growth of police-facilitated deportations through programs like Secure Communities. A recent report from the American Immigration Lawyers Association (AILA) documents 127 cases from 24 states, where immigrants were picked up by police for minor infractions and then put into deportation proceedings. A group of local organizations, led by the National Day Laborers Organizing Network (NDLON), also issued a report documenting recent cases of immigrants detained for minor violations. The report offers a devastating picture of increased fear in immigrant communities and concludes that the only solution to improve community safety is to end the Secure Communities program all together.

This fear spreads quickly throughout the community, with the arrest and deportation of one young man, or the appearance of the Border Patrol at just one party. In a series of focus groups convened by the Police Foundation, “civilian participants explained that when one victim or witness is deported, this information spreads rapidly within the social networks of immigrant communities and fear proliferates.” As criminal justice expert David A. Harris testified before Congress in 2009: “This fear will spread beyond illegal immigrants. According to the Pew Hispanic Center, 3.2 million American citizens live in mixed status households, in which some
people have legal status, but others do not. Even those with legal status will hesitate to become involved with police if they think it might bring immigration consequences on someone living in the home — usually, of course, a family member.”

This phenomenon has also been documented in studies about a related police-DHS collaboration program known as 287(g), which allows some local police to check immigration status in jails and some to actively enforce immigration laws on the street. The Migration Policy Institute examined the effects of the 287(g) program in several communities, and found that law enforcement officials and community residents both say that immigrants are less likely to report crimes now that 287(g) is in place in their areas.

Similarly, in Cobb County, GA, the head of the County Police Neighborhood Crime Prevention Unit told the ACLU of Georgia that after 287(g), “no one would come to the (neighborhood crime watch) meetings any longer if the police were present.” Police officers and community leaders had informed him that both reported and unreported crime rates were up as a result. The ACLU of North Carolina and the University of North Carolina Law School also found that “undocumented residents report being increasingly unwilling to contact law enforcement to report crimes or otherwise come forward to aid the police department.”

Any policy or practice that blurs the line between local police and immigration enforcement damages community trust and safety. The El Paso Police Department told the Police Foundation that it "discontinued [joint enforcement operations with U.S. Border Patrol] because the joint operations had a chilling effect on immigrant communities. In particular, in the context of domestic violence, they found a troubling decrease in reports.”

In San Jose, California, the local ABC News affiliate reported that the Police Department is asking for the help of undocumented residents to solve recent murders. According to the report, “many Latinos in San Jose are worried, afraid, and said they don’t trust the police. Some even said they distrust the police so much, they don’t call the police for help... One woman told ABC7 that people in her community are very worried, they live in constant fear when leaving the house or even driving because the police might stop them and deport them.”

Whether immigrants fear the police, fewer crimes are reported, fewer victims get justice, and more criminals get a free pass. Flequer J. Vera-Olcese from the AMOS Project in Cincinnati, Ohio, shared a recent case of a crime victim there that illustrates how pervasive the fear of police is in immigrant communities.

Fifteen year-old Laura, an undocumented immigrant from Mexico and a special-needs child, was kidnapped and raped. When Laura turned up missing, her parents were afraid to go immediately to the police and instead investigated on their own. After several days they found Laura, and her mother took her to the police so she could report what had happened. More than a month later, the family remains afraid of following-up with the police, seesawing

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through a mix of emotions. While they want justice for their daughter, they also fear that multiple contacts with the police could lead to the entire family’s deportation.

Like other people who work with immigrants on a daily basis, Vera-Olcese reports that these types of cases are becoming more frequent, and that immigrants he knows are increasingly afraid of going to the police when they are victims of or witnesses to crime.

Advocates for victims of domestic violence are on the forefront of this phenomenon, and are struggling to communicate to battered immigrants that it is safe to call the police. In fact, there have been numerous media reports over the last year about domestic violence victims who’ve called the police to report their abusers, only to have their immigration status checked through Secure Communities and end up in deportation proceedings.

Immigrant women are already less likely to report domestic violence, especially if they are concerned about their visa status. A study by Nawal Ammar, formerly of Kent State University and now of the University of Ontario Institute of Technology, found that while the overall reporting rate for domestic violence among all U.S. women is around 53%; that rate drops to 43.1% if the woman is a lawful permanent resident (“green card” holder); 20.8% if she has temporary legal status; and 18.8% if she is undocumented.

An abuser can exploit a victim’s immigration status by threatening to have her deported if she speaks out. Although Congress has mandated specific protections in immigration law for victims of domestic abuse, not all police are trained on their availability and most victims don’t know that they exist.

This problem is made much worse when victims are actually referred for deportation, as was the case of a Maryland woman whose story was reported in the Washington Post:

*Last Christmas Eve, Maria Bolanos made a decision she would later regret: During a fight with her partner, she called the Prince George’s County police and sought their protection...*

*The officer who responded to the domestic dispute at her apartment in Hyattsville later charged her with illegally selling a $10 phone card to a neighbor - an allegation she denies. The charge was eventually dropped, but by then Bolanos had been been fingerprinted and found to be in the country illegally by U.S. Immigration and Customs Enforcement.*

*She has been told she probably will be deported after a Wednesday hearing before an immigration judge in Baltimore.*

After her experience Bolanos told the *Post*: "You would have to be crazy to call the police. I would never call the police again."

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Domestic violence expert Leslye Orloff, Associate Vice President of Legal Momentum, explained at a 2011 ad hoc congressional hearing that changes in immigration enforcement have made things worse for victims: “Prior to 2003, although abusers of immigrant victims would threaten to turn their victims in to immigration enforcement authorities and actually made calls to report victims, DHS enforcement priorities resulted in few immigrant victims becoming subject of enforcement actions based on ‘tips’ from their abusers. Times have changed. Today, perpetrators of crimes against immigrant victims are much more successful in having their victims arrested by DHS or local law enforcement officials.”

