



# Local Police Perspectives on State Immigration Policies



July 2014



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July 2014



POLICE EXECUTIVE  
RESEARCH FORUM

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# A Note from Chuck Wexler, Executive Director Police Executive Research Forum

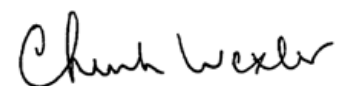
In recent years, several states have adopted immigration policies that have created conflict for local police agencies. These policies, such as those in Arizona's SB 1070 legislation, pose challenges for police agencies that are working to build strong ties to their communities while enforcing the laws of their jurisdictions.

On December 12, 2012, the Police Executive Research Forum (PERF), in partnership with the Tucson Police Department and with funding from the Ford Foundation, convened a group of police executives from Alabama, Arizona, California, Georgia, South Carolina, Texas and Virginia to discuss the challenges that state immigration laws pose for local police and sheriffs' departments. The goal of the day-long Executive Roundtable Discussion was to bring together Arizona officials with law enforcement leaders from states that were in various stages of implementing legislation similar to SB 1070, so they could share their experiences and lessons learned.

*This publication will explore some of the commonalities and differences that exist across different jurisdictions with respect to the issues, the challenges that state immigration laws pose for local policing, how such laws are being enforced, and efforts by each locality to mitigate some of the problematic effects of such laws.*

As immigration policies continue to evolve, police departments across the country will continue to face the question of how to comply with new laws that require police to take a larger role in immigration enforcement, while maintaining their traditional roles of protecting public safety and fostering relationships with their communities. PERF is continuing the discussions initiated at the 2012 Roundtable and promoting dialogue in which police executives remain committed to preserving public trust.

This project would not have been possible without the support, cooperation, and hard work of many people. First and foremost, we would like to thank the Ford Foundation, which funded this project. We would also like to thank Chief Roberto Villaseñor and the Tucson Police Department for their partnership in hosting the 2012 Roundtable Discussion. A number of police chiefs, sheriffs, and other law enforcement officials took time out of their busy schedules to attend the Roundtable and participate in follow-up discussions, and we appreciate their important insight and cooperation. We would also like to thank the Inter-Faith Community Group of Tucson and other community leaders who met with PERF staff to provide their valuable perspective on these important issues. Finally, many thanks to the members of the PERF staff, whose hard work was critical in pulling this project together.



# Introduction

In 2010, Arizona enacted a set of comprehensive immigration reforms that, at the time, were considered among the strictest and most far-reaching measures ever passed to target illegal immigration. The Arizona law, commonly referred to as SB 1070, ignited a nationwide controversy and helped launch a wave of similarly tough immigration laws in states such as Alabama, Georgia, and South Carolina. Proponents of these laws argued that they were necessary to combat problems that they associated with a rise in illegal immigration. Opponents raised questions about the constitutionality of such laws, and expressed concerns about increasing the burdens on local resources and changing the priorities of local police agencies.

Local law enforcement executives have expressed objections to laws like SB 1070, which generally increase the role of local police agencies in the enforcement of federal immigration laws. For example, these officials cite concerns about provisions that require local police officers to determine an individual's immigration status pursuant to a lawful stop, detention, or arrest if the officer has "reasonable suspicion" to believe that the person is in the country unlawfully. In the wake of these new requirements, local police officials have raised questions about policy and implementation of the laws. How will officers determine what constitutes reasonable suspicion about a person's immigration status? What effect will the laws have on community policing? Given limited resources, how can police balance their new responsibilities with existing policing priorities?

On December 12, 2012, the Police Executive Research Forum, in partnership with the Tucson Police Department, convened a group of law enforcement executives to address these questions and discuss the potential impact that new state immigration laws might have on local policing. Participants included Arizona officials as well as police leaders from states that have faced similar immigration legislation, including Alabama, California, Georgia, South Carolina, Texas, and Virginia.<sup>1</sup> During the Executive Roundtable Discussion, which was held in Tucson, Arizona, law enforcement representatives discussed their concerns, experiences, and lessons learned regarding the challenges that laws like SB 1070 can pose for local police and sheriff departments.

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1. The titles listed throughout this document reflect officials' positions at the time of the December 12, 2012 Executive Roundtable Discussion in Tucson.

## Questions Raised by State Immigration Laws: Framing the Roundtable Discussion

PERF consulted dozens of police executives from Arizona and other states to determine the most pressing challenges facing local law enforcement in relation to state immigration laws. Their responses, which reflected a set of many shared concerns, framed the agenda for the Roundtable in Tucson.

The questions addressed at the Roundtable included:

- What role should local police play in immigration enforcement?
- How do laws like SB 1070 affect local law enforcement priorities and decision making?
- How do officers determine whether there is a “reasonable suspicion” that a person is in the country unlawfully?
- How long can officers detain an individual for the purpose of conducting an immigration check?
- How do local agencies balance new immigration enforcement responsibilities with community policing?
- How will laws like SB 1070 affect the relationship between local police and the community?
- What impact will immigration laws have on local agency resources?
- What new training will be required to properly implement laws like SB 1070? Who will develop and provide the training?
- What is the best way to increase cooperation between local and federal authorities?

This publication examines the issues raised during the 2012 Roundtable and presents a set of promising practices and mitigation strategies that emerged from the discussion. **Section I** provides background information concerning Arizona SB 1070, including its history, requirements, court challenges, and partial implementation. **Section II** summarizes the national landscape of state immigration policy, focusing on the similarities and differences between the laws in states that participated in the Roundtable. **Section III** presents the concerns that law enforcement officials raised during the 2012 Roundtable and provides an in-depth look, from the participants’ point of view, at the most significant challenges facing their agencies. **Section IV** examines the impact that SB 1070 and similar laws have had on local police departments since their implementation. **Section V** presents the list of promising practices and mitigation strategies that emerged from the 2012 Roundtable Discussion. This list provides local police officials with practical guidance for addressing the challenges posed by state immigration laws.



## SECTION I

# Arizona SB 1070

In April 2010, Arizona enacted the Support Our Law Enforcement and Safe Neighborhoods Act, a set of sweeping reforms aimed at curbing the influx of illegal immigrants into the state. The legislation, commonly referred to as Senate Bill (SB) 1070, was passed by a 35–21 margin in the State House of Representatives and a 17–11 margin in the State Senate. Gov. Jan Brewer signed the bill into law on April 23, 2010. At the time of its passage, SB 1070 was proclaimed by both proponents and critics alike as “the broadest and strictest immigration measure in generations.”<sup>2</sup>

Along with subjecting illegal immigrants to tough new criminal penalties for seeking work or failing to carry proper documentation, SB 1070 created new requirements that had a direct impact on local law enforcement. One key provision states that **local and state law enforcement officers must make a “reasonable attempt” to determine a person’s immigration status during a “lawful stop, detention, or arrest” that occurs while enforcing any local or state law, if a “reasonable suspicion” exists that the person is in the country illegally.**<sup>3</sup> The law allows an exception in cases when conducting an immigration check would be impracticable or would hinder an investigation.

Proponents of SB 1070 stated that the goal of the legislation was to grant Arizona officials more power to crack down on illegal immigration. By 2010 Arizona had surpassed California as the nation’s busiest border crossing point, and an estimated 460,000 undocumented immigrants were living in the state.<sup>4</sup> Under increasing pressure to address the issue, supporters of the law cited the federal government’s failure to pass meaningful immigration legislation as a primary factor in SB 1070’s enactment.<sup>5</sup>



2. Arizona Enacts Stringent Law on Immigration (April 23, 2010), *New York Times*, <http://www.nytimes.com/2010/04/24/us/politics/24immig.html>.

3. National Conference of State Legislatures, July 28, 2011, “Arizona’s Immigration Enforcement Laws,” <http://www.ncsl.org/research/immigration/analysis-of-arizonas-immigration-law.aspx>.

4. Ariz. Governor Signs Strict Immigration Bill (April 23, 2010), NPR, <http://www.npr.org/templates/story/story.php?storyId=126218727>.

5. Arizona law on immigration puts police in tight spot (April 30, 2010), *Washington Post*, <http://www.washingtonpost.com/wp-dyn/content/article/2010/04/29/AR2010042904970.html?hpid=topnews&sid=ST2010042905051>.

In signing SB 1070, Governor Brewer stated: “We in Arizona have been more than patient waiting for Washington to act. But decades of inaction and misguided policy have created a dangerous and unacceptable situation.”<sup>6</sup>

Opinion polls conducted at the time showed that Arizona citizens strongly favored the tougher immigration policies.<sup>7</sup> A number of factors contributed to the public’s desire for reform: the increasing numbers of undocumented immigrants entering Arizona; a decline in the state’s economy; and fears of increased crime and violence along the border.<sup>8</sup> Although there is evidence that violent crime in Arizona had actually *declined* in the years prior to SB 1070, a number of high-profile incidents, such as the suspected involvement of an illegal immigrant in the murder of a prominent rancher in a border town south of Tucson, helped to fuel the public’s perception that illegal immigrants were making Arizona a more dangerous place to live.<sup>9</sup> In defending SB 1070, the law’s sponsor, Arizona State Senator Russell Pearce, argued that the law would remove the “political handcuffs” from police and help drive illegal immigrants out of Arizona.<sup>10</sup> “We’ll have less crime,” stated Pearce. “We’ll have lower taxes. We’ll have safer neighborhoods.”<sup>11</sup>

Despite their claims that SB 1070 was enacted in direct response to rising crime rates, legislators failed to consult state and local law enforcement officials when drafting the bill. Many police executives opposed the new legislation. The Arizona Association of Chiefs of Police (AACOP) ultimately released a statement calling SB 1070 “problematic” and declaring that the bill would “negatively affect the ability of law enforcement agencies across the state to fulfill their many responsibilities in a timely manner.”<sup>12</sup>

## Reactions to SB 1070

The enactment of SB 1070 sparked a nationwide response, with both supporters and opponents reacting strongly to the law. The reaction to the law took Arizona officials by surprise.<sup>13</sup> “The majority of us who voted yes on that bill, myself included, did not expect or encourage an outcry from the public,” said Arizona Rep. Michele Reagan.<sup>14</sup> “Nobody envisioned boycotts. Nobody anticipated the emotion, the prayer vigils. The attitude was: These are the laws, let’s start following them.” Arizona Rep. Kyrsten Sinema, who opposed SB 1070, said: “I knew it would be bad, but no one thought [the reaction] would be this big. No one.”<sup>15</sup>

Opponents of SB 1070 raised questions about its constitutionality and the state’s ability to enforce the law, given limited resources and existing federal immigration policies.<sup>16</sup> The most pressing concern,

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6. Immigration advocacy groups to challenge Arizona law (April 25, 2010), *Washington Post*, <http://www.washingtonpost.com/wp-dyn/content/article/2010/04/24/AR2010042402200.html>.

7. Rasmussen Reports, (April 28, 2010), “Arizona Voters Favor Welcoming Immigration Policy,” [http://www.rasmussenreports.com/public\\_content/politics/general\\_state\\_surveys/arizona/arizona\\_voters\\_favor\\_welcoming\\_immigration\\_policy\\_64\\_support\\_new\\_immigration\\_law](http://www.rasmussenreports.com/public_content/politics/general_state_surveys/arizona/arizona_voters_favor_welcoming_immigration_policy_64_support_new_immigration_law).

8. Welcome to Arizona, Outpost of Contradictions (April 28, 2010), *New York Times*, <http://www.nytimes.com/2010/04/29/us/29arizona.html>.

9. On Border Violence, Truth Pales Compared to Ideas (June 19, 2010), *New York Times*, [http://www.nytimes.com/2010/06/20/us/20crime.html?\\_r=0](http://www.nytimes.com/2010/06/20/us/20crime.html?_r=0).

10. Ariz. Governor Signs Strict Immigration Bill (April 23, 2010), NPR, <http://www.npr.org/templates/story/story.php?storyId=126218727>.

11. Ibid.

12. Arizona Association of Chiefs of Police (April 21, 2010), “AACOP Statement on Senate Bill 1070,” Law Enforcement Engagement Initiative.

13. Arizona immigration law ripples through history, U.S. politics (July 25, 2010), *Arizona Republic*, [http://www.azcentral.com/arizonarepublic/news/articles/2010/07/25/20100725immigration-law-history-politics.html?nclick\\_check=1](http://www.azcentral.com/arizonarepublic/news/articles/2010/07/25/20100725immigration-law-history-politics.html?nclick_check=1)

14. Ibid.

15. Ibid.

16. National Conference of State Legislatures, July 28, 2011, “Arizona’s Immigration Enforcement Laws,” <http://www.ncsl.org/research/immigration/analysis-of-arizonas-immigration-law.aspx>.

however, centered around fears that SB 1070 would lead to civil rights violations and racial profiling, particularly among Arizona's large Hispanic population. The Mexican-American Legal Defense and Education Fund claimed that SB 1070 "launches Arizona into a spiral of pervasive fear, community distrust, increased crime, and costly litigation, with nationwide repercussions."<sup>17</sup>

Backers of the law countered that SB 1070 contained express prohibitions against using race, color, or national origin when carrying out its requirements, and Governor Brewer issued an Executive Order in conjunction with SB 1070 mandating that Arizona's law enforcement licensing agency develop training materials on how to implement the law without violating civil rights.<sup>18</sup> Governor Brewer declared: "We must enforce the law evenly, and without regard to skin color, accent or social status. We must prove the alarmists and the cynics wrong."<sup>19</sup>

Protests against the law soon erupted across the country. On May 1, 2010, tens of thousands of protesters gathered in cities nationwide, including an estimated 50,000 in Los Angeles.<sup>20</sup> State legislatures in California, Illinois, and New York introduced resolutions denouncing SB 1070; in California's proposed resolution, the State Senate urged various state and private entities to withhold financial support from Arizona.<sup>21</sup> (Due to a Los Angeles City Council resolution banning official travel to Arizona, Los Angeles Police Chief Charlie Beck was unable to attend PERF's Roundtable Discussion in Tucson.) Labor and civil rights groups also called for boycotts against travel to Arizona, and organizations began cancelling conventions scheduled in the state.<sup>22</sup> The protests extended into the sports and entertainment industries; some musicians refused to play concerts in Arizona; the Major League Baseball Players' Association officially called for SB 1070's repeal; and the Phoenix Suns donned "Los Suns" uniforms to show support for the Latino community.<sup>23</sup>

President Barack Obama criticized SB 1070, calling it "misguided" and stating that it highlighted the need for comprehensive federal immigration reform.<sup>24</sup> Then-Secretary of Homeland Security Janet Napolitano, who had previously served as Governor of Arizona, also expressed concerns about SB 1070, fearing that it would divert local law enforcement resources from fighting violent crime.<sup>25</sup> SB 1070 became a touchstone in many campaigns during the 2010 elections, including that of Arizona Sen. John McCain, who defended the law as necessary in light of the federal government's perceived failure to control the Arizona border.<sup>26</sup>

"The Arizona Association of Chiefs of Police (AACOP) remains in opposition to Senate Bill (SB) 1070. The provisions of the bill remain problematic and will negatively affect the ability of law enforcement agencies across the state to fulfill their many responsibilities in a timely manner. While AACOP recognizes immigration as a significant issue in Arizona, we remain strong in our belief that it is an issue most appropriately addressed at the federal level . . . Should SB 1070 be signed into law by the Governor of Arizona, law enforcement professionals in the State of Arizona will enforce the provisions of the statute to the best of their abilities." AACOP Statement on Senate Bill 1070 (2010).

