



Racial Profiling and Immigration Law Enforcement

Notwithstanding the fact that racial profiling is unconstitutional, and despite the emphatic declaration from the federal government that the practice is “invidious,” “wrong,” “ineffective,” and “harmful to our rich and diverse democracy,” racial profiling is often encouraged by misguided federal programs and policies that incentivize law enforcement authorities to engage in the practice.

Federal inaction on comprehensive immigration reform has prompted a flurry of state-level anti-immigrant bills that encourage racial profiling by local law enforcement.

- Among the most sweeping and controversial of these state laws are Arizona’s S.B. 1070, which is currently being challenged in the U.S. Supreme Court; and Alabama’s H.B. 56, which has been broadly derided as the most unduly restrictive of these measures.
- During the first half of 2010, 314 laws and resolutions were enacted across the country, representing a 21 percent increase over the same period in 2009, as states tightened restrictions on hiring undocumented immigrants, instituted stringent ID requirements to receive public benefits, and increased their participation in programs aimed at removing persons who are in the country without authorization.

In the immigration law enforcement context, the federal government has shifted significant responsibility for the enforcement of civil immigration laws to state and local law enforcement authorities through Agreements of Cooperation in Communities to Enhance Safety and Security (known as ICE ACCESS programs).

- The most notable of these programs is the 287(g) program (named after Section 287(g) of the Immigration and Nationality Act), the stated purpose of which is to enable state and local law enforcement authorities to identify suspected undocumented immigrants “who pose a threat to public safety.” Instead, the 287(g) program has been widely misused by state and local law enforcement authorities to stop, detain, question, and otherwise treat as suspected undocumented immigrants vast numbers of persons—primarily Hispanics—most of whom are U.S. citizens or legal residents.
- Other such programs include the Criminal Alien Program (which involves an immigration screening process within federal, state, and local correctional facilities to identify undocumented immigrants “who pose a threat to public safety”) and the Secure Communities program (which allows local law enforcement authorities to run fingerprint checks against Department of Homeland Security databases, not just FBI databases).

Though defenders of racial profiling in the immigration context argue that most of the people who are in this country without authorization are members of a particular racial or ethnic group, and that members of that particular racial or ethnic group are therefore more likely to be in this country without documentation than are non-members, this argument is without merit. **Even if the population demographics in a particular community make it likely that most undocumented immigrants are Hispanic, it does not follow that many, or most Hispanics in that community are undocumented immigrants. To the**

contrary, the overwhelming majority of Hispanics in the United States are U.S. citizens or legal residents.

For more information on why the assumptions underlying racial profiling are false, read [Restoring a National Consensus: The Need to End Racial Profiling](#), a report of The Leadership Conference on Civil and Human Rights.

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