

Testimony of
Commissioner Sylvester Johnson

July 5, 2006

TESTIMONY OF PHILADELPHIA POLICE COMMISSIONER
SYLVESTER M. JOHNSON
UNITED STATES SENATE JUDICIARY COMMITTEE

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Good Morning Chairman Specter, Senators and guests. I am Sylvester Johnson, Police Commissioner of the City of Philadelphia. Thank you for inviting me to add to a discussion of profound importance to our public safety.

I am here today to discuss our local law enforcement, its relationship to federal immigration law, and our needs in this area.. It is simply not in best interests of the communities we serve to require local police to enforce federal immigration law. This is true for many reasons, including the importance of community trust and cooperation, the current social climate, a general deficiency in all types of resources at the municipal level, limited local authority under state law, and the complexity of federal immigration law and the correspondent high risk of civil liability.

The primary reason to refrain from making local enforcement of immigration law mandatory is that it undermines the basic function of local police. As officers, we must engender trust within the communities we serve. A significant portion of that population includes both documented and undocumented persons. Meeting public safety objectives is only possible when the people trust their law enforcement officials. Fear of negative consequences or reprisal will undermine this important element of successful police work. It will also undercut homeland security efforts among immigrant communities, in that those who that may know persons who harbor knowledge of terrorist activities will no longer be willing to come forward to any law enforcement agency for fear of reprisal against themselves or their loved ones.

Crime does not discriminate. Requiring immigration enforcement by local Departments will create distrust among persons from foreign lands living in the United States. Undocumented immigrants will not report victimization or cooperate in solving crimes or testifying for fear of deportation. A culture of trepidation regarding public officials, which often must be dissipated among certain immigrants groups to begin with, will become ingrained among legal immigrants too. Undoubtedly, a substantial group of legal immigrants will avoid contact with police for fear that they or their friends and family may be subject to immigration enforcement or profiling. We would be creating a self-imposed underclass when it comes public safety, an absolutely unacceptable and decidedly un-American outcome.

Of course, undocumented immigrants, like any person, may also be perpetrators of crimes which are currently investigated by local law enforcement. Philadelphia police investigate all reported

criminal activity. Cultivating relationship with federal agencies regarding the criminal activity of illegal immigrants could prove beneficial to public safety.

A second concern is that local departments do not have the resources necessary to successfully enforce immigration laws. In Philadelphia, we are working within tight budgetary constraints, have a substantially reduced police force and have greater responsibilities. Though the overall crime rate in the City is slightly down, like many urban areas, we are also dealing with an increase in shootings and murders. Additionally, federal funding for major city departments has steadily decreased.

Despite these challenges, our Department has been doing more with less. Mandatory enforcement of immigration law would tax our department. The number of personnel, the facilities and the equipment needed would overwhelm our current resources, and the resources of other city agencies. With no clear promise of federal funding, the cost of such an effort would be prohibitive. Our enforcement of local and state laws, as well as our current Homeland Security duties, would be compromised.

Additionally, federal immigration law is complex, with civil and criminal aspects that are often difficult to distinguish. Currently, specific personnel in a limited number of federal agencies are trained and tasked to deal with immigration enforcement. This highly specialized focus indicates the complexity of immigration issues. Local departments, which are simply unequipped to take on such a task, would be required to spend a tremendous amount of time training their officers in this area. In a time of shrinking Departments and a rising trend in violence, our citizenry could not afford the loss of manpower on the streets.

Moreover, charging local police departments with immigration enforcement fundamentally changes our underlying law enforcement objectives. Traditionally the police enforce the criminal provisions of the law. In Philadelphia, even city attorneys are delegated either civil or criminal duties, depending on whether they work for the District Attorney's Office or the Law Department. Local law enforcement is often primary agencies enforcing state law issues, and federal law enforcement entities often take the lead on federal law issues.

In addition, state and local laws mandate the responsibilities of officer within a state, and also set limits on the activities permitted by police personnel in the pursuit of fighting crime and maintaining public safety. Such limitation must be considered before determining the effectiveness of local immigration enforcement.

Lastly, all Police Departments are susceptible to civil litigation as a result of civil rights suits. The police must attempt to minimize civil liability for many reasons. First, I have often said that we will not break the law to enforce the law. As a matter of principal and policy, we do not want our officers to violate people's constitutional rights. Additionally, time in court on a civil suit equates to fewer officers of our streets and settlements, court costs, and Plaintiff's rewards all cost all citizens precious resources. With questionable federal law authority to enforce such immigration laws, and with a precedent of local police being sued for assisting in the enforcement of immigration law, the probability of civil suits against local departments as primary enforcers is a major concern.

The problem of illegal immigration is substantial and has not gone unnoticed by the chiefs of local police departments. The Major City Chiefs, an organization consisting of fifty-seven Chiefs of Police across the United States have convened a committee to research immigration issues and have come to several conclusions and possible solutions to mitigate the current problem. In addition to many of the above conclusions, they have created a list of items that will help to decrease illegal immigration. These include securing our borders, enforcing laws prohibiting the hiring of illegal immigrants, consulting, involving and sharing intelligence with local police agencies and the having local law enforcement continue to commit resources against criminal violators regardless of their immigration status. Clarification of authorities allowing local police to enforce immigration law, the limitation of liability for such, the removal of civil immigration detainers from the NCIC system and an incentive based system of full federal funding instead of a reduction or shifting approach would also be beneficial.

Local law enforcement is the first line of defense in protecting our communities. We have witnessed the atrocities that can occur when people put nationality, race and ethnicity before humanity. The Philadelphia Police Department will not let this happen. We will do everything within our authority to protect and serve everyone who enters our City. Though illegal immigration is a serious problem, it is in the best interest of everyone involved to allow those with the expertise, experience and resources to concentrate on solving issues related to immigration. It is in the best interest of the entire country to allow local law enforcement to maintain the relationships with the immigrant community we have worked so hard to build, and to allow us to protect and serve our communities.