

*Legislative Threats to Undermine Community Safety Policies:
The Costs of Entangling Local Policing and Immigration Law*

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Communities across the nation have embraced policies that limit the role of local police in enforcing immigration law because entanglement of state and local policing and immigration law enforcement exposes them to significant costs and liability and undermines public safety. Mandating or incentivizing local police to enforce immigration law jeopardizes public safety for all residents by reducing community trust and cooperation with police and by diverting resources away from criminal law enforcement.

Law enforcement depends on community trust to effectively maintain public safety and combat crime.

- A 2013 University of Illinois survey highlighted that 70 percent of undocumented immigrants and 44 percent of Latinos are less likely to report crime to the police because they feared that police would enforce immigration laws.¹
- Since undocumented immigrants commonly live in households where at least one member has legal status, U.S. citizens and lawful residents also fear that contacting the police will result in the arrest of a family member.
- The most vulnerable members of our communities are effectively cut off from police protection if local law enforcement plays the role of federal immigration agents. Individuals who perpetrate domestic violence, trafficking and other forms of violence against immigrants often instill fear of law enforcement to control their victims.² Survivors and witnesses must be able to report crime without fear of deportation and separation from their families.
- Notifications from law enforcement to ICE, which may easily lead to unlawfully holding someone, are another form of entanglement that breed fear and distrust in local law enforcement. When a community perceives local police as immigration agents—regardless of the mechanism used—it creates a fear of reporting information about crimes.

Linking federal funding to police departments with immigration enforcement makes our communities less safe.

- The Major Cities Chiefs Police Association has said that state and local police involvement in enforcing immigration law undermines immigrant community trust and cooperation with police and significantly diverts resources from their core mission to create safe communities.³ The Police Executive Research Forum has documented concerns of local law enforcement officials across the country who feel that mandating or incentivizing local immigration enforcement takes away their discretion to set priorities and threatens police-community relationships.⁴
- Proposals that make police funding contingent upon enforcement of immigration law would force local police to divert limited resources away from fighting dangerous crime. A majority of immigrants detained for ICE by state and local law enforcement during the past five years had no prior criminal record or were charged with low-level misdemeanors.⁵
- The conservative Goldwater Institute argued that the Maricopa County, Arizona Sheriff's Department's poor crime-solving clearance rate stemmed in part from the diversion of resources towards immigration enforcement.⁶

Immigration detainees are unconstitutional and costly.

- Without a warrant from a neutral third party to show probable cause of removability, detainees place everyone – U.S. citizens and non-citizens alike – at risk of being unlawfully detained. From fiscal year 2008-2012, DHS issued 834 detainees against U.S. citizens.⁷
- Law enforcement leaders have expressed due process concerns about notifications as well as detainees. As a former police officer and Santa Clara city council member stated, in support of the requirement that federal agents, like all

¹ Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement*, University of Illinois at Chicago, May 2013.

² Leslye Orloff & Olivia Garcia, *Dynamics of Domestic Violence Experienced by Immigrant Victims*, National Immigrant Women's Advocacy Project, 2013.

³ [Chief Thomas Manger](#), Major Cities Chiefs Association, to Hon. Bob Goodlatte and Hon. Trey Gowdy, March 13, 2015.

⁴ Police Executive Research Forum, *Local Police Perspectives on State Immigration Policies*, July 2014.

⁵ Transactional Records Access Clearinghouse, "[Few ICE Detainers Target Serious Criminals](#)," Syracuse University, Feb. 2013.

⁶ Clint Bolick, Goldwater Institute, *Mission Unaccomplished: Misplaced Priorities of the Maricopa Sheriff's Department*, Policy Report No. 229, December 2, 2008, 9.

⁷ Transactional Records Access Clearinghouse, "[U.S. Citizens Included as Targets of ICE Detainers](#)," Syracuse University, Feb. 2013.

police officers, must establish probable cause, “Allowing ICE agents to request the extended detention or prior notification of an individual’s release based on their own subjective decision without due process is wrong.”⁸

- State and local governments have incurred millions of dollars in legal defense costs over the past half-decade to respond to allegations that immigration enforcement policies and practices fueled rights abuses, racial profiling, and unjustified detentions, as well as lacked constitutional authority. Local governments found to have violated plaintiff rights through immigration enforcement activities have paid damages ranging from \$8,000 to \$200,000.⁹

Allocating scarce resources to immigration enforcement is a huge fiscal expense on states and localities.

