

SUBJECT TO DEBATE

A NEWSLETTER OF THE POLICE EXECUTIVE RESEARCH FORUM



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In light of the economic stresses in many police agencies, PERF is working to contain rising costs for the Senior Management Institute for Police. Tuition for the three sessions of SMIP next summer will remain unchanged from 2011. For details, go to <http://policeforum.org/library/snip/SMIPBrochure2012.pdf>

VOL. 25, NO. 5 | SEPTEMBER/OCTOBER 2011

PERF Summit Highlights Police Response to Sexual Assaults

ON SEPTEMBER 23, PERF HELD A CONFERENCE IN Washington, D.C. on “Improving the Police Response to Sexual Assaults.”

This meeting, the 20th in the Critical Issues in Policing series supported by the Motorola Solutions Foundation, was spearheaded by Charles Ramsey, PERF President and Commissioner of Police in Philadelphia. Last year, Commissioner Ramsey testified before a Senate panel on the underreporting of sexual offenses in the United States (See September 2010 *Subject to Debate*), and he announced then that PERF would be holding a Critical Issues summit on that topic.

“This is a very important session,” Commissioner Ramsey said in opening remarks at the meeting. “The police response to sexual assault has been an issue for as long as I’ve been in law enforcement, and that’s been more than 40 years. This is an issue that police shouldn’t try to handle on their own. We need to work with courts, victims’ advocates, crime prevention groups, and others to ensure that we treat rape victims with compassion, and to ensure that our processes are transparent. These partnerships strengthen every part of the process, from reporting every case and doing thorough investigations to helping reduce the trauma of victims.”

At the Senate hearing and the PERF meeting, one key aspect of the discussions was the definition of rape used by the FBI for the Uniform Crime Reporting (UCR) system. That definition—“the carnal knowledge of a female, forcibly and against her will”—was written in 1927. Many crime victims’ advocates and others have pointed out that the definition does not include many types of criminal sexual assaults as defined under up-to-date state laws, such as assaults involving oral or anal penetration, penetration with an object, or cases with male victims.

As a result, sexual assaults are underreported on the national level, and public perceptions about the scope of the problem of sexual assaults are diminished. A PERF survey conducted for the summit revealed that nearly 80 percent of responding local police

agencies believe the UCR definition of rape is not adequate. An FBI official at PERF’s summit, Greg Scarbro, unit chief for the UCR, told the participants that “at every level the FBI, there is no dissension that this needs to be changed.” An FBI panel currently is working on writing a new definition that will be workable for the state and local law enforcement agencies that participate in the UCR, Mr. Scarbro indicated. (Details are available in a *New York Times* story about the PERF summit at <http://www.nytimes.com/2011/09/29/us/federal-rules-on-rape-statistics-criticized.html>.)



“This is an issue that police shouldn’t try to handle on their own. We need to work with courts, victims’ advocates, crime prevention groups, and others to ensure that we treat rape victims with compassion, and to ensure that our processes are transparent. These partnerships strengthen every part of the process.”

—Charles Ramsey,
PERF President and
Philadelphia Commissioner of Police

The limits of the current UCR definition are only one of many factors that result in the underreporting of sexual crimes, according to police chiefs and others who participated in the PERF summit. Details will be provided in a full “Critical Issues in Policing” report that PERF will release in early 2012.

Following is a summary of one part of the story—an account of how the Philadelphia Police Department overhauled its policies on sexual assault in the late 1990s, and how those reforms are considered a national model today. The story was told by the principals who were involved: John Timoney, who was Philadelphia’s

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Secure Communities: PERF Chiefs Once Again Are Leading on Immigration

FOR AT LEAST FOUR YEARS NOW, PERF MEMBERS have been alerting us to the increasing importance of the immigration issue at the local level. How the issue plays out in different communities is a function of various factors—economic conditions, the number of illegal immigrants who are present, whether the community is near the U.S. border, and other variables. But the central part of what many of you have told us is that police do not want to be given the role of immigration officers, that there is a proper division of labor between what local police do and what the federal government does, and that division should be respected.