There are numerous documented cases of this fear playing out in situations of domestic abuse. Jacki Esposito, Policy Director at the New York Immigration Coalition, shared the following story from the Empire Justice Center:

A.D. from El Salvador was in an abusive relationship with her [U.S. citizen] husband. She came to us for assistance in getting legal status. We decided to file the VAWA Self-Petition on her behalf and started collecting evidence pertaining to the abuse she suffered. Although we were able to collect statements from friends and counselors, we noticed there were no police reports. Upon asking our client about this, she indicated that she was afraid to call police when her husband became violent because she also thought that if the police came, they would believe what her husband had to say about her lack of immigration status and that would trump her personal safety. Not until she was out of the house and assisted by various advocates was she able to get protection through the courts.

In June 2011, DHS’ Immigration and Customs Enforcement (ICE) issued a memo instructing agents that it is “against ICE policy” to initiate deportation proceedings against “the immediate victim or witness to a crime” – emphasizing domestic violence victims in particular. But experts believe that this directive will be difficult to enforce and won’t solve the underlying problem. According to Jennie Pasquarella, Staff Attorney for the ACLU of Southern California, “the guidance from the ICE memo is insufficient on many levels: first, it does nothing to stop police from handing victims over to ICE, and subjecting them to detention and deportation proceedings. Second, most immigrant victims don’t have lawyers who can make prosecutorial discretion requests for them. Finally, exercise of prosecutorial discretion is exactly that—discretionary—and there is no mechanism in place to make sure it will be exercised in a standard way. It remains to be seen how the new policies will be implemented, but until recently it has been very difficult to get ICE to ever exercise their prosecutorial discretion to terminate proceedings for a victim.”

Gail Pendleton, co-founder of the National Network to End Violence Against Immigrant Women and co-director of ASISTA, added that in addition to the recent memo, “the Obama Administration must tell law enforcement around the country that it is their job to help all victims of crimes, regardless of immigration status. And it must ensure that programs like Secure Communities and 287(g) protect victims instead of referring them to DHS.”

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Law Enforcement Wants To Retain the Trust of Immigrant Communities

In immigrant communities, state and local police already have to work doubly hard to gain the trust and confidence of residents. Language barriers, bad experiences with law enforcement in their home countries, and other factors combine to pose a formidable, but not insurmountable, test on this relationship. When local police turn community members over for deportation, it stands to reason that this already-fragile relationship would fracture.

Topeka (KS) Police Chief Ron Miller put it best when he asked, “How do we police a community that won’t talk to us?”

Law enforcement experts have warned for years that increasing collaboration between local police and immigration agents would create the chilling effect we’re now seeing in communities around the country. For this reason, the International Association of Chiefs of Police, Major Cities Chiefs Association, Police Foundation and the Police Executive Research Forum have all taken positions that local involvement in immigration enforcement should be both limited and voluntary.

As the Major Cities Chiefs Association put it, “Without assurances that contact with the police would not result in purely civil immigration enforcement action, the hard won trust, communication and cooperation from the immigrant community would disappear.” The International Association of Chiefs of Police concluded that “Because the question of state, tribal or local law enforcement’s participation in immigration enforcement is an inherently local decision, the IACP believes that any legislative proposal to enlist the assistance of non-federal agencies in immigration enforcement must be based on the completely voluntary cooperation of state/local law enforcement agencies.”

After conducting research with several police departments, the Police Executive Research Forum recommended that “Officers should be prohibited from arresting or detaining persons for the sole purpose of investigating their immigration status” and that “local police should be consulted early in the process of policy development or modification when local law enforcement agencies will be affected.”

A survey of police chiefs conducted by the Police Foundation in 2009 found that 85% believe that “aggressive enforcement of immigration law” would reduce victim reporting; 83% believe it would reduce reporting of criminal activity; and 74% believe it would reduce community trust of the police. Seventy-seven percent believe it would weaken public-trust initiatives and community policing; 63% believe it would weaken intelligence gathering; and 67% think it would hamper criminal investigations.

These beliefs are the product of police officers’ real experiences on the ground – experiences like the ones outlined in this report. In other words, the chilling effect is expansive and real.

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Instead of pushing a political agenda on state and local police, policymakers should listen to their concerns.

Policymakers and police can start repairing and rebuilding the relationship between local law enforcement and the immigrant community, and once again put public safety first, but they need to follow the advice of respected institutions like the International Association of Chiefs of Police, Police Executive Research Forum, Major Cities Chiefs Association, National Latino Peace Officers Association, and the Major Cities Chiefs Association. They need to take immigration politics out of the precinct, end programs that involve police in the deportation of people who haven’t committed serious crimes, and communicate loudly and often to immigrants that it is once again safe to work with the police. Until then, fear will remain, and public safety will suffer.
Acknowledgements

America’s Voice Education Fund (AVEF) would like to acknowledge and express gratitude to the organizations and people that gathered the stories presented here and provided valuable input throughout the process of putting this report together: American Civil Liberties Union - Southern California (ACLU-SC), American Immigration Lawyers Association (AILA), AMOS Project, ASISTA, DreamActivist Network, Empire Justice Center, Illinois Coalition for Immigrant and Refugee Rights (ICIRR), Legal Momentum, National Day Laborers Organizing Network (NDLON), National Immigration Law Center (NILC), New York Immigration Coalition (NYIC), and One America. Thank you for your partnership and guidance.