

The 287(g) Program: Harming Immigrant Women

March 10, 2010

The 287(g) Program: The Facts

The 287(g) program, first implemented in 2002, provides state and local law enforcement agencies with immigration enforcement authority through formal Memorandums of Agreement (MOAs) with the Department of Homeland Security.¹ Women's organizations, immigrant community groups and Congressional representatives have expressed concern that the 287(g) program undermines community safety, deters immigrant crime victims from seeking law enforcement protections, and damages years of work fostering community policing relationships in immigrant communities. Rather than pausing expansion and reviewing critiques of the 287(g) program, DHS on October 16, 2009 entered into new MOAs with fifty-five new law enforcement agencies in communities across the country.

The Solution

The Department of Homeland Security should terminate the 287(g) program and implement alternate strategies that focus more narrowly on the 287(g) program's stated objectives. The current program results in undocumented immigrant women being drawn into the enforcement system as victims and witnesses of domestic violence and other crimes. Immigrant mothers and working women, who must drive to their children's school and to work, are stopped by police and arrested for driving without a license. Crime perpetrators, abusive spouses and abusive and exploitative employers call DHS to report undocumented immigrant victims for deportation. This very effective power and control tactic silences crime victims and keeps them from seeking help. Finally, victims lack meaningful language access and knowledge about their legal rights and often end up arrested as crime perpetrators through the manipulation of abusive spouses and family members. Ultimately the program does more harm than good.

Immigrant Victims

By providing local law enforcement with authority to enforce immigration laws the program shifts the mission of local policing from community safety to immigration enforcement. The federal support for 287(g) programs encourages law enforcement agents to prioritize immigration status over crime prevention and crime fighting. Undocumented immigrant victims are reticent to call the police because they have a justifiable fear that their lack of immigration status will trump the criminal justice protections afforded crime victims under the law. As long as local law enforcement

¹ Illegal Immigration Reform and Immigrant Responsibility Act, Pub. L. 104-208 (1996) *codified in* Immigration and Nationality Act §287(g); 8 U.S.C. §1357(g).

agencies are seen as a threat, as opposed to a safe haven, immigrant victims of domestic violence, sexual assault, human trafficking and other violent crime will continue to be harmed with no where to turn for help. The isolation imposed on victims by crime perpetrators is amplified when immigrant victims cannot safely report crimes to law enforcement officials who prioritize immigration enforcement. Today in 287(g) jurisdictions across the United States, immigrants subjected to family violence, exploited by their employers and victimized by strangers live in shadows fearful that any call to the police for help will lead to the victim's deportation.

Encouraging Crime and Exploitation

Abusers, traffickers, and exploitative employers keep immigrant women from seeking local law enforcement protection by convincing them that police officers are working in partnership with DHS and will deport victims instead of protecting them. Essentially, the 287(g) program increases the likelihood of abuse and assault against immigrant women by cutting them off from help and giving their perpetrators a powerful tool to silence their victims and escape prosecution.

Communities at Risk

The local attention on 287(g) programs leads some law enforcement agents to prioritize immigration status over the investigation of crimes and protections to crime victims. Word spreads quickly in immigrant communities and immigrants fear that reporting a crime to the police will lead to the victim's deportation. This undermines years of successful community policing efforts aimed at building relationships with immigrant communities so that law enforcement agencies can more effectively fight crime. The 287(g) program has the real life effect of creating a two-tier society in which immigrant victims have less access to police protection than other community members.

As immigrant victims are deterred from reporting crimes, perpetrators are not held accountable for their crimes. A perpetrator who victimizes an undocumented immigrant is just as capable of committing the same crime against a U.S. Citizen. For the many crimes that are serial in nature, failure to investigate crimes increases the number of community members at risk of crime victimization. Immigrant women, who experience domestic violence and sexual assault at alarming rates and are increasingly vulnerable to exploitative employers, learn through 287(g) programs that they can no longer seek help from and participate in the criminal justice system. Programs undermining the public safety mission of local law enforcement jeopardize not only the safety of immigrants but as a consequence, the safety of all women and community members.

Eliminating the 287(g) program will help police more effectively combat crime in our communities and will enhance protections for all crime victims.

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