

**RESOLVING TENSION WITH THE IMMIGRANT COMMUNITY
ENFORCEMENT, COLLABORATION, COMMUNICATION**

By

**Captain Lydia Carrasco
Fresno Police Department**

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The Command College Futures Study Project is a FUTURES study of a particular emerging issue of relevance to law enforcement. Its purpose is NOT to predict the future; rather, to project a variety of possible scenarios useful for strategic planning in anticipation of the emerging landscape facing policing organizations.

This journal article was created using the futures forecasting process of Command College and its outcomes. Defining the future differs from analyzing the past, because it has not yet happened. In this article, methodologies have been used to discern useful alternatives to enhance the success of planners and leaders in their response to a range of possible future environments.

Managing the future means influencing it—creating, constraining and adapting to emerging trends and events in a way that optimizes the opportunities and minimizes the threats of relevance to the profession.

The views and conclusions expressed in the Command College Futures Project and journal article are those of the author, and are not necessarily those of the CA Commission on Peace Officer Standards and Training (POST).

Resolving Tension with the Immigrant Community – Enforcement, Collaboration, Communication

The State of California has experienced a significant influx of illegal immigrants entering the United States. Due to its close proximity, many of them come from neighboring Mexico. According to the Pew Hispanic Center, a record 12.7 million Mexican immigrants lived in the United States in 2008, a 17-fold increase since 1970. Mexicans now account for 32% of all immigrants living in this country. More than half, or 55% of the Mexican immigrants in this country are illegal. Overall, they comprise about 59% of the estimated 11.9 million illegal immigrants in the United States,¹ three million of which live in the State of California.²

Because of the significance of the numbers, there are inevitable issues with illegal immigrants accessing social, health and educational services. Some also commit crimes. On the pages that follow, we will look at the state of illegal immigration in California, particularly from Mexico. Despite the controversy between law enforcement and some activists and immigrants rights groups that accuse the police of discrimination, peace officers should not be afraid to enforce the law and assist in the deportation of those responsible for criminal acts. Even though this may be sensitive ground, law enforcement can do so while also maintain an overall positive relationship with immigrant communities. In other words, it should not be “us (the cops) versus “them” (immigrant communities). It should, instead, all of us versus the crooks. We will explore how to achieve that balance, and describe ways to maintain it.

¹ Pew Hispanic Center , Pew Research Center, April 15, 2009 Fact Sheet, online, July 16, 2009

² *Many Officials Reluctant to Help Arrest Immigrants*, Washington Post (August 23, 2008), (online), accessed August 23, 2008.

The Impact of Illegal Immigrant Criminals on Law Enforcement

According to the Pew Research Center, 94% of illegal immigrant males are in the work force. This compares to only 54% of females who reside in the country without documentation.³ The Federation for American Immigration Reform (FAIR), and other anti-immigration groups, such as the Santa Barbara-based Californians for Population Stabilization and the Center for Immigration Studies, blame immigrants for increased crime and rising prison costs.⁴

According to the California Department of Corrections, the State spends around \$43,000 annually per inmate to house the estimated 25,000 illegal immigrants in prison, which equates to more than a billion dollars annually. The figures are even higher at the local level because local governments must bear both prosecution and incarceration costs.⁵ In light of the budget shortfalls being realized by city governments, local law enforcement agencies may want to begin focusing on illegal immigrants who are repeatedly entering the criminal justice system by committing crimes.

California law enforcement agencies have come under increased scrutiny in their dealings with illegal immigrants. In 2007, the Los Angeles Police Department was criticized for its overreaction to the May Day immigration reform rally held at a city park.⁶ The LAPD drew fierce criticism after the rally turned violent when police used batons and fired rubber bullets to disperse what was predominantly a peaceful gathering.

³ Pew Hispanic Center, "The Size and Characteristics of the Unauthorized Migrant Population in the U.S." March 7, 2006 report.

⁴ Them the People, Comstock Magazine (online), September 2008, <http://www.comstocksmag.com>, accessed August 3, 2009.

⁵ Ibid.

