



MAJOR CITIES CHIEFS ASSOCIATION



TESTIMONY OF

**TOM MANGER, CHIEF OF POLICE, PRESIDENT OF THE MAJOR CITIES
CHIEFS ASSOCIATION**

ON BEHALF OF

MONTGOMERY COUNTY POLICE DEPARTMENT

AND

MAJOR CITIES CHIEFS ASSOCIATION

BEFORE THE

JUDICIARY COMMITTEE

CHAIRMAN GRASSLEY, PRESIDING

UNITED STATES SENATE

HEARING:

Oversight of the Administration's Misdirected Immigration Enforcement
Policies: Examining the Impact on Public Safety and Honoring the Victims

July 21, 2015 10:00 AM



Chairman Grassley, Ranking Member Leahy, thank you for the opportunity to testify on the impact federal immigration enforcement policies and operations have on local law enforcement.

Chairman Grassley, we thank you for presiding over this hearing, as this demonstrates your commitment and deep concern about local law enforcement, immigration enforcement, and public safety. Senators, today I speak to you as the President of the Major Cities Chiefs of Police, representing the largest cities in the Nation, as well as Chief of my own department. The Major Cities Chiefs is comprised of the law enforcement agencies from every major urban metropolitan area, providing policing services for millions.

As cops, we see the good and the bad every day. We are witnesses to the immense benefits that immigration brings to our Nation, but we also see the sinister side. We see first-hand how immigrants become victims of the worst criminals and also how illegal aliens may become the worst criminals themselves, engaged in drug trafficking, human trafficking, and all manner of crime.

The recent tragedy in San Francisco brings us together for a discussion of how immigration enforcement relates to the role of local law enforcement and we confront this question yet again – what should be the priorities of local police and sheriffs?

Our priority is what you would expect – certainly what each of you here today seeks from us - the safety of our communities across the Nation. Our priority is the prevention of crime and the protection of the public we are sworn to serve.

I am here to share with you the policy adopted by a vote of our membership, the 67 largest cities in America. We hope you will agree that our position represents a reasoned balance between conflicting demands.

Limited Role of Local Police and Sheriffs

Immigration enforcement is today, and always has been, a Federal responsibility. With limited resources and capabilities, local agencies cannot be expected to expand our role into immigration enforcement. Immigration is on a list of multiple examples of Federal jurisdiction which are vital but simply not our job. Customs enforcement, national defense and many other examples may be cited. We do not have the funding, resources or training to take on duties that are not part of our job in the first place. Surely no member of the Committee would want to hear from their own community that we did not respond to a call for help because we were off enforcing immigration laws.

Community Trust

To do our job we must have the trust and respect of the communities we serve. We fail if the public fears their police and will not come forward when we need them. Whether we seek to stop child predators, drug dealers, rapists or robbers – we need the full cooperation of victims and witness. Cooperation is not forthcoming from persons who see their police as immigration agents. When immigrants come to view their local police and sheriffs with distrust because they fear deportation, it creates conditions that encourage criminals to prey upon victims and witnesses alike.



Legal Authority

Courts have expressed the view that local police lack the authority to arrest and detain persons solely due to immigration status. We train cops that these powers are to be used only when there is probable cause. Moreover, the potential inclusion of civil detainees with no judicial review or authority into our automated systems can create confusion and expose our agencies, officers and deputies to liability. To this end, we have asked DHS to pursue a warrant option with the Department of Justice in order to confirm when an arrest is clearly lawful.

Policy Statement

While immigration enforcement is not our role, it is our duty to cooperate in a manner that is consistent with our duty to protect the public. To this end, we have developed a policy which strikes this balance, and I am pleased to share it with the Committee today. **Major Cities Chiefs' policy statement was adopted by a vote of our membership and consists of nine points.**

1) IMMIGRATION IS A FEDERAL RESPONSIBILITY

Immigration is a federal policy issue between the United States government and other countries, not local or state entities and other countries. Any immigration enforcement laws or practices should be nationally based, consistent, and federally funded.

2) WE MUST SECURE THE BORDERS

Immigration is a national issue and the federal government should first act to secure the national borders preventing illegal entry into the United States. We support further and adequate funding of federal agencies responsible for border security and immigration enforcement so they can accomplish this goal. We also support consideration of all possible solutions including construction of border fences where appropriate, use of surveillance technologies and increases in the number of border patrol agents.