PERF has been out front on the immigration issue. As early as November 2007, PERF held its first major Summit on the issue, as part of the Critical Issues Series supported by the Motorola Foundation. If you look back at the report we wrote then, the chapter titles show that many of the questions police chiefs were asking then are the same issues we are still facing:

- “Should Immigration Status Be Checked for Minor Offenders?”
- “If Local Police Enforce Immigration Laws, Will Illegal Immigrants Be Less Likely to Report Being a Victim of Crime?”
- “Working with Immigration and Customs Enforcement (ICE)”
- “The Need for a Federal Policy.”

And in 2009–10, with support from the Carnegie Corporation of New York, PERF conducted six case studies of how local police agencies have shown leadership on the immigration issue in ways that reflect the values of their communities. This Carnegie project also produced a set of concrete recommendations for the Obama Administration and Congress, and a set of recommendations for local police. (One key recommendation, for example, was that “officers should be prohibited from arresting or detaining persons for the sole purpose of investigating their immigration status.”)

For PERF, probably the highest-profile event on this issue came in May 2010, when a group of 10 PERF chiefs met with Attorney General Eric Holder to express their concerns about the new SB 1070 law in Arizona. As PERF said at that time, police chiefs from across the nation were joining their colleagues in Arizona to tell Mr. Holder that they were “concerned that the new law will drive a wedge between the community and the police, and will damage the trust that police agencies have worked to establish over many years with members of all their communities.” Two weeks later, the Justice Department filed a lawsuit challenging the Constitutionality of SB 1070. A federal judge issued an injunction blocking key portions of the law from taking effect.

All of which is to say that PERF member chiefs have staked out a key leadership role on the immigration issue, because this issue has implications for the very core of the job that police do.

THE NEW FLASH POINT: SECURE COMMUNITIES

Over the last year or so, a new controversy regarding immigration enforcement has been erupting in a number of cities and states—namely, how local police agencies should deal with the DHS program known as Secure Communities. I’ll try to put the controversy in a nutshell: There are an estimated 11 million illegal immigrants in the country, and DHS has limited resources for enforcement. So DHS launched Secure Communities as one way of targeting resources on illegal immigrants who have committed serious crimes. Local police routinely send fingerprints of arrestees to the FBI, in order to obtain critical information such as whether an arrestee has outstanding warrants in another jurisdiction. Under Secure Communities, the FBI forwards the local arrestees’ information to DHS, which checks its own databases to determine whether a local arrestee may be in the United States illegally.

The controversy centers on the fact that some state and local jurisdictions believe that Secure Communities was presented to them as a program that focuses on deporting serious offenders, but it also has resulted in deportations of persons arrested for minor traffic violations or other misdemeanors.

PERF has been aware for some time that Secure Communities was becoming controversial in a number of cities, and PERF was on a number of conference calls in which ICE Director John Morton explained how Secure Communities was supposed to operate. But the controversies continued to fester in some cities.

In June, I got a phone call from Mr. Morton, who asked if I would be willing to chair a task force that would be charged with recommending reforms to Secure Communities. I agreed to do this, and was fortunate that Chuck Ramsey, our PERF President, agreed to serve on the task force, as well as PERF members Doug Gillespie, Roberto Villaseñor, and Lupe Valdez. I also recruited Sister Rosemary Welsh, a Catholic nun whom I had met at a PERF meeting in Laredo, Texas, who works closely with the community there and agreed to serve on the task force.

Frankly, back in June I didn’t quite know the full extent of what I was getting into with the Task Force on Secure Communities. It turned out to be a very challenging and labor-intensive process. The task force members had a cross-section of perspectives, from immigrant advocates to academics to police chiefs to labor leaders and others. It seemed to me that this variety of perspectives reflected the differences of opinion across the nation. My first thought as we began was “What was I thinking?” But then I thought, “Well, if we can find common ground among

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Chuck Wexler,
PERF Executive Director
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Task Force on Secure Communities: Summary of Finding and Recommendations

FOLLOWING IS A SUMMARY OF THE FINAL REPORT of the Task Force on Secure Communities, which was submitted to the Homeland Security Advisory Council on September 22. (See column by Chuck Wexler, page 2.)

The full report is available online at <http://www.dhs.gov/xlibrary/assets/hsac-task-force-on-secure-communities-findings-and-recommendations-report.pdf>.

FINDINGS

Confusion about the Secure Communities program—what it is, and what it is not: There has been much confusion about the Secure Communities program and the role of state and local police and sheriffs' departments, caused in part by brochures and other documents issued by DHS in the past that advertised Secure Communities as a program designed to remove serious violent offenders from the streets...

