

**GOVERNOR BREWER AND THE STATE OF ARIZONA'S
RESPONSE TO MOTION FOR PRELIMINARY INJUNCTION**

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2.	<i>Alison Siskin, Cong. Research Serv. RL33351, CRS Report for Congress Immigration Enforcement Within the United States 1, 14 (2006).</i>
3.	<i>U.S. Department of Justice, Office of the Inspector general, Audit Division, Audit Report 07-07, Cooperation of SCAAP Recipients In the Removal of Criminal Aliens From the United States ___(2007).</i>
4.	Bybee, J.S., Memorandum for the Attorney General Re Non-preemption of the authority of state and local law enforcement officials to arrest aliens for immigration violations (April 3, 2002).
5.	<i>U.S. Immigration and Customs Enforcement, M-396, Guide to Selected U.S. Travel and Identity Documents (2008).</i>
6.	<i>U.S. Immigration and Customs Enforcement, Law Enforcement Support Center Fact Sheet.</i>
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8.	<i>Enhancing DHS' Efforts to Disrupt Alien Smuggling Across Our Borders, Testimony before the Subcommittee, 111th Congress (2010) Statement of Janice Kephart, Director of National Security Center for Immigration Studies).</i>
9.	Letter from John M. Roll, Chief Judge, Arizona District Court, to Congressional Staff Members (June 3, 2010).
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16.	<i>Arizona Senators Respond to Obama Administration Decision to Sue Arizona</i> (July 6, 2010).
17.	President Barack Obama, Remarks by the President on Comprehensive Immigration Reform (July 1, 2010).
18.	Letter from Arizona Senator John McCain and Jon Kyl to Michael H. Posner Assistant Secretary of State, Bureau of Democracy, Human Rights, and Labor, U.S. Department of State (May 18, 2010).
19.	Article with video of interview with P.J. Crowley, Assistant Secretary of State.
20.	<i>FOXNews.com, Napolitano Admits She Hasn't Read Arizona Immigration Law in "Detail,"</i> (May 18, 2010).
21.	<i>ABC.com, Holder: Arizona Immigration Law Not Racist</i> (May 9, 2010).
22.	<i>Devin Dwyer & Huma Khan, Arizona's Governor Signs Controversial Immigration Bill</i> (April 23, 2010).
23.	Testimony of Larry A. Dever, Sheriff, Cochise County, Arizona, Senate Committee on Homeland Security and Governmental Affairs (Apr. 20, 2009).
24.	Chad C. Haddal, Cong. Research Serv., RS 21899, Border Security: Key Agencies and Their Missions 3 (2010).
25.	<i>Maricopa County Attorney's Office, Illegal Immigration</i> (Sept. 2008).
26.	<i>Michael Hoefler, Nancy Rytina, & Bryan C. Baker, Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2009</i> , Department of Homeland Security (Jan. 2010).
27.	Letter from Terry Goddard, Arizona Attorney General, to President Barack Obama (July 8, 2010).
28.	Excerpts of transcript of the Senate Public Safety and Human Services Committee

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29.	Excerpts of transcript of the Senate vote on SB 1070 by the Arizona 49 th Legislature, Second Regular Session, Apr. 19, 2010.
30.	<i>Bureau of Land Management- Southern Arizona Project FY 2009 Fact Sheet.</i>
31.	<i>U.S. Customs and Border Protection, Community Informational (June 24, 2010).</i>
32.	<i>Bureau of Land Management, Southern Arizona Project to Mitigate Environmental Damages Resulting from Illegal Immigration, Fiscal Year 2008 Year-End Report</i>
33.	Majority Staff of H. Comm. On Homeland Sec., A Line in the Sand, Confronting the Threat at the Southwest Border (2006).
34.	Excerpts of transcript of Minutes of House Committee on Military Affairs and Public Safety re SB 1070, 49 th Legislature, Second Regular Session, March 31, 2010.
35.	Arizona Peace Officer Standards & Training Board Support Law Enforcement and Safe Neighborhoods Act Training Course, transcript of DVD.
36.	Excerpts of transcript of the Senate Public Safety and Human Services Committee Hearing, Arizona 49 th Legislature, Second Regular Session, Jan. 21, 2010.
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EXHIBIT A

DECLARATION OF MICHAEL W. CUTLER

Michael W. Cutler declares as follows:

1. The facts set forth below are of my own personal knowledge and, if called as a witness, I could and would testify competently thereto.
2. Since 2002, I have been a Fellow at the Center for Immigration Studies. The Center for Immigration Studies is an independent, non-partisan, non-profit, research organization. As a Fellow, I have provided perspectives based upon my experience with the Immigration and Naturalization Service (“INS”) about the nexus between immigration and national security, the impact of immigration on the criminal justice system, and strategies to combat illegal immigration. I regularly speak with Special Agents and other employees who are currently employed by the Department of Homeland Security (“DHS”), U.S. Immigration and Customs Enforcement (“ICE”) (the successor to INS), members of the law enforcement community, members of Congressional sub-committees and their staffers, and other government officials involved in the enforcement and adjudication of federal immigration laws. I also read a substantial amount of open source material provided by DHS, ICE, Customs and Border Protection (“CBP”) and other federal law enforcement agencies. The federal immigration laws that I enforced as a Senior Special Agent are, with some changes, substantially the same as those laws in place today.
3. In February 2002, I retired as a Senior Special Agent for INS. The INS ceased to exist in 2003 and is now known as U.S. Immigration and Customs Enforcement. Prior to my retirement, I worked for INS for approximately 30 years.
4. My career with INS started in 1971 when I entered on duty as an Immigration Inspector assigned to the John F. Kennedy International Airport. As an Immigration Inspector, my responsibility was to examine documents (such as passports) and to briefly interview passengers to make a determination about their admissibility into

the U.S. consistent with federal immigration law. In essence, I had my eye to the “peephole” to America’s front door. Effectively, any state with an international airport or a seaport should be considered a border state.

5. By 1975, I became a Criminal Investigator (Special Agent) for the INS in New York City. During that time I rotated through all the squads of the investigations branch of INS. During this period of time, I often worked closely with other law enforcement agencies including the New York City Police Department.

6. From 1988 until 1991 I was assigned as the INS representative to the Unified Intelligence Division (“UID”) of the Drug Enforcement Agency (“DEA”) in New York. In 1991, I was promoted to Senior Special Agent and was assigned to the Organized Crime Drug Enforcement Task Force (“OCDETF”) wherein I partnered with members of other law enforcement agencies including the FBI, DEA, ATF, U.S. Customs, and local and state police, as well as law enforcement organizations in other countries.