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17. Immigration advocacy groups to challenge Arizona law (April 25, 2010), *Washington Post*, <http://www.washingtonpost.com/wp-dyn/content/article/2010/04/24/AR2010042402200.html>.

18. Ibid.

19. Ibid.

20. Anger over Arizona immigration law drives U.S. rallies (May 1, 2010), *Arizona Republic*, <http://www.azcentral.com/news/articles/2010/05/01/20100501national-immigration-protests.html>.

21. National Conference of State Legislatures, July 28, 2011, "Arizona's Immigration Enforcement Laws," <http://www.ncsl.org/research/immigration/analysis-of-arizonas-immigration-law.aspx>.

22. Arizona's Immigration Law Comes with a Price (May 7, 2010), *The Atlantic*, <http://www.theatlantic.com/politics/archive/2010/05/arizonas-immigration-law-comes-with-a-price/56416/>.

23. Baseball union calls for Arizona immigration law to be 'repealed or modified' (May 1, 2010), *Los Angeles Times*, <http://articles.latimes.com/2010/may/01/sports/la-sp-arizona-players-union-20100501>; Suns using jerseys to send message (May 5, 2010), ESPN, [http://sports.espn.go.com/nba/playoffs/2010/columns/story?columnist=adande\\_ja&page=Sarver-100504](http://sports.espn.go.com/nba/playoffs/2010/columns/story?columnist=adande_ja&page=Sarver-100504).

24. Ariz. Governor Signs Strict Immigration Bill (April 23, 2010), NPR, <http://www.npr.org/templates/story/story.php?storyId=126218727>.

25. Calls to boycott Arizona grow over new immigration law (April 28, 2010), *Los Angeles Times*, <http://articles.latimes.com/2010/apr/28/local/la-me-0428-arizona-boycott-20100428>.

26. McCain Defends Arizona's Immigration Law (April 26, 2010), *The Atlantic*, <http://www.theatlantic.com/politics/archive/2010/04/mccain-defends-arizonas-immigration-law/39518/>.

## Legal Challenges to SB 1070

In February 2010 PERF facilitated a meeting of 10 police chiefs with Attorney General Eric Holder, in which the chiefs discussed their concerns about Arizona law SB 1070 and immigration enforcement in general. Following the meeting with the Attorney General, the 10 chiefs held a press conference, which received extensive national press coverage, including CNN, ABC, CBS, NBC, the Wall Street Journal, USA Today, Newsweek, UPI and Reuters and international interest from Australian and German television. The meeting also received significant local coverage from the cities represented by the chiefs attending the meeting. These included the Los Angeles Times, the Arizona Republic, the Houston Chronicle and the Washington Post, among others. Hispanic press and radio outlets also covered the event, including La Opinion, Notimex, El Diario and Telemundo.

In a rare move by the federal government, in July 2010 the U.S. Department of Justice filed a lawsuit against the State of Arizona in the U.S. District Court for the District of Arizona. Seeking a permanent injunction of SB 1070, the Justice Department claimed that the legislation was preempted by federal immigration law, U.S. foreign policy, and the Supremacy Clause of the Constitution.<sup>27</sup>

U.S. District Court Judge Susan Bolton granted a preliminary injunction that blocked several key portions of SB 1070 from going into effect, including the requirement that police conduct immigration



*Top left:* Ten police chiefs discussed their concerns about Arizona law SB 1070 and immigration enforcement with Attorney General Eric Holder in a meeting facilitated by PERF in February 2010. *Above and left:* After the meeting, the chiefs held a press conference that was covered by national and international press. Shown in the photo above, from left to right, are Los Angeles Police Chief Charlie Beck, Philadelphia Police Commissioner Charles Ramsey, San Jose Police Chief Rob Davis, Tucson Police Chief Roberto Villaseñor, PERF Executive Director Chuck Wexler, and Salt Lake City Police Chief Chris Burbank.

27. National Conference of State Legislatures, July 28, 2011, "Arizona's Immigration Enforcement Laws," <http://www.ncsl.org/research/immigration/analysis-of-arizonas-immigration-law.aspx>. The U.S. government's suit was one of many filed in opposition of SB 1070. Organizations such as the ACLU and the National Immigration Law Center also brought suit on the grounds that SB 1070 violated the Supremacy Clause, the Equal Protection Clause, the First Amendment right to freedom of speech, and the Fourth Amendment right to freedom from unreasonable searches and seizures.

checks during lawful stops, detentions, and arrests.<sup>28</sup> In her ruling, Judge Bolton wrote that “Federal resources will be taxed and diverted from federal enforcement priorities as a result of the increase for immigration status determinations that will flow from Arizona,” and that SB 1070 could lead to legal immigrants being wrongly arrested.<sup>29</sup> In April 2011 the U.S. Court of Appeals for the Ninth Circuit upheld the lower court’s ruling, and SB 1070 remained enjoined from taking effect.<sup>30</sup>

Arizona appealed the decision directly to the U.S. Supreme Court. **On June 25, 2012, the Court invalidated three of the four provisions in question on the basis that they were preempted by federal immigration laws.**<sup>31</sup> The provisions that were struck down were: Section 3, which would have made it a crime to fail to carry valid immigration papers while in Arizona; Section 5(C), which would have made it a crime to apply for or hold a job in Arizona without legal immigration papers; and Section 6, which would have allowed police to arrest persons without a warrant if the officer believed that the person had ever committed a crime that could cause him or her to be deported.

The Court, however, upheld, at least for the time being, Section 2(B) of the law, which requires police to check the immigration status of anyone they arrest or detain and to conduct immigration checks during lawful stops, detentions, or arrests, finding that the provision was not unconstitutional on its face.<sup>32</sup> The Court cited SB 1070’s safeguards against considering race or national origin as a reason for not striking down Section 2(B).<sup>33</sup>

The Court, however, explicitly stated that opponents would be free to bring future legal challenges against SB 1070 if it was applied or interpreted in a way that violated the Constitution.<sup>34</sup> This left open the possibility of future lawsuits based on claims that police engaged in racial profiling when conducting immigration checks. The Court also made it clear that the provision could be rendered invalid if immigration checks were conducted in a way that unduly prolonged the length of detention.<sup>35</sup> In writing the majority opinion, Justice Anthony Kennedy cautioned that “detaining individuals solely to verify their immigration status would raise constitutional concerns.”<sup>36</sup>

The Court’s decision cleared the way for Arizona to formally request dismissal of the injunction against SB 1070. In September 2012, Judge Bolton ruled that Arizona could officially begin enforcing what remained of the law.<sup>37</sup>

## Implementing SB 1070

The first arrest under SB 1070 occurred shortly after the injunction was lifted. In September 2012, a motorist and two companions were stopped by Phoenix police after the driver made an illegal turn.<sup>38</sup> The officer asked the men for their driver’s licenses, but they only had Mexican passports.<sup>39</sup> The three men

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28. *United States v. Arizona*, D. Ariz. No. CV 10-1413-PHX-SRB (July 28, 2010).

29. *Ibid.*

30. *United States v. Arizona*, 9th Cir. D.C. No. 2:10-cv-01413-SRB (July 30, 2010).

31. *Arizona v. United States*, 132 S. Ct. 2492 (2012).

32. *Ibid.*

33. *Ibid.*; Blocking Parts of Arizona Law, Justices Allow Its Centerpiece (June 25, 2012), *New York Times*, [http://www.nytimes.com/2012/06/26/us/supreme-court-rejects-part-of-arizona-immigration-law.html?\\_r=0](http://www.nytimes.com/2012/06/26/us/supreme-court-rejects-part-of-arizona-immigration-law.html?_r=0).

34. *Ibid.*

35. *Arizona v. United States*, 132 S. Ct. 2492 (2012); Supreme Court of the United States Blog (SCOTUSblog) (June 25, 2012), “S.B. 1070: In Plain English,” <http://www.scotusblog.com/2012/06/s-b-1070-in-plain-english/>.

36. *Arizona v. United States*, 132 S. Ct. 2492 (2012).

37. SB 1070 ruling: Judge paves way for immigration-status checks (September 5, 2012), *Arizona Republic*, <http://www.azcentral.com/news/politics/articles/20120824sb-1070-ruling-immigration-status-checks.html>.

38. Phoenix police: Officer wasn’t wrong in ICE arrest, (September 21, 2012), *Arizona Republic*, <http://www.azcentral.com/community/phoenix/20120921phoenix-police-officer-wasnt-wrong-ice-arrest.html>; First arrest made since new immigration law provision ‘show me your papers’ in effect (September 21, 2012), ABC 15 News Arizona, <http://www.abc15.com/news/region-phoenix-metro/central-phoenix/first-arrest-made-since-new-immigration-law-provision-in-effect>.

39. Phoenix police: Officer wasn’t wrong in ICE arrest, (September 21, 2012), *Arizona Republic*, <http://www.azcentral.com/community/phoenix/20120921phoenix-police-officer-wasnt-wrong-ice-arrest.html>.

refused to answer questions about their legal status, at which point the officer handcuffed the men and took them to the Immigration and Customs Enforcement (ICE) office to conduct an immigration check.<sup>40</sup> All three men were determined to be undocumented immigrants and were ordered to appear before an immigration judge.<sup>41</sup> Pending the hearing, one man was released on his own recognizance while the other two—one of whom had already been deported to Mexico twice the year before—were detained in ICE custody.<sup>42</sup>

The Phoenix Police Department maintained that the officers acted correctly under SB 1070, because the driver's inability to produce valid documentation, refusal to answer questions, and poor English-speaking skills combined to give the officer "reasonable suspicion" to believe that the men were in the country illegally.<sup>43</sup> The men, however, said that they felt discriminated against and that the ordeal was "very confusing and scary," and their families held a news conference during which they accused the officer of racial profiling.<sup>44</sup>

This incident illustrates how a typical situation might unfold under SB 1070. First, an officer must have a reasonable suspicion that a crime or traffic violation has occurred in order to conduct the lawful stop or arrest. At that point, the officer must determine whether there is reasonable suspicion to believe that the individual is in the country illegally. If reasonable suspicion exists, the officer must contact federal immigration authorities to determine the person's immigration status. For individuals who are arrested and placed under custody, the immigration check must be completed prior to his or her release. If the status check reveals that the individual is in the country illegally, the federal authorities can take the person into custody.

The incident in Phoenix also demonstrates how enforcing SB 1070 can create controversy and raise implementation questions. Was there enough evidence to give the officer reasonable suspicion that the three men were in the country illegally? Were the allegations of racial profiling justified, or was the officer neutrally enforcing SB 1070's provisions? Was arresting the men and taking them to ICE custody a good use of the officer's time, or would it have been better spent on other policing priorities? How do incidents like this affect the police department's relationship with the community?

Arizona law enforcement officials were not the only ones wrestling with these questions. Soon after SB 1070 passed, other states followed Arizona's lead and enacted similarly tough anti-immigration measures.

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40. Ibid.

41. Ibid.

42. Ibid.

43. Ibid.

44. Ibid; First arrest made since new immigration law provision 'show me your papers' in effect (September 21, 2012), ABC 15 News Arizona, <http://www.abc15.com/news/region-phoenix-metro/central-phoenix/first-arrest-made-since-new-immigration-law-provision-in-effect>.

## SECTION II

# The National Perspective

Because immigration laws were being debated and approved in a number of states, PERF's Roundtable discussion included federal law enforcement officials and police executives from Alabama, California, Georgia, South Carolina, Texas, and Virginia as well as Arizona. These participants provided critical insights into the legal developments taking place in each of their states.

It became clear from the discussion that immigration policy has become increasingly fragmented across the country, with states enacting individual laws that reflect their own political, demographic, and ideological landscapes. Some places, such as Alabama, Georgia, and South Carolina, have followed Arizona's lead in implementing strict immigration enforcement legislation. In other states, such as California and Texas, political and cultural shifts have caused officials to reject such tough measures.

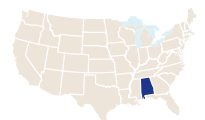
Although states have chosen to address immigration issues in various ways, states as different as Arizona and California have something in common: **They are taking it upon themselves to pass their own immigration policies, which has traditionally been the responsibility of the federal government.**

## States that Have Enacted Strict Immigration Laws

By mid-2011, states such as Alabama, Georgia, and South Carolina had passed tough immigration legislation patterned after SB 1070. Although the Supreme Court's 2012 decision in *Arizona v. United States* led federal courts to ultimately overturn many of these laws' provisions, courts have universally upheld immigration check requirements as valid and enforceable.

### Alabama

In June 2011 Alabama enacted HB 56, a law that many considered stricter and more wide-reaching than Arizona SB 1070. Like Arizona's law, HB 56 requires police officers to make a reasonable attempt to establish a person's immigration status during a lawful stop, detention, or arrest if there is a reasonable



*“A lot of people had the wrong impression of the law, that when you see someone you believe to be illegal, you go up to them and ask for their license and registration. I told my officers not to arrest them unless they were breaking the law.”*

—Selma, AL Police Chief  
William T. Riley III



suspicion that the individual is in the country illegally.<sup>45</sup> HB 56 also includes a prohibition against using race, color, or national origin during enforcement.<sup>46</sup>

In the wake of the U.S. Supreme Court’s ruling on SB 1070, in August 2012 the U.S. Court of Appeals for the Eleventh Circuit upheld HB 56’s status check requirement, but struck down the portions of the law that made it criminal for undocumented immigrants to seek work or fail to carry valid identification documents.<sup>47</sup> The Circuit Court also upheld a provision that requires officers to make a reasonable effort to determine citizenship within 48 hours if a driver does not have a valid driver’s license in his or her possession.<sup>48</sup>

Reaction to HB 56 has been mixed. Selma Police Chief William T. Riley III said that, although there was considerable public support for HB 56, concerns about racially biased policing and civil rights violations also prompted intense opposition to the law. Chief Riley said that hundreds of protesters organized a march from Montgomery to Selma to protest the law, echoing the civil rights demonstrations from the 1960s.