According to ICE, Secure Communities only entails the sharing of information—"interoperability"—between local law enforcement, the FBI, and DHS. Any subsequent immigration enforcement action that is taken is not part of Secure Communities, but instead is the result of an independent determination by ICE Enforcement and Removal Operations (ERO). Similarly, any action taken by the local law enforcement agency prior to booking and submission of fingerprints to the federal databases is not part of Secure Communities.

However, ...Secure Communities is commonly perceived as this entire process, which begins with an arrest by the local law enforcement agency and ends in deportation. To the community at large—especially immigrant communities—local law enforcement agencies cooperating with ICE or participating in Secure Communities may be viewed as immigration agents, regardless of the actual role they play in the process. Some local law enforcement agencies and state government officials are uncomfortable with being perceived as a "pass-through" to ICE via Secure Communities.

From a practical standpoint, local police have no choice but to take the first step of forwarding arrestees' fingerprints to the FBI in order to obtain information that is critically important for crime-fighting purposes, such as data on outstanding arrest warrants in another jurisdiction. The sharing of information between local law enforcement agencies and the FBI is essential to effective policing.

Secure Communities was presented as a program that targets serious criminals, but that has been called into question.

Based on what they were told, many state and local officials believed they were joining a program targeting serious offenders. ICE has stated that it prioritizes the removal of criminal aliens, as well as those who pose a threat to public safety and repeat immigration violators.

However, ... the impact of Secure Communities has not been limited to convicted criminals, dangerous and violent offenders, or threats to public safety and national security.... The Task Force's public hearings, other hearings, and news media accounts have produced many stories of deportations of persons who had violated no law other than a civil immigration violation and who did not apparently fall into ICE's other categories of priorities for enforcement.

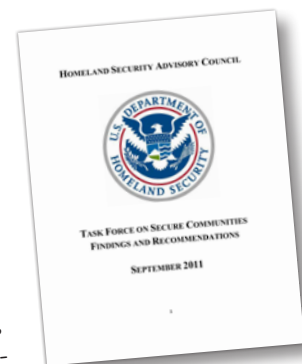
Secure Communities has had unintended local impacts.

Secure Communities and other federal enforcement and removal programs do not operate in a vacuum. In many localities, police leaders have said that immigration enforcement policies are disrupting police-community relationships that are important to public safety and national security. Law enforcement experts have stated that the trust that exists between police and immigrant communities can take years to develop and can remain tenuous despite the hard work of local law enforcement agencies. When communities perceive that police are enforcing federal immigration laws, especially if there is a perception that such enforcement is targeting minor offenders, that trust is broken in some communities, and victims, witnesses and other residents may become fearful of reporting crime or approaching the police to exchange information.

Secure Communities is just one of several DHS enforcement programs that may be operating in a jurisdiction:

Secure Communities is one of several DHS enforcement and removal programs, including 287(g) and the Criminal Alien Program, through which ICE partners with law enforcement agencies or operates in state and local jails. In some localities, ICE operates

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Members of the Task Force on Secure Communities

Chuck Wexler (Chair), Executive Director, Police Executive Research Forum

Bo Cooper, Partner, Berry, Appleman & Leiden L.L.P.

Adrian Garcia, Sheriff, Harris County, Texas

Douglas Gillespie, Sheriff, Las Vegas Metropolitan Police Department

Robert Glaves, Executive Director, The Chicago Bar Foundation

Benjamin Johnson, Executive Director, American Immigration Council

Andrew Lauland, Homeland Security Advisor to Maryland Gov. Martin O'Malley

Laura Lichter, Partner, Lichter & Associates

David A. Martin, Professor of Law, University of Virginia

Charles Ramsey, Commissioner of Police, Philadelphia

Lupe Valdez, Sheriff, Dallas County, Texas
Roberto Villaseñor, Chief of Police, Tucson, Arizona

Wendy Wayne, Director, Immigration Impact Unit, Committee for Public Counsel Services

Sister Rosemary Welsh, Director, Mercy Ministries Outreach

Commissioner of Police at that time, and Carol Tracy, Executive Director of the Women's Law Project in Philadelphia.

JOHN TIMONEY:
Fixing Policies Was Just the First Step;
We Also Had to Restore the Department's Credibility

I went to Philadelphia in March of 1998. The Philadelphia *Inquirer* had been doing stories about issues with the city's crime statistics, and that was one of the reasons I was brought in—to reorganize the department, look at the crime statistics and a host of other things.