3) FEDERAL AGENTS MUST ENFORCE LAWS PROHIBITING THE HIRING OF UNDOCUMENTED IMMIGRANTS

The federal government and its agencies should continue its enforcement of existing immigration laws prohibiting employers from hiring illegal immigrants. Enforcement and prosecution of employers who illegally seek out and hire undocumented immigrants or turn a blind eye to the undocumented status of their employees will help to eliminate one of the major incentives for illegal immigration. Additionally, this will serve to reduce the exploitation of individual workers.

4) FEDERAL AGENCIES MUST CONSULT AND INVOLVE LOCAL POLICE AGENCIES IN DECISION MAKING

Major Cities Chiefs and other representatives of the local law enforcement community should be consulted and involved in any process to develop a national initiative or practice impacting local police agencies. The inclusion of local law enforcement at every level of development will take advantage of their perspective and experience in local policing.

5) COMMITMENT OF CONTINUED ENFORCEMENT AGAINST CRIMINAL VIOLATORS REGARDLESS OF IMMIGRATION STATUS

Our member agencies are united in their commitment to continue arresting anyone who violates the criminal laws of their jurisdictions regardless of the immigration status of the perpetrator. Those individuals, regardless of their citizenship status, who commit criminal acts will find no safe harbor or sanctuary from their criminal violations of the law within any major city but will instead face the full force of criminal prosecution.



6) FEDERAL FUNDING

The funding of any initiative concerning the enforcement of immigration laws should not be at the detriment or reduction directly or indirectly of any current federal funding or programs focused on assisting local police agencies with local policing or homeland security activities.

7) CLARIFICATION OF AUTHORITY AND LIMITATION OF LIABILITY

The authority of local police agencies and their officers to become involved in the enforcement of immigration laws should be clearly stated and defined. The statement of authority should also establish liability protection and an immunity shield for police officers and police agencies that take part in immigration enforcement as authorized by clear Federal legislation.

8) CLARIFICATION OF IMMIGRATION AND CUSTOM ENFORCEMENTS PROGRAMS AND THE PURPOSE OF THE N.C.I.C. SYSTEM

Clarification of the Immigration and Customs Enforcement's program goals and oversight of its mission and implementation is strongly encouraged. Further, the integrity of the N.C.I.C. system as a notice system for criminal warrants and/or criminal matters must be maintained. The inclusion of civil detainees in the system continues to create confusion for local police agencies subjecting them to possible liability for exceeding their authority by arresting a person upon the basis of a mere civil detainee.

9) LAW ENFORCEMENT PRIORITIES

The decisions related to how local law enforcement agencies allocate their resources, direct their workforce and define the duties of their employees to best serve and protect their communities must be left in the control of local governments. The decision to have local police officers perform the function and duties of immigration agents should be left to the local government. This shall not be mandated or forced upon them by the federal government through the threat of sanctions or the withholding of existing police assistance funding.

Priority Enforcement Program (PEP)

We support the recent proposed policies and procedures developed by the U.S. Department of Homeland Security. DHS leadership listened to our concerns and they have included us in the development of this new program, including the procedures for notification to ICE by local police agencies.

My own jurisdiction, Montgomery County, serves as an example of how the new program works well. While it is not our policy to inquire or investigate immigration status, we provide electronic notification to DHS when there is an arrest. Likewise we provide notification if such a person in our custody is to be released. That is the policy of Major Cities Chiefs, and that is the policy of Montgomery County. Local law enforcement is cooperating and with DHS through the notification process, but not engaged in routine immigration enforcement. In our view, this notification policy represents a balance which the Judiciary Committee should embrace.

The Way Forward

Chairman Grassley, Ranking Member Leahy, and Distinguished Senators of the Committee - those of us on the front lines look to you for leadership.

With recognition that immigration enforcement is a Federal responsibility, we ask the Committee to resist initiatives which seek to force routine aspects of this Federal responsibility upon local police.



The Committee should expect the police to cooperate and follow established procedures, but you should not expect us to do the job of a Federal agency – whether customs, aviation security, border security or immigration.

Federal assistance programs at the Justice Department and the Department of Homeland Security were established to strengthen criminal justice and domestic security, not to compel local agencies to perform Federal duties. Their purpose was to help local police and sheriffs, not to require that we take over the job of Federal agencies. It is right to call upon us for actions to protect the public from crime and violence, but it is wrong to demand that we engage in matters that relate solely to immigration status. Surely the Committee recognizes that withholding Federal funds to coerce performance of Federal duties by local police is not why these programs were established.

We welcome this dialogue and commit to a partnership with this Committee. We are joined by our common purpose - to ensure justice and to keep our communities safe from crime and violence.