### Georgia

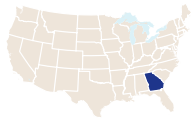
In 2011, Georgia passed HB 87, which gave local police officers *the authority* to conduct immigration checks during lawful stops, arrests, or detentions if there is a reasonable suspicion that the person is in the country illegally.<sup>49</sup> Unlike the provisions in Arizona and Alabama, immigration checks are optional under HB 87, meaning that officers have the discretion—but are not required—to conduct status checks in these situations.<sup>50</sup>

Because the immigration check provision is optional in Georgia, its enforcement can vary greatly from jurisdiction to jurisdiction. “Different jurisdictions are all doing things differently,” said Chief Kenneth DeSimone of the Sandy Springs, Georgia Police Department. In many places, agencies have simply chosen to not enforce immigration checks at all.<sup>51</sup>

Chief DeSimone also discussed some of the misperceptions surrounding immigration in Georgia. “My community has a sizeable Hispanic community, but we’ve also had an influx of immigrants from the Middle East,” said Chief DeSimone. “When we talk about immigration, we’re not just talking about Hispanics. We’re also talking about immigrants from the Middle East, Eastern Europe, and Asia.”

### South Carolina

South Carolina is another state that enacted strict immigration laws in the wake of Arizona SB 1070. In 2011, South Carolina passed SB 20, which contained an immigration status check requirement similar that in SB 1070.<sup>52</sup> A July 2013 ruling in the U.S.



Sandy Springs, GA  
Deputy Police Chief  
Kenneth DeSimone

45. Alabama enacts anti-illegal-immigration law described as nation’s strictest (June 10, 2011); *Los Angeles Times*, <http://articles.latimes.com/2011/jun/10/nation/la-na-alabama-immigration-20110610>.

46. Ibid.

47. Alabama immigration law: Federal appeals court blocks collection of data on immigrant students (August 20, 2012); *Birmingham News*, [http://blog.al.com/spotnews/2012/08/alabama\\_immigration\\_law\\_federa.html](http://blog.al.com/spotnews/2012/08/alabama_immigration_law_federa.html).

48. Ibid.

49. Enforcement of Georgia’s immigration law will vary (December 12, 2012); *Atlanta Journal-Constitution*, <http://www.ajc.com/news/state-regional-govt-politics/enforcement-of-georgias-immigration-law-will-vary/nTTKb/>.

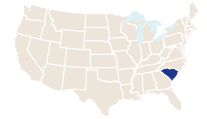
50. Ibid.

51. Ibid.

52. South Carolina governor signs immigration bill into law (June 27, 2011); Reuters, <http://www.reuters.com/article/2011/06/27/us-immigration-southcarolina-idUSTRE75Q61I20110627>.



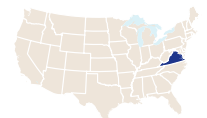
Court of Appeals for the Fourth Circuit invalidated many of SB 20's provisions in accordance with the U.S. Supreme Court's 2012 ruling on the Arizona law, but let stand the requirement that officers conduct immigration checks during lawful stops, detentions, and arrests.<sup>53</sup> As in other states, South Carolina's immigrant community has expressed fears that SB 20 will lead to racially biased policing, deportation, targeting of immigrants even if they are in the United States legally, and families being split apart.<sup>54</sup>



Tony Fisher, the Executive Director of the Department of Public Safety in Spartanburg, South Carolina, worries that SB 20 creates many problems for local police officers. Federal immigration laws are extremely complex, and even immigration lawyers and federal officials who have spent years specializing in this field can find the laws daunting. It is not possible to adequately summarize federal immigration policy, laws and regulations in a brief training program for line officers. "Often, the local officers do not fully understand the law that they are supposed to be enforcing," said Director Fisher. "Police need to be careful that they are enforcing the law properly, in a way that is fair and that does not open us up to lawsuits."

## Virginia

In 2007, nearly three years before Arizona SB 1070 went into effect, Prince William County, Virginia passed a tough anti-immigration law that required police to inquire about the immigration status of any person that they stopped, detained, or arrested if there was probable cause to believe that the person was in the country illegally. In many ways a precursor to SB 1070, the controversial Prince William County law "helped spur similar efforts in Arizona and Alabama, spread panic among Latinos, and created emotional confrontations that tore at the fabric of [the] Northern Virginia county," according to a *Washington Post* article.<sup>55</sup>



Amid the growing controversy, the Prince William County Board of Supervisors significantly amended the law one month after it took effect. The new version—which is much narrower than SB 1070 and its counterparts—requires police to conduct an immigration status check **only when a person is arrested and in physical custody**. The County also joined a federal program, known as 287(g), which established a formal partnership between local police and ICE.

To help smooth implementation and calm the growing fear and tension within the community, Prince William County Police Chief Charlie Deane implemented extensive training, community outreach, and evaluation efforts. He described his three-phase approach:

*"First, we trained officers on the agency's core philosophy, which included protecting victims, focusing on those who commit crimes, and not allowing racial profiling. Second, we embarked on an extensive community outreach effort. My staff and I attended 200 to 300 community meetings to discuss what the policy meant and how we would be enforcing it. Finally, we obtained funds to conduct an independent evaluation of how we implemented the law. We saw this as a way of holding ourselves and policymakers responsible; we wanted to make sure that we were having the intended impact and to assess the community's feelings about what the police were doing."*

—Prince William County, VA Police Chief Charlie Deane

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53. Parts of S. Carolina immigration law remain blocked (July 23, 2013); Fox News Latino, <http://latino.foxnews.com/latino/news/2013/07/23/parts-s-carolina-immigration-law-remain-blocked/>.

54. Legal Residents Fear South Carolina Immigration Law (October 26, 2011); Fox News Latino, <http://latino.foxnews.com/latino/politics/2011/10/26/legal-residents-fear-south-carolina-immigration-law/>.

55. Prince William's struggle offers mixed lessons for immigration reform (February 16, 2013), *Washington Post*, [http://www.washingtonpost.com/local/prince-williams-struggleoffers-lessons-for-immigration-reform/2013/02/16/7a56a298-763f-11e2-aa12-e6cf1d31106b\\_story.html](http://www.washingtonpost.com/local/prince-williams-struggleoffers-lessons-for-immigration-reform/2013/02/16/7a56a298-763f-11e2-aa12-e6cf1d31106b_story.html).

Many observers have praised Chief Deane’s efforts, which were chronicled in the documentary “9500 Liberty,” as a model approach for mitigating potentially harmful effects of strict immigration enforcement laws. Chief Deane’s experiences are detailed further in later sections of this publication.

Outside of Prince William County, statewide efforts to implement immigration enforcement policies in Virginia have been mixed. In 2010, then-Attorney General Ken Cuccinelli issued an opinion stating that law enforcement officers in the State have the **option** of conducting an immigration status check during other lawful stops—not just arrests—if they have a “reasonable articulable suspicion” that the person came into the country illegally.<sup>56</sup> In 2011, the Virginia House of Delegates proposed a set of sweeping immigration enforcement reforms similar to those in Arizona SB 1070.<sup>57</sup> Although the legislation did not ultimately become law, opinion polls from 2012 showed that Virginia voters favored these types of strict measures.<sup>58</sup> In 2013, Virginia passed a law banning illegal immigrants from obtaining concealed weapons permits.<sup>59</sup>

## A Moderate Approach

While Arizona and some Southeastern states have enacted increasingly strict immigration laws, some states, such as Texas and California, have grown more moderate. Cultural and political factors have led these states to shift away from strict enforcement policies.

### California



When it comes to recent immigration laws, California sits on the opposite end of the spectrum from Arizona. In October 2013, California Gov. Jerry Brown signed into law a set of sweeping bills that gave undocumented immigrants more rights than in anywhere else in the country.<sup>60</sup> The state’s recent pro-immigrant stance is in contrast to the 1990s, when California passed a controversial law that banned illegal immigrants from receiving health care, public education, and other services.<sup>61</sup> A court ultimately overturned that law, and over the past two decades strict immigration enforcement laws have fallen out of favor in the state.<sup>62</sup> This is attributed partly to the emergence of California’s large and increasingly powerful Hispanic community, and partly to the federal government’s actions to control immigration along the California border.<sup>63</sup> As the flow of immigration has moved toward the Arizona-Mexico border, which is now the country’s primary entry point for undocumented immigrants from Mexico, the battle over immigration has shifted eastward as well.<sup>64</sup>

At the center of California’s 2013 reforms is the Transparency and Responsibility Using State Tools (Trust) Act, which provides that illegal immigrants who are placed under arrest would have to be charged with or convicted of a **serious or violent felony** to be subjected to a 48-hour hold and transfer to

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56. Cuccinelli: Virginia police can ask for immigration status (August 3, 2010), *Virginian-Pilot*, <http://hamptonroads.com/2010/08/cuccinelli-virginia-police-can-ask-immigration-status>.

57. Virginia House passes several bills fighting illegal immigration (February 8, 2011), *Washington Post*, [http://voices.washingtonpost.com/virginiapolitics/2011/02/virginia\\_house\\_passes\\_bills\\_fi.html](http://voices.washingtonpost.com/virginiapolitics/2011/02/virginia_house_passes_bills_fi.html).

58. Virginia wants an Arizona-style immigration law too, says poll (July 19, 2012), NBC Latino, <http://nbc-latino.com/2012/07/19/virginia-wants-an-arizona-style-immigration-law-too-says-poll/>.

59. States back off from enacting immigration laws (October 12, 2013), *Los Angeles Times*, <http://articles.latimes.com/2013/oct/12/nation/la-na-ff-immigration-laws-20131013>.

60. Signing Trust Act is another illegal-immigration milestone for Brown (October 5, 2013), *Los Angeles Times*, <http://www.latimes.com/local/la-me-brown-immigration-20131006,0,5441798.story#axzz2w3rDCW9P>.

61. Welcome to Arizona, Outpost of Contradictions (April 28, 2010), *New York Times*, <http://www.nytimes.com/2010/04/29/us/29arizona.html>.

62. Border states shun Arizona’s immigration law (May 13, 2010), NBC News, <http://www.nbcnews.com/id/37116159#UyUuDYUVA5N>.

63. *Ibid.*

64. *Ibid.*

federal immigration authorities.<sup>65</sup> Many police departments in California, including those in Los Angeles, Santa Clara, and San Francisco, had already implemented policies similar to those in the Trust Act.<sup>66</sup> San Diego Police Chief William Lansdowne is one of the many California police executives who supported the Trust Act. “One of the most positive things about the Trust Act is that it targets serious offenders, but it is not so broad that it also targets people who have lived and worked in California for 20 years but then are picked up on some minor charge,” said Chief Lansdowne. “The immigrant community was actually largely in favor of the Trust Act, because they too believe that people should be deported if they commit a serious crime.”

Along with the Trust Act, the 2013 reforms also made it possible for illegal immigrants to obtain California driver’s licenses.<sup>67</sup> Los Angeles Police Chief Charlie Beck had long been a proponent of this policy, in part because it would lessen the burden of enforcing the state’s strict vehicle impound laws, which allows officers to impound vehicles of unlicensed drivers for up to 30 days.<sup>68</sup> Police chiefs in the state’s major cities, including Chief Lansdowne and Chief Beck, had joined together to instruct their officers to stop enforcing the impound law. Chief Lansdowne recalled a story that highlighted the burden that the impound laws placed on drivers and officers:

*“It was around 11:00 p.m. on Christmas Eve 2010, and while driving down a street I spotted a car that had been pulled over by one of my patrol officers. I pulled up behind the officer to check on the situation. I learned that the officer had planned to arrest the driver, a mother traveling with four small children, because she did not have a driver’s license. The officer was also going to have the woman’s car towed and report her to ICE. I instructed the officer to let the woman go. Our policy says that you cannot question someone about their immigration status for any traffic violation. If it happens, the officer will be reprimanded.”*

—San Diego, CA Police Chief William Lansdowne

With illegal immigrants now able to obtain driver’s licenses in California, Chief Lansdowne believes that his department will face fewer situations such as this.

## Texas

In 2011, Texas Gov. Rick Perry made a considerable push to curb illegal immigration into Texas. He lobbied for legislation that mirrored Arizona SB 1070, including the creation of an “anti-sanctuary cities” law that would enable police officers to check the immigration status of any person suspected of not being a legal citizen.<sup>69</sup>



The proposed bill did not pass, and no further attempts have been made at passing similar legislation. Enthusiasm for immigration enforcement measures appears to have waned in Texas; during the first half of 2013, the Texas legislature adopted 96 resolutions commending the contributions of immigrants and seeking federal action on immigration.<sup>70</sup> This shift away from strict immigration policy has been attributed to efforts by both political parties to court the state’s growing Hispanic vote.<sup>71</sup>

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65. Signing Trust Act is another illegal-immigration milestone for Brown (October 5, 2013), *Los Angeles Times*, <http://www.latimes.com/local/la-me-brown-immigration-20131006,0,5441798.story#axzz2w3rDCW9P>.

66. *Ibid.*

67. *Ibid.*

68. LAPD rescinds vehicle impound policy (September 28, 2013), *Los Angeles Times*, <http://articles.latimes.com/2013/sep/28/local/la-me-0929-lapd-impound-20130929>.

69. Texas Legislature Reverses Course on Immigration Laws (January 9, 2013), KPBS Radio, <http://www.kpbs.org/news/2013/jan/09/texas-legislature-reverses-course-immigration-laws/>.

70. National Conference of State Legislatures, September 6, 2013, “Immigrant Policy Project,” [http://www.ncsl.org/documents/statefed/ImmigrationReport\\_August2013.pdf](http://www.ncsl.org/documents/statefed/ImmigrationReport_August2013.pdf).

71. Texas Legislature Reverses Course on Immigration Laws (January 9, 2013), KPBS Radio, <http://www.kpbs.org/news/2013/jan/09/texas-legislature-reverses-course-immigration-laws/>.

Assistant Chief Daniel Perales of the Houston Police Department said that his department is committed to the principle that effective law enforcement depends upon good relationships between the Department and the community it serves, and that officers must rely upon the cooperation of all persons, including citizens and documented and undocumented immigrants, in their effort to maintain public order and combat crime. Therefore, he said, Houston police officers operate under a General Order, which was implemented in 1992, that prohibits officers from inquiring about immigration status unless a person has been arrested and placed in a city jail. Assistant Chief Perales said, “at the time of issuance of this General Order, the goal of this policy was to repair the deteriorating relationship between police and the Hispanic community.”

## SECTION III

# The PERF 2012 Executive Roundtable Discussion: Law Enforcement Concerns about New Immigration Laws

The requirements of SB 1070 and similar laws may appear straightforward, but in practice they can pose difficult questions for local law enforcement. What role should local police play in immigration enforcement? What constitutes a “reasonable suspicion” that a person is in the country illegally? How long can an officer detain an individual while making a “reasonable attempt” to determine his or her immigration status? What impact will SB 1070 and similar laws have on departmental resources and police relations with the community?