7. Since 1997, I have been called by members of both political parties to testify relating to the enforcement or lack of enforcement of immigration laws and deficiencies in the immigration system before both houses of the United States Congress on more than 12 occasions. The bulk of the testimony that I have provided to Congress has occurred since my retirement from the INS. On one of these occasions, specifically on February 23, 2003, I provided testimony about sanctuary city policies and their negative impact on enforcement of federal immigration laws and the negative impact on our communities. At the beginning of this Congressional hearing, Representative John Hostetler, Chairman of the House Subcommittee on Immigration, Border Security and Claims, began the hearing by discussing the abduction and brutal assault on a 42 year-old mother of two by several illegal aliens who had extensive arrest histories in New York City – a known “sanctuary city” – which never resulted in any referral to the INS by the New York City Police Department. On March 11, 2004, I testified before congress about

funding for immigration enforcement. On March 10, 2005, I offered testimony before Congress about interior immigration enforcement resources. I also provided testimony to the Presidential Commission on the Terrorist Attacks of September 11, 2001.

8. During my career at INS, I gained a unique perspective by working as an Immigration Inspector, an Examiner (an Adjudications Officer) and as a Special Agent where I worked to enforce immigration laws within the interior of the United States. Thus, I have firsthand experience of having directly worked as part of, with two of the three elements of, what I refer to as the immigration enforcement tripod: (1) inspection; (2) border patrol; and (3) interior enforcement. Each leg of the immigration enforcement tripod plays a critical role in the national security of the U.S.

9. Inspection occurs when Aliens enter the U.S. through designated ports of entry. Upon inspection, a determination is made by an inspector to determine whether there is any reason to preclude an alien from entering the U.S. Inspectors at designated ports of entry attempt to deny entry to aliens who would not be admissible to the U.S. The following is a partial list of reasons why an Immigration Inspector will not permit an alien to enter the U.S.: (1) the alien has certain communicable diseases of public health significance; (2) the alien has a physical or mental disorder and behavior associated with the disorder may pose a threat to the safety of others; (3) it is determined that the alien is a drug abuser or addict; (4) the alien has committed a crime involving moral turpitude; (5) the alien has committed a crime involving controlled substances; (6) the alien has been convicted of two crimes which resulted in aggregate sentences of five years or more; (7) the alien has been known to be an illicit trafficker in controlled substances; (8) the alien is coming to the U.S. to engage in prostitution or has engaged in prostitution within the last 10 years; (9) aliens who have committed serious crimes but claimed immunity to avoid prosecution; (10) foreign government officials who have violated U.S. laws relating to religious freedom; (11) the alien has engaged in trafficking in persons;

(12) the alien has engaged in money laundering; (14) the alien is entering the country to engage in espionage or any unlawful activity; (15) the alien has engaged in terrorist activities, is planning to engage in terrorist activities or is a representative of a terrorist organization; (16) the alien is a known war criminal; (17) the alien has been previously deported and lacks proper authority to reenter; and (18) the alien is found to be in possession of fraudulent documents.

10. Border Patrol is a federal law enforcement agency that is now part of US Customs and Border Protection. Border Patrol is tasked with deterring, detecting, and interdicting (apprehending) illegal aliens who enter or attempt to enter the U.S. other than through designated ports of entry.

11. Interior enforcement, consistent with its moniker, is enforcement of immigration laws within the borders of the U.S. and falls under the purview of ICE Special Agents. Based upon my 30 years of experience for the INS as an Immigration Inspector, a Special Agent, and as a Senior Special Agent, I believe that the interior enforcement program was and continues to be terribly under-staffed and, in general, neglected.

12. While the actual number of ICE Special Agents is classified, most estimates by what I consider to be reputable data sources put the number of ICE Special Agents at approximately 6,000 for the entire U.S. A substantial portion of these agents are tasked with enforcement of U.S. Customs law and not immigration enforcement. The President recently estimated the number of illegal aliens at 11,000,000 – other estimates are significantly higher. Government estimates place the number of illegal aliens who have entered through ports of entry but violated their terms of admission, at 4,500,000. According to a recent DHS report, it is estimated that there are only 272 ICE employees trying to track down these 4,500,000 immigration law violators. In any event, there are no more than 6,000 ICE agents responsible for the interior enforcement of federal

immigration laws for the more than 11,000,000 illegal aliens that are in the United States. Thus, ICE cannot be successful in enforcing federal immigration law without the assistance of local law enforcement.

13. Based on any estimate for the number of illegal aliens living in the U.S., it cannot be disputed that the federal government has failed to secure the borders of the U.S. or to deter the continuing entry of illegal aliens.

14. The federal government's failure to secure the border, combined with the federal government's decision not to engage in substantial interior enforcement, has created an immigration policy that effectively creates a "finish line" at the border.

15. In other words, aliens are incentivized to make it to the border whether through lawful means or unlawful means because once an alien crosses the border there is little chance of detection in the interior of the country and even less chance of removal (deportation).

16. The reduced chance of detection and removal creates an environment where aliens who enter the U.S. through lawful means at designated ports of entry face little or no penalty for staying in the U.S. after their permission to remain expires. Once an alien's permission to remain in the U.S. expires, an alien is unlawfully present in the U.S. Aliens who were lawfully admitted become unlawfully present in the U.S. when they violate the terms of their admission into the U.S. Examples include aliens who: (1) remain in the U.S. beyond their authorized period of admission; (2) accept unauthorized employment; and/or (3) are convicted of crimes.

17. Alien's previously lawfully admitted who become unlawfully present represent a risk to the security of the U.S. because they are able to establish themselves into a community and hide in plain sight.

18. A second way for aliens to get past the finish line (the border) and move to the interior of the U.S. to is to circumvent designated ports of entry. By definition,

anyone who enters the U.S. by circumventing designated ports of entry has entered the country unlawfully.

19. National security is at risk when someone circumvents designated ports of entry because the U.S. does not have any information about the identity of those persons who have entered our country or any record of their entry into our country or their presence thereafter. Nor does the U.S. have any information about the actual number of persons who have circumvented designated ports of entry. Most critically, the U.S. does not have information whether the person who has circumvented inspection is carrying a communicable disease, is a war criminal, is wanted in another country or is a known felon, a member of a transnational gang or cartel, or whether the alien is actually a terrorist who seeks to harm the U.S.

20. In my experience as a Special Agent who enforced immigration laws in the interior of the U.S., I am familiar with the various rationale for circumventing inspection at the border.

21. Some percentage of those persons who circumvent designated ports of entry come to the U.S. simply to work (albeit unlawfully) in an attempt to secure a better life than might be available to them in their home country.

22. Some percentage of those persons who circumvent designated ports of entry come to the U.S. to avoid detection and subsequent prosecution for crimes that they have committed in their home country. The U.S., with its porous border and lack of interior immigration enforcement, becomes a haven for these aliens to hide.

23. Some percentage of those persons who circumvent designated ports of entry come to the U.S. to blend into our communities with the plan of hiding in plain sight with the eventual goal of causing harm to the U.S. and its citizens.

24. Some percentage of those persons who circumvent designated ports of entry travel back and forth between the U.S. and a border country to import drugs,

weapons, to engage in human smuggling or trafficking, and to evade U.S. law enforcement agencies.

