

Why Police Chiefs Oppose Arizona's SB 1070

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The National Immigration Law Center is co-lead counsel in a class action suit challenging Arizona SB 1070, the claims for which include that SB 1070 is preempted by the U.S. Constitution and federal law and unconstitutionally violates the rights to freedom of speech, to travel, to be free from unlawful search and seizure, and to equal protection of the law through its promotion of discrimination based on race and national origin.¹ On June 4, 2010, counsel for the lawsuit's plaintiffs lodged a motion for preliminary injunction to enjoin implementation of SB 1070.² As exhibits to the preliminary injunction brief, NILC filed the declarations of three current and former police chiefs: Chief Samuel Granato of the Yakima, Washington, Police Department; Chief George Gascón of the San Francisco, California, Police Department; and Eduardo Gonzalez, former director of the United States Marshals Service and former chief of the City of Tampa, Florida, Police Department. Because these police chiefs have decades of law enforcement experience, their declarations are instructive in analyzing the effects SB 1070 will have, particularly with regard to public safety and racial profiling. The following excerpts are taken from the declarations of these police chiefs.

■ Former director of the United States Marshals Service and former chief of the City of Tampa, Florida, Police Department, Eduardo Gonzalez

"In my opinion, SB 1070 is a dangerous law that will cause far more harm than it is worth. It will divert precious police resources away from fighting crime, create rampant distrust of police in immigrant communities, and lead to unlawful racial and ethnic profiling.

"The law puts police officers in an untenable situation because it requires that they enforce immigration laws to the fullest extent permitted by federal law or risk being sued. SB 1070 divests local officers of the discretion to determine how best to ensure the safety of the community and retain the trust of the immigrant population by mandating that they enforce immigration laws. . . .

"[P]ublic safety will be negatively impacted by implementation of SB 1070 because it causes diversion of critical and already strained police resources away from the task of pursuing serious and violent crimes into the complicated and vague task of enforcing immigration laws. . . .

"[B]ased on my 34 years of law enforcement experience, I believe it will be extremely difficult to construct a training program for enforcement of SB 1070 that will successfully prevent officers from resorting to using racial and ethnic appearance to form the requisite suspicion. . . .

"[D]istrust of law enforcement will be created whether or not community members have legal status . . . because immigrant families and communities are typically made up of both those with lawful status and those without"

¹ Complaint for Declaratory and Injunctive Relief, *Friendly House et al. v. Whiting et al.*, No. CV 10-1061 (D. Ariz. May 17, 2010), available at www.nilc.org/immlawpolicy/LocalLaw/complaint_final-2010-05-17.pdf.

² Plaintiffs' Motion for a Preliminary Injunction at 2, *Friendly House et al. v. Whiting et al.*, No. CV-10-01061-MEA (D. Ariz. June 4, 2010), available at www.nilc.org/immlawpolicy/LocalLaw/Friendly-House-v-Whiting-PI-MotionBrief-2010-06-04.pdf.



LOS ANGELES (Headquarters)
3435 Wilshire Boulevard
Suite 2850
Los Angeles, CA 90010
213 639-3900
213 639-3911 fax

WASHINGTON, DC
1444 Eye Street, NW
Suite 1110
Washington, DC 20005
202 216-0261
202 216-0266 fax

■ Chief of the San Francisco, California, Police Department, George Gascón

“... SB 1070 ... creates a resource allocation problem. Police departments in Arizona, already spread thinly and underfunded, now have an added responsibility — to enforce federal immigration law. ... SB 1070 diverts resources from the primary mission of ensuring public safety and requires that police undertake the complicated task of checking for federal immigration status. ... [P]olice officers cannot take on immigration enforcement without taking substantial time away from priorities that are more central to a local law enforcement agency, such as investigating and preventing violent crimes and property crimes. ...

“SB 1070 will threaten public safety because it will cause immigrant communities to distrust the police. ... As a result, victims of crimes, such as domestic violence, will be reluctant to contact the police because of fear that such contact will lead to investigations into the immigration status of the victim, her family members, neighbors, or other persons close to the victim. ...

“[O]ut of fear of deportation of a family member or neighbor, even many victims of crimes who are in legal immigration status will decide not to contact the police.

“The resulting harm to public safety will not only impact immigrant communities, but all communities in the state of Arizona because it creates a vacuum in law enforcement. This will embolden the criminal element because they will have less reason to be concerned about being reported by victims or witnesses in immigrant communities, and less reason to fear any consequences for criminal conduct.

“If SB 1070 goes into effect, there will be a greater incidence of pretextual stops of individuals of color in Arizona as officers will use pretextual reasons to stop or question individuals they believe to be here illegally. If an officer is motivated by race or ethnicity he/she can easily find a valid pretext for encountering an individual, whether by following a car until a minor traffic violation occurs or by approaching a pedestrian for ‘consensual’ questioning.”

■ Chief of the Yakima, Washington, Police Department, Samuel Granato

“My job as a law enforcement officer is compromised when the individuals I am charged to serve and protect are afraid to have contact with me. This is exactly what will happen as a result of SB 1070’s mandate to investigate immigration status. ...

“[SB 1070] further victimizes some of the most vulnerable victims of crime. ...

“[W]hen, as a result of their involvement in immigration enforcement, local police officers come to be viewed as arms of the federal immigration enforcement system, immigrant communities will grow to distrust the police and will likely avoid contact with law enforcement out of fear that it could lead to their deportation or the deportation of a family member, friend, or neighbor. ...

“SB 1070 legislates in an area that should be reserved exclusively for the federal government. Immigration enforcement is a federal responsibility and one of the problems with having the state usurp federal authority to enforce immigration laws is the risk that federal immigration law won’t be enforced uniformly by state law enforcement officials.

“In my opinion it is not possible to construct a training that would sufficiently prepare officers to enforce SB 1070 in a uniform manner.

“I do not believe that SB 1070 can be enforced in a racially neutral manner.”

For more information relating to the *Friendly House et al. v. Whiting et al.* litigation, contact Adela de la Torre, communications manager, delatorre@nilc.org.

For more information relating to the **entanglement of local law enforcement with federal immigration enforcement**, contact Joan Friedland, managing attorney, friedland@nilc.org.