



Colorado Association of Chiefs of Police, Inc.

CACP IMMIGRATION ENFORCEMENT POSITION

The Colorado Association of Chiefs of Police recognizes the primary role and obligation of the federal government to enforce the nation's varied and complex immigration laws. As sworn police officers, we also recognize our obligation to support federal officers in their efforts to control illegal immigration. If requested by federal officers to provide assistance and support to their reasonable efforts to enforce our nation's laws, Colorado police officers will do so, as we have always done.

Police officers in Colorado have no legal authority to act as federal immigration officers. The divisions of responsibility between federal law enforcement and local police officers in the area of immigration are based on sound public policy and 200-plus years of American history. Any state legislative mandate that shifts the primary duty to enforce immigration law to Colorado police officers -- such as occurred recently in Arizona -- would be a mistake. The constitutionality of such a statute would be immediately suspect. In addition to the disturbing public policy implications of such a shift -- including the damage that would be done to police relations and effectiveness in Colorado's immigrant communities -- such legislative action would result in unfunded mandates for local police departments, jails and courts. In addition, saddling Colorado's underfunded and overstressed criminal justice system with defendants whose primary offense is an immigration status violation will result in other more dangerous criminals being released into our communities.

We believe that our responsibilities in the immigration arena are properly covered by the directive of Senate Bill 90 of 2006, which mandates that Colorado police departments notify Immigration and Customs Enforcement (ICE) when there is probable cause to believe that an arrestee is an illegal immigrant. We embrace Senate Bill 90 as a sensible solution, because it affirms that the obligation to take action against undocumented aliens remains with the federal government. We see no reason for further legislative action in this area at this time. In addition, we

support the “Secure Communities” program as a valid and effective law enforcement tool that will provide more transparency and accountability in responding to our communities’ concerns regarding undocumented immigrants who commit serious crimes in our communities. CACP supports the collection and analysis of data specific to this initiative to ensure it is implemented in a balanced, fair and effective manner.

In addition to our concerns about unfunded mandates and our lack of legal authority, several practical and significant obstacles exist that prevent our officers from performing the duties of federal immigration officers. For the reasons listed below, we believe that if our officers were to redirect their focus from their primary duties to arresting immigration violators, such efforts would be wasteful, ineffective and would substantially worsen the public safety environment in Colorado. Among our concerns are these:

1. Neither an electronic or manual database nor a national registry exists that can provide valid, reliable, accessible, and timely information for officers regarding immigration status.
2. Local police agencies are reliant upon the cooperation and assistance of people in the community to report victimization and/or suspicious circumstances and crimes they witness. Should the police inappropriately become federal immigration compliance and enforcement officers, the already difficult task of gaining the trust and cooperation of illegal immigrants and their families in the overall community safety effort will become virtually impossible. Without cooperative witnesses and victims working with our officers and detectives to solve crime in our communities, crime will rise and our communities will become less safe.
3. Warrantless, probable cause arrest and detention for illegal immigrant status is a questionable legal practice, and no federal criteria exist for determining the elements of probable cause. The complex process utilized by federal immigration authorities (ICE) for determining immigration status is time consuming, requires extensive training, and is not available for all peace officers in Colorado. Because of the complexity of immigration law, these types of arrests by local officers would increase the potential liability to their communities for charges of false arrest.
4. If law enforcement in Colorado were to be required to enforce federal immigration laws through arrest and detention, as well as “no bail” provisions following arrest, these “status” holds for adults would overflow the county jails in many areas of the state. This in turn would necessitate the

release of other criminals and would represent a deterioration of community safety at the expense of immigration enforcement.

5. The “status” holds for illegal immigrants who are juveniles would create a huge detention problem for law enforcement. Federal law does not allow criminal justice agencies to “lock up” juvenile status offenders, and the availability of semi-secure, authorized holding facilities for these types of juveniles is very limited and overflowing with other local community juvenile assessment demands.
6. The costs directly and indirectly related to such a mandate would be staggering for cities and towns throughout the state.

The primary mission of police agencies is to provide local communities with public safety services, including emergency response, criminal investigative follow-up, problem solving, traffic safety, order maintenance and crime prevention. In order to meet those community demands, the resources of police agencies are stretched thin dealing with violent criminal acts, property crimes, traffic safety issues, disturbance and disorder concerns, and illegal drug production, distribution, and use, as well as alcohol abuse, all of which compound the burden for the police to maintain safe and desirable communities. The Colorado Association of Chiefs of Police encourages the federal government to more fully address immigration issues. We recognize our obligation to partner and problem-solve with federal and state authorities on this difficult issue. Toward this end, the members of CACP support continued dialogue with these authorities with the goal of achieving a long-term and practical solution to the problem of illegal immigration.