To help address these questions, on December 12, 2012, PERF, in partnership with the Tucson Police Department, convened a group of law enforcement executives to discuss the changing landscape of state immigration policies. Participants included officials from across Arizona and from other states that have recently enacted immigration legislation, including Alabama, California, Georgia, South Carolina, Texas, and Virginia.

The law enforcement officials who gathered at the Executive Roundtable Discussion in Tucson represented communities from across the country of varying size, demographic makeup, and history with immigration issues. Despite the participants’ diverse experiences, they shared a common set of concerns about the challenges that recent state immigration laws pose for local law enforcement. This section describes these concerns, which center on how laws like Arizona’s SB 1070 change the role of local law enforcement, raise implementation questions, and threaten to undermine the relationship between local police and the community.





*“While I agree that something must absolutely be done to tackle the problems associated with illegal immigration into this country, the means of shifting the burden of immigration enforcement and responsibility from Federal to local authorities cannot be justified nor sustained. We cannot bear the burden of the Federal government’s financial and legal responsibilities. We cannot bear the destruction of our relationships with our local community that we so vitally need in order to be successful in our mission to protect the public and make our city a better place to live with an excellent quality of life.”<sup>72</sup>*

—Tucson, AZ Police Chief Roberto Villaseñor  
June 25, 2010 Declaration in *Arizona v. United States*

## New Roles for Local Law Enforcement

The Roundtable participants agreed that immigration laws such as Arizona SB 1070 have the potential to change the role of local law enforcement agencies in some locations. They are concerned that, by placing responsibility for immigration enforcement into the hands of local police, these laws create policy and training questions and make it more difficult for officers to maintain their focus on local law enforcement priorities.

### Federal vs. Local Authority

Because immigration laws have traditionally been federal laws, the federal government has historically had almost exclusive authority over immigration enforcement. SB 1070 and other recent laws, however, have transferred some responsibility to local police, who are now being asked to make determinations about the citizenship status of members of the public and perform other immigration-related duties.

This division of authority creates confusion about what is required of local officers as they attempt to navigate federal and state laws.

With authority over immigration increasingly decentralized, the content of the new state laws—and the ways in which each state law is interpreted and enforced—can vary greatly from jurisdiction to jurisdiction. This inconsistency can contribute to confusion among local police officers—as well as among the public—about how the laws will be applied in a given situation.

During a hearing regarding Georgia HB 87, U.S. District Judge Thomas Thrash, Jr. described the problems that can arise when states enact their own immigration laws: “You are not going to have 50 systems of immigration regulation. In Georgia [alone], you are going to have 159. Every county, every municipality is going to decide what its immigration policy is going to be under this law.”<sup>73</sup>

### Removing Local Discretion

Even as state immigration laws result in a variety of enforcement schemes from one jurisdiction to the next, in other ways they also can force local police agencies to change their local priorities to fit state law, according to Roundtable participants. “Police officers and their first-line supervisors are in the best position to know how to handle a situation and what the outcome should look like,” said Matthew Allen, who is a Special Agent in Charge with Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) in Phoenix. “The Arizona legislature has handcuffed their abilities

*“What we need is meaningful federal legislation that can be enforced impartially and fairly throughout. We don’t need 50 different state laws.”*

—Paradise Valley, AZ  
Police Chief John Bennett  
President of the Arizona  
Association of Chiefs of Police



72. *Arizona v. United States*, Declaration of Roberto Villaseñor (June 25, 2010), <http://www.justice.gov/opa/documents/declaration-of-roberto-villasenor.pdf>.

73. Your morning jolt: This transcript of immigration law hearing is required reading (June 23, 2011), *Atlanta Journal-Constitution*, <http://blogs.ajc.com/political-insider-jim-galloway/2011/06/23/your-morning-jolt-this-transcript-of-immigration-law-hearing-is-required-reading/?cp=2>.

to determine what their priorities should be.” He contrasted immigration law with other state and local laws in which police exercise discretion. For example, Allen said, police cannot arrest everyone who violates speed limits, so they often set thresholds to judge which instances of speeding warrant enforcement, such as exceeding a speed limit by more than 10 mph, or speeding in a school zone. Laws like SB 1070 strip agencies of this type of discretion to the extent that they provide strict rules about the police response to incidents that may involve undocumented immigrants.

Chief Tim Dorn of Gilbert, Arizona, described the potential consequences that local agencies can face if they do not strictly enforce the immigration laws. After SB 1070 went into effect, a man contacted a police station in Gilbert to claim that he was going to start reporting people who he believed to be undocumented immigrants, document how the police respond, and sue the agency if it did not uphold the law. “We feel immigration is a federal responsibility,” said Chief Michael Frazier of Surprise, Arizona. “But we will follow the law and enforce the law to the best of our ability.”

### Diverting Resources from Local Law Enforcement Priorities

There was a fear among Roundtable participants that the requirements imposed by SB 1070 and similar laws will divert resources and attention away from the primary missions of local police agencies, which are defined by individual communities. Requiring officers to take on immigration enforcement responsibilities in addition to their normal duties can also create problems in terms of staffing and training. Tucson Police Chief Roberto Villaseñor, for example, points out that the new laws place additional demands on local police without granting any additional authority or resources. “We need to get the message to the federal government that immigration enforcement is your job, not our job,” Chief Villaseñor said. “Don’t order us to do immigration, which then takes us away from our primary role.”

Chief William Lansdowne of San Diego noted that local police already have critical roles to play without taking on federal enforcement duties. “We are the first responders, and sometimes the only responders,” he said. Spending time and money on immigration enforcement can hinder the ability of officers to respond to calls for service, conduct criminal investigations, and perform the other duties required by their jobs. Dallas Police Chief David Brown said that local police should be allowed to focus not on violations of federal immigration laws, but on the population of immigrants who violate state and local criminal laws.

*“Our focus should be on people who are committing crimes, regardless of whether they are here legally or illegally.”*

—Gilbert, AZ Police Chief  
Tim Dorn



Dallas, TX  
Police Chief David Brown

## Implementation and Enforcement Challenges

Many participants at the Executive Roundtable Discussion in Tucson noted that in addition to raising larger policy questions, laws such as SB 1070 create practical challenges in terms of implementation and enforcement. Local police have found that the requirements imposed by these laws can be difficult to apply in a real-world context.

### What Constitutes “Reasonable Suspicion”?

SB 1070 and similar laws require police to determine a person’s immigration status during a lawful stop, detention, or arrest if a “reasonable suspicion” exists that the individual is in the country illegally. It is largely unclear, however, what factors or circumstances must be present for officers to conclude that there is a reasonable suspicion about a person’s immigration status. Although the laws prohibit using race, color, or ethnicity to make the determination, some police officials worry that the lack of

## Defining Reasonable Suspicion: One Arizona Police Chief's Fight for Answers

Tucson Police Chief Roberto Villaseñor has been an outspoken critic of the lack of guidance that SB 1070 provides with respect to the “reasonable suspicion” standard. In a 2010 declaration filed with the U.S. Supreme Court in *Arizona v. United States*, Chief Villaseñor said that because the Arizona Peace Officer Standards and Training Board (AZ POST) had not clearly defined “reasonable suspicion” regarding immigration status, each police agency in the state was left to develop its own definition. Due to the complex and confusing nature of the situation, Villaseñor wrote that he does not fault AZ POST for the inadequate guidance it has provided on the matter. However, Villaseñor wrote that the lack of guidance will result in “a patchwork of policies and procedures, with obvious danger to both law enforcement agencies and their communities.”

Two years later, Villaseñor again voiced his concern over the continued lack of guidance on how to interpret and implement “reasonable suspicion,” this time in a declaration he filed in *Valle del Sol v. Whiting* in July 2012. He wrote that neither the training produced by AZ POST nor the supplemental materials provided by the AZ POST following the Supreme Court’s decision in *United States v. Arizona* had effectively clarified the situation.

According to Villaseñor’s 2012 declaration, nearly the first 20 minutes of AZ POST’s 90-minute training video is spent warning against racial profiling, a clear indication that the State Standards and Training Board is aware of the law’s implications.

But that awareness does not change the reality that local police in Arizona now are required to enforce SB 1070 to the fullest extent of the law while refraining from “consider[ing] race, color or national origin” and while “protecting the civil rights of all persons and respecting the privileges and immunities of United States citizens.”

guidance on the reasonable suspicion standard leaves officers little choice but to assume that people they encounter may be in the United States illegally.

“I believe SB 1070 will force police officers to consider race and ethnicity to enforce the law,” wrote Tucson Chief Villaseñor in an affidavit to the United States District Court of the District of Arizona in *Valle Del Sol v. Whiting*.<sup>74</sup> Referring directly to SB 1070’s reasonable suspicion standard, Chief Villaseñor explained that officers are trained to police “criminal actions, which can be observed through sight or other tangible means. My officers are not trained in the concept of ‘reasonable suspicion’ with respect to determining a person’s immigration status.”<sup>75</sup>

Michael Frazier, the police chief in Surprise, Arizona, expressed similar concerns. “When SB 1070 passed, I worried that it would be hard for the law to not lead to profiling, because we lacked guidance on how to determine reasonable suspicion with respect to immigration law,” said Chief Frazier. “I wasn’t as concerned about the more experienced officers, who can apply the experience they’ve had with these types of circumstances in the past. But there was a concern about the less experienced officers.”

Training materials produced by the Arizona Peace Officer Standards and Training Board (AZ POST) repeatedly issue stern warnings against using racial profiling when enforcing SB 1070. In the training videos, officers are told that they cannot not use race, color, ethnicity, or language alone to determine whether reasonable suspicion

*“SB 1070 was a political decision. They didn’t take into account what the police were saying about how hard it might be to enforce. No one listened to the people who actually had to go out into the streets and enforce the law.”*

—Paradise Valley, AZ  
Police Chief John Bennett,  
President of the  
Arizona Association  
of Chiefs of Police

74. *Valle Del Sol v. Whiting*, Declaration of Roberto Villaseñor (July 16, 2012), [http://www.tucsonaz.gov/files/ward6/7-24-12sb1070.tpd\\_chief\\_.pdf](http://www.tucsonaz.gov/files/ward6/7-24-12sb1070.tpd_chief_.pdf).

75. *Ibid.*



exists about a person's immigration status. Instead, officers are instructed to look at the totality of the circumstances and to be prepared to articulate the specific factors that led to their conclusions. The Arizona training materials disseminated after SB 1070 was passed provide examples of factors and circumstances that officers might consider when determining reasonable suspicion, including:

- A lack of identification or possession of foreign identification
- An attempt to flee or hide
- Voluntary statements made by the person about his or her immigration status
- Foreign registration of a person's vehicle
- If the person is at a location where undocumented immigrants are known to congregate
- The vehicle is overcrowded
- The officer has prior knowledge about a person's immigration status
- The person cannot provide an address, gives inconsistent information, or claims to not know the other occupants of the vehicle
- A person's dress, demeanor, or significant difficulty with speaking English<sup>76</sup>

*"The law prohibits using race, color, or ethnicity to get reasonable suspicion. But it can be difficult when officers have little else to go on."*

—Mesa, AZ Police Chief  
Frank Milstead



As some police officials have pointed out to PERF, many of the examples provided are subjective and open to various interpretations by police departments or individual officers and, therefore, do not establish clear standards as to what constitutes reasonable suspicion.

Most agencies instruct officers that individuals who possess certain forms of identification are entitled to the presumption that they are lawfully present in the country. Thus, if a person shows some form of legal identification (e.g., a valid U.S. driver's license, Green Card, Employment Authorization card), then there is no reasonable suspicion to conduct an immigration check. The Arizona training materials instruct officers to consider this type of presumption that possessing a legal form of identification means that a person is in the United States legally.<sup>77</sup> Some departments also tell officers that reasonable suspicion may exist if individuals *cannot* show any proof of their identity.

### *What Constitutes a "Reasonable Attempt" to Determine Immigration Status?*

Upon determining that a reasonable suspicion exists that a person is in the country illegally, officers are required under SB 1070 and similar laws to then make a "reasonable attempt" to determine the facts of the person's immigration status. Like the reasonable suspicion standard, what constitutes a "reasonable attempt" is vague and open to various interpretations.

Many laws state that officers are not required to attempt an immigration check if doing so would be unsafe, impractical, or would impede an official investigation. Alabama's official training materials note that this might occur when an officer has a large volume of calls, when backup is unavailable, in an emergency situation, or depending on the location of the stop.

The question that often arises concerns how long officers are required to hold an individual while they make a "reasonable attempt" to determine the person's immigration status. When a person is arrested and placed into custody at a city jail, SB 1070 requires that a status inquiry be made prior to the person's release. Melissa Keaney, an attorney with the National Immigration Law Center (NILC), said that this requirement can result in a person being held in custody longer than is allowed by law.

The instances that fall short of custodial arrest—typically, stops for minor traffic violations—often raise the most difficult questions in terms of how long the officer can detain the individual for the

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76. Arizona POST (June 2010), "Implementation of the 2010 Arizona Immigration Laws—Statutory Provisions for Peace Officers," [http://agency.azpost.gov/supporting\\_docs/ArizonaImmigrationStatutesOutline.pdf](http://agency.azpost.gov/supporting_docs/ArizonaImmigrationStatutesOutline.pdf).

77. Ibid.

*“SB 1070 required that state and local officers conduct immigration status inquiries for stops that fall short of custodial arrest. But those short-term encounters are the situations that will regularly raise the most questions about discretion and what goes into an officer’s finding of reasonable suspicion that the person is in the country illegally. Also, the check often prolongs the stop and thus raises issues under the Supreme Court’s warnings about length of detention. Instead, states should focus on improving nondiscretionary processes that result in immigration checks for anyone—without regard to suspected immigration violations—who is actually arrested on the basis of a state or local violation falling squarely within the officer’s normal responsibilities. That approach would have alleviated many of the questions that SB 1070 provoked.”*

—Professor David Martin, University of Virginia School of Law

purpose of doing an immigration check. **The Supreme Court cautioned that prolonging detentions for this reason could render SB 1070 unconstitutional; however, the Court failed to specify what length of time would be acceptable.** Again, this results in very little guidance for individual police departments.



**Lisa Reed, Director of Community Engagement, U.S. Customs and Border Protection, Arizona Joint Field Command**

In many cases, determining a person’s immigration status can be a lengthy process. Local officers must contact federal authorities, make the request, and then await a response. Lisa Reed, a U.S. Customs and Border Protection (CBP) employee with the Arizona Joint Field Command (JFC),<sup>78</sup> said that in rural areas, where the nearest CBP officer may be many miles away, it could take an extended period of time for federal authorities to respond in person to the scene of a traffic stop or other detention. Chief Frazier from Surprise, Arizona, said, “SB 1070 requires that the immigration status of all arrestees be verified. Almost universally the response to the inquiry does not come back to an officer in the field before the suspect is issued a citation or released; the only exception is when someone is booked into jail, where all arrestees are screened by ICE.”