25. Aliens that have entered the U.S. unlawfully, often become the potential clients of other criminal enterprises that prey upon illegal aliens through the sale of forged or altered identity documents, fraudulent schemes to ensure the ability to stay in the U.S., and further exploitation by the criminal element.

26. The circumvention of designated ports of entry creates a tremendous problem for the federal government because ICE does not have sufficient personnel to enforce federal immigration laws consistent with its stated objectives by solely relying on Special Agents stationed in the field. Moreover, because of ICE's inability to enforce federal immigration laws from within the interior of the U.S., aliens intent on entering the U.S. are emboldened and encouraged that they will ultimately succeed in entering the U.S. even if they are interdicted by border patrol on a number of occasions. From my interviews with aliens that I have arrested or otherwise detained, I have learned that U.S. immigration policies have contributed to aliens adopting the view that they only need to keep trying to circumvent the border one time more than they are caught to be successful at entering the U.S.

27. During my time as an INS Special Agent, INS would prioritize its enforcement efforts in an attempt to seek removal for those persons most likely to cause harm to the U.S. The same is true today now that immigration enforcement falls under the direction of DHS and more specifically, ICE. In fact, I personally worked with Senator Al D'Amato to prioritize criminal aliens, distinguish aliens by subjecting such criminal aliens to enhanced penalties who reentered the country after a formal order of removal after a criminal conviction, and to hold removal proceedings inside the jail to expedite the adjudication of removal proceedings.

28. I am aware that ICE, on June 30, 2010, posted a memorandum outlining

ICE's enforcement priorities for the (world to see). Setting aside the peculiar timing and tone of the memorandum, ICE has identified its highest enforcement priorities as (1) national security; (2) public safety; and (3) border security.

29. As a Special Agent for more than 26 years, I have come to the conclusion that ICE must rely on local law enforcement to even attempt to work towards its highest enforcement priorities because ICE Special Agents only come into contact with a small portion of the alien population that has entered the U.S. or that remains in the U.S. unlawfully.

30. Local law enforcement, on the other hand, has regular contact with members of the public including aliens. These daily contacts by local law enforcement represent a critical tool in assisting ICE with its highest enforcement priorities because local law enforcement can assist ICE in the identification of those aliens who are unlawfully present in the U.S.

31. Specifically, each time a local law enforcement officer has contact with a person, whether a U.S. citizen, a lawful alien or an unlawful alien, the officer will almost always try and identify the person to make sure there are no outstanding criminal or administrative warrants that would cause the local law enforcement officer to take the person into custody to protect the safety of officers and the community. Further, as it relates to ICE's highest enforcement priorities, local law enforcement plays a critical role in identifying aliens so that ICE can make a determination about whether or not ICE should seek to lodge a detainer and or to take other appropriate actions to effect the removal of the alien.

32. I can think of no situation where ICE would not want a local law enforcement officer to assist in the identification of someone unlawfully present in the U.S. These contacts can result in improved national security because, at least from time to time, some of these aliens identified by local law enforcement may be significant

threats to the U.S. and wanted by ICE and/or other federal authorities. It is important to note that some of the 9/11 terrorists had interaction with police officers prior to engaging in the worst terrorist attack in U.S. history. On other occasions, ICE may in fact determine that an alien identified by local law enforcement is not an enforcement priority under ICE's current prioritization.

33. Local law enforcement can also play a critical role in assisting ICE in enforcing federal immigration laws by creating a deterrent because of its ability to inquire into the immigration status when reasonable suspicion exists that someone is unlawfully present in the U.S. This deterrence can assist in removing some of the pressure on the border.

34. I am also aware that some cities become sanctuaries to aliens unlawfully present through the creation of policies that prevent local law enforcement officers from inquiring into an alien's immigration status even when the officer has reasonable suspicion that an alien is unlawfully present in the U.S. These cities are sometimes referred to as "sanctuary cities."

35. The creation of sanctuary cities actually *hurts* ICE in its efforts to conduct its highest enforcement priorities because it results in less identification of potentially dangerous unlawful aliens by local police officers. In other words, when ICE is left to enforce federal immigration laws on its own, its efforts are substantially limited. On the other hand, permitting local law enforcement to inquire into an alien's immigration status when they have already been stopped, detained, or arrested will actually assist ICE to meet its highest priorities as local law enforcement assists ICE in becoming aware of those aliens who would be considered a high priority for removal or other appropriate action. Moreover, an argument could certainly be made that cities that create sanctuary policies are actually in violation of 8 U.S.C. § 1324 which creates criminal penalties for "knowing or in reckless disregard of the fact that an alien has come to, entered, or

remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation” (8 U.S.C. § 1324(a)(1)(A)(iii)) or “encourage[ing] or induc[ing] an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of that fact that such coming to, entry, or residence is or will be in violation of law.” 8 U.S.C. § 1324(a)(1)(iv); *see also* 8 U.S.C. § 1324(a)(1)(v) (II) (“aids or abets the commission of any of the preceding acts”). In other words, if the federal government was interested in enforcing federal immigration law it would be actively working to end sanctuary city policies throughout the U.S.

36. I am personally familiar with one example in which a city’s sanctuary policy prevented local law enforcement officers from assisting in the enforcement of federal immigration law leading to the death of a police officer.

37. Specifically, in 1986, I personally escorted Renaldo Rayside to the airport after an immigration judge entered an order of removal to deport Mr. Rayside to Panama due to his conviction on several drug charges.

38. Within two years, Mr. Rayside had returned to the U.S. via unknown means. Once inside the country, according to published newspaper accounts, Mr. Rayside was charged at least twice with resisting arrest by New York City police officers. But New York City had policies in place that prevented city law enforcement officers from contacting INS even when they had reasonable suspicion that a person in their custody was unlawfully present in the U.S.

39. New York City’s sanctuary policies precluded its officers from contacting INS to inquire about Mr. Rayside’s immigration status. Had INS been contacted, INS would have detained Mr. Rayside based upon his criminal conduct and based upon his presence in the U.S. despite having been previously removed. Mr. Rayside would have been either imprisoned and prosecuted for reentering the U.S., or would have been

deported.

40. On March 3, 1989, as a result of New York City's sanctuary policies, Mr. Rayside was still present and at-large in the U.S. (albeit unlawfully) when he was stopped for questioning by Officer Robert E. Machate. On this day, Mr. Rayside wrestled Officer Machate's gun from him and used it to shoot him through the back. Officer Machate died as a result of the gunshot wound.

41. New York City's sanctuary city policies during this time period, or any sanctuary policy that prevents local law enforcement from contacting federal immigration authorities for that matter, are inconsistent with ICE's highest priorities listed in its June 30, 2010 memorandum. In other words, ICE's highest priorities are more likely to be met when local law enforcement is permitted to contact ICE when contact is made with a potentially dangerous illegal alien. Sanctuary city policies also have a potential harmful effect on officer safety and the safety of the community.