⁶ *May Day: Marchers Rally for Immigration Reform*, Los Angeles Times (May 1, 2009), (online), accessed August 1, 2009.

Dozens of people, including journalists and police officers, were injured. The City of Los Angeles recently agreed to pay more than \$30 million to settle lawsuits alleging misconduct by officers.⁷

While this is one example of police interaction with the immigrant community (and resultant accusations of discrimination), there have been other instances where police have been criticized for merely enforcing the law. The operations conducted by federal law enforcement agencies, like workplace raids by the Immigration and Customs Enforcement (ICE), have resulted in many illegal immigrants viewing their relationship with local law enforcement as adversarial, simply because they assisted ICE in the operation. According to Chief John Timoney of the Miami Police Department, “they don’t discern between federal authorities and local authorities. As far as they’re concerned it’s all law enforcement.”⁸ This has created a challenge for local law enforcement agencies who strive to establish the trust of the communities they serve, while holding criminals accountable for their actions.

The challenge faced by local law enforcement is to establish and maintain positive relationships with the communities they serve. Of course, this includes immigrant communities. This is especially important when enforcing laws that target criminal offenders, regardless of their immigrant status. Interestingly, some communities have enacted ordinances that some feel counters the police effort to hold criminals accountable by tying the hands of law enforcement officers seeking information from suspected criminals. In 1989, San Francisco, California, passed the “City and County of Refuge”

⁷ Ibid.

⁸ *Big-City Police Chiefs Urge Overhaul of Immigration Policy*, The New York Times (July 2, 2009), (online), accessed July 3, 2009.

Ordinance (also known as the Sanctuary Ordinance) which prohibits city employees from helping ICE with immigration investigations or arrests unless such help is required by federal or state law or a warrant.⁹ Under this ordinance, police officers are prohibited from inquiring into a person's immigration status. Additionally, the City will not direct resources to assist with federal immigration enforcement, unless such assistance is required by federal or state law, or a warrant.¹⁰

San Francisco's ordinance has come under criticism due to several high-profile crimes that were committed by illegal immigrants, some of them gang members. In June 2008, a father and his two sons driving home from a picnic were killed in a case of mistaken identity. The police later charged Edwin Ramos, an illegal immigrant from El Salvador and suspected gang member who had had run-ins with the San Francisco police as a juvenile but had not been turned over to the immigration authorities.¹¹ The ordinance has since been revised so that all minors brought to juvenile hall on felony charges are questioned regarding their immigration status. If they are suspected of being here illegally, they are reported to ICE for deportation, regardless of whether they are eventually convicted of a crime.¹²

The Supporter's View

Supporters of illegal immigrants believe the State has benefited from hosting the undocumented due to their contributions to our society, both social and financial through the lower cost of their labor. Purchases by illegal immigrants contribute to an additional

⁹ City and County of San Francisco, California website, www.sfgov.org, accessed August 1, 2009.

¹⁰ *San Francisco: Sanctuary City Gone Awry*, San Francisco Chronicle (July 16, 2008), (online), accessed August 1, 2009.

¹¹ *San Francisco at Crossroads Over Immigration*, New York Times (June 13, 2009), (online), accessed August 1, 2009.

¹² *Ibid.*

number of services needed which usually translates into the creation of new jobs.

Governor Arnold Schwarzenegger has disputed claims that illegal immigrants caused California's budget deficit and has praised their economic contributions. He believes the cost of services to illegal immigrants is a small percentage of the deficit California faces.¹³

Illegal immigration has changed who holds low wage jobs but not the number of low income families.¹⁴ In fact, low income families (both native and immigrant) generally do not pay enough in taxes to cover the cost of the public services they use. Residents pay most taxes because they are paid at the point of purchase- sales taxes, gas taxes, tobacco and alcohol taxes, property taxes, utility taxes, tolls and fees. Low income households do not pay much, if any, in income taxes. With regard to the impact on social service systems, one must consider that some employers do not pay Social Security and Medicare taxes for residents who work "off the books;" however, people using fake Social Security numbers have taxes withheld but get no benefits.¹⁵

MALDEF

The Mexican American Legal Defense & Educational Fund (MALDEF) is an organization that has been involved in monitoring and raising awareness of anti-immigrant local ordinances and state laws. MALDEF believes that "these misguided state and local efforts at 'immigration reform' pose some of the greatest threats to a comprehensive solution to the nation's broken immigration system."¹⁶ According to

¹³ *Governor Blasts Budget Myth*, Fresno Bee (June 7, 2009), page B6.