- Research shows that state and local officers arrest and book suspected immigration law violators for minor crimes at higher rates than other minor crime suspects and subject them to excessively long detention. Daily local jail inmate incarceration costs range from \$45 to \$170.¹⁰
- The *Houston Chronicle* reported that Harris County, Texas spent over \$45 million to detain immigrants for ICE during 2012 and 2013 after federal reimbursement.¹¹
- In 2012, Los Angeles County’s annual costs to detain immigrants for ICE were estimated at over \$26 million and projected annual costs for all of California at \$65 million. Individuals arrested on immigration detainers were incarcerated an average 20.6 days longer than other inmates facing similar charges.¹²
- In Denver, individuals arrested on immigration detainers were jailed on average 22 days longer than similarly charged inmates. The nearly \$1.5 million the city spent per year to arrest and detain people for suspected immigration violations was roughly the same amount to fund its District Attorney’s Family Violence Unit. In all of Colorado, the estimated \$13 million spent per year to enforce federal immigration laws is more than it would cost to put an additional 200 full-time police officers on the street.¹³
- If the federal government assumed a larger role in funding state and local immigration enforcement, fiscal costs would be daunting. In 2013, the Congressional Budget Office estimated federal costs of over \$20 billion in four years for *H.R. 2278, the Strengthen and Fortify Enforcement Act*, which would enhance state and local immigration law enforcement roles.¹⁴

Mandatory minimum sentences for border crossers is costly and does not impact recidivism.

- At a time when Congress and the President are agreeing on reducing mass incarceration, an increase in mandatory minimum sentences for illegal reentry is counterproductive and ineffective. Increasing the current average sentence of 18 months to a mandatory five years would cost taxpayers **approximately \$2 billion per year**.¹⁵
- Many people entering or re-entering the U.S. are desperately trying to reunite with family or to seek protection in the U.S. and are being increasingly criminalized for these efforts. A large number already face criminal penalties, including asylum seekers, whose prosecution violates U.S. and international law.¹⁶

Rather than trying to weaken community safety policies through piecemeal, enforcement-only legislation, Congress should enact comprehensive and humane immigration reform.

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⁸ Raul Peralez, “[Notifying immigration about prisoners to be released is wrong](#),” *San Jose Mercury News*, July 24, 2015.

⁹ National Immigration Forum Staff, “[Community and Courtroom Responses to Immigration Detainers](#),” October 20, 2014; Tim Henderson, “[More Jurisdictions Defying Feds on Deporting Immigrants](#),” *Pew Stateline*, October 31, 2014.

¹⁰ Incarceration costs are generally higher in immigrant-populous urban and metropolitan areas.

¹¹ Kiah Collier, “[Harris County Jail brings in highest number of undocumented immigrants](#),” *Houston Chronicle*, October 17, 2013.

¹² Judith A. Greene, Justice Strategies, [The Cost of Responding to Immigration Detainers in California](#), August 22, 2012.

¹³ Kathy A. White and Lucy Dwight, The Colorado Fiscal Institute, [Misplaced Priorities: SB90 & The Cost to Local Communities](#), 1 December 1, 2012; ; Colorado Fiscal Institute, “[The Facts are In: Colorado’s “Show Me Your Papers Law” Drains Economy, Threatens Civil Rights](#),” December 5, 2012.

¹⁴ Congressional Budget Office, [Cost Estimate: H.R. 2278, Strengthen and Fortify Enforcement Act](#), December 5, 2013.

¹⁵ This calculation was based on the [U.S. Sentencing Commission’s data](#) on the number of FY13 new illegal reentry convictions (18,498), average sentence lengths (18 months), the conservative assumption that average sentences would not exceed a 5-year mandatory minimum, and the [BOP’s FY13 cost calculation](#) of \$80.25 per prisoner, per day.

¹⁶ DHS Office of the Inspector General, [Streamline: Measuring the Effect on Illegal Border Crossings](#), May 15, 2015, OIG-15-95.