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NEW IMMIGRATION LAW PROVISION MOBILIZES LOCAL LAW ENFORCEMENT

By Heather Egan

The Department of Justice has gained the authority to deputize local and state police officers to enforce immigration laws through a provision of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 that went into effect August 23, 2002. 8 U.S.C. §1357 (1996).

mass immigration on a temporarily and geographically limited basis.

Immigration and Naturalization Services (INS) has 2000 agents for interior enforcement, while local police and sheriff's departments nationwide have roughly 622,000 officers. The potential effect of giving these officers the authority to enforce

departments are not eager to get involved in the enforcement of immigration law. Earlier efforts to involve state and local law enforcement officers were plagued by many problems. For example, a 1997 effort on the part of local police to enforce immigration laws in Chandler, Arizona resulted in widespread civil rights abuses, including unjustified arrests of legal residents and citizens of Mexican descent. The municipality suffered severely strained police and community relations as well as substantial monetary liability.

Due to these problems, many state and local police departments and local governments have longstanding policies precluding their officers from becoming involved in immigration enforcement. For these reasons, many municipalities seriously question the implementation of the provision. The previous solution of having a specialized federal agency whose sole responsibility is immigration enforcement makes good sense, as it frees other agencies, such as state and local police, to investigate crime and obtain the cooperation of the communities they serve and protect.

The new provision could cause victims of crimes, witnesses, and others in tight-knit immigrant communities to refuse to cooperate with state and local police, out of fear that they, or close friends and

This arrangement will make it so they [state and local police] will no longer have to close their eyes to immigration law violations.

In 1996, Congress approved and President Clinton signed the Illegal Immigration Reform and Immigrant Responsibility Act. That act included a provision allowing state and local law enforcement agencies to enforce immigration law. The provision, known as Section 133, was never implemented under former United States Attorney General Janet Reno.

Section 133 grants the Attorney General broad authority to enter into written cooperative agreements with state and local governments to accept the services of state officers or employees for immigration law enforcement in an immigration emergency. However, the legislation does little to clarify exactly what constitutes an immigration emergency.

The current Justice Department, under Attorney General John Ashcroft, has said that it would activate the provision only for specific emergencies of

immigration law on the fight against illegal immigration and terrorism is enormous.

Diana Bauerle, an immigration attorney from Kempster, Keller & Lenz-Calvo, Ltd., is "concerned that the implementation of this provision will only further encourage those officers who exercise racial and ethnic profiling. They may abuse the wide discretion authorized by the law as an excuse for stopping people who appear to be foreign nationals based on their physical appearance."

A wide range of immigrant-rights and civil-rights organizations have criticized the idea of local police enforcement of immigration law. They fear that in a suspicion-ridden climate, such as the present war on terror, the Attorney General could try to use the new provision to target certain nationalities in the name of homeland security.

Many local police

Continued on Page 19.