¹⁴ www.ccsce.com. Immigration and the California Economy, Senate Select Committee on Immigration and the Economy, August 5, 2008.

¹⁵ Ibid.

¹⁶ <http://maldef.org>, accessed August 2, 2009

MALDEF, contrary to the assumptions of many, studies show that immigration enforcement at the local level does not produce safer communities. Instead, it makes it less likely that crimes will be reported or that police will get the cooperation they need to keep the peace. MALDEF also believes local ordinances increase racial profiling and discrimination against those that appear to be foreign, building distrust in these communities.¹⁷

The View of the Opposition

Opponents of illegal immigration believe illegal immigrants take jobs from Americans. By accepting lower wages for work, opponents state this lowers wages for all workers. Many of the unskilled, uneducated workers labor in shrinking industries, where they force out native workers, and many others work in industries where the availability of cheap workers has led businesses to suspend investment in new technologies that would make them less labor-intensive.¹⁸

The Federation for American Immigration Reform (FAIR) is a non-partisan organization of concerned citizens who share a common belief that our nation's immigration policies must be reformed to serve the national interest. A study done by FAIR found the cost of illegal immigrants in California to amount to \$10.5 billion annually. This figure includes the cost of incarceration, health care and education of illegal immigrants.¹⁹

Others, like FAIR, also contend that illegal immigrants are a financial burden as they do not pay taxes. According to a study from the Center for Immigration Studies,

¹⁷ Ibid.

¹⁸ How Unskilled Immigrants Hurt our Economy, Steve Malanga, City Journal, Summer 2006, (online), <http://www.city-journal.org>, accessed August 5, 2009.

¹⁹ *United States Immigration Support*. "Home." <http://www.usimmigrationsupport.org>.

households headed by illegal immigrants used \$10 billion more in government services than they paid in taxes in 2002.²⁰ Although they create a net drain on the federal government, the average illegal immigrant household pays more than \$4,200 a year in federal taxes, for a total of nearly \$16 billion, however, they impose annual costs of more than \$26.3 billion, or about \$6,950 per household.²¹

Counties are already struggling to provide services such as healthcare and education must provide services to illegal immigrants and their families. The California Hospital Association estimates that in 2007, illegal immigrants accounted for approximately \$970 million of the \$9.7 billion in care that went unpaid at California hospitals. The federal government reimbursed medical facilities for \$72 million of those charges, leaving hospitals holding the bag for almost \$900 million.²²

Opponents also argue that the children of illegal immigrants consume scarce education resources, exacerbating the already-taxed public education system. The State has no official count of how many students are in the country illegally because school districts do not ask. Based on data from the Pew Hispanic Center, the State's 6.3 million public school students include about 300,000 illegal residents. At an annual cost of about \$7,626 each, the total comes to nearly \$2.3 billion.²³

²⁰ The Costs of Illegal Immigration, Steven A. Camarota, August 25, 2004, (online), <http://www.cis.org/articles/2004/fiscalrelease.html>, accessed August 5, 2009.

²¹ Ibid.

²² Them the People, Comstock Magazine (online), September 2008, <http://www.comstocksmag.com>, accessed August 3, 2009.

²³ "Illegal Immigrants Again in the Budget Spotlight," *Los Angeles Times*, July 10, 2009.

Law Enforcement's View

While law enforcement must be aware of the organizations that exist to support or oppose immigration, we must not allow them to interfere with our basic underlying mission, to apprehend criminals who victimize society. If during that process, it is determined that the criminal is in this country illegally, then law enforcement must not be afraid to deport that person once the criminal case has run its course in the justice system.

