

Group wants enforcement rules
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Author: DEBORAH HIRSCH
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Courier-Post Staff

In an October report, the New Jersey Immigration Policy Network warned that confusion about how to follow the directive will result in "overzealous enforcement that will increase immigrants' distrust of law enforcement" and alienate them from mainstream communities.

"The most important thing is that immigrants feel comfortable -- reporting things to local law enforcement so that crime can be investigated," said Network Director Charles "Shai" Goldstein. "The job of local law enforcement is investigating crime. If they're getting involved in federal immigration policy, that's taking time away from other procedures."

Among the recommendations in the report:

Repeal or limit the requirement to check the immigration status of those arrested for serious crimes.

If the status check must remain, illegal immigrants should not be referred to immigration authorities until they are convicted or indicted. Otherwise, they are subjected to a penalty for a civil violation before proving that they are guilty of any wrongdoing, which circumvents the due process protections of the criminal justice system.

"You can have situations where people are getting arrested on no or flimsy evidence and they get deported," Goldstein said.

At the very least, the directive should only require status inquiries for indictable crimes and drunken driving.

Require stricter oversight of how the directive is being followed so that law enforcement doesn't have "too much discretion" to charge indictable offenses if there's no basis to do so.

The directive should require supervisors to review arrests and a specialist from the prosecutor's office to review domestic violence cases before contacting immigration authorities. The state should come up with a plan for disciplining officers who violate the directive.

Require more detailed reporting on who is being referred and for what crimes to track whether racial profiling or referrals for minor crimes is occurring.

For each referral, officers should keep a record of 15 items, including the name of the arresting officer, resulting immigration action, hours spent on the referral process and whether the immigrant was indicted. This information should be released to the public monthly. The current "lack of transparency may permit the misuse of the directive and prevent the punishment of those police officers who misuse it."

Provide guidance on what constitutes "reasonable belief" that someone is illegal.

Encourage police departments to build trust with immigrant communities by hiring bilingual officers and interpreters, promoting visas for immigrant victims of crime, and offering training and community programs on cultural differences.

Goldstein stressed that he supported the spirit of the directive and the majority of its provisions. Making these changes, he said, would prove that the state respects immigrants and doesn't discriminate.

In a written response, Milgram challenged the report's claim that her directive made police officers "indirect agents of ICE."

"Notifying ICE is not enforcing federal immigration laws," she said.

Milgram said the report ignored the importance of providing prosecutors and judges with relevant information about an accused criminal before setting bail, and the directive's reiteration of the state's policy against racial profiling.

She also pointed out that the network has never told her office of any specific violations.

"It is wrong to speculate that the immigrant community mistrusts a police force because officers are inquiring about immigration status after arresting people who drive drunk or assault or rob people," she said.

Likewise, she said, it's not fair to accuse police of charging people with crimes for no reason or to assert that immigrants aren't reporting domestic violence because of the directive without proof.

If the network has real evidence that the directive is being abused, she said, "it should tell us, not speculate about it."

Reach Deborah Hirsch at (856) 486-2476 or dhirsch@camden.gannett.com

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Abstract (Document Summary)

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