

1 UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF ARIZONA
3

4
5 THE UNITED STATES OF AMERICA,)
6)

6 Plaintiff,)

7 v.)

Civil Action No.

8 THE STATE OF ARIZONA, et al.,)
9)

10 Defendants.)
11

12 **DECLARATION OF PHOENIX POLICE CHIEF JACK HARRIS**

13 Pursuant to 28 U.S.C. 1746, I, Jack Harris, declare and state as follows:

14 I have been employed with the Phoenix Police Department for 38 years and I have served as the
15 Chief since 2004. As the Chief, I am responsible for protecting and ensuring the public safety of all
16 people living and traveling in my jurisdiction. Currently, the City of Phoenix is the 5th largest City in the
17 United States. Phoenix is the largest City in the State of Arizona and the state is located on the US-
18 Mexican border. Phoenix has a population of approximately 1.6 million people and covers 519 square
19 miles. It is estimated that nearly 500,000 immigrants live in the state of Arizona and nearly 150,000 to
20 250,000 live in Phoenix alone. The surrounding valley population is close to three million people.
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23 **Community Policing Ethic**

24 I believe SB1070 will have a negative effect on our community policing efforts. I am very
25 concerned that victims and witnesses will be afraid to call police for fear of deportation. A woman who is
26 unlawfully present in the United States and a victim of domestic violence may very well suffer injury
27 rather than take a chance on deportation. Recently, we had a witness physically detain a suspected child
28 molester until officers arrived to apprehend the suspect. The witness was an undocumented member of

1 our community. Had this new law been in effect, the witness may have been reluctant to take action and
2 call the police.

3 Deterring, investigating and solving serious and violent crimes are the department's top priorities,
4 and it would be impossible for us to do our job without the collaboration and support of community
5 members, including those who may be in the country unlawfully.

6 On many occasions, Home Invasion Kidnapping Enforcement (H.I.K.E) Squad investigators, and
7 other investigative bureaus rely heavily on information received from victims and witnesses who are
8 unlawfully present but otherwise compliant with the laws of this state. In fact, the Phoenix Police
9 Department's Drug Enforcement Bureau, consisting of undercover narcotics and conspiracy detectives,
10 receives valuable information from persons who may be unlawfully present but who provide a wealth of
11 information concerning major players in the illegal drug trade. It takes cooperation and collaboration
12 from all persons living in Arizona and elsewhere to defeat large illegal drug operations. Most
13 investigations involving illegal drug trafficking are very large and complicated investigations.

14 The new SB1070 may also adversely impact the department's ability to fulfill its investigative
15 priorities because its implementation will require the department to reassign officers from critical areas.
16 If many of our current officers decide to engage in routine civil immigration enforcement, which clearly
17 we cannot limit or restrict by policy, it will severely impact our primary mission which is answering calls
18 for service. Unfortunately, I cannot hire more officers to assist with this problem due to budget
19 constraints. Thus, we will have to move officers from other details in an attempt to accommodate the
20 calls for service. Those details may include motorcycle officers, detectives assigned to work violent
21 crimes, property crimes and home invasion/kidnapping enforcement squads to name a few.

22 Cooperation with those who are unlawfully present and a victim/witness of a crime, allow us to
23 apprehend suspects who would not otherwise have been caught had it not been for the information
24 received that lead us to the ultimate goal; to solve violent crimes, combat the drug activity, and protect the
25 safety of all persons in our community.
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1 School resource officers are Phoenix Police officers assigned to local schools. If a school
2 resource officer is investigating a student for allegations of criminal activity at school (i.e. assaulting
3 another student, theft), and the officer develops reasonable suspicion the student is an unlawful alien,
4 pursuant to SB1070 the officer must make a "reasonable attempt" to contact ICE and verify the student's
5 immigration status, unless the officer applies one of the limited discretionary exceptions. More troubling
6 is when a student is the victim of a violent crime and is scared to come forward for fear the officer will
7 take immigration enforcement action or inquire further about the student's family's immigration status.
8 Once again, my officers are placed in a losing situation.
9

