

New Jersey Law Journal

Select '**Print**' in your browser menu to print this document.

©2008 New Jersey Law Journal

Page printed from: <http://www.njlj.com>

[Back to Article](#)

Morristown's Misguided Bid To Enforce Immigration Law

Michael Wildes

10-22-2008

Morristown Mayor Donald Cresitello recently began negotiations with U.S. Immigration and Customs Enforcement to deputize local police so they can enforce federal immigration laws. As a mayor myself, I understand what may compel Cresitello to take these drastic steps.

While I share my colleague's concerns about national security, the law has always placed enforcement in the exclusive jurisdiction of the federal government.

At first blush, the ability of local police to enforce immigration law seems a viable solution to our nation's challenge of illegal immigration. However, piling those additional duties on already strained police departments will do little more than force undocumented immigrants further into society's shadows.

Local enforcement will discourage and even prevent undocumented immigrants from accessing police services and deprive police of the benefit of immigrants' cooperation in fighting and investigating crime. Such alienation of immigrant populations will only lead to increased crime and decreased intelligence and crime-fighting capability, reversing years of local police efforts to gain the trust of immigrant communities.

Immigrants who are victims of domestic violence will be particularly impacted by the deputization of local law enforcement. For example, most immigrants in battered women shelters are too afraid to call police. These immigrants could potentially obtain legal status in the United States through the battered-spouse petition or the U-visa process. However, if they are afraid to report the abuse for fear of detention before they can file a petition with the U.S. Citizenship and Immigration Services, they will have no police record documenting their abuse. As a result, it will be difficult for them to meet their

burden of proof to obtain legal status through the battered-spouse petition procedure. Instead, these women will remain in their abusive relationships, and the violence will continue.

Furthermore, adding immigration enforcement to the ambit of local police duties will strain the resources of local police. Requiring local police to pick up the slack of federal immigration agencies will only divert crime fighting resources without solving the problem of illegal immigration.

Perhaps most important, local police run the risk of violating the civil rights of both legal and illegal immigrants when enforcing immigration laws. A federal district judge held two years ago, in *Doe v. Village of Mamaroneck*, 462 F. Supp.2d 520 (S.D.N.Y. 2006), that Mamaroneck, N.Y., violated the equal protection rights of Latino day laborers when it implemented a law enforcement campaign intended to reduce their presence. Historically, day laborers gathered in the municipality to seek employment. Before the 1990s, the workers were predominantly Caucasian. In recent years, the area's Latino population has grown, and laborers who meet in Mamaroneck are now almost exclusively Latino. Mamaroneck's campaign to eliminate the presence of the day laborers entailed increased traffic citations against potential employers, heightened police presence in the area and even harassment of the workers.

The judge concluded that the campaign was impermissibly targeted against Latinos on the basis of race and thus constituted a discriminatory application of a facially neutral policy. Therefore, heightened police action against immigrants, where their nation of origin determined their citation or arrest, violates their equal protection rights. Similar violations may result when local police begin to request immigration documents from people because they appear foreign or speak with an accent.

Local police have worked hard to gain the trust and cooperation of our nation's growing immigrant population. Morristown police have undoubtedly done the same. By proceeding with the ICE agreement to enforce immigration laws locally, Morristown police stand to exchange this hard-earned partnership for heightened hostility, underreporting of crime, impediments to investigations and increased liability for civil rights violations.

Moreover, Cresitello's efforts are widely opposed by major law enforcement organizations, including the International Association of Chiefs of Police and the Major Cities Police Chiefs Association.

The challenge of illegal immigration is a national one. Congress must enact comprehensive immigration reform that incorporates legalization, appropriate legal channels for hiring low-skilled workers, and increased employer enforcement and sanctions. Until then, it would be wise to maintain Morristown's immigrant communities' trust in the police and engage all residents in keeping the community safe.

Wildes, a former federal prosecutor, is an immigration lawyer and partner with Wildes & Weinberg in New York. He is also the mayor of Englewood, a member of Gov. Jon Corzine's Blue Ribbon Panel on Immigrant Policy, and counsel to Saiber in Newark.