This creates a challenge for officers who are left to determine how long to detain a person while awaiting the response from federal authorities. “CBP gives the officer an estimated response time, and it is then up to the officer to make an informed decision about whether to wait or release the individual,” said Reed. Many police agencies that PERF consulted instruct officers to call federal immigration authorities during stops that fall under SB 1070, but to release the individual if federal agents do not respond in a timely manner. Phoenix Police Chief Daniel Garcia explained how his department handles the issue:

*“Let me be clear about this: There’s a big question as to how long we can detain somebody. To me, it’s no longer than you would on a traffic stop in any other case. We’ll make an attempt to contact ICE, and if we’re successful, they’ll give us the information we need. If not, we’ll let the individual go. If we don’t get an answer from ICE, we have no obligation but to let them go . . . We’re going to enforce the law, but we’re going to do it with dignity and respect, and we’re going to do it within the parameters of the law.”<sup>79</sup>*

—Phoenix, AZ Police Chief Daniel Garcia

John Bennett, Chief of Police in Paradise Valley, Arizona, has also adopted this approach. “Some of my officers had stopped a car on a weekend night. They had reason to believe that the passenger was here illegally, so they did what they were supposed to and called ICE,” recalled Chief Bennett. “But no one

78. In February 2011, the U.S. Customs and Border Protection (CBP) created the Arizona Joint Field Command (JFC) to help expand coordination and bring greater unity to enforcement efforts along the Arizona border. CBP describes the JFC as “an organizational realignment to integrate CBP’s border security, commercial enforcement, and trade facilitations missions to more effectively meet the unique challenges faced in the Arizona area of operations.” CBP Announces Arizona Joint Field Command (February 7, 2011), <http://www.cbp.gov/newsroom/national-media-release/2011-02-07-050000/cbp-announces-arizona-joint-field-command>.

79. Q&A with Phoenix Police Chief Garcia: Officers prepared to enforce SB 1070 (September 19, 2012), <http://www.azcentral.com/news/articles/2012/09/19/20120919phoenix-police-chief-garcia-prepared-enforce-sb-1070.html>.

from ICE could get there by the time the officer had finished writing the citation, so we were bound to release the person.”

### Training Costs and Challenges

Another implementation challenge cited by many police executives is the significant amount of time and money that is necessary to train officers on the new immigration laws. Given the complicated new requirements that laws like SB 1070 impose on local police, officer training and education is essential. The Associated Press conducted an informal survey in October 2012 which found that seven Arizona law enforcement agencies had spent a total of \$640,000 to train their officers on how to enforce SB 1070.<sup>80</sup> Phoenix spent an estimated \$360,000, while Tucson spent roughly \$123,000.<sup>81</sup> The cost of continued training in terms of money and manpower can pose a significant burden on local police departments.

In Arizona, Governor Jan Brewer ordered AZ POST to develop training on how to enforce SB 1070 without violating civil rights.<sup>82</sup> The training programs include how to handle scenarios that officers might encounter when enforcing the law. Some local officials, however, find themselves facing situations that are not covered in the formal training materials. In Tucson, for example, Chief Roberto Villaseñor put his officers through five weeks of training regarding the impact of SB 1070. During one four-hour training block, officers repeatedly stumped their superiors by coming up with scenarios under the new law that had not been considered. Chief Villaseñor believes that better training is necessary to prevent officers from engaging in racial profiling.

Phoenix Police Chief Daniel Garcia noted that training is not a one-time event. As policies change and new situations arise, officers must receive ongoing education and instruction. Since SB 1070 was enacted in 2010, the entire Phoenix Police Department has received at least three separate training sessions on how to properly enforce the law. Surprise, Arizona Chief Michael Frazier said his department trained when SB 1070 was enacted and then again when the injunction was lifted in September 2012.

In South Carolina, the enactment of SB 20 led the state to launch an Immigration Enforcement Unit (IEU), a special unit designed to investigate criminal cases involving illegal immigrants. The six-member team trains and works directly with ICE agents and, in some instances, refers cases to ICE for deportation. The IEU runs free training programs for law enforcement officers in the state to provide education on South Carolina’s immigration laws and the officers’ roles in properly enforcing them.

In Virginia, Prince William County Police Chief Charlie Deane invested a substantial amount of time and money to thoroughly train his officers on the county’s immigration policy. As part of a formal partnership with ICE, Chief Deane also created a specialized detective “Criminal Alien Unit” dedicated to investigating serious offenders. This unit underwent five weeks of training that Chief Deane described as very expensive. “Some of the training was useful,” remarked Chief Deane. “But we probably wouldn’t have invested in it if we hadn’t been forced to.”

## Potential Threats to Police-Community Relationships

One of the concerns expressed most often by participants at the Tucson Roundtable is that strict state immigration policies will damage the relationships between local police and the communities they serve. According to these law enforcement officials, laws like SB 1070 cause immigrant populations to believe—rightly or wrongly—that every encounter with a local police officer could lead to an investigation into their immigration status and ultimately to deportation. This leads to a fear and distrust of the police, which threatens to undermine important relationships and community policing efforts.

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80. Arizona immigration law SB1070: State spends \$640,000 on police training (October 28, 2012), <http://www.abc15.com/dpp/news/state/arizona-immigration-law-sb1070-state-spends-640000-on-police-training>.

81. Ibid.

82. Immigration advocacy groups to challenge Arizona law (April 25, 2010), *Washington Post*, <http://www.washingtonpost.com/wp-dyn/content/article/2010/04/24/AR2010042402200.html>.

Collaboration between police and their communities is a critical component of community policing, which is a strategy that promotes using police-community partnerships and systematic problem-solving to proactively address crime and disorder.<sup>83</sup> Community policing efforts rely on the ability of law enforcement agencies to work closely with members of the community, along with groups such as local service providers, victim advocacy organizations, neighborhood watch associations, and faith communities, to identify, prevent, and solve crime and disorder problems within the neighborhood.<sup>84</sup> Law enforcement executives fear that their ability to forge these important partnerships will be jeopardized by the distrust caused by laws like SB 1070.

During the Roundtable Discussion, police chiefs from across Arizona described the fear that SB 1070 has struck in their communities. “If you have a legal right to be here, you should not have to worry,” said Tucson Chief Roberto Villaseñor. “But because of SB 1070, immigrants who are in the country legally *are* worried.” Chief Jeffrey Smythe of Show Low, Arizona, said that fears surrounding SB 1070 led to a fairly large exodus of Hispanics from his town. Local officials report that these concerns are not limited to the Latino community. “The law, SB 1070, isn’t just about the Latino community,” said Phoenix Chief Daniel Garcia. “Members of the Asian community in my jurisdiction are also very concerned about SB 1070. SB 1070 affects many non-English speaking communities.”

Some law enforcement officials said that misinformation about the role of local police in enforcing SB 1070 contribute to the fear surrounding the law. “One of the key issues we’re constantly fighting is the misinformation that is out there,” said Tim Dorn, the police chief in Gilbert, a suburb southeast of Phoenix. “Speeches are being made at the national level stating that officers in Arizona will have the blanket authority to stop and check your immigration status, which isn’t true.”

Regardless of the source of the public’s fears, the end result is often the same: laws like SB 1070 threaten to undermine the trust among immigrant communities that police agencies have worked for years to build. **Police chiefs are concerned that immigrants who are witnesses to or victims of crime are increasingly hesitant to come forward and provide information to the police.** The *Los Angeles Times* reported in May 2013 that roughly 44 percent of Latinos said they are less likely to contact police if they are victims of a crime “because they fear officers will inquire about their immigration status or the status of people they know.”<sup>85</sup> Among Latinos who are in the country unlawfully, that reported number was 70 percent.<sup>86</sup>

To help address this problem, some police officials, like Phoenix Police Chief Daniel Garcia, have made it clear that they will not investigate the immigration status of those who are victims and/or witnesses of crime. Chief Garcia said he reinforces this policy during officer training, in face-to-face visits with the community, and in news media interviews.

Though most representatives at the Roundtable agreed with this approach, not all jurisdictions are able to enforce this type of policy—at least, not publicly. Some police officials have been told by their legal advisors that the law requires them to check the immigration status of everyone—even crime victims and witnesses—if there is reasonable suspicion that the person is an undocumented immigrant, and so to announce a policy contradicting that would be in violation of the law. **Instead, many of these agencies highlight during internal training that SB 1070 allows them to forgo immigration checks if such an attempt would hinder an investigation. Because it almost certainly will hinder an investigation if police to tell a victim or witness, “We will also look into your legal**

“Police cannot do their jobs if they do not have the cooperation of victims and witnesses. It undermines the entire theory of policing.”

—Prince William County, VA  
Police Chief Charlie Deane



83. U.S. Department of Justice, Office of Community Oriented Policing Services, “Community Policing Defined,” <http://www.cops.usdoj.gov/pdf/vets-to-cops/e030917193-CP-Defined.pdf>.

84. Ibid.

85. Latinos now less likely to report crimes to police, poll says,” (May 7, 2013), *Los Angeles Times*, <http://articles.latimes.com/2013/may/07/news/la-pn-latinos-less-likely-to-report-crimes-20130507>.

86. Ibid.

**status,” this provision of SB 1070 provides a legitimate justification for declining to investigate the immigration status of victims and witnesses.**

James Lyall, a staff attorney with the American Civil Liberties Union (ACLU) of Arizona, said that police agencies have not gone far enough to protect the rights of immigrants who come forward to report crimes. “Some agencies have said that they discourage officers from inquiring about the status of victims and witnesses, but no agency currently prohibits this practice outright,” he said. “As a result, many in the immigrant community continue to fear that coming forward will result in an investigation and possibly deportation.”

For example, the Flagstaff Police Department’s initial immigration enforcement policy instituted after SB 1070 prohibited officers from questioning crime victims and witnesses about their immigration status. However, the department was forced to change this policy in early 2014, following an opinion by the Flagstaff City Attorney’s Office stating that this prohibition was illegal, as it conflicted with SB 1070.<sup>87</sup> The Flagstaff City Attorney’s opinion was based on a 2013 opinion issued by the Tucson City Attorney’s Office ruling that a similar prohibition was illegal there. Under Flagstaff’s new policy, officers are *encouraged* not to inquire about the immigration status of crime victims and witnesses, though they are not *prohibited* from doing so.<sup>88</sup> Ultimately, the discretion is left up to the officer.

Law enforcement officials continue to worry that laws like SB 1070 will threaten to undo years of community policing efforts. “Many community leaders now believe that their constituents will be unfairly targeted in the eyes of law enforcement,” wrote Tucson Chief Roberto Villaseñor in his affidavit in *Arizona v. United States*.<sup>89</sup> “They fear the legislation codifies racial profiling, despite its wording, and such fear could destroy the good relationships that currently exist between police and local communities that have taken years to build through our efforts in community policing.”<sup>90</sup>



**Left:** Marana, AZ Police Chief Terry Rozema; Phoenix, AZ Police Chief Daniel Garcia; and Paradise Valley, AZ Police Chief John Bennett. **Right:** Rev. John Fife; Prince William County, VA Police Chief Charlie Deane; and Police Executive Research Forum Executive Director, Chuck Wexler.

87. Flagstaff police face SB 1070 changes (February 14, 2014), *Arizona Daily Sun*, [http://azdailysun.com/news/local/crime-and-courts/flagstaff-police-face-sb-changes/article\\_b59b56be-9547-11e3-b690-0019bb2963f4.html](http://azdailysun.com/news/local/crime-and-courts/flagstaff-police-face-sb-changes/article_b59b56be-9547-11e3-b690-0019bb2963f4.html).

88. *Ibid.*

89. *Arizona v. United States*, Declaration of Roberto Villaseñor (June 25, 2010), <http://www.justice.gov/opa/documents/declaration-of-roberto-villasenor.pdf>.

90. *Ibid.*

## Arizona SB 1070: The Community's Perspective

### Background

On December 11, 2012 representatives from the Police Executive Research Forum met with the Inter-Faith Community Group, an organization of faith leaders in Tucson, to learn about the community's viewpoint of SB 1070. As community activists and clergymen of congregations with sizable immigrant populations, this diverse group of individuals is uniquely qualified to discuss the challenges facing the immigrant community.

The Inter-Faith Community Group came together in 2010 in direct response to SB 1070. The initial meeting brought together approximately 75 members of inter-faith clergy to discuss how Arizona's new law would impact members of their congregations.

### Fear in the Immigrant Community

At PERF's meeting, members of the Inter-Faith Community Group said that pervasive fear about SB 1070 has had an impact on Tucson's immigrant community. For example, in an effort to clarify SB 1070, the group announced a community meeting to discuss the implications of the law. However, Latino community leaders informed them that immigrants would not attend for fear of being "rounded up" by the police.

Local clergy also noted that there has been a decline in attendance at their worship services in the wake of SB 1070. Much of this is due to fear of harassment by police officers, as people have reported being stopped and detained by the police while on their way to church. In some areas, people said, police cars were parked outside houses of worship while services were being held. It may have only been a coincidence—police may have been responding to a call nearby—but the rumors were enough to have an impact on attendance.

Of particular concern to the Inter-Faith Community Group is how the fear caused by SB 1070 has made immigrants unwilling to come forward when they are victims of or witnesses to crime. Many immigrants fear that reporting crimes will lead to immigration status investigations and ultimately to deportation of themselves or their family members. For example, the group has heard numerous stories of domestic violence victims simply disappearing; afraid to go to the police and unable to stay in a dangerous situation, they see no choice but to flee to a more immigrant-friendly jurisdiction.

Members of the Inter-Faith Community Group also said that if victims and witnesses are afraid to come forward, crime in immigrant communities will be underreported. Not only does this mean that crimes will go unsolved and unprosecuted, but it also means that the police—who use crime reports to determine where to focus their resources—will be placed at a disadvantage in terms of community policing and crime prevention efforts. Creating an environment in which undocumented crime victims and witnesses can freely come forward and provide information without fear of deportation is a central goal for the Inter-Faith Community Group.

One factor contributing to the community's fear is the perception that SB 1070 is not being enforced uniformly by law enforcement agencies. This inconsistent enforcement is often reflective of the state's variety of demographics and political associations.

### Community Leaders Take Action

As a result of what they were hearing from their congregations and throughout the community, the Inter-Faith Community Group took action to mitigate the effects of SB 1070. The group pushed for Tucson to adopt an "Immigrant Welcoming City" resolution, which was

modeled after Ohio's "Dayton Welcome" initiative and aimed to distinguish Tucson from the rest of Arizona. The goal of the resolution was to send a message that legal immigrants are welcome and will be protected in Tucson. The City Council adopted the measure in August 2012 by a vote of 6–1.