10 11 Financial Costs

12 SB1070 mandates that each time an officer makes an arrest of any person, regardless of whether
13 there is reasonable suspicion to believe the person is an unlawfully present alien; the officer MUST verify
14 a person's immigration status with the Federal government. Presumptive identification does not alleviate
15 this requirement in arrest situations. Persons committing criminal misdemeanor offenses, to include
16 criminal traffic offenses, who would normally receive a criminal citation, will likely be booked. If a
17 police officer is unable to contact the Federal government to verify the arrested person's immigration
18 status, that person must be booked. A criminal citation is a quick process and allows the officer to
19 quickly return to patrolling the city and answers call for service. The booking process at the jail can take
20 one hour to three hours. This mandate applies to juveniles and adults.
21

22 Under these circumstances, this immigration law will impact the department's operations and
23 budget in a number of significant ways. There is a strong possibility that we will see a significant
24 increase in prisoner bookings and operating costs to house prisoners. In 2009 we had nearly 51,479
25 criminal citations in lieu of detentions. This number includes 37,731 criminal traffic citations, and 13,748
26 non traffic citations (i.e. shopliftings, theft, and other misdemeanors). The initial cost to book a person
27 into jail, excluding felonies, is \$192.26. After the initial booking, the fee is \$71.66 for each night the
28 person stays in jail. Had the police officers booked all those persons into jail who received a criminal

1 citation in lieu of detention, the cities lowest estimated expense for these booking would be approximately
2 ten million dollars. This is solely for the initial booking and does not include any additional nights in jail.

3 The potential for police officers to be out of service for extended periods of time during a work
4 shift for civil immigration violations and nothing more, forces local police to be civil federal immigration
5 enforcement agents. In 2009, our officers answered over 660,000 dispatched calls for service. With this
6 new law, calls for service will be affected if officers divert their attention to civil immigration violations
7 rather than answering calls for service such as domestic violence, burglaries, robberies, criminal
8 immigration enforcement, and other officers' back-ups and will also reduce proactive patrolling in
9 neighborhoods.
10

11 The new law subverts the authority of management to direct its sworn resources where it deems
12 appropriate because the law allows police officers complete discretion to enforce civil immigration
13 violations. An officer could spend the entire shift enforcing civil federal violations of immigration
14

15 This problem is aggravated by the fact the Phoenix Police Department is carrying nearly 400
16 vacant sworn positions. The operations budget for the department is over \$500 million dollars each year.
17 Ninety-two percent of our current operating budget is for personnel.
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19 Lawsuits

20 If I exercise the authority of my position to direct the resources of the department to areas I
21 believe are a greater priority than immigration enforcement, we risk the possibility of a lawsuit by private
22 parties. SB1070 provides that any Arizona citizen may bring suit against the city if I exercise my
23 authority or they feel I am limiting or restricting the enforcement of federal immigration law. Further, the
24 City can be ordered to pay the court costs and attorney fees for the police officer or citizen suing the City
25 for failing to enforce civil immigration violations instead of perhaps taking a homicide or armed robbery
26 radio call for service.
27

28 In Arizona, service of process must be done within 120 days of filing the lawsuit. Under SB1070,
fines may be placed against an agency upon the filing of a lawsuit, not when the agency is served with a

1 lawsuit. This allows the court to award damages when the city does not know a lawsuit has even been
2 filed. SB1070 provides that the agency may be fined for up to \$5000.00 each day that the suspect policy
3 (i.e. insubordination) remains in affect.
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5 Management of Resources/Policies

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7 As the Chief, I am responsible for establishing policies, procedures, and priorities for the
8 department and my officers. I am responsible as the Chief for setting my agency's law enforcement
9 priorities. One such priority is investigating, preventing and deterring violent crimes. This law
10 undermines my ability to set law enforcement priorities for my agency, because I cannot prohibit the use
11 of already scarce resources towards civil immigration enforcement instead of violent crimes and criminal
12 immigration enforcement.