In the past half century, California has been both the model and the imperfect model for the nation and often the world, for its high level of government and public services. This includes its schools, universities, and highways; however, according to author Peter Schrag, in the last few years California has gained an adverse reputation for its dysfunctional government, deteriorating services, and sometimes regressive public policies.²⁴

California is currently experiencing a \$26.3 billion budget shortfall. The lack of adequate healthcare remains a growing concern, as does the State's declining educational system. These factors have cast an even brighter spotlight on illegal immigrants. Immigrants will account for 39% of the growth in California's workforce in the next 25 years, while children of immigrants will account for 60%.²⁵ Immigration reform could assist by increasing the tax base from which social and public safety services are provided. In the midst of that process, though, officers and deputies must continue to do their jobs, and not to let the varied viewpoints on reform push them away from their

²⁴ Schrag, Peter. *California: America's High-Stakes Experiment*. Berkeley: University of California Press, 2006.

²⁵ The Economic Issues of Immigration, Center for Continuing Study of the California Economy, www.ccsce.com, Stephen Levy, December 2, 2006.

mandate to arrest and prosecute those responsible for crime. This will also affect how we may house criminals who also happen to be in this Country illegally.

The Federation for American Immigration Reform estimates the cost of incarcerating illegal aliens in California's prisons and jails amounts to about \$1.4 billion a year, not including related law enforcement and judicial expenditures or the monetary costs of the crimes that led to their incarceration.²⁶ Governor Schwarzenegger recently announced a proposal to save the State more than \$180 million by cutting short the sentences of thousands of immigrants in the prisons and turning them over to federal authorities for deportation to their country of origin. The plan would involve as many as 19,000 inmates. Those committed for sex offenses or violent crimes would not be eligible for early release. Schwarzenegger's proposal was prompted in part by President Barack Obama's May budget proposal to end the \$400 million program that pays states and counties for holding illegal immigrants behind bars- a program that California officials say reimburses only about 12 percent of the State's costs.²⁷

Law enforcement professionals are faced with the challenge of addressing issues related to crime while remaining sensitive to community members and maintaining the public trust that they have worked so hard to create. The objective is for law enforcement to have a good relationship with the immigrant community while maintaining the ability to enforce laws without being accused of engaging in discriminatory enforcement. By engaging in enforcement operations targeting all criminals who break the law, law enforcement can minimize the complaints brought

²⁶ The Costs of Illegal Immigration to Californians: Executive Summary, November 2004, <http://www.fairus.org>, accessed August 2, 2009.

²⁷ *Schwarzenegger looks to deport thousands of immigrant inmates to save the state money*, Los Angeles Times (June 19, 2009), (online), accessed June 26, 2009.

about by those alleging disparate or unfair treatment. Those community members, immigrants and non-immigrants, who are able to go about their lives respecting and obeying the laws in place, have an expectation that law enforcement will address those who do not. Actions at the federal level, though, often complicate the perception of trust and engagement an immigrant might feel towards public safety.

In 2006, President Bush signed into law the Secure Fence Act of 2006, which ordered the building of 850 miles of at least two layers of reinforced fencing, with patrol roads in between, at designated stretches along the U.S.-Mexico border.²⁸ Facing pressure to do more to curb illegal immigration, Bush announced in May 2006 that the federal government would hire 6,000 more Border Patrol agents.²⁹ Despite a nationwide outcry against illegal immigration, only 55 of the more than 18,000 police and law enforcement agencies across the country have signed agreements to coordinate with ICE. This includes the participation in workplace raids that result in the apprehension of illegal immigrants.³⁰

Although they face public and political pressure to crack down on illegal immigrants, many law enforcement officials believe such efforts can backfire by making immigrants reluctant to report crimes, exposing departments to lawsuits, and putting local police officers in confusing and dangerous situations that can lead to mistakes and

²⁸ “Barricading the Border”. Joseph Nevins and Timothy Dunn. Nov 14/16, 2008.

<http://www.counterpunch.org>.