42. Local law enforcement is in the unique position of being able to assist ICE to meet their highest priority of removing the most dangerous persons from the U.S. as it simultaneously enforces state or federal law in other areas. As an example, persons are regularly stopped by local law enforcement for minor traffic violations but – once the person is identified – the minor traffic violation can result in the arrest of someone wanted for a violent crime or some other significant felony. It is simply nonsensical for ICE to suggest that it can more appropriately enforce its highest priorities if local law enforcement ignores a person's immigration status.

43. Just as local law enforcement is in a unique position of being able to assist ICE to meet their highest priority of removing the most dangerous persons from the U.S., ICE stands in a unique position to assist local law enforcement. In my experience as a Special Agent, I was often asked by local law enforcement to provide testimony at bail hearings to provide INS' perspective about the flight risk of a particular alien. In fact,

INS' (and now ICE's) files can be a treasure trove of information about an alien's lack of ties to the community, failures to appear for prior hearings, or their record of using false or non-existent identities or addresses.

44. As someone concerned about the security of the U.S. border, I have read Senate Bill 1070. Based upon my 30 years of experience enforcing federal immigration laws, Senate Bill 1070 does not seek to enforce federal immigration laws beyond what is permitted by the Immigration and Nationality Act and its amendments. Rather, Senate Bill 1070 prevents the creation of sanctuary cities, a detriment to assisting ICE in meeting its highest enforcement priorities, and provides local law enforcement with the ability to assist ICE in meeting ICE's stated objectives as well as the objectives of local and state police officers.

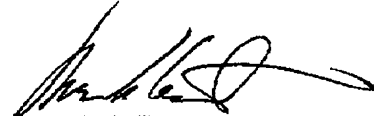
45. Senate Bill 1070 leaves actual enforcement, including the setting of enforcement priorities, in the hands of DHS and ICE who are charged with enforcing federal immigration laws. Also, it is important to note that the actual removal of aliens falls under the exclusive control of ICE and Senate Bill 1070 has no impact on this authority.

46. As a former Special Agent, I believe that being able to have the assistance of local law enforcement is critical in helping ICE to remove the most dangerous unlawful aliens from the U.S. in order to protect our nation's security, protect the safety of the public, and to secure our border. Cooperation between local and state law enforcement, CBP, and ICE creates a synergy that will improve the results of all agencies involved and, as a result, will improve national security and community safety.

I declare under penalty of perjury that the foregoing is true and correct.

DATED July 16, 2010

County of Kings, New York.

By 

Michael W. Cutler

11733636

EXHIBIT B

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21 *Governor of the State of Arizona, and the State of*
22 *Arizona*

23 **IN THE UNITED STATES DISTRICT COURT**
24 **FOR THE DISTRICT OF ARIZONA**

25 Friendly House, et al.

26 Plaintiffs,

27 v.

28 Michael B. Whiting, Apache County
Attorney, in his official capacity, et al.,

Defendants,

and

Janice K. Brewer, Governor of the State
of Arizona, in her official capacity; and
the State of Arizona,

Intervenor Defendants.

No. CV-10-1061-PHX-SRB

**DECLARATION OF NEVILLE W.
CRAMER**

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DECLARATION OF NEVILLE W. CRAMER

Neville W. Cramer declares as follows:

1. The facts set forth below are of my own personal knowledge and, if called as a witness, I could and would testify competently thereto.
2. From 1976 through 2002, I was employed by the U.S. Department of Justice, Immigration and Naturalization Service (“INS”). In 2003, INS ceased to exist and was replaced by the U.S. Immigration and Customs Enforcement (“ICE”).
3. While employed by INS, I held a variety of positions. From 1976 to 1977, I was a Border Patrol Agent assigned to Eagle Pass, Texas.
4. From 1977 to 1986, I was employed as an INS Special Agent (1977-1981), an INS Supervisory Special Agent (1981-1984), and an INS Senior Special Agent (1984-1986). As a Senior Special Agent, I was assigned to develop the Systematic Alien Verification for Entitlements Program commonly known as “SAVE.”
5. From 1986 to 1990, I was a Deputy Assistant Commissioner with the INS. During this time, I directed the nationwide implementation of SAVE which still operates today and which served as the foundation for the Department of Homeland Security’s Basic Pilot and current E-Verify System.
6. From 1990 to 1996, I was the Chief of the Immigration Officer Academy at the Federal Law Enforcement Training Center where I directed the training of thousands of Immigration Inspectors, Special Agents, and other types of Immigration Officers.
7. From 1996 to 2002, I was employed as a Special Agent in Charge of the Overseas Enforcement Unit in the INS Office of International Affairs which coordinated INS overseas enforcement operations to combat, among other things, terrorism, alien smuggling, human trafficking, and document fraud.
8. Based upon my experience at INS, I am familiar with the enforcement of Federal immigration law pursuant to the Immigration and Nationality Act of 1952 (“INA”), the Immigration Reform and Control Act of 1986 (“IRCA”), the Immigration

1 Act of 1990 (“IMMACT”), and the Illegal Immigration Reform and Immigrant
2 Responsibility Act of 1996 (“IIRIRA”).

3 9. As someone who personally enforced and directed the enforcement of
4 Federal immigration laws by Federal agents, I am confident that the enforcement of
5 Federal immigration laws will be positively impacted with the increased assistance of
6 local law enforcement officers.

7 10. For example, I have been involved in, and seen other immigration officers
8 involved in, various task forces that combined the considerable efforts of INS (and now
9 ICE), the Federal Bureau of Investigation, the ATF (Bureau of Alcohol, Tobacco,
10 Firearms and Explosives), and State and local law enforcement agencies to combat serious
11 crime. Specific examples of task forces involving INS, the FBI and local law enforcement
12 agencies include the Organized Crime Drug Enforcement Task Force, the Joint Terrorism
13 Task Force, and the “MS-13” National Gang Task Force. This coordination between
14 Federal law enforcement agencies and local law enforcement agencies is critical in
15 improving the overall success of the task forces.

16 11. ICE and U.S. Customs and Border Protection (commonly referred to as
17 “Border Patrol”) regularly rely upon local law enforcement to identify persons who they
18 suspect are unlawfully present in the U.S.

19 12. Permitting Arizona law enforcement officers to inquire into a person’s
20 immigration status when they have reasonable suspicion that a person is unlawfully
21 present would create a significant force multiplier that would assist ICE and Border
22 Patrol. By force multiplier, I am referring to the principle of increasing an agency’s
23 ability to enforce the law through the use of additional resources. In this example, I am
24 specifically referring to ICE and Border Patrol’s ability to improve its enforcement of
25 Federal immigration laws, and in turn to achieve “operational control” of the Arizona
26 border with Mexico, by relying upon the assistance of Arizona’s various local and state
27 law enforcement agencies.