13 SB1070 provides that "... no official or agency of this state or county, city, town or other political
14 subdivision of this state may limit or restrict the enforcement of federal immigration laws to less than the
15 full extent permitted by law. Further, the law provides that "... no official or agency of this state or
16 county, city, town or other political subdivision of this state may have a policy that limits or restricts..."
17 The law does not limit violations solely to immigration policies, but rather the law provides that ANY
18 policy that limits or restricts immigration enforcement is prohibited. This subjects the department to civil
19 lawsuits by anyone who perceives a limitation or restriction.
20

21 Here, management loses control of managing resources when an officer or many officers choose
22 to only enforce civil immigration violations during the course of a work shift. For example, if an officer
23 is on a valid traffic stop and asks the driver if they are an unlawful alien and the person admits to this, or
24 the officer develops reasonable suspicion to believe the person stopped or detained is an unlawful alien,
25 the officer must make a reasonable attempt to contact ICE. Even if the officer has no other criminal
26 charges, once reasonable suspicion is developed to believe the person is an unlawful alien, the officer
27 shall make a "reasonable attempt" to contact ICE. If a police supervisor gives an order to a police officer
28 to leave his/her traffic stop and answer calls for service, the officer may refuse and continue with the

1 possible federal immigration violations. Currently, the Phoenix Police Department has a "policy" on
2 insubordination. This policy may violate SB1070 because the insubordination policy interfered with the
3 officer's ability to enforce federal immigration law.
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5 Serious Crimes

6 SB1070 does nothing to support law enforcement's efforts to combat serious violent crimes
7 associated with federal criminal immigration violations. This law's failure to distinguish between civil
8 and criminal violations, and prohibition on management's ability to do so, allows officers to focus their
9 enforcement efforts on civil immigration laws rather than criminal violations, such as kidnappings, human
10 smuggling, extortions, and drop houses where people are holding others for ransom. The Phoenix Police
11 Department has a H.I.K.E squad that was designed exclusively for the purpose of investigating, enforcing
12 and supporting patrol with these types of crimes. The state of Arizona already has statutes to address
13 these types of crimes. Unfortunately, this law authorizes officers to divert from focusing on these crimes
14 and instead focus on federal civil violations, such as unlawful aliens who may have expired student or
15 work Visa's or those who present no danger to the public.
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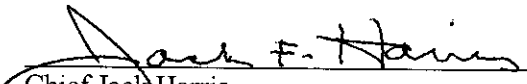
19 Relationship with ICE

20 SB1070 will cause an overwhelming amount of calls to ICE. I believe this will severely limit our
21 ability to continue getting the valuable service we receive from ICE on our criminal investigations and
22 federal criminal immigration violations.

23 In Phoenix, we experience approximately 300 kidnapping crimes per year. Many of the victims
24 are unlawfully present and are tortured while family members are told by telephone to bring money to
25 those holding them. Family members currently call police and we have saved many victims from further
26 torture and even murder because the family called police. That may change dramatically if the family
27 loses confidence in the police. My department currently works closely with agents from ICE for
28 enforcement of human smuggling and other related crimes.

1 Immigration law and immigration status is a very complex area, and local law enforcement
2 cannot possibly be experts in all the different ways a person can be lawfully or unlawfully present. Thus,
3 officers will heavily rely on ICE to provide guidance to verify a person's status. ICE cannot handle the
4 amount of calls it currently receives from local law enforcement. With this new law it will be even more
5 difficult to have ICE assist in investigations. The time we have to prepare for such a complicated law is
6 very difficult. There is already confusion in this country about how the law works and the complexities
7 of this law in its application with federal civil immigration laws. It is my fear that the state training will
8 not equip my officers with the necessary knowledge and expertise that would allow them to reasonably
9 understand how to enforce the new statutes added and referred to in SB1070. Further, once an officer
10 develops reasonable suspicion that a person is here as an unlawful alien without using race, color, or
11 national origin, they will need documentation and clear guidance to carefully walk the line between
12 violating a persons civil rights, subjecting the officer to 18 USC § 1983 actions, and articulating factors
13 supported by case law for reasonable suspicion that a person is unlawfully present.
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16 I declare under penalty of perjury that the foregoing is true and correct to the best of my
17 knowledge and belief.
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19 
20 Chief Jack Harris

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22 Executed the 25th day of June, 2010 in Phoenix, Arizona.
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