I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of police service.

*From International Association of Chiefs of Police (IACP) Law Enforcement Code of Ethics*

**Undocumented victims of crime often risk deportation if they report their abuse. NGOs report that this was the case of a sex worker who was raped at knifepoint faced deportation after reporting the incident to the police.**

*Source: Politics.co.uk*

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1. **Improving Confidence in Law Enforcement among Migrant Communities**

Law enforcement’s interactions with communities are the cornerstone of effective police work.¹

For people in Europe who are undocumented, or who do not have a stable residence permit, the police are often viewed with fear, not with confidence. They know that going to the police for help is more likely to lead to arrest and possible deportation, than to assistance.

When people do not believe they are equally protected by public institutions, everyone is worse off. Crimes go unreported, the police are hindered in their ability to investigate crimes, and people who prey on the most vulnerable go unpunished.

Undocumented victims are therefore at greater risk of abuse — and repeat abuse. Perpetrators realise there are no consequences for their actions, and abusers can use a person’s insecure status to control and manipulate them, to convince them that they have no right to help, and to threaten deportation or separation from their families if they dare to report their mistreatment. Migrant women are particularly exposed to mistreatment, because women’s residence status is often dependent on their spouse/partner, and because they often work in highly informal sectors.

Many practical obstacles also block undocumented migrants’ ability to get help through the justice system, including language barriers, poverty, social isolation, lack of knowledge of their rights, and lack of legal representation. They often work in the low-wage, informal economy, which makes it extremely difficult to document violations.

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1. **How is safe reporting smart policing?**

- Builds trust within communities
- Encourages people at high risk of exploitation and abuse to come forward, including undocumented women and children
- Creates foundation of trust and contacts to pursue perpetrators who target vulnerable populations
- Fosters safer communities by removing impunity
- Improved crime prevention
- More efficient use of resources

PICUM EXPLAINER: WHAT TO KNOW IF YOU'RE A POLICE OFFICER

Some cases were reported where undocumented victims of racist crime were detained or treated differently, or were more likely to be deported than others. (See Appendix B: Tables 2 and 3.)

Under the Directive, a victim (Article 2) is anyone who has suffered physical, mental or economic or property damage caused by a criminal act, or as a consequence of proceedings taking place in any member state within the Union (Article 10). In the latter instance, however, the Directive does not apply (Recital 7b). This includes crimes that occur in the border or in detention.

The Directive puts special importance on the needs of victims of gender-based violence, and the best interest of victims of children.

The Victim Directive sets special emphasis on the needs of victims of gender-based violence. It requires the police (and other authorities) to take into account the victim’s needs and abilities when they investigate and follow up crimes committed against them, and their children often need specialized support and information. Therefore, this Directive is crucial for all victims of violence, including discrimination and discrimination related to such violence. (Recital 14)

Proc. Exporter for Immigration of Hanoverists

This Directive is about minimum rights for victims, as Member States can, of course, go a step further if they wish. But those Member States who have no such provisions must guarantee the human being of Europe – and by human beings of Europe I mean not only the citizens of Europe, but also all people, regardless of their residence status, who happen to be in the territory of any member state, and to address the very specific needs they have as victims.

Youmna Beting, Former Vice-President of the European Parliament

The law was later amended to allow police to report to immigration authorities undocumented adults arrested for, or previously restricted access to services and the risk of facing detention and possible deportation if they seek help.

Local Authorities Promote Safe Reporting

The ability to safely report crime without fear of consequences, is necessary for ensuring access to justice and for protecting victims’ rights under the Directive. It also stimulates building trust in communities and effective policing.

United States

Aangifte

Amsterdam

To Amsterdam, the police created a policy of their own, known as “Sanctuary Cities. (See note 2020:1980, 8.)
4 What Can Law Enforcement Do to Improve Reporting Among Undocumented?

Avoid detection practices that discourage safe reporting and the use of essential public services, and refrain from racial profiling

Immigration detection and enforcement practices take several forms: identity checks, workplace inspections, large-scale raids, searches in places of accommodation, and the policing of sites where migrants are likely to be present. Police inspections are known to occur, for instance, at schools, medical facilities, counselling centres, churches or other places where migrants seek help or essential services. Such inspection practices deter migrants from seeking essential services and corrode their trust in the police, contributing to the under-reporting of crime.