28 13. Also, ICE and Border Patrol would benefit from the significant intelligence

1 capabilities of local law enforcement agencies. In particular, ICE and Border Patrol
2 benefit from local law enforcement's ability to identify and assist in apprehending illegal
3 aliens who have committed heinous crimes.

4 14. While I am aware that ICE and Border Patrol currently partner with local
5 law enforcement officers at times, ICE and Border Patrol would greatly benefit from
6 improving its partnerships with local law enforcement officers because of improved
7 communications between agencies and by assisting local law enforcement officers to
8 become more aware of immigration related crimes such as human smuggling, human
9 trafficking, drug smuggling and document fraud.

10 15. Also, I am aware that local law enforcement officers would benefit from
11 partnering with ICE and Border Patrol by receiving an increased flow of information
12 relating to crimes not prosecuted by Federal immigration authorities and which are turned
13 over to local law enforcement for prosecution.

14 16. In fact, local law enforcement officers often want to partner with ICE and
15 Border Patrol because of their authority to provide an "S-Visa," which is sometimes
16 referred to as a "snitch visa." The S-Visa is a useful tool available to ICE to assist local
17 law enforcement agencies who have partnered with ICE or Border Patrol to combat crime.
18 The S-Visa allows an informant to stay in the U.S. lawfully in exchange for their
19 information and testimony against particularly dangerous criminals. I have found the
20 ability to obtain lawful status for an informant and his or her family to be a powerful
21 incentive. S-Visas have been used to allow officers to gain key information leading to the
22 arrest of particularly dangerous criminals.

23 17. ICE and Border Patrol have a significant interest in partnering with local
24 law enforcement agencies. In fact, INS created the Law Enforcement Support Center
25 ("LESC") in 1994 to provide timely immigration status and identity information on aliens
26 suspected, arrested, or convicted of criminal activity. LESL operates 24 hours a day, 7
27 days a week.

28 18. I have spoken with several local law enforcement officers who have told me

1 that LESC can assist them by determining someone's immigration status in a matter of
2 minutes.

3 19. LESC was created to provide immigration status to local law enforcement
4 officers who call and request it. At the time LESC was created, the National Crime
5 Information Center ("NCIC") (which is maintained by the FBI) did not want to include
6 administrative warrants, including deportation orders, in the NCIC database. Because the
7 INS wanted local law enforcement to obtain this information quickly, LESC was created
8 to provide information and support to local law enforcement officers.

9 20. LESC was specifically designed to provide timely and accurate information
10 to law enforcement officers on a person's immigration status and the identities of
11 individuals who have been arrested or who are under investigation for committing a
12 crime. I am aware that LESC regularly responds to inquiries from local, state, and federal
13 law enforcement agencies, correctional facilities, and court systems on the immigration
14 status of individuals in custody.

15 21. LESC's partnership with local law enforcement entities is one reason that it
16 describes itself on ICE's website as the centerpiece of the Department of Homeland
17 Security's information-sharing partnership with other law enforcement center entities.
18 LESC's website is found at <http://www.ice.gov/partners/lesc/index.htm>.

19 22. Because I was the Chief of the Immigration Officer Academy at the Federal
20 Law Enforcement Training Center, I am acutely familiar with the training received by
21 those Federal enforcement agents who have been trained to enforce Federal immigration
22 law.

23 23. Also, while I was the Special Agent-in-Charge of the Overseas Enforcement
24 Unit of the INS, I directed the enforcement operations that were designed to combat
25 terrorism, alien smuggling, human trafficking, and document fraud – all issues that I
26 understand were a concern of Arizona's legislature in passing Senate Bill 1070.

27 24. When Senate Bill 1070 was passed, I became aware that Governor Brewer,
28 by Executive Order, required the Arizona Peace Officers Standards and Training Board

1 (“Az POST”) to design and develop a training program that would prepare local law
2 enforcement to enforce the provisions of Senate Bill 1070 in a manner consistent with
3 Federal law.

4 25. Relying upon my experience as the former Chief of the Immigration Officer
5 Academy, I assisted in developing a portion of the Arizona Peace Officer Standards and
6 Training Board’s Support Law Enforcement and Safe Neighborhoods Act Training
7 Course (“Training Course”) that is being distributed to all law enforcement agencies
8 within Arizona.

9 26. In particular, I wrote the portion of the Training Course that focused on the
10 types of documents that would be carried by those persons who are lawfully present in the
11 U.S. and discussing immigration law issues relating to U.S. Citizens.

12 27. To assist local law enforcement officers to enforce the provisions of Senate
13 Bill 1070, and as it relates to assisting ICE and Border Patrol in identifying those persons
14 who are unlawfully present, I recommended that local law enforcement officers have
15 access to Form M-396, “A Guide to Selected U.S. Travel and Identity Documents.” This
16 guide provides color examples of those documents that are most likely to be carried by a
17 lawfully present alien.

18 28. I am aware that ICE provided Az POST with approximately 17,000 copies
19 of Form M-396.

20 29. Also, the Training Course reiterates the basic tenet that no U.S. citizen is
21 required to carry any document to prove that he or she is a U.S. Citizen. When a person
22 makes a reasonable claim that he or she is a U.S. Citizen and tells the investigating officer
23 how they obtained citizenship, a Federal immigration officer or a local law enforcement
24 officer who has viewed the Training Course is trained to accept the person’s statement and
25 to end their inquiry into the person’s immigration status because they no longer have
26 reasonable suspicion that the person is unlawfully present in the U.S.

27 30. While I did not participate in the design of the remaining portions of the
28 Training Course, I did review the completed Training Course in its entirety and I reviewed

1 all of the training materials provided as part of the Training Course. My review of the
2 Training Course was conducted from my perspective as the former Chief of Immigration
3 Officer Academy and with full knowledge of the requirements of Senate Bill 1070 and
4 based on my experience with Federal immigration laws.

5 31. At the time I reviewed the Training Course, I was familiar with the various
6 positions of groups opposed to Senate Bill 1070 that espoused the following positions: (1)
7 local law enforcement could not be trained to enforce the new law; (2) local law
8 enforcement could not enforce Senate Bill 1070 in a race neutral manner; (3) Senate Bill
9 1070 was problematic as to residents of New Mexico and other states based on differences
10 in the documents required to obtain a New Mexico driver's license; and (4) Senate Bill
11 1070 would result in rampant racial profiling.

12 32. As someone acutely aware of the training provided to Federal agents who
13 enforce Federal immigration laws, the Training Course provides local law enforcement
14 officers with a clear understanding of reasonable suspicion and gives a fundamental
15 understanding of the limitations on local law enforcement officers' ability to enforce
16 federal immigration law by relying on the LESC. Further, the training provides local law
17 enforcement officers with the key information needed to guide local law enforcement
18 officers to identify those documents used by lawfully present aliens and provides them
19 with the contact information for LESC which has been designed and used for years to
20 assist local law enforcement officers with determining the immigration status of those
21 persons who have been arrested.