While we were getting started with our reforms, a young woman named Shannon Schieber, a Wharton student, was raped and killed in her apartment. The case, involving a home invasion and brutal killing in the middle of the night, got a lot of attention.

One big problem was that the Philadelphia Police Department, like every other police department in America at that time, was just storing a lot of the rape kits it was collecting and was not doing DNA testing on them. There was a backlog and we couldn't test them all, so the reasoning was that we would only do the testing if there was an arrest made and the DNA evidence was going to be used in a prosecution.

But if you think about DNA for a second, DNA is all about *identification*. About 20 to 25 percent of rapes are called stranger rapes. All the rest are "known doers"—the boyfriend, the next door neighbor, the sister's husband, whoever it is. And those cases turn on whether there was consent, not on identifying the suspect. So what you really need to do with the DNA testing is make a priority of testing the stranger rape kits.

In the Schieber case, I said to the detectives, "If you think this is the first time this guy has struck, you're crazy." And sure enough, we tested the DNA from other cases and found that it wasn't the first time this guy had attacked women in Philadelphia. He had hit the summer before in the same neighborhood three different times, three different women, all of them home invasions like the Schieber case.

Shannon Schieber's killer wasn't caught until four years later. He joined the Air Force and later moved to Fort Collins, Colorado, where he committed more home invasions and sexual assaults. DNA in those cases was matched to the DNA in the Philadelphia cases, which led to his arrest in Fort Collins in 2002.

So after the Schieber murder we quickly made a new policy requiring DNA testing of the evidence in all stranger rapes, and we set up a system for testing in stranger rape cases going back five years. And I thought I had the rape issue pretty well fixed.

But then in 1999, the *Inquirer* came out with a whole new investigation where they identified cases of questionable handling of calls that involved allegations of sexual assaults. In some of these



cases, the officers would take an initial report and mark it for investigation by detectives, but the detectives never did the follow-up. If you've been a cop, you'll recognize the situation: You're a young cop; you respond to a call at 2 o'clock in the morning; the caller tells you a story that seems fantastic or doesn't seem to make sense, or the caller is drunk and can't remember any details. And the young cop doesn't know how to handle it, so he just marks it for detectives to do follow-up. But the detectives were busy and weren't doing the follow-up, and there was never any pressure to do the follow-up. So rape cases were falling through the cracks.

Thus, the *Inquirer* had uncovered another big problem with our sexual assault investigations. Within the next month or so, I got rid of everybody in the Special Victims Unit, including the captain. I chose the best captain from Internal Affairs, Joe Mooney, and a whole new team of detectives. And they set about the business of going back over 2,000 cases. They found several hundred that should have been classified as rapes and investigated. And I think they did a good job of reforming the entire operation.

But there was also an issue regarding the credibility of the department. Public confidence had taken a huge, huge hit.

I had gotten to know Carol Tracy and some of the other activists and had a lot of respect for them. So I decided to put together an independent committee of people who could review every single sexual assault case, and could bring cases to the attention of the lieutenant or captain if they thought something wasn't done right. And Captain Mooney could then tell people, "You didn't do this properly" or "I want you to reinvestigate this one." And I told the committee that if they ever didn't get a satisfactory response from the captain, they could come see me and I'd make sure the case would be reinvestigated.

Chuck Wexler: Was there any problem with letting people from outside the department see case files with victims' names and other sensitive information?

Chief Timoney: Well, the committee members were serious people and they were sworn to confidentiality, so we never had a problem with that.

CAROL TRACY:
Sexual Predators are Serial Offenders, So We Must Do Better—
Not Only for Victims, But to Protect the Public

I'd like to thank Commissioner Ramsey for bringing this issue to PERF. Commissioner Ramsey and I testified last year before the U.S. Senate Judiciary Subcommittee on Crime and Drugs at a hearing that the Senators characterized as a chronic and systemic failure of police to investigate sex crimes in the United States.

I also want to thank Motorola for funding this meeting and the PERF staff for putting it together. This is an extremely important meeting. And I want to thank Commissioner Timoney for really making it all happen in



Philadelphia—in spite of all the credit that people like to give to the Women’s Law Project.