Avoiding detection practices that discourage people from using basic services, such as medical clinics and schools

Refrain from sweeps or stops that target people based on racial or ethnic profiling

Create clear policies preventing police officers from asking victims and witnesses about their immigration status, and preventing the reporting of their status to immigration authorities should it become known

Conduct outreach to communities and grassroots organisations working with migrants to build trust and encourage people to come forward

Develop a network of organisations to which undocumented victims can be referred for support and assistance

Fully investigate crimes committed against people without status

Provide training to improve officers’ awareness of victims’ rights and how to respond appropriately to the needs of undocumented victims and diverse communities

Broad sweeps by law enforcement targeting migrants based on racial or ethnic profiling are also counter-productive to building trust in these communities. Migrants have described such encounters as “frightening, humiliating or even traumatic.” Understandably, these experiences inform migrants’ reluctance to go to authorities when they are victimised.

In some countries and regions evidence has been gathered showing that police use ethnic profiling rather than behaviour to conduct disproportionately frequent identity checks among youths of foreign origin. This increases discrimination and exclusion.

"Arresting migrants in or near basic service providers, such as schools or hospitals, belongs to those measures which have the most severe impact on the fundamental rights situation of migrants in an irregular situation."

European Agency for Fundamental Rights

Create clear policies preventing police officers from asking victims and witnesses about their immigration status, and preventing the reporting of their status to immigration authorities, should it become known

Amsterdam and San Francisco (see Spotlight above), alongside Chicago, New York and dozens of others, are among a growing number of municipalities worldwide that have recognised that their efforts to achieve safe communities are undermined by treating people without regular status as criminals. They realise that the criminalisation of these communities contributes to increasing prejudice against migrants and ethnic minorities, which increases the chance they will be the targets of discrimination, violence and exploitation. They have prioritised working with communities to address and investigate gender-based violence, sexual harassment, hate crimes, and labour exploitation, leaving the enforcement of immigration laws to immigration authorities. In 2013, Toronto became the first city in Canada to adopt a policy that enables anyone in the city to access services, irrespective of immigration status. Seven years earlier, the Toronto Police adopted new standards of conduct stating that undocumented residents will “have equal access to services without fear that contact with the police will lead to inquiries about their immigration status.” Such policies are critical first steps in establishing...
a groundwork for trust, and must form the basis for police practice – grounded in training – to remain credible.

Provide training to improve officers’ awareness of the directive and of how to respond appropriately to the needs of undocumented victims and diverse communities

Significantly, the Victims’ Directive requires that officials – including law enforcement – who come in contact with victims of crime receive training so that they can identify victims and their needs, and “deal with them in a respectful, sensitive, professional and non-discriminatory manner” (Article 25). Victims also have a right to an individual assessment by people trained to recognise those needing special protection measures. The Directive calls on states to support and work with civil society to achieve this.

Training should have the goal of informing officers of migrants’ rights under the Directive, and providing instruction on how to identify and address their needs. Such training should also help them to better identify who is a victim in the first place. People trained to view migrants as offenders first may have difficulty changing their mindset to view, and respond to, them as victims. Outside of the more familiar settings, authorities may struggle to identify crimes involving widespread but less well-understood forms of exploitation, such as those that occur in the workplace. They may also fail to properly attribute crimes committed against migrants to hate, discrimination or other forms of bias forbidden by national law.12

Finally, training should emphasise the non-discriminatory core of the Directive: all victims of crime should benefit equally from protections and rights of the Directive, whatever their immigration status. This means, for instance, ensuring that restraining orders are issued and enforced with due diligence and without discrimination on the basis of residence status, and that crimes committed against people without status are fully prosecuted. It also addresses the detrimental effects of racial profiling and ethnic bias in dealing with migrant communities, which undermine trust and deter individuals from seeking help from the authorities.

Develop a network of organisations to which undocumented victims can be referred for support and assistance

Member states must provide minimum services, and ensure that victims of crime are aware of, and connected to, the relevant services. The support guaranteed by the Directive can ensure the immediate safety and survival of undocumented victims, as well as contributing to their longer-term welfare by supporting recovery and reducing the likelihood of re-victimisation. Police can play an important role, in partnership with civil society, in referring undocumented victims of crime with specialised and support services. To do this effectively, they must become familiar with the needs of these communities and with key national and local organisations able to provide the advice, representation, counselling, or other assistance required.

For more information on the ‘firewall’ concept, see also: http://picum.org/firewall/

13 FRA (2013), Fundamental rights-based police training: A manual for police trainers. See also webinar “Apprehension of Irregular Migrants: Dos and Don’ts,” organized by CEPOL (European Police College) on 19 May 2015, which included participation by the FRA as well as PICUM.