22 33. Secondly, the Training Course is sufficient to train local law enforcement to
23 implement enforcement of the bill in a race neutral manner and in a way that parallels
24 Federal enforcement of Federal Immigration law.

25 34. Third, the concerns expressed by some that Senate Bill 1070 is problematic
26 because of New Mexico's practice of issuing a driver's license without documentation of
27 lawful presence is a red herring. U.S. Citizens who carry New Mexico driver's licenses
28 are not required to carry any documents definitively proving that they are U.S. Citizens.

1 Both before Senate Bill 1070 and after Senate Bill 1070, showing identification that
2 verifies a person is a citizen is just one of many ways in which a person may dispel
3 reasonable suspicion about a person's immigration status. In any event, to the extent
4 someone with a New Mexico driver's license makes a reasonable claim that he or she is a
5 U.S. Citizen, then Federal enforcement training and the Training Course requires an
6 officer to abandon the inquiry because there would be no reasonable suspicion that the
7 person is unlawfully present.

8 35. Fourth, the Training Course adequately reinforces local law enforcement
9 officers of their extensive prior training about the prohibition against racial profiling.

10 36. In all aspects, the Training Course adequately prepares local law
11 enforcement to work with LESC by educating officers about LESC's purpose and by
12 providing the information necessary to contact LESC in order to assist a local law
13 enforcement officer in determining the immigration status of persons who has been
14 arrested.

15 37. I am also aware that some people have suggested that Senate Bill 1070 will
16 prevent illegal aliens who are victims of crimes from seeking the assistance of police
17 officers. This position fails to recognize that Federal immigration law has two separate
18 visa programs that give lawful status to victims of crimes (U-Visa) and to persons who
19 were victims of human trafficking (T-Visa). These two programs provide lawful status to
20 victims of crimes that may have been reticent to coming forward to talk to police. Also,
21 this position fails to recognize that these same concerns, to the extent they exist at all, are
22 already present because Federal agents and 287(g) certified officers' are presently
23 working to enforce Federal immigration laws.

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I declare under penalty of perjury that the foregoing is true and correct.

DATED 7/7/2010

Maricopa County, Arizona.

By 
Neville W. Cramer

11704768.3

EXHIBIT C

DECLARATION OF JESSICA VAUGHAN

I, Jessica Vaughan, declare as follows:

The facts set forth below are of my own personal knowledge and, if called as a witness, I could and would testify competently thereto.

1. I have a Bachelor's degree in international studies from Washington College in Maryland and a master's degree in government from Georgetown University.

2. Between 1987 and 1991, I was a Foreign Service Officer with the U.S. State Department. During that time I was responsible for, among other things, adjudicating immigration benefits and supervising the processing of immigration applications, including various types of immigrant and non-immigrant visas.

3. Thus I have detailed knowledge of U.S. immigration laws and regulations, how immigration benefits are processed, and the different types of status a foreign national could have while in the United States.

4. Since 1992, I have worked for the Center for Immigration Studies, most recently as the Director of Policy Studies. My areas of expertise and research are the administration and implementation of immigration policy, covering topics such as visa programs, immigration benefits, and immigration law enforcement.

5. In recent years I have worked extensively on state and federal interaction with regard to immigration law enforcement, with a special focus on crime and public safety issues and cooperation between state and local law enforcement agencies and Immigration and Customs Enforcement (ICE). I am a nationally-recognized expert on immigration law enforcement issues as they relate to policing and public safety.

6. I was the lead investigator on a Department of Justice-funded project studying the use of immigration law enforcement in criminal street gang suppression. *See Taking Back the Streets: ICE and Local Law Enforcement Target Immigrant Gangs* (Center for Immigration Studies, 2007).

7. I have authored or co-authored numerous other reports and articles on immigration law enforcement and public safety, including *Immigration and Crime: Assessing a Conflicted Issue* (CIS, 2009), *The 287(g) Program: Protecting Home Towns and Homeland* (CIS, 2009).

8. I have given presentations at academic and professional conferences on these topics, including events sponsored by Harvard Law School, the International Latino Gang Investigators Association, ICE, the State Department, and Duke University School of Law.

9. Since 2008 I have been an instructor at Northwestern University's School of Police Staff and Command, a police executive education and training program based at the university's Center for Public Safety. In this capacity I have trained hundreds of law enforcement officers in immigration law and policy and in appropriate and effective ways to interact with ICE.

10. In addition, I am the producer of a series of law enforcement training seminars on immigration issues distributed by LEAPS-TV (Law Enforcement and Public Safety TV), a nationally recognized provider of distance learning programs designed for local law enforcement agencies.

11. I have testified many times before federal and state legislative and investigative bodies on immigration law enforcement issues that affect public safety and homeland security, including: U.S. Senate Judiciary Committee; U.S. House of Representatives Committee on Foreign Affairs, Judiciary Committee, Committee on International Relations, and Committee on Government Reform; Nevada Commission on Homeland Security, Virginia State Crime Commission, Rhode Island General Assembly and Senate, Massachusetts General Court, Colorado Senate and Assembly, Indiana Senate, Pennsylvania House of Representatives, Connecticut Freedom of Information Commission, Vermont Senate, New Hampshire General Court, Board of Commissioners of Cook County, Illinois, and others.

12. In order to keep my training curriculum current, I am regularly in contact with senior ICE managers and field office directors regarding how ICE prefers to interact with state

and local law enforcement. I am also in regular contact with local law enforcement officers around the country regarding their work involving criminal aliens and their interaction with ICE.

13. During my research I have interviewed hundreds of federal agents, sheriffs, state troopers, police detectives and patrol officers, jailers, and other law enforcement personnel about their experiences and the issues that they confront.

14. I have reviewed the declarations of Michael Aytes, Dominick Gentile, and David C. Palmatier. Each of these declarations overstates or exaggerates the impact that Arizona's new law (SB1070) is likely to have on the operations of their agencies. In particular, Messrs. Aytes and Gentile fail to provide proper context as to the potential scope, volume, and likelihood of the types of queries and requests for information that they discuss.

15. Mr. Aytes accurately describes certain limited situations in which a person seeking legal immigration status may not have certain registration documentation. These include women seeking protection under the Violence Against Women Act ("VAWA"), those seeking political asylum, people applying for T or U visas, people eligible for Temporary Protected Status, and those in the Visa Waiver Program.

16. However, Mr. Aytes makes the unwarranted assumption that individuals in the process of applying for these special types of visas will be disadvantaged under SB 1070 because they do not have registration documentation in accordance with 8 C.F.R. § 264.1(b).

17. First, in paragraphs 6, 12, 14, 15, and 18 of his declaration, Mr. Aytes provides nationwide numbers of individuals receiving VAWA protected status, asylum, U and T visas, Temporary Protected Status. While it is impossible to determine exactly how many of these people are present in Arizona, it is likely that the numbers are quite small, both relative to the overall foreign-born population and the population of illegal aliens.