The Women’s Law Project became involved in this issue in 1999 when the Philadelphia Inquirer did its investigative series alleging that the Philadelphia Police Department was misclassifying thousands of sex crimes into non-criminal categories and thereby was not investigating them.

Because the situation in Philadelphia was nationally publicized, crime reporters from other cities started contacting the Women’s Law Project. We realized from all these contacts with reporters in numerous cities that we were seeing what looked like a national scandal or something at least that required national attention. We have testified about what we’ve learned about police failing to take reports on sex crimes, misclassifying them into non-criminal categories and not investigating them, or “unfounding” them at shockingly high rates.

We also have learned about the experiences of rape victims. Rape is the most underreported of crime, because rape victims find it so difficult under the best of circumstances to report it to

because police are first responders, they are the critical first step in overcoming this.

And public safety requires it, because there is now a significant body of research telling us that sexual predators are serial predators. And they not only are involved in rape, but in other violent crimes, including murder. The most important message that I hope will come out of this today is that rapists are serial predators, and we need to have a paradigm shift, away from focusing on the behavior of the victims and toward focusing on offender behavior—offender behavior that is serial in nature and very dangerous, very violent.

It’s also important for us to understand that data drives practice. That’s why changing the UCR definition is so important. The public has a right to know about the prevalence of violent crime in our communities. And we know that data drives resources, policies and programs.

It seems to me that progress is possible, because we saw it happen in Philadelphia. And in spite of what people say about the advocacy effort, it was the leadership of Commissioner Timoney that




the police. But it’s made worse when victims say they were interrogated by the police as though they were criminals. Or they are disbelieved and threatened with lie detector tests, or essentially are blamed for the conduct of perpetrators.

Significantly, last spring the Civil Rights Division of the Justice Department completed its investigation of the New Orleans Police Department, and among the findings in the DOJ report was that NOPD “has systematically misclassified large numbers of possible sexual assaults, resulting in a sweeping failure to properly investigate many potential cases of rape, attempted rape, and other sex crimes.”

The reason that is significant is the DOJ findings in New Orleans mirrored what we saw in 1999 in Philadelphia. So it raises the question of how did we get here, of why this keeps happening. I think we have recognized that sexual stereotypes and bias just permeate our society, and it has a long history dating back centuries. And though we’ve made progress in many areas, bias in the handling of sexual assaults still permeates society, including police practice as well as the entire justice system. We know that prosecutors, judges, and juries are also not immune to this. But

made this happen. Commissioner Timoney reorganized the department and put in appropriate management and accountability measures. Without them, we wouldn’t be having this conversation today; all we would be doing is criticizing, not cooperating. And he did it in a context of incredible transparency. The public knew what was going on, and he invited us to be community partners.

It’s also very clear that there are individual police officers and departments that are doing the right thing. And we understand that investigating sex crimes, particularly crimes against children, is extremely stressful, and the police have more post-traumatic stress to sort out than many veterans have. I think that may be a subject for another time, because I don’t think police get very much support to deal with their secondary trauma.

So I want to conclude by saying how grateful I am that there are so many people here today who are willing to talk about best practices, who are willing to talk about flawed practices, and who are willing to move us to the next step. I am absolutely convinced by the extraordinary turnout here today that that’s what today is all about. I feel privileged to be a part of it and I thank you so much for making this happen. 

Secure Communities and other programs simultaneously. In addition, other DHS enforcement programs, including those operated by the Border Patrol, often result in placing persons in removal proceedings.

The general public and local law enforcement agencies may not always be aware that DHS is operating these different programs in their communities, and local agencies and the public may not fully understand the similarities and differences among these programs. Without this full understanding, local officials as well as community members are likely to be confused about which of these programs are being used to make enforcement and removal decisions by DHS personnel.

When a particular case involving a deportation is highlighted in the media or becomes a concern to a community, it may not be clear whether the enforcement actions originated with Secure Communities, the 287(g) program, the Criminal Alien Program, the Border Patrol, or some other mechanism. In many jurisdictions, the Task Force's hearings revealed, any immigration enforcement action that is seen as disproportionate or unwarranted, such as steps to remove a young traffic law violator who has lived in this country since infancy, is likely to be attributed to Secure Communities.