The resolution has a number of provisions, including the following:

- Instructs the Mayor and City Council to host public forums on racial profiling;
- Declares the Mayor's and City Council's support of the Tucson chief of police and his commitment to protecting the public safety of all people living and traveling in Tucson, regardless of their immigration status;
- States that the city's enforcement policies will take federal DHS priorities into consideration (i.e., DHS's stated focus on violent offenders);
- Outlines the Mayor and City Council's commitment to making Tucson an immigrant-welcoming city, for example, by creating an immigrant welcoming task force to design and implement initiatives and services to assist immigrants, such as the online Immigrant Resource Center, which links immigrants to local government and nonprofit services such as housing, childcare, educational opportunities, health and legal services, and recreation activities.<sup>91</sup>

The Inter-Faith Community Group also helped establish a statewide hotline, run by the American Civil Liberties Union (ACLU), to gauge the impact of SB 1070 on the immigrant community. Tucson also has a local hotline. People who feel they have been racially profiled can call the hotline to record a complaint. The purpose of the hotline is to assemble data for possible future civil action.

### **After SB 1070**

In March 2014, PERF staff met with representatives from the faith community, the ACLU, the Border Action Network (a human rights organization in border and immigrant communities), and CAMBIO (a coalition of organizations that advocate for fair immigration laws). At this meeting, representatives discussed the experiences that members of immigrant communities have had in the wake of SB 1070.

Participants said that many people have reported experiencing harassment, racially biased policing, and fear since the law's implementation. They cited situations in which Hispanics—both undocumented immigrants and U.S. citizens alike—were stopped by police for minor traffic violations or for no reason at all, which they believe were pretext stops to allow police to investigate the person's status under SB 1070.

The representatives said that local police need to do more to mitigate SB 1070's harmful effects. They said that police on the whole have not done a good enough job of engaging the immigrant communities, of collecting data on racially based policing and harassment, and of ensuring that the laws are enforced fairly.

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91. City launches one-stop web portal for immigrants (August 15, 2013), *Arizona Daily Star*, [http://azstarnet.com/news/blogs/government/city-launches-one-stop-web-portal-for-immigrants/article\\_09637d8e-0d12-51da-8299-f13bc7129a08.html](http://azstarnet.com/news/blogs/government/city-launches-one-stop-web-portal-for-immigrants/article_09637d8e-0d12-51da-8299-f13bc7129a08.html).

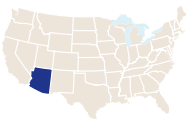
## SECTION IV

# The Impact of State Immigration Laws: Reports from the Field

The impact of SB 1070 and other recent immigration laws is difficult to measure. The Supreme Court’s decision in *Arizona v. United States* invalidated all but a few provisions of these laws, and in most states, these laws have been in effect for a relatively short period of time due to delayed implementation caused by legal challenges and injunctions. Additionally, it can be hard to separate the effects of SB 1070-type laws from those of other immigration policies and programs that have been enacted in recent years. Some law enforcement officials, such as Matthew Allen, the ICE Homeland Security Investigations (HSI) Special Agent in Charge in Phoenix, Arizona, believe that SB 1070’s greatest impact occurred *prior* to the law’s enactment, when large numbers of immigrants fled Arizona out of fear of what the new law might mean.

Since the 2012 Executive Roundtable Discussion, PERF has followed up with a number of law enforcement officials, along with members of immigrant advocacy groups, to get their perspectives on the impact that laws like SB 1070 have had on police operations and relationships with the immigrant communities.

## Arizona



Perspectives vary regarding SB 1070’s impact in Arizona. While local police executives in larger cities and along the Mexican border report that enforcing the law has created many challenges, many of their counterparts in smaller towns and suburbs said that SB 1070 has had very little impact on their police operations. Meanwhile, representatives from immigrant advocacy groups said that SB 1070 has led to increases in racially based policing and harassment and has contributed to tense relationships between the police and community.

Police executives and advocates agree, however, that SB 1070 has had a significant impact on local police departmental policy. In order to comply with the law and avoid being sued for non-enforcement, police agencies were forced to enact new policies that in some cases contradict the department’s own public safety and community policing priorities.

Melissa Keaney with NILC explained how SB 1070 has caused local police agencies to adopt policies that undermine the relationship between police and immigrant communities. “Prior to SB 1070, many



local agencies had policies in place, such as not questioning the status of crime victims and witnesses, that were aimed at encouraging members of the immigrant community to trust police and to come forward to report crimes,” she said. “But SB 1070 undid a lot of that. Police agencies had to change that policy out of fear of being sued for not enforcing the law. Regardless of what the agencies want to do, they are required to enforce SB 1070 fully and to refrain from adopting policies that contravene it.”

Keaney said that these policies have damaged the trust that immigrant communities have in their local police. “There have been numerous stories out of Arizona that trust in the police is deteriorating, and there is no doubt that SB 1070 has contributed to that,” she said. “As long as SB 1070 requires local agencies to engage in immigration enforcement, it won’t be possible for police to maintain the same level of trust or confidence within the immigrant communities.”

Among Arizona’s local law enforcement officials, reports are mixed regarding the extent of SB 1070’s impact. Police officials that PERF interviewed from larger cities, particularly those closer the Mexican border, tended to report greater challenges than those in smaller cities and suburbs to the north. Given its large immigrant population and close proximity to the border, Tucson has perhaps felt the most impact from SB 1070. Tucson Chief Roberto Villaseñor reports that, unlike in other Arizona cities, the emotions surrounding SB 1070 have subsided very little in Tucson since the law’s enactment. “The people who passed the law wanted it to be tough, to encourage attrition of illegal immigrants by making life more difficult for them,” said Chief Villaseñor. “But Tucson’s local officials and leadership are generally very pro-immigrant.”

Chief Villaseñor described two recent incidents that illustrate the divisiveness that SB 1070 continues to cause in his community. In one, police stopped a man who was driving without a license plate. The man belonged to a community activist group, and the stop happened to occur next to a local church that was very active in the pro-immigrant movement. Upon discovering that the man had no valid documentation, the officers contacted federal authorities pursuant to SB 1070. By the time federal authorities had arrived, over 100 people had gathered to protest the stop. According to Chief Villaseñor, the protestors cursed at the officers and surrounded the law enforcement vehicles in an attempt to prevent them from leaving the scene. The scene escalated, with the protestors becoming physically aggressive as the federal authorities forcibly moved people away.

Two days after this incident, a crowd of 75 to 100 demonstrators intercepted two buses that were carrying immigration prisoners to the federal court building. The protestors chained themselves to the bus wheels and to the courthouse doors, which led to numerous arrests and charges against 17 individuals. Chief Villaseñor believes that these types of incidents are becoming more common as immigration discussions reappear in the federal debate.

Chief Villaseñor has attempted to curb some of the tensions surrounding SB 1070 by proactively engaging members of Tucson’s immigrant community. Although no complaints alleging abuse under the law have been filed against the Tucson Police Department, he worries that his officers still take the blame for problems that the community has with SB 1070 and for actions taken by other law enforcement agencies.

**“SB 1070 has definitely taken a toll on my department’s relationship with the community,” said Chief Villaseñor. “And although I can’t prove it, I do believe that it has made Hispanics less likely to come forward to report crime.”**

In November 2013, the Tucson Police Department revised its general orders to further strengthen its relationship with immigrant communities.<sup>92</sup> The revisions, which were based upon recommendations set forth by local community groups, instruct officers to not question the immigration status of crime victims and witnesses, of people who file complaints against the police, and of juveniles unless a parent or guardian is

*“It is incredibly difficult to assess the full impact of SB 1070. It is hard to separate out what was caused by SB 1070 versus what was caused by policies and practices that existed in Arizona before SB 1070 or by the federal programs that have caused local police to become more entangled in immigration enforcement.”*

**—Melissa Keaney, National Immigration Law Center**

*“The recent incidents in Tucson illustrate the exact problems that we feared would occur when SB 1070 was passed. Tensions are still high on both sides. And the local police are in a no-win situation—we are the pawns in the immigration game.”*

**—Tucson, AZ Police Chief Roberto Villaseñor**

92. Tucson Police Department General Orders, Volume 2, Order 2300: Immigration Policy, Revised December 18, 2013.

present. Chief Villaseñor said that these revisions have not really changed how the department enforces SB 1070. “Many of the new mandates were already in the general orders—the revisions just put stronger emphasis on them,” he said. “The mandates just reinforced the philosophies that we were already following.”

Although he has vocally expressed his disagreement with SB 1070, Chief Villaseñor is dedicated to enforcing the law to the best of his ability. His department revised its general orders to ensure compliance with SB 1070 and is working to track the number of requests that his officers make to federal authorities.

Chief Villaseñor reports that SB 1070 has had little actual impact on his department’s day-to-day operations. “We contact CBP agents in Tucson for immigration status checks, and their response time is fairly quick,” he said. “Unless a person is under arrest for another criminal offense, we direct our officers to not detain anyone longer than they normally would under a usual stop. We cannot detain anyone solely for the purpose of contacting federal authorities.”

Phoenix Chief Daniel Garcia reports that implementing SB 1070 has also been a challenge in his city. The greatest challenge his agency has faced, as anticipated, is ensuring that SB 1070 does not erode the community’s trust and confidence in the police. Chief Garcia has engaged in

community outreach efforts to address this issue. For example, Chief Garcia holds monthly meetings with community advisory groups that represent Phoenix’s diverse cultural and ethnic populations, including members of Hispanic, Asian, Muslim, and Sikh communities. He uses these meetings to reinforce the message that his department strives to enforce SB 1070 in a way that is fair and respectful of people’s rights. Chief Garcia believes that consistently reiterating this mission has helped to reassure the community and improve police-community relationships.

In October 2013, Chief Garcia held a joint press conference with the Consulate of Mexico to announce their efforts to move beyond SB 1070 and focus on crime plaguing the Hispanic community. He believes that, although overall crime in Phoenix is mostly declining, there are still specific areas of the city that need addressing. While it is not possible to measure whether SB 1070 has caused people to report fewer crimes, Chief Garcia has made it clear to the community that his department does not check the legal status of victims or witnesses who come

*“We want to get the message out there that we are enforcing the law, but we are doing so in a way that meets the five principles of the department’s “Policing with a Purpose” mission statement: ensuring and nurturing democracy, justice, spirit of service, fundamental fairness, and protecting people from harm.”*

**—Phoenix, AZ Police Chief  
Daniel Garcia**

forward to report crime.

Chief Garcia reports that in the rare cases when complaints of racial profiling have occurred, they are typically in response to a routine situation in which the officer had sufficient reasonable suspicion to enforce the law. For example, Chief Garcia explained that the majority of complaints arise when an officer pulls someone over for a minor violation, like running a stop sign, and then lets the person go without writing a ticket. In those cases, people have argued that the failure to write a ticket demonstrated that the officer did not have cause to stop them in the first place, and thus the officer must have been engaging in racially biased policing. “Traffic Enforcement is routine protocol for us,” said Chief Garcia. “It is an officer’s discretion as to when a citation will be written or not written. Our job is to enforce the law as fairly as possible using the proper legal standards.”

James Lyall with the ACLU of Arizona said that attempts by police officials in Tucson and Phoenix to mitigate the harm caused by SB 1070 have not gone far enough. “We have tried to work with these departments to develop strategies that counter the negative effects of SB 1070, such as strengthening protections for crime victims and witnesses. But we have been met with a great deal of resistance,” Lyall said. He said that the ACLU presented a list of recommendations to officials in Tucson, only three of which were adopted in full. Lyall also said that these three recommendations were adopted more than a year after they were initially presented by the ACLU, and only after community members mounted a campaign protesting the Tucson Police Department’s immigration policies. Police officials counter that they are required by law to enforce SB 1070, which limits the types of policies that they can enact.

While implementing SB 1070 has been especially challenging in Tucson and Phoenix, police officials in some Arizona communities, particularly the smaller cities and suburbs surrounding Phoenix, said that

they have not experienced the same type of impact on their police operations. Mesa, for example, is a city of 450,000 located around 20 miles east of Phoenix, in the East Valley section of the Metropolitan Area. Mesa Police Chief Frank Milstead reports that, to his knowledge, none of the police departments in the East Valley have made an arrest under SB 1070. “The impact here has been relatively nonexistent,” said Chief Milstead. “We already had policies in place that dealt with immigration, which were supported by both the police and the community. So in Mesa, SB 1070 hasn’t really changed any of those. Here, a lot of the debate about SB 1070 was a political issue; it was never really a policing issue.”

Chief Milstead expressed some surprise that SB 1070 has not led to more complaints of harassment or racial profiling in his community. He had initially feared that some officers might be tempted to overzealously enforce the law, but that has not been the case. Chief Milstead has also found that SB 1070 has done little to damage his department’s relationship with the immigrant community. He believes that the Department’s outreach efforts have helped ease people’s fears and reassured the community that they can be comfortable coming forward to report crimes. “Many of the community’s fears have largely subsided since the initial uproar surrounding SB 1070’s enactment,” said Chief Milstead. “We have continued to meet with members of the community, talk openly about our policies, and tried to remain as transparent as possible about how we’re enforcing the law.” The Mesa Police Department meets monthly with clergy and Hispanic community groups, and Chief Milstead has invited representatives from ICE to attend.

According to Chief Tim Dorn, SB 1070 has also had little impact in Gilbert, Arizona, a community of 220,000 located within the Phoenix Metropolitan Area. He attributes this in part to the fact that the U.S. Supreme Court overturned many of the law’s provisions. Gilbert police also do not typically encounter large numbers of illegal immigrants. The Department has not seen an increase in situations in which officers had to contact federal authorities to conduct an immigration check during a stop or detention, and they were already asking about citizenship during arrests prior to SB 1070.

Chief Michael Frazier of Surprise, Arizona, reports no major enforcement issues since the law’s enactment, and his initial concerns about potential racial profiling by some officers fortunately have not come to fruition. Surprise, which is a community located just west of Phoenix, has a population of 120,000 that is mostly comprised of retirees and young families. There, Chief Frazier said, SB 1070 “really turned out to be a big deal about nothing.” Chief Frazier reports that since the injunction was lifted against the remaining section of SB 1070 left standing by the Supreme Court, his department has only encountered a handful of cases in which an officer had reason to make a status inquiry during a stop. Between September 2012 and June 2013, Surprise police turned only one individual over to ICE custody. In that case, officers responded to a young man that had pocket-dialed 911 on his cell phone while sitting on a curb outside of his apartment. The man, who had previously been removed from the country, had an ICE warrant out for his arrest on an immigration violation. Officers arrested the man and took him to the local jail, where he was later released to ICE agents.