18. Federal and state law enforcement officials that I have spoken to indicate that they rarely confront individuals in these special situations.

19. Using publicly available statistics from the Department of Homeland Security and

the Census Bureau, based on current reports on the foreign born population and immigration benefits-seeking population in Arizona, I estimate that there would be fewer than 10 unregistered VAWA applicants, fewer than 400 unregistered credible asylum seekers, fewer than 15 unregistered T visa applicants, fewer than 200 unregistered U visa seekers, and fewer than 500 new Haitian TPS applicants (all of whom should be registered by January, 2011) present in the state of Arizona this year. Together, this group of individuals would represent no more than about 0.2 percent of the total illegal alien population in Arizona at any given time.

20. Further, Mr. Aytes seems to suggest (without support) that the lack of the specific registration documentation laid out in 8 C.F.R. § 264.1(b) will automatically lead an officer to conclude that the individual is not lawfully present and that they should be detained and/or reported to federal authorities and/or charged with an immigration violation. However, in my experience, it would be highly unlikely that a local (or federal) officer would pursue such action in these cases.

21. As Mr. Aytes acknowledges, the individuals applying for asylum and other programs do have documents that show that they have begun the federal immigration process. It is pure speculation to assume that local law enforcement officers will be unsympathetic to individuals with these documents and unwilling to take them into consideration.

22. Federal agents tell me that they rarely receive enforcement referrals from local officers in these types of cases, and many local officers are trained to recognize them.

23. In fact, Mr. Aytes' agency, United States Citizenship and Immigration Service ("USCIS") has a robust nationwide outreach and training program to educate local officers on the VAWA, U and T visa benefits. It is often the local officers who will help individuals initiate these applications.

24. When faced with an individual who claims to have applied for asylum or other special status, law enforcement officers have several options. They can (1) simply take the person's claims at face value and decline to pursue immigration charges; (2) confirm the individual's claim by querying the LESC, which will be able to verify the person's application;

or (3) ask the person to identify the organization assisting the individual with the visa process, and contact that organization to verify the story.

25. As I read SB 1070, officers can exercise their discretion in making this decision. Moreover, when faced with a person making a claim that she is seeking protection under, for example, VAWA, an officer could reasonably determine that he did not have reasonable suspicion that the person was here illegally, based on the explanation of the VAWA process.

26. As I understand SB 1070, Arizona law enforcement officers ultimately will have to consult with federal officials or other Arizona officers with 287(g) authority in determining an individual's immigration status. And, Arizona peace officers will be relying on these officials to make the final determination of an individual's status.

27. In my experience while conducting research and talking with officers, the determination of whether a person is in the U.S. illegally is often fast and straightforward. Absent a policy not to inquire into immigration status, state law enforcement officers routinely ask people about their immigration status. Officers simply ask an individual about their citizenship, and then whether they have evidence of legal presence. Most often, if people are here illegally, they will admit it at this point.

28. As for Mr. Aytes' statements regarding foreign visitors who enter under the Visa Waiver Program, Mr. Aytes neglects to mention that even after the implementation of the ESTA system, which will eliminate the paper I-94W, there still will be an annotation in the visitor's passport that indicates how long an individual is permitted to be in the country.

29. This annotation, made by a U.S. immigration inspector, gives the date by which a party must depart the United States. Obviously, an officer can quickly evaluate whether the individual is present beyond the printed date. If the visitor claims to have applied to adjust to a different immigration status with a longer duration of stay, that can be easily verified through the inspection of documents, the LESC, or state 287(g) officers.

30. Similarly, in his declaration, Mr. Gentile makes broad and ominous assertions about the difficulty the USCIS would face in responding to records requests from Arizona law

enforcement. While it is reasonable to assume that as a result of Arizona's new law somewhat larger numbers of people will be prosecuted for immigration offenses in Arizona, either by state or federal authorities, it is impossible at this stage to know how much larger these numbers will be.

31. Indeed, federal and state authorities often charge certain crimes, but may not prosecute on those grounds. And, Mr. Gentile makes no attempt to quantify the likely instances in which his agency's assistance would be necessary for these prosecutions, other than to imply that it will be burdensome.

32. Mr. Gentile's declaration focuses on the process by which USCIS provides copies of the paper A-files. I am not able to determine if a copy of the paper A-file would be required for each new immigration prosecution in Arizona. I am told by federal agents that generally copies of records from an alien's paper A-file is necessary only for prosecution of the criminal immigration offense of illegal re-entry after deportation (Section 1326). While the number of these cases has indeed increased dramatically in recent years, these prosecutions are typically handled by ICE, often in collaboration with the U.S. Attorney's office. They currently are a top enforcement priority for ICE, as they often involve individuals who are a threat to public safety, although they represent only about 10 to 15 percent of all immigration prosecutions nationwide.

33. Further, according to my understanding of DHS record-keeping, the paper A-files of individuals who would likely be prosecuted under Sect. 1326 and other serious immigration offenders have been consolidated in one location, which is the LESC in Williston, Vermont. They are not scattered across the country, as is stated by Mr. Gentile.

34. More importantly, most of the illegal aliens who would be apprehended and prosecuted for an immigration offense in Arizona, either by state or federal authorities, would not have an A-file at all, so there would be no assistance required from USCIS whatsoever.

35. A-files are established only for those aliens who have had significant contact with immigration officials, such as applying for an immigration benefit or having been processed for removal. Most illegal aliens do not fall into this category.

36. There would be a record of any routine encounters with Border Patrol, of legal entries through a port of entry, or of non-immigrant visa applications, but these records are maintained in an electronic form, not paper. These records can be accessed through the LESC or directly from immigration databases through several programs managed by DHS, such as US-VISIT or the new Law Enforcement Information Sharing Initiative.

37. Mr. Gentile exaggerates the extent of the difficulty in locating and identifying records in those rare instances in which USCIS assistance would be required. The process he describes might be necessary in some cases, but is far from typical.

38. A large number of the records that would need to be accessed for the prosecution of immigration violations are stored electronically and can be easily accessed through an automated processor even consolidated at the LESC. For example, all of the deported felons files are located at the LESC.

39. As I understand it, in the rare instances in which ICE agents would need hard copies of paper immigration records, they obtain them without hassle from the National Record Center in Missouri, which is operates on a 24/7 basis to effectively serve their needs. I am told by federal agents that their records requests from this facility are often fulfilled within 24 hours and returned by express mail.

40. With respect to Mr. Palmatier's declaration, in general I find it puzzling that he would suggest that the queries from Arizona law enforcement officers that would be generated by the implementation of the new law would be unwelcome and burdensome.

41. It is widely acknowledged that ICE must rely on referrals from local law enforcement agencies to locate and remove criminal aliens and investigate criminal cases involving foreign nationals.