Current complaint procedures are inadequate. Individuals in jurisdictions with Secure Communities who feel they have been inappropriately profiled or subjected to other civil rights violations or abuse need to be able to report these complaints to the proper authorities. In order for ICE's existing protections to have integrity, community members also need to believe that complaints will be taken seriously—that they will be investigated within a reasonable timeframe, that any investigation will be transparent, and that there will be significant consequences for civil rights violations.

RECOMMENDATIONS

Increase transparency and clarify what the Secure Communities program is and how it works. ICE must clarify the parameters and goals of the Secure Communities program, as well as the rights and responsibilities of the state and local law enforcement agencies that participate in the program (and are expected to provide accurate information about implementing the program at the local level).

Work with state and local officials to develop trust in Secure Communities: DHS should consider several steps aimed at rebuilding trust in Secure Communities, including:

- Devising oversight and management mechanisms to ensure that DHS's stated priorities are adhered to in the field;
- Establishing a more comprehensive system for monitoring the implementation of Secure Communities;
- Consolidating existing policy documents into a single document that defines Secure Communities and other DHS enforcement programs in clear, understandable language;
- Providing state and local communities with useful statistics, consistently presented, on a monthly basis regarding the persons identified through Secure Communities and other DHS enforcement programs who are being subjected to removal from

the United States or lesser enforcement actions, and the reasons why those persons were chosen for enforcement actions.

DHS must ensure systematic exercise of prosecutorial discretion in all cases by its enforcement personnel. DHS policy is clear that agency employees have the authority to determine on a case-by-case basis whether or not to initiate a specific enforcement action, even if the person appears to have violated federal immigration law.

In accordance with [existing DHS policy documents on enforcement priorities and prosecutorial discretion], DHS should consider the totality of the circumstances in reviewing individual cases and in deciding whether to take enforcement actions, including whether to issue detainers, take individuals into custody, initiate removal proceedings or proceed to deportation.

It should be noted that there is nothing unusual about DHS's use of prosecutorial discretion in immigration enforcement. Such discretion is a normal and essential part of the everyday activities of law enforcement agencies and prosecutors' offices at the local, state, and federal levels across the nation.

ICE should withhold enforcement action based solely on minor traffic offenses, and consider alterations, including conditional detainers, for other minor offenses.

Absent information that an individual falls into a higher category of enforcement priorities set forth in the March 2, 2011 memorandum [by ICE Director John Morton], or poses a national security or public safety risk, ICE should not issue detainers or initiate removal proceedings on persons identified through Secure Communities based on arrests for minor traffic offenses. Importantly, the category of minor traffic offenses should *not* include driving under the influence, hit-and-run, or reckless driving resulting in injury to persons, or other violations that have the potential of causing serious injury or harm to the public.

ICE should consider extending such treatment to include other minor misdemeanors. If ICE decides not to accept this recommendation, it should issue conditional detainers on persons who are arrested for such misdemeanors. The conditional detainer would become fully operational only if the person is actually convicted of the offense. (In this sense, it would amount to a "post-conviction model.") Such a policy would discourage minor arrests undertaken only to channel noncitizens into the ICE system, when the local jurisdiction has no real intention to expend its own prosecutorial and judicial resources on such a case.

Continue fingerprint checks: If a law enforcement agency chooses to send the fingerprints of persons arrested for minor traffic offenses or minor misdemeanors to the FBI, those fingerprints should continue to be checked against immigration databases. The purpose of these checks is to reveal aliases and also to identify persons who have prior criminal convictions or other factors that indicate the person poses a serious risk to public safety or national security, or who come within the higher immigration enforcement priorities, such as persons who returned to the United States without permission after a prior removal.

Ensure that protections exist for crime victims and witnesses, and victims of domestic violence. Much of the fear within immigrant communities stems from concerns that immigrants are putting themselves or their family members in danger of

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deportation if they contact authorities to report crimes as victims or witnesses. The Task Force notes that Secure Communities was designed to minimize any such fear, because it obtains information only on persons arrested and fingerprinted, not on others who may have contact with police. ICE's June 17 memorandum regarding victims and witnesses to crime provides valuable guidance to help reduce the impact of ICE enforcement programs on the willingness of crime victims and witnesses to call the police and cooperate in criminal investigations.

Complaint process: DHS enforcement programs should include a meaningful, confidential, and accessible complaint process for individuals who feel they have received unfair treatment.


this group, we will have succeeded.”

