Racial Profiling: FACE THE TRUTH

Immigration Enforcement by State and Local Law Enforcement Agencies and Racial Profiling

Until recently, the federal government enforced federal immigration laws. The previous administration, however, began actively shifting the responsibility of enforcing civil immigration laws to state and local law enforcement agencies through programs such as the 287(g) program, the Secure Communities initiative, and the Criminal Alien Program (CAP). The current administration has expanded the initiatives.

The 287(g) program is a provision of the 1996 immigration law that deputizes state and local law enforcement officers to enforce civil immigration laws through formal memoranda of agreement.
The Secure Communities initiative allows local police to check the immigration status of individuals by comparing their fingerprints to records held in Department of Homeland Security (DHS) immigration databases.
The Criminal Alien Program (CAP) allows state and local law enforcement officers to cooperate with Immigration and Customs Enforcement (ICE) officers to investigate the immigration status of individuals in their jails.

Going After Minor Offenses. ICE publicly describes these programs as prioritizing the pursuit of serious criminal offenders who pose a threat to their communities but the evidence does not match this claim.[1]

- 83% of immigrants arrested under the 287(g) program in Gaston County, North Carolina were charged with traffic violations.[2] Implementation of the CAP program in Irving, TX resulted in a 223% increase in the number of Hispanics arrested for traffic violations. [3]
- U.S. citizens have been swept up by these dragnet programs. Pedro Guzman, a 30 year-old developmentally disabled U.S. citizen, was deported under the Los Angeles County Sheriff's Office's 287(g) authority.[4]
- Nine months pregnant, Juana Villegas was arrested by a police officer under Davidson County, Tennessee's 287(g) program for driving without a license. Ms. Villegas was forced to go through labor while shackled to a hospital bed and was then separated from her newborn and not allowed to nurse or use a breast pump for two days[5].

Making Communities Less Safe. When state and local law enforcement officers take their attention and limited resources away from pursuing serious criminal offenders and instead focus on civil immigration violations, communities become less safe.

Allowing for Illegal Racial Profiling. None of the programs that delegate immigration enforcement authority to state and local law enforcement agencies have safeguards in place to protect against illegal racial and religious profiling. Numerous complaints alleging unlawful detention and racial profiling have been filed against sheriffs' offices with 287(g) agreements across the country.[6]

Rights Working Group Recommendations:

- Adequately trained, experienced federal authorities should retain the sole power to enforce immigration laws so that limited state and local law enforcement resources can be effectively directed toward their primary mission of protecting and serving the communities they police.
- Immigration enforcement should be conducted in a smart and targeted way that respects everyone's constitutional and human rights, regardless or race, religion, ethnicity, national origin or immigration status.

1 Immigration and Customs Enforcement Factsheet, ICE Agreements of Cooperation in Communities to Enhance Safety and Security (ACCESS), November 28, 2008, available at http://www.ice.gov/pi/news/factsheets/access.htm.

2 American Civil Liberties Union of North Carolina, Letter to the Members of the Joint Legislative Crime Control and Juvenile Justice Oversight Committee, Mar. 11, 2008.

3 Trevor Gardner II and Aarti Kohli, The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity at the University of California, Berkeley Law School, The C.A.P. Effect: Racial Profiling in the ICE Criminal Alien Program, September 2009, available at http://www.law.berkeley.edu/files/policybrief_irving_FINAL.pdf.

4 Sam Quinones, Disabled Man Found After 89-day Ordeal, Los Angeles Times, August 8, 2007, available at http://articles.latimes.com/2007/aug/08/local/me-found8.

5 Julia Preston, New York Times, Immigrant, Pregnant, Is Jailed Under Pact, July 20, 2008, available at http://www.nytimes.com/2008/07/20/us/20immig.html.

6 See generally American Civil Liberties Union of North Carolina Legal Foundation and Immigration and Human rights Policy Clinic at the University of North Carolina at Chapel Hill, The Policies and Politics of Local