Local Police and Immigration Enforcement

By: Pennsylvania State University School of Law’s Center for Immigrants’ Rights
The Center for Immigrants’ Rights

Under the supervision of Professor Shoba Sivaprasad Wadhia, clinical students participate in a range of activities including working with national and local organizational clients, individual case work, and conducting community education events.
Disclaimer

This presentation does not constitute legal advice.
1. Why the issue of local police and immigration enforcement is controversial
2. Functions of the Department of Homeland Security
3. Legal authority and limitations for local police to enforce immigration law
4. Policy reasons for why local police should limit their role in immigration enforcement
Why is the issue of local police and federal immigration enforcement so controversial?
Who is responsible for enforcing immigration law?

- Department of Homeland Security
  - U.S. Customs and Border Protection (CBP)
  - U.S. Citizenship and Immigration Services (USCIS)
  - U.S. Immigration and Customs Enforcement (ICE)
    - Enforcement and Removal Operations (ERO)
    - Homeland Security Investigations (HSI)

Photo: www.dhs.gov
Do local police have explicit statutory authority to enforce immigration law?
Legal Authority for Local Police to Enforce Immigration
State Authority to Enforce Immigration Absent Congressional Authorization

- Preemption

Photo: Grassrootschange.net
Specific Examples of Interactions Between Local Police and ICE

– Sending fingerprints to federal agencies
– Detainers
  • Secure Communities
  • Priority Enforcement Program
– Criminal Alien Program (CAP)
Public Safety and Policy Concerns When Local Police Carry Out Immigration Enforcement Functions

• Lack of training
Public Safety and Policy Concerns When Local Police Carry Out Immigration Enforcement Functions

• Limited Resources
Public Safety and Policy Concerns When Local Police Carry Out Immigration Enforcement Functions

• Lack of clarity in authority to enforce
  • Potential for civil liability due to unclear authority
Public Safety and Policy Concerns When Local Police Carry Out Immigration Enforcement Functions

• Compromised public safety from chilling effect on relationship between local communities and police
  • Negative perceptions of police
  • Decreased reporting of crimes
  • Decreased investigation and litigation assistance by witnesses
Positive Steps for Local Police in the Immigration Context

• Limited cooperation agreements
• Detainer Policies
• U and T visa certifications
• Implementation of immigrant-friendly initiative
Questions for Police Chief King