Paradise Valley, Arizona, a small, wealthy community in the Phoenix Metropolitan Area, has traditionally had very few problems with illegal immigration, and SB 1070 did little to change that, according to Police Chief John Bennett. Over the course of a year, Chief Bennett said his department encountered only one issue related to illegal immigration. Chief Bennett, who opposed SB 1070, said that the Supreme Court decision nullifying much of the law and practical realities have sharply limited the impact of the law. He explained that officers can only detain someone under the law for a “reasonable time” to determine immigration status, which typically means the time it takes to issue a traffic violation. ICE is often understaffed, Chief Bennett said, and despite their best efforts they often cannot respond quickly enough to justify holding the person.

Although police officials in these smaller communities report that SB 1070 has had less of an impact than they feared, James Lyall with the ACLU of Arizona said that smaller cities and rural communities are not immune to the effects of the law. He said that people in rural areas are often isolated and have fewer resources to fight racially biased policing and harassment, and that often the problems in these communities can go overlooked.

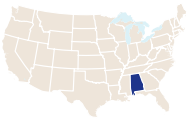
*“In Mesa, SB 1070 wasn’t what the people who feared it feared, and it wasn’t what the people who rallied behind it hoped it would be. In many ways, it hasn’t really changed anything here.”*

**—Mesa, AZ Police Chief  
Frank Milstead**

At the federal level, CBP employee Lisa Reed with the Joint Field Command in Tucson, reported that SB 1070 has “not resulted in a significant increase” in terms of the numbers of illegal immigrants that her office has taken into custody or impact to regular operations.

James Lyall believes that collaboration between federal and local law enforcement has created problems in Arizona. He said that federal authorities are increasingly responding to not only routine stops in the field, but also to 911 calls and other situations that are traditionally the responsibility of local police. In his perspective, this further blurs the lines between federal and local authority and contributes to the immigrant community’s lack of trust in local police.

## Alabama



Selma Police Chief William T. Riley III reports that attitudes have shifted regarding Alabama’s controversial immigration law, HB 56. “Just as soon as SB 1070 was implemented, Alabama went into action. At first, the public loved the idea of stricter immigration laws,” said Chief Riley. “But then right before HB 56 was actually implemented, many Hispanics left the state, which put a burden on Alabama’s farming community. When the farmers found out that the locals weren’t going to farm and pick cotton, their attitudes suddenly changed.”

Chief Riley believes that the law’s many loopholes, along with several modifications to the law that have been made, have reduced HB 56’s impact on law enforcement efforts in his community. “We have to enforce the law when applicable, but ICE isn’t going to come out for minor crimes,” noted Chief Riley. “If we don’t have probable cause that a person is committing a serious or violent crime, then we aren’t going to do an immigration check. This was our policy prior to the new law, so not much has really changed.”

News media reports indicated that, by late 2012 into 2013, Alabama law enforcement agencies were not heavily enforcing the immigration check requirement of HB 56.<sup>93</sup> Some smaller police departments stopped enforcing the law altogether due to a lack of resources and the length of time that it takes for federal authorities to respond to officers’ requests for status checks.<sup>94</sup> Local farmers reported that many of the foreign workers returned to Alabama once it became clear that HB 56 was not being heavily enforced.<sup>95</sup>

Despite these reports, a hotline established by the National Immigration Law Center and the Southern Poverty Law Center received over 6,000 complaints of civil rights violations during the year following HB 56’s enactment.<sup>96</sup> These calls, which were received from undocumented immigrants, legal immigrants, and U.S. citizens, generally alleged that officers engaged in racially biased policing, for example, by stopping individuals on a pretext because they looked Hispanic.<sup>97</sup>

## California



Unlike Arizona and Alabama, immigration laws recently passed in California, such as the Trust Act, have given undocumented immigrants *more* rights than they had before. Police Chief William Lansdowne of San Diego credits these types of laws with helping to improve his department’s relationship with immigrant communities. “We’re doing really well in San Diego,” said Chief Lansdowne. “We’re lucky, because we don’t have to face the same thing that they do in Arizona. Our laws are fairly friendly towards immigrants, so they don’t see the police as a threat. That helps create trust.” Chief Lansdowne said that San

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93. 2 Years After Immigration Laws, Ga., Ala., Stable (July 6, 2013), *Huffington Post*, [http://www.huffingtonpost.com/2013/07/06/georgia-immigration-law\\_n\\_3554714.html](http://www.huffingtonpost.com/2013/07/06/georgia-immigration-law_n_3554714.html). Enforcement of Georgia’s immigration law will vary (December 12, 2012), *Atlanta Journal-Constitution*, <http://www.ajc.com/news/news/state-regional-govt-politics/enforcement-of-georgias-immigration-law-will-vary/nTTKb/>.

94. *Ibid.*

95. 2 Years After Immigration Laws, Ga., Ala., Stable (July 6, 2013), *Huffington Post*, [http://www.huffingtonpost.com/2013/07/06/georgia-immigration-law\\_n\\_3554714.html](http://www.huffingtonpost.com/2013/07/06/georgia-immigration-law_n_3554714.html).

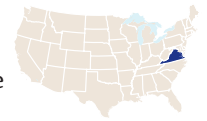
96. National Immigration Law Center (August 2012), “Racial Profiling After HB 56: Stories from the Alabama hotline,” <http://www.nilc.org/pubs.html>.

97. *Ibid.*

Diego County is united in the view that immigration is a federal matter, not a local issue. Although his department works with federal immigration authorities, officers do not routinely participate in raids or provide federal agents with information regarding undocumented immigrants. Chief Lansdowne also reports that California’s laws make it easier for local police to operate. A 2013 law that allowed undocumented immigrants to obtain driver’s licenses, for example, has helped to reduce the number of cars that local officers have to tow and is an important step toward improving highway safety, he indicated.

## Virginia

Prince William County, Virginia, is one of the few places in the country that has conducted a formal study on the effects of a local immigration enforcement law. Its law, which requires officers to determine an individual’s immigration status only upon the person’s arrest, was passed in 2007—three years before SB 1070. Because the Prince William County law has been in place longer than most, findings about the law’s effects can be useful as officials anticipate the impact that legislation like SB 1070 might have.



The study, which was conducted by the University of Virginia and PERF and was funded by the Prince William County Police Department, concluded in 2010 that “the Prince William immigration policy was smoothly implemented by the Prince William County Police Department and county staff; that the policy had wide-ranging effects, some of which were those intended; and that it also fell short of achieving some of those goals.”<sup>98</sup> The study found that, in the wake of the new law, growth in the county’s Hispanic population leveled off; the number of undocumented immigrants in the county decreased by an estimated 2,000 to 6,000 people; there was little change in the county’s crime rates; and there were mixed findings as to whether there was a decline in the number of crimes reported by Hispanics.<sup>99</sup>

The study also found that there were no “overzealous or inappropriate” immigration enforcement actions taken by local police and that, although the law initially “seriously” disrupted the relationship between police and the Hispanic community, by 2010 Hispanic satisfaction with overall police performance had improved to equal that of non-Hispanics.<sup>100</sup> The study credited the Prince William County Police Department, led by Chief Charlie Deane, with helping to preserve police-community relations in the wake of the new law: “The Police Department invested substantial effort in explaining the new policy and attempting to reassure members of the Hispanic community. **It is likely that the damage to community relations would have been considerably greater, and more permanent, without these efforts.**”<sup>101</sup>

Chief Deane’s efforts were chronicled in “9500 Liberty,” a critically-acclaimed 2009 documentary video that followed the debate over Prince William County’s immigration law.<sup>102</sup> The film highlighted the fear and deep divisions that the law created within the community, with Chief Deane and his department caught in the “crossfire of the fighting.”<sup>103</sup> Chief Deane publicly expressed many reservations about the new law. “Prince William County, which over the past few decades has established an outstanding reputation for inclusion, will be painted as a racist community intent on driving out a single population,” Chief Deane warned as the Board of County Supervisors began considering what he considered an overly strict policy. “I think we’re going to see more and more challenges to the integrity of our officers and allegations of racial profiling.”

*“We obtained the funds to do an evaluation, because we wanted to know—Are we having the impact we should have? What is the community’s feeling about us? Has that changed over time? We saw it as a way of holding ourselves responsible by making sure we understood the impacts the policy was having.”*

**—Prince William County, VA  
Police Chief Charlie Deane**

98. Center for Survey Research, University of Virginia & Police Executive Research Forum (2010), “Evaluation Study of Prince William County’s Illegal Immigration Enforcement Policy,” <http://www.pwcgov.org/government/bocs/Documents/13188.pdf>.

99. Ibid.

100. Ibid.

101. Ibid.

102. “9500 Liberty,” <http://9500liberty.com/index.html>.

103. Ibid.

*“You cannot keep the community safe unless the majority of the community has trust in the police and will call, will bear witness when they need to. So it’s vital that we retain the trust of all elements of the community.”*

**—Prince William County, VA  
Police Chief Charlie Deane**

The film also illustrates how Chief Deane’s public reservations about the law, along with his appearance at a Hispanic community meeting, brought him under attack from some of the law’s supporters. This faction vilified Chief Deane in blogs and the local media, even going so far as to accuse him of treason. However, many community members on all sides of the debate soon lined up to defend their chief. The trust and respect that Chief Deane had earned in Prince William County, along with his calm and rational demeanor, provided a rallying point for those who sought a more reasonable immigration policy. As a result, the county narrowed the law to require officers to conduct immigration checks only after arrest—rather than pursuant to any stop or detention—which helped to ease tensions and make implementation go more smoothly.

## SECTION V

# Lessons Learned: Promising Practices and Mitigation Strategies

The 2012 Executive Roundtable Discussion gave police chiefs and other experts a chance to discuss their experiences in enforcing immigration laws in their communities. Out of these discussions emerged a set of promising practices and strategies that the officials feel have been helpful in mitigating some of the potentially harmful effects of these laws.

### 1 | **Make clear that a police department's central mission is to protect and serve all members of the community.**

The Roundtable participants discussed the importance of adhering to a police department's central mission of protecting and serving *all* members of the community in a way that is fair, just, and within the parameters of the law. Phoenix Police Chief Daniel Garcia refers to this mission as "Policing with a Purpose," and the department defines this as "ensuring and nurturing democracy, ensure justice, spirit of service, fundamental fairness, and protecting people from harm."

"Policing with a Purpose has always been the foundation for the Phoenix Police Department," said Chief Garcia. "When SB 1070 was passed, we made it clear to everyone that this would not change. We spread the message to the community and through the media. We will enforce the law, but we will do so in a way that meets the 'Policing with a Purpose' mission."

### 2 | **Engage immigrant communities in an open dialogue.**

Police officials have found that proactively engaging immigrant communities has been critical to preserving the trust and respect that they have spent years building within those communities. Community outreach that involves an open dialogue, transparency about the department's enforcement policies, and respectful discussion can help maintain important community relationships.

"A primary focus of police departments must be on community engagement and involvement," said Tucson Chief Roberto Villaseñor. "This involves an open dialogue with groups of all perspectives, proactive outreach, accessibility of policies and actions, and a commitment to the entire community."

One of the most promising strategies involves regularly meeting face-to-face with leaders and members of immigrant communities. Phoenix Chief Daniel Garcia and Mesa Chief Frank Milstead both hold monthly meetings with their cities' clergy and community advisory groups that represent various immigrant populations. Chief Milstead said he has also found it useful to invite federal authorities from



Show Low, AZ  
Police Chief Jeffrey Smythe

ICE and CBP to attend these meetings. Police officials who have conducted such meetings said they believe the in-person discussions have been valuable in reassuring immigrants that laws will be enforced fairly. Chief Jeffrey Smythe from Show Low, Arizona, described a meeting in his town that was held at a local Catholic church. "We reached out to the community to publicize the event, and 100 people showed up," Chief Smythe said. "We had a great dialogue. People discussed their fear about being investigated if they came forward to report crimes, and we reassured them that that wouldn't happen."

Chief Deane's intensive outreach efforts in Prince William County, Virginia have been praised as a model for how to engage the community in the midst of a fierce public debate over immigration enforcement. Over the course of three years, Chief Deane and his staff attended 200 to 300 meetings with immigrant communities, where he discussed enforcement strategies and sought to alleviate people's fears. His department also circulated Spanish-language brochures that pledged to not arrest people based on their racial appearance and promised to protect crime victims who come forward. The UVA/PERF study concluded that these "substantial" outreach efforts greatly mitigated

long-term damage to police-community relations.<sup>104</sup> Chief Deane's efforts were chronicled in a 2009 documentary film, "9500 Liberty," as well as in a 2013 *Washington Post* article that reported: "Police officials in Prince William argue that it was outreach and empathy, not force and fear, that enabled them to weed out serious lawbreakers without losing the confidence of most Latinos."<sup>105</sup>

### 3 | Educate the public about the laws and the department's immigration policies.

Many police officials have found that "information campaigns" have helped to ease people's fears and made implementation of new laws less fraught with tension. Community outreach efforts should focus on correcting the many misperceptions that tend to surround controversial laws like SB 1070. This involves being transparent about departmental policies and enforcement strategies, providing accurate and comprehensive information, and educating the public about how the laws will affect them.

Many people—both documented and undocumented—fear that laws like SB 1070 give local police blanket authority to check the immigration status of anyone that they encounter. It is important to stress that this is not the case. Phoenix Police Chief Garcia, for example, points out that officers must first have a reasonable suspicion that someone was involved in a crime or traffic violation before they can detain a person. If in the course of the criminal investigation they also determine a reasonable suspicion that a person is in the country illegally, it is only then that they can inquire into immigration status. Mesa Police Chief Milstead has also made it a priority to emphasize this fact when meeting with members of the immigrant community. "People feel a lot more comfortable now," said Chief Milstead. "Many of the issues have gone away, because people see that no one is just knocking on their doors asking for their papers." If a department has a policy against checking the immigration status of victims and witnesses, this policy should also be reiterated to the public.

"We tried to calm these fears and explain exactly what we would and would not do. As a result, we were able to regain the Hispanic community's trust and build respect on both sides."

—Prince William County, VA  
Police Chief Charlie Deane

104. Center for Survey Research, University of Virginia & Police Executive Research Forum (2010), "Evaluation Study of Prince William County's Illegal Immigration Enforcement Policy," <http://www.pwccgov.org/government/bocs/Documents/13188.pdf>.

105. Prince William's struggle offers mixed lessons for immigration reform (February 16, 2013), *Washington Post*, [http://www.washingtonpost.com/local/prince-williams-struggleoffers-lessons-for-immigration-reform/2013/02/16/7a56a298-763f-11e2-aa12-e6cf1d31106b\\_story.html](http://www.washingtonpost.com/local/prince-williams-struggleoffers-lessons-for-immigration-reform/2013/02/16/7a56a298-763f-11e2-aa12-e6cf1d31106b_story.html).



Again, police departments can use several outreach strategies to inform the public about their policies. Attending community meetings, holding press conferences, and disseminating informational brochures in various languages are some of the tactics that agencies have used. It is helpful to post the department’s immigration policies online, as Chief Milstead has done in Mesa.