²⁹ *Border Patrol on Track in Hiring 6,000 New Agents*, North County Times (April 11, 2008), online, accessed August 2, 2009.

³⁰ *Many Officials Reluctant to Help Arrest Immigrants*, Washington Post (August 23, 2008), (online), accessed August 23, 2008.

abuse.³¹ Several big-city police chiefs urged Congress recently to draft a new policy that improves public safety by bringing illegal immigrants out of the shadows.³²

The Chiefs, representing the Miami Police Department in Florida, the Austin Police Department in Texas, and the former Chief of the Sacramento Police Department in Sacramento, California, offered updated recommendations from a 2006 report that called for an overhaul to integrate immigrants into the legal system, possibly with driver's licenses, and separate the local police from immigration enforcement.³³ These Chiefs, having spent most of their careers in cities with large immigrant communities, said it would be impossible to send the nation's 10-15 million illegal immigrants home. They criticized last year's roundups of illegal immigrants at workplaces, and the federal 287(g) program that has given at least 63 police departments a role in deporting illegal immigrants.³⁴

Section 287(g) of the Immigration and Nationality Act, authorizes the Department of Homeland Security (DHS) Secretary to enter into agreements with state and local law enforcement agencies to perform immigration officer functions. Designated officers who receive appropriate training and function under the supervision of sworn ICE officers are permitted to perform immigration law enforcement duties.³⁵ The fact that only a handful have followed through to obtain such training, however, may indicate the political sensitivity this issue holds across the State.

³¹ Ibid.

³² *Big-City Police Chiefs Urge Overhaul of Immigration Policy*, The New York Times (July 2, 2009), (online), accessed July 3, 2009.

³³ Ibid.

³⁴ Ibid.

³⁵ Obama Administration Expands 287(g) Program, July 10, 2009, Immigration Prof Blog, <http://lawprofessorstypepad.com>, accessed August 2, 2009.

Many politicians have avoided the controversial issue of immigration reform, fearing accusations of racism or of being intolerant of diversity. A stunning number of seemingly hesitant legislators- politicians who generally avoid immigration except to take the safe side of unavoidable votes on enforcement measures — tell you in private that they “get it”, that they understand the country’s need for immigrant workers and grasp that it would be better for everyone if the flow were legal. But, they explain, they can’t vote for that so long as their constituent mail continues to run the way it does, more than 20-to-1 against an immigration overhaul.³⁶

Proponents of immigration reform argue that illegal immigration has gotten out of control and that something needs to be done immediately to tighten our borders and prevent illegal immigrants from entering this country. Others accuse those in favor of immigration reform as racist and anti-immigrant. Many remain hopeful that the Obama administration will soon address this growing concern. President Obama has indicated that his administration is fully behind an effort to achieve comprehensive immigration reform. As a possible first step, on June 25, 2009, the President met with members of Congress and appointed Secretary of the Department of Homeland Security, Secretary Janet Napolitano, to lead a group that will work with both the House and the Senate to begin working through the immigration issues.³⁷

³⁶ Immigration Reform: A Bitter Tide Begins to Ebb, Tamar Jacoby, Berkeley Review of Latin American Studies, (online), <http://clas.berkeley.edu/Publications/newsletters/Spring2008>, accessed August 5, 2009.

³⁷ Remarks by the President after Meeting with Members of Congress to Discuss Immigration,

www.whitehouse.gov. June 25, 2009.

Conclusion

Immigration reform should serve to reduce the tension that exists between law enforcement and some of the immigrant communities impacted by the raids that have been conducted during joint operations between ICE and local law enforcement agencies.

It is important for immigration reform to occur in order to address some of the aforementioned issues that have generated controversy amongst local law enforcement agencies and the immigrant communities. Local law enforcement agencies must continue to focus on their basic mission of capturing criminals who victimize society, holding them accountable for their actions. We must also remain steadfast in our efforts to identify and deport illegal immigrants who have come into our country, sometimes repeatedly, and have chosen to violate the laws of our country. Doing so, while also remaining a trusted avenue for help in the immigrant community, is a tough task. To do less, though, is not enough.