

Local Law Enforcement and Immigration

Special Order 40

Coalition for Humane Immigrant Rights of Los Angeles

what is Special Order 40?: On November 27, 1979, then Chief of Police Darryl Gates issued Special Order 40. Special Order 40 changed LAPD policy so that police would not use suspicion about immigration status as a reason to stop, search, or arrest people in the City of Los Angeles (see text in right box for verbiage).

The rationale behind Special Order 40 comes from the “community policing” philosophy, which emphasizes better communication between law enforcement and the communities they serve, and encourages “all members of the community [to] become active allies in the effort to enhance the safety and quality of neighborhoods” (Department of Justice, vii).

How does Special Order 40 Affect Police work?:

*LAPD officers may not stop or arrest people solely because they are suspected to be undocumented immigrants. Officers must have “probable cause” to make an arrest, conduct a personal or property search, or obtain a warrant for arrest.

*Special Order 40 does **not** prevent the LAPD from working with immigration authorities. LAPD officers are allowed to refer people to ICE, and conduct joint operations with ICE. During the booking process, the LAPD does ask about birthplace, and this information may be used by other authorities such as the Los Angeles Sheriff’s Department, which runs county jails and does more intensive screening of immigration violations.

Effects of Policies Like Special Order 40:

-Lowered Fear of Law Enforcement-

Fear of law enforcement is a very serious issue in many communities, including Los Angeles. This fear may be especially heightened in ethnic minority populations that have faced profiling, disproportionate levels of enforcement, or “problems of insensitivity, misunderstanding, and miscommunication” (Davis, et.al, 185). The enforcement of federal immigration law by local law enforcement contributes to heightened fears in immigrant communities, who may dread the possibility of being deported.

-Protection of Victims of Crime-

Special Order 40 was specifically created to encourage victims to report crimes to LAPD officers, and to help protect the rights of crime victims. For example, non-citizen victims of domestic violence may particularly benefit from policies such as Special Order 40. According to Gail Pendleton of the ABA Commission on Domestic Violence, when police enforce immigration law, even when immigrant domestic violence victims have been badly assaulted, they may be so frightened of immigration enforcement that they do not call the police. Not only are such women sometimes afraid for their own deportations, but they may fear the negative repercussions of putting the abuser into the deportation

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264.50 ENFORCEMENT OF UNITED STATES IMMIGRATION LAWS.

Officers shall not initiate police action where the objective is to discover the alien status of a person. Officers shall neither arrest nor book persons for violation of Title 8, Section 1325 of the United States Immigration Code (LAPD Manual, Volume 4).

390. UNDOCUMENTED ALIENS.

Undocumented alien status in itself is not a matter for police action. It is, therefore, incumbent upon all employees of this Department to make a personal commitment to equal enforcement of the law and service to the public regardless of alien status. In addition, the Department will provide special assistance to persons, groups, communities and businesses who, by the nature of the crimes being committed upon them, require individualized services. Since undocumented aliens, because of their status, are often more vulnerable to victimization, crime prevention assistance will be offered to assist them in safeguarding their property and to lessen their potential to be crime victims.

Police service will be readily available to all persons, including the undocumented alien, to ensure a safe and tranquil environment. Participation and involvement of the undocumented alien community in police activities will increase the Department’s ability to protect and to serve the entire community (LAPD Manual, Volume 1).

process. Special Order 40 may also prevent immigrants from becoming victims of predators who might otherwise target them on the assumption that they will be too afraid of deportation to report the crime. If immigrants don't fear they will be deported, they will work together with the police to stop crime.

-Increased Crime Reporting-

In many communities there is substantial fear of police misconduct. This fear discourages many residents from making contact with police or reporting crimes, because they are afraid that they, their relatives, or their friends will be targeted by police. When immigrants are afraid that the police will report them to ICE, they are less willing to report crimes to police and will avoid police. Special Order 40 was created in an effort to increase crime reporting and to prevent crime.

-Clarity of Law Enforcement Practices-

Public fear is sustained by uncertainty when police policies related to immigration are unclear or poorly understood by the public. Community members may not always understand the complexities of local laws and policies, or their rights under the Constitution. Misunderstandings of law enforcement policies are further exacerbated by language and knowledge barriers (Davis, et.al, 186). Special Order 40 helps to enhance understanding and trust by clarifying LAPD policies and offering strong, simple language deterring excessive immigration enforcement. Special Order 40 also clearly references victims' rights as a rationale for the policy.

-Strengthened Equal Protection Standards-The Equal Protection Clause, a portion of the Fourteenth Amendment to the United States Constitution, says that states and local governments must apply their laws equally and fairly to all members of the population. Because of Special Order 40, the LAPD must provide equal enforcement and services to every member of the Los Angeles community, regardless of legal status. This strengthens the standard of equal protection and fairness in Los Angeles.

-Reduced Racial Profiling-

Special Order 40 is one of a number of policies that may reduce racial profiling. Essentially, the argument is that if there are guidelines discouraging stopping people on the basis of immigration status, fewer officers will engage in the practice of stopping people simply because they look like they might be undocumented immigrants. Special Order 40 compliments the LAPD's other policies that deter racial profiling.

References and Further Reading:

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Published: November 2008



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