ICE Director Morton asked the Task Force to focus specifically on the question of deportations of persons charged with minor traffic offenses who have no other criminal history. But at the first meeting of the Task Force, it became clear that panelists wanted to review the entire Secure Communities program. And initially, we had a very tight deadline, with only about six weeks to produce a report. But a number of Task Force members said that in order to get a good understanding of how the program works in practice, we needed to conduct field hearings.

So the Task Force obtained an extension of our deadline, and we held hearings in Dallas, Los Angeles, Chicago, and Arlington, Va. In every city, there were demonstrations and strong opinions expressed on both sides of the issue, but mostly against Secure Communities. In Chicago, a number of persons were arrested when they left the hearing room and went out to block traffic. We also received numerous letters, including one from 150 groups asking the Task Force members to resign in protest.

But the Task Force persevered, holding three meetings in Washington and many conference calls. We heard from a broad range of subject matter experts and argued over several draft versions of our report. On September 14, we submitted our final report to the DHS Homeland Security Advisory Council, but not before five members of the Task Force resigned. I've been asked about those resignations, and what I can say is that there were two extreme positions among some members of the task force. One member of the task force thought that Secure Communities is fine as it is, and others believe that it is so fatally flawed that it should be terminated immediately. Obviously, no consensus could be reached on those completely opposite positions.

I believe that the Task Force members who stuck through to the end deserve a lot of credit. There was a lot of give-and-take and soul-searching about how we could find common ground. A summary of our findings and recommendations is provided on page 3 of this newsletter, and the full report is available online at <http://www.dhs.gov/xlibrary/assets/hsac-task-force-on-secure-communities-findings-and-recommendations-report.pdf>. I also want to recognize PERF staff members Jerry Murphy, Craig Fischer, and Drea Luna, who worked hard behind the scenes on developing drafts of the report.


ICE should consider establishing, as a pilot initiative in a selected jurisdiction, an independent, multi-disciplinary panel to review specific cases: ICE should consider implementing a process that would allow for an independent, multidisciplinary group of law enforcement and community members to routinely review a random sampling of cases that were initiated through the Secure Communities program to ensure that these cases represent ICE's stated enforcement priorities. This panel should have the authority to initiate reviews of any cases that are brought to the panel's attention that raise questions or concerns about how ICE is implementing prosecutorial discretion. The findings from these reviews should be made public, and the panel should be able to make specific case recommendations to ICE. This type of local monitoring could help ensure the transparency of Secure Communities and rebuild trust in the program. 

I believe that as you read the report, you will see a very carefully crafted document that reflects the perspectives of all the Task Force members, including some views that had substantial support but did not reach the level of consensus, and which are identified as such. We did agree on the bedrock issues. First, we agreed that serious criminal offenders should be identified via Secure Communities and should be given high priority for deportation or other ICE enforcement actions. And we agreed that ICE should use “prosecutorial discretion” in determining who gets deported, just as every police agency and prosecutor's office across the country uses discretion in focusing its resources. And we reached consensus that the fingerprints of persons arrested at the local level which are sent to the FBI should continue to be checked against immigration databases.

I think our report raises a number of serious concerns about Secure Communities, but our criticisms are made in a constructive way, because the Task Force believes in the importance of identifying people who are serious offenders. At the same time, we think that mixing serious offenders with persons who have no criminal convictions or only low-level convictions is undercutting the credibility of Secure Communities and is impacting the very fragile relationship between local police and their communities. We have seen that when people begin to fear the police, they stop reporting crime and serving as witnesses, and they live in fear. Police agencies have come too far to go back to those days.

The report provides a road map for what needs to be done. Clearly DHS needs to reintroduce Secure Communities after considering the specific suggestions made in the report.

I'm very grateful to the PERF members who joined me on this project. For the last few months, I experienced first-hand what this immigration issue is all about and how emotionally volatile it is. So I am most proud of the 13 Task Force members who withstood pressure to resign, who worked courageously to craft workable solutions to the program, and who didn't simply walk away.

This may be a small lesson in what's possible on the immigration front. We need national immigration reform. “The U.S. Congress needs to set policy for the nation,” as PERF said in our first report back in 2007. Until we have a national policy, we will continue to have this kind of contentious debate flaring up, city by city. But out of the contentious debate, progress can be made. I do believe that the Task Force was worthwhile and was needed, and its recommendations will be useful. 



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