## **4 | Use discretion when dealing with crime victims and witnesses.**

One of the biggest concerns about laws like SB 1070 was that immigrants would be less likely to report crimes out of fear of deportation. The laws require officers to make immigration inquiries when there is reasonable suspicion that the person committed a crime or violation, and the laws do not make explicit exceptions for people who may also be victims of or witnesses to crime. However, the laws also state that officers may refrain from conducting status checks if doing so would hinder an investigation, and many police departments instruct officers that this provision gives them a legitimate reason to decline checks for crime victims and witnesses.

Although not all agencies feel comfortable stating this policy publicly for fear of being seen as failing to comply with the law, most of the police officials that PERF consulted said that during training they encourage officers to refrain from investigating the immigration status of victims and witnesses. This policy not only helps to preserve trust within the community, but it also enhances officers’ ability to effectively do their jobs. However, the law enforcement executive cannot issue a department wide policy prohibiting officers from inquiring as to the immigration status of victims and witnesses to crime; discretion is left to the officer. Without this express prohibition members of the communities are left anxious and unsure, which is why some chiefs believe certain communities are under-reporting crime.

“One of the most powerful things that we can talk about is how, if enforced as written, these SB 1070-type laws will have an impact on victims,” said Chief Deane. “We need to continue to beat this drum.”

## **5 | Develop policies and training that provide strong guidance to officers on how to enforce the laws.**

Agencies must develop internal policies and training programs that provide officers with clear guidance on their roles and responsibilities in enforcing immigration laws. At a minimum, policies and training should cover:

- How to enforce immigration laws fairly, without racial bias, and in compliance with other relevant federal, state, and local laws;
- What specific factors to consider—and not to consider—when determining whether reasonable suspicion exists that a person is in the country illegally;
- Whether officers have discretion to refrain from inquiring into the immigration status of crime victims and witnesses;
- The process of contacting federal authorities to conduct an immigration check;
- How long officers should detain someone while awaiting response to an immigration inquiry.

Training should be frequent, ongoing, and modified as new policies and situations arise. Many police agencies have found it useful to include scenario-based exercises in their training programs to provide guidance for how officers should respond to particular incidents in the field.

Footage from video cameras stationed in patrol cars or worn on an officer’s body can also provide a useful training tool for police agencies. Agencies can use this footage to proactively identify problems, train officers on proper protocols, and revise their policies and training programs as needed. When faced with implementing a new immigration law in Prince William County, Chief Deane requested that each patrol car be equipped with in-car camera. In addition to officer training, Chief Deane said that video

cameras (e.g., in-car cameras or body-worn cameras) can help document encounters and resolve allegations of racially biased policing or other issues.

## 6 | Collect enforcement data and conduct evaluations concerning the impact of the laws.

It is always good practice for police departments to keep accurate records of their enforcement activities. New immigration laws, which have significant potential to lead to civil rights complaints, make documentation even more important. A group of clergy and community leaders in Tucson recommends that police collect data surrounding encounters with the public in order to document what is occurring, ascertain the extent to which anxiety in the immigrant community is justified, and gauge whether there has been a drop in crime and/or crime reporting.

Additionally, it is helpful for police departments to proactively conduct evaluations to determine the actual impact of the laws and the effectiveness of departmental policies and practices. Local universities may be interested in working with police agencies on such studies. These types of studies can provide scientific findings regarding factors that may be otherwise difficult to measure and can offer an independent assessment of an agency's implementation efforts, which can be useful in educating policymakers and the public about the impact of such laws. For example, a 2010 study examined the impact of the Prince William County law across a number of factors, including:<sup>106</sup>

- **Departmental effectiveness:** The study concluded that “While the burden of implementing and continuing the policy has been considerable, the Department has accommodated well to these demands and there is no evidence that its effectiveness has been hampered.”
- **Racial profiling and police harassment:** Despite initial fears, the study found that there was no evidence of “overzealous or inappropriate” immigration enforcement actions by local police. It also determined that the “flood of costly racial-profiling litigation that some had feared never materialized.”
- **Demographic changes:** The study found that growth in the county's Hispanic population, which had skyrocketed between 2000 and 2006, leveled off after the law's enactment. The number of illegal immigrants in the county decreased by an estimated 2,000 to 6,000 people between 2006 and 2008.
- **Reported crime:** The study found that the law had little effect on the county's overall crime rates. This was attributed to the fact that illegal immigrants accounted for a small percentage of total arrests in the first place; between 2008 and 2010, undocumented immigrants represented six percent of all arrests in the county. The study had mixed results with respect to whether the law reduced crime reporting among immigrants. A survey showed that there was no change in the number of crimes reported by Hispanics after the law's enactment; however, police and community members believed crime reporting among immigrants was still an issue due to fears associated with the law. Despite mixed findings, the study concluded that “the policy in its current form (mandating immigration checks only for arrestees) appears to be a reasonable way of targeting illegal immigrants who are serious offenders—a policy goal on which there is broad agreement.”
- **Police-community relations:** According to the study, initially the new law “seriously” disrupted police-community relationships in the county. A survey revealed “new and substantial gaps” between Hispanics and non-Hispanics in overall satisfaction with the police, the behavior and attitudes of officers, police fairness, and police efforts to enforce the policy. This trend, however, did not last long. By 2010, Hispanic satisfaction with overall police performance had improved to equal that of non-Hispanics. The study credits these improvements to the “substantial efforts” of the police department to engage the immigrant community.

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106. Center for Survey Research, University of Virginia & Police Executive Research Forum (2010), “Evaluation Study of Prince William County's Illegal Immigration Enforcement Policy,” <http://www.pwcgov.org/government/bocs/Documents/13188.pdf>.

## 7 | Engage policymakers to provide a voice for law enforcement.

At the outset of the Roundtable Discussion, PERF Executive Director Chuck Wexler noted: “We’re going to see out of Washington a lot of talk about comprehensive immigration reform, and we need to identify what kind of role law enforcement should play. We need to be involved strategically.” ICE HSI Special Agent in Charge Matt Allen agreed: “I would recommend to police executives that you have the unique ability to be a voice of reason to the legislators.”

Many of the law enforcement representatives at the Roundtable feel that their voices are not heard when lawmakers enact legislation like SB 1070. “The people who wrote SB 1070 didn’t consult with law enforcement or the Arizona Chiefs’ Association,” stressed Mesa Police Chief Frank Milstead. Police officials should strive to be a part of the conversation. If local elected officials decide to enact laws that create a more significant role for local police in enforcing immigration laws, police chiefs should educate the lawmakers about the resources they will need to do that job, and about any repercussions the new immigration enforcement role may inflict on existing police priorities and on their relationships with the community they serve.

In Prince William County, for example, Chief Deane expressed frustration that, in an effort to push the initial legislation through quickly, the Board of County Supervisors failed to consult his department. “I’ve been painted as being opposed to the resolution,” remarked Chief Deane. “The truth is I really didn’t get a chance to oppose it or take a position on it. I was asked to react to it, and I did.” Chief Deane took action, presenting the Board with a financial impact study that detailed the additional resources, such as extra officers and in-car cameras, that he would need to adequately and fairly enforce the new law. Chief Deane also convinced the Board to give his department time to develop implementation procedures.

Police officials should also strive to educate policymakers and the public about whether laws such as SB 1070 are useful for fighting crime in their communities. Many lawmakers cited the need to address crime and violence related to illegal immigration as a primary reason for enacting laws like SB 1070; however, in some locations, police chiefs have said that undocumented immigrants as a group are *less* likely than others to commit crimes, because they do not want to call attention to themselves in ways that could result in deportation.<sup>107</sup> If this is the situation in a given jurisdiction, immigrant enforcement strategies required by laws like SB 1070 may not reflect the actual crime-fighting needs of the community.

“In my town, the numbers just don’t show that illegal immigrants are responsible for crime. In fact, it’s just the opposite,” noted Chief John Harris, Chief of Police in Sahuarita, Arizona. Chief Michael Frazier of Surprise, Arizona, agrees that many immigration policies are based on misinformation. “More education and honest dialogue is necessary on this issue,” he said. “I have heard a great deal of rhetoric, coupled with a lot of emotion, and the sad fact is that much of what causes the angst simply is not true.” Chief Frazier tells a story to illustrate how misinformation can cause unjustified fears:

*“The perception of immigration issues, much like anything else, is often distorted when compared to the factual data. An example of that occurred in the City of El Mirage shortly after I had assumed the position of police chief. The Maricopa County Sheriff’s Office—which was known for its “immigration sweeps”—had recently stopped providing services to the city. I met with a representative of a local homeowners’ association who worried that this meant there would be a significant influx of undocumented immigrants and crime would increase. The woman’s perception was that illegal*



**Immigration and Customs Enforcement Homeland Security Investigations  
Special Agent in Charge  
Matthew Allen**

*“What we need is meaningful federal immigration legislation. But for it to be truly meaningful, law enforcement has to have a presence. We are the ones on the ground enforcing it. We know what will work and what won’t. Our voice needs to be heard so that we can have laws that are constitutional, fair, and have the ability to actually be enforced.”*

**—Paradise Valley, AZ  
Police Chief John Bennett,  
President of the Arizona  
Association of Chiefs of Police**

107. Welcome to Arizona, Outpost of Contradictions (April 28, 2010), *New York Times*, <http://www.nytimes.com/2010/04/29/us/29arizona.html>.



**Surprise, AZ  
Police Chief Michael Frazier**

*immigrants were responsible for most of the crime and the majority of arrests in El Mirage. She estimated that 80 percent of all arrestees would be illegal immigrants. So I showed her the booking data, which indicated that of all arrestees booked into the Maricopa County jail from El Mirage over a three-year period, only five to seven percent were illegally in the U.S.”*

—Surprise, AZ Police Chief Michael Frazier

The same was true in Prince William County, where the UVA/PERF study found that, between March 2008 and June 2010, arrests of illegal immigrants represented only six percent of all arrests in the county.<sup>108</sup>

Some police officials have said that targeting undocumented immigrants who commit serious crimes—rather than targeting *all* undocumented immigrants—is a more effective way to address crime and violence. Police leaders should work to convey this message to lawmakers. “Legally, being an undocumented immigrant is a civil violation, not a criminal matter,” notes Dana Schrad, Executive Director of the Virginia Association of Chiefs of Police. “Local police should only be concerned about citizenship if a person commits a criminal act.” Laws that put the focus on criminal violations prevent distortion of police priorities, and are often more accepted by an immigrant population that also wants serious criminals out of their communities.

For example, the Trust Act in California requires illegal immigrants to be charged with or convicted of a serious offense to be subject to a 48-hour hold and transfer to federal authorities. Similarly, when Prince William County, Virginia narrowed its law to require immigration checks only upon a person’s arrest, rather than upon any minor traffic stop, many of the enforcement issues evaporated, and community anxiety lessened. “The irony is that the outcry about the policy and the fears of harassment and profiling that were aroused in the immigrant community were based on the original . . . version of the law,” concluded the UVA/PERF study. “It is not clear that this latter policy would have raised the same level of concern had it been proposed at the outset.”<sup>109</sup>

ICE HSI Special Agent in Charge Matt Allen summed up the importance of police officials making their needs and interests known to lawmakers. “Local law enforcement officials are in the best position to know what drives crime in their jurisdictions. Be the truth-sayers.”



**Virginia Association of Chiefs  
of Police Executive Director  
Dana Schrad**

*“We all agree that something needs to be done about immigration. But what we need is true reform, not laws like SB 1070. We simply cannot arrest our way out of the problem.”*

—Mesa, AZ Police Chief  
Frank Milstead

108. Center for Survey Research, University of Virginia & Police Executive Research Forum (2010), “Evaluation Study of Prince William County’s Illegal Immigration Enforcement Policy,” <http://www.pwcgov.org/government/bocs/Documents/13188.pdf>.

109. Ibid.

# Conclusion

Arizona SB 1070—and the controversy surrounding it—changed the national discussion on immigration. No longer content to wait for the federal government to act, policymakers in states across the country looked to SB 1070 as a model for localizing immigration reform. As a result, local police agencies have increasingly found themselves playing a larger role in immigration enforcement than ever before.

Police officials report that adapting to this new role has been challenging and that the new role may conflict with local law enforcement priorities. Local police officers are being asked to make important decisions—whether reasonable suspicion exists that a person is in the country illegally, how long to detain someone while conducting a status inquiry, whether to question the status of victims and witnesses—often without clear standards or guidance from the state officials who enacted such laws. This lack of guidance has resulted in enforcement that can vary widely across jurisdictions.

One of the greatest challenges that local police agencies have faced is how to balance enforcing the laws with maintaining strong relationships with the immigrant populations in their communities. Laws like SB 1070 struck fear in the immigrant communities, and much of this fear has been directed at local police. Police officials worried that as trust deteriorated and fear of deportation increased, members of the immigrant community would hesitate to come forward to report crimes, thus undermining community policing efforts and damaging the strong relationships that they have worked for years to build.

However, it has been difficult to measure the true impact that laws like SB 1070 have had on police operations, reported crime, and on relationships between police and immigrant communities. The Supreme Court decision invalidated all but a small portion of these laws, and delays in implementation mean that there have been few long-term studies on the effects that the laws have had. There are also numerous reports of immigrants fleeing states in anticipation of the laws being enacted, meaning that the impact may have been felt *before* these laws were even implemented.

There is no doubt, however, that laws like SB 1070 have had an effect on local policing. These laws have blurred the lines between local and federal authority when it comes to immigration enforcement, and they have caused local police agencies to adopt policies that in many cases contradict their public safety and community policing priorities. And although it is difficult to measure, widespread reports—from both police officials and community representatives alike—indicate that in some places, laws like

SB 1070 have damaged the relationship between police and immigrant communities. Stories of racially biased policing and harassment threaten to erode the community's trust in the local police, and police agencies often feel caught in the middle between the legal responsibility to enforce laws they do not necessarily agree with and the need and desire to protect their relationships with community members.

Despite these reported effects, there are also indications that police agencies have been able to mitigate some of the potentially harmful consequences of laws like SB 1070. Many local police officials have made a concerted effort to engage with immigrant communities, to adopt policies that protect crime victims and witnesses, and to ensure that officers are trained to enforce the laws fairly and with dignity. While these efforts have not solved all the problems associated with SB 1070-type laws, they can be seen as a starting point and as an example for other agencies that are facing similar situations.

As immigration laws continue to evolve, local police agencies will find their roles continuing to change as well. Police officials will need to demonstrate strong leadership as their agencies encounter challenges related to immigration enforcement, particularly with respect to treating all people—regardless of their citizenship status—with fairness and respect.

# Executive Roundtable Discussion: Local Law Enforcement's Challenges with State Immigration Policies: Tucson, AZ December 12, 2012

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