



Prohibiting Immigration Status Inquiries by Government Employees City Council Resolution, Durham, North Carolina, 2003 Governor's Executive Order, State of Maine, 2004

Overview

While immigrant communities have long viewed local police with fear, post-9/11 policies have heightened their distrust toward police and other local agencies that provide services to which immigrants are entitled. Although immigration policy and enforcement is a federal matter, stories of local police interrogating immigrants about their legal status during traffic stops have spread quickly throughout these communities. In 2002, Attorney General John Ashcroft ordered the inclusion of civil immigration records into the national crime database that law enforcement agencies use to determine whether someone is wanted for a crime. Many immigrants have been detained and ultimately deported after being picked up by local police who determined that they had overstayed their visas.

In that context, several cities and states have passed resolutions and issued executive orders prohibiting public employees from inquiring about an individual's immigration status. With the federal CLEAR Act pending, which would require local agencies to enforce immigration law, these acts present a strong opposition on the part of local and state governments. The Durham, NC city council resolution and Maine's executive order show how community organizations can respond at a local level to the targeting of immigrants.

The Policies

In October 2003, the City Council of Durham, North Carolina voted in favor of a resolution, "Supporting the Rights of Persons Regardless of Immigration Status," that:

- Applies to all Durham city employees and provides that "local police will not stop individuals and ask about their immigration status simply because the police believe the individuals may be undocumented;"¹ and
- Explicitly points to post-9/11 policies as sowing fear and distrust in immigrant communities.

In April 2004, Governor John Balducci signed an Executive Order, "Concerning Access to State Services by All Entitled Maine Residents," that:

- Prevents state employees from inquiring about a person's immigration status; and
- Bars state employees from disclosing information about an individual's immigration status.²

Impact

¹ Policy Update, National Employment Law Project, December 2003.

² Stephen Wessler, Center for the Prevention of Hate Violence, Maine, phone interview, July 9, 2004.

These measures contribute to the political discourse around the ways in which national security policies unnecessarily target immigrant communities domestically. By creating a split from policies at the federal level, the pronouncements provide legitimacy for immigrant and civil rights groups to challenge current and proposed federal policies that unfairly target immigrants, specifically in the context of the CLEAR Act.

It is difficult, though, to measure the concrete effects of these measures in terms of a decrease in the numbers of immigrants subject to inquiries from local officials about their immigration status. In addition, there is some indication that the policies may lack strong enforcement mechanisms.

Key Players

In Durham, the city council resolution was promoted by El Centro Hispano, a prominent Latino community organization. Members of El Centro Hispano had expressed concern that some police officers were acting in coordination with immigration enforcement agencies. Some local churches, the Latino Community Development Center, labor unions, and Southerners on New Ground helped to turn out members to the City Council meeting where the mayor introduced the resolution.

In Maine, a small group of leaders from the Immigrant Legal Advocacy Project, the Center for the Prevention of Hate Violence (CPHV) at the University of Southern Maine, National Association for the Advancement of Colored People (NAACP), and League of United Latin American Citizens (LULAC) put pressure on the governor to issue an executive order. The main opposition was from the state police, who were concerned that the order could limit their authority.

Winning the Policy

North Carolina has the nation's fastest-growing Latino population, and in March 2003, El Centro Hispano met with the Durham City Council to discuss issues relevant to this rapidly expanding constituency. Group members voiced their concern about the lack of funding for bilingual 911 operators, insufficient bilingual housing inspectors, and complaints that a few local police officers were coordinating their activities with immigration enforcement agencies. Over the following months, El Centro Hispano continued to follow up with the mayor's office, but no concrete steps were taken.

Later that year, the Immigrant Workers Freedom Rides (IWFR) carried a busload of immigrant workers and activists through Durham on the way to Washington, DC. A reception was held to welcome the activists, and the mayor accepted El Centro Hispano's invitation to attend. With over 400 people at the church, the organizers asked the mayor for a commitment to introduce the resolution to the City Council. He presented it to the City Council on October 20, 2003, and the local organizations that had worked on the IWFR turned out their members for the meeting. Although some residents opposed the resolution, Black, white, immigrant, and non-immigrant residents spoke in favor, and it passed by a 4-1 vote.

A month after the Durham resolution passed, the Center for the Prevention of Hate Violence at the University of Southern Maine published a report about the effects that national security

policies had on immigrant communities in Maine. *The Fractured American Dream* showed that the initial fear within these communities of hate crimes in the backlash immediately after 9/11 had been superseded by a fear of government agencies two years later. Detentions and deportations of immigrants for minor visa violations wrought fear throughout immigrant communities in Maine, and the CPHV identified “the unwillingness of immigrants to report anything to the police” as an ancillary impact of this fear.³

In January 2004, the Governor met with representatives from the CPHV, Immigrant Legal Advocacy Project, NAACP, and LULAC to discuss the findings of the report. When they proposed the idea of an executive order at this meeting, the administration was concerned about restricting the ability of police to conduct investigations, and the proposal was bogged down for several months.

A few months later, the Latino community was rocked by Border Patrol sweeps through Portland. It was unusual, since Portland is not a border city, and the agents were questioning people around town, not in airports. The press covered the proposed executive order and the Border Patrol raids, and public support for the executive order increased. Although the Governor’s office attempted to shift the discussion to other services for immigrant communities (e.g. translation services, outreach), the coalition remained focused on the executive order. In April, the coalition had scheduled a follow-up meeting with the Governor, where he surprised them by announcing that he would sign the executive order.

Challenges

While the measures play an important role in the public discussion around the role of local police and immigration policy, they may be largely symbolic acts that are hard to enforce. A key loophole of the policies is that law enforcement officers can “ask [about immigration status] when they are investigating ‘illegal activity’ *other than* simply possible immigration status violations.”⁴ Also, unlike policies passed in New York City and Philadelphia, the Durham resolution is not clear about whether public employees can share information about an individual’s immigration status with other authorities. In the Maine case, the executive order does not address the problems created when federal Border Patrol agents conducted raids in Portland.

Replicability

These kinds of resolutions have spread quickly from Seattle and New York City to other cities and states. The governor of Maine was more open to the executive order specifically because a similar order was issued in New York City, which has much more experience in dealing with the relationship between immigrant communities and law enforcement. The organizers in Durham presented their resolution to a statewide meeting of Latino organizations in North Carolina to encourage replicating it in other cities. As with the Maine executive order, these measures can be successfully passed even without a large, visible immigrant community. Events such as the Border Patrol raids in Portland, Maine can present a political opening to propose such a measure.

³ Stephen Wessler, phone interview, July 9, 2004.

⁴ National Employment Law Project