42. As I understand it, federal immigration authorities cannot properly do their jobs without the active participation of local law enforcement, especially today, since ICE is focused nearly exclusively on removing illegal aliens who have committed other crimes. It is the local officer, after all, who would have the first encounter with such an individual, whether through

an arrest, investigation, patrol or traffic stop.

43. In fact, ICE actively solicits cooperation with local law enforcement through a variety of programs and initiatives. Based on my interviews with federal officials, I understand that in certain types of crimes, for example human trafficking, more than 50% of leads are generated by local law enforcement. And, as I understand it, nearly all of the 17,500 criminal street gang members who have been removed by ICE since 2005 were first identified through referrals from local agencies.

44. The LESC was set up for the express purpose of responding to queries from other law enforcement agencies – not just some queries, certain types of queries, a limited number of queries, or only intelligent queries – all legitimate queries. Its mission has never included any language to suggest, and I have never heard any ICE official suggest, that any kind of query from a legitimate law enforcement encounter would be unwelcome, inappropriate or burdensome. In fact several ICE field office managers have told me that in most cases they very much prefer that local agencies in their area of responsibility make the LESC their first point of contact for this purpose.

45. In the recent years, a number of other states have adopted policies similar to Arizona's that require local law enforcement agencies to attempt to determine immigration status as a matter of policy and practice, yet federal officials have registered no public objection.

46. For example, in August 2007, the state of New Jersey implemented a policy that requires law enforcement to check the immigration status of all felony and DUI arrests, and to notify ICE. This is accomplished primarily through LESC queries. Status screening is also allowed in the case of lesser offenders as well.

47. As a result, in the first year the number of LESC inquiries doubled and the number of offenders charged with immigration violations tripled. New Jersey is a populous state and has the nation's fifth-largest population of immigrants, so this had the potential to noticeably increase the workload of the LESC (and other federal immigration enforcement

operations). In this case, ICE embraced the changes and even hired 10 additional ICE removal officers to handle the increased workload.

48. Other large states that have adopted similar policies that have been implemented without apparent undue impact on the ICE and LESC operations include Colorado, Virginia, Georgia, and Oklahoma.

49. Some of Mr. Palmatier's specific points should be addressed. First, he documents the increase in the query traffic at the LESC in recent years.

50. In paragraph 9 he reports that the LESC is on track to handle just over 1 million queries in FY 2010. In paragraph 13, he states that the theoretical capacity is 1.5 million. In paragraphs 15 and 19, he states that Arizona agencies currently submit about 80,000 queries.

51. So, even if the number of queries from Arizona were to double, that would not push the total number of queries close to the limits of the LESC capacity. And, as explored below, there is little reason to assume such a large increase would actually occur.

52. In paragraph 15, Mr. Palmatier states that while Arizona is currently submitting about 80,000 queries to the LESC, it is submitting more than 560,000 to the FBI's CJIS, and seems to suggest that this would approximate the new level of LESC queries, since the new law requires all those arrested to be screened. This logic is not complete.

53. Under ICE's new Secure Communities initiative, in participating jurisdictions, all those booked into county jails are automatically screened against immigration databases as well as the CJIS databases.

54. So far, there are seven Arizona counties participating in Secure Communities: Cochise, Maricopa, Pima, Pinal, Santa Cruz, Yavapai and Yuma. These seven counties account for 90% of Arizona's population.

55. Therefore, the vast majority of all those booked into jail in the state are already automatically and electronically screened for immigration status through interoperability with the CJIS system (apparently in one of LESC's unique queues and not always requiring human attention, as they are done using fingerprint matching), and would not affect other LESC

clients.

56. In addition, the Arizona Department of Corrections, Department of Public Safety, Phoenix Police Department, and Maricopa, Pima, Pinal and Yavapai Counties all have 287(g) authority, giving key officers direct access to immigration databases, and thus eliminating the need to submit queries through the LESC.

57. Mr. Palatier suggests that there might be an increase in the number of LESC queries as more patrol officers seek to determine the immigration status of individuals encountered on traffic stops, the vast majority of which do not result in arrest.

58. However it is important to remember that most traffic stops in Arizona involve U.S. citizens and legal immigrants, and both groups will be able to easily establish lawful status that would not need to be verified with the LESC.

59. Knowing that many Arizona law enforcement officers are already well-trained and experienced in immigration status queries, and thus already using the LESC (which is the preferred method for these status queries, as opposed to calling an ICE duty officer) I find little empirical or logical support for the idea that even adding queries resulting from traffic stops and other non-arrest encounters will produce a sufficient number of new queries to adversely impact LESC operations.

60. Mr. Palmatier suggests that a large number of U.S. citizens will have to be screened through the LESC, and that the LESC will not have a record of these individuals, which will be confusing to local officers and potentially result in the unfair detention of these citizens.

61. However, according to my understanding of the Arizona law, U.S. citizens will be able to establish their status by providing a driver's license or a simple oral declaration, meaning officers would be unlikely to resort to an LESC query.

62. The absence of a national registry to verify claims of U.S. citizens (except for those who have naturalized) has not proven to be an unmanageable obstacle to immigration law enforcement in the past, and Mr. Palmatier provides no explanation for why it would be any

different upon implementation of the new Arizona law.

63. In my view, it is difficult to reconcile ICE's extensively promoted expansion of the Secure Communities program and narrow focus on criminal aliens with opposition to SB 1070. Both have the same goal of increasing the number of illegal aliens who are identified and processed, with an emphasis on removing criminal aliens.

I declare under penalty of perjury that the foregoing is true and correct.

DATED 7/12/10

Norfolk County, Massachusetts.

By Jessica M. Vaughan
Jessica Vaughan

11750803.1

EXHIBIT D

DECLARATION OF JEFFREY S. KIRKHAM

Jeffrey S. Kirkham declares as follows:

1. The facts set forth below are of my own personal knowledge and, if called as a witness, I could and would testify competently thereto.
2. I am the Chief of Police for the City of Nogales, Arizona and oversee a department that has over 80 employees.
3. I was appointed the Chief of Police for the City of Nogales in January of 2010. Before becoming the Chief of the Nogales Police Department, I worked as a law enforcement officer in Arizona for nearly 25 years. The large majority of my career was as an officer in Mesa, Arizona.
4. Nogales is the county seat of Santa Cruz County and is Arizona's largest international border town.
5. Officers in my department participate in Operation "Stonegarden" as a result of a grant from the Department of Homeland Security.
6. As part of Operation "Stonegarden," Nogales police officers regularly partner with U.S. Customs and Border Protection ("Border Patrol") in a joint effort to secure the border between Arizona and Mexico.
7. Nogales police officers have, on multiple occasions, assisted Border Patrol in preventing the smuggling of large amounts of illegal narcotics from entering the United States as a direct result of the partnerships created by Operation "Stonegarden."
8. While the Nogales Police Department is grateful for the federal funds provided from grants like Operation "Stonegarden," the grant language restricts the type of equipment that can be acquired by our department with the grant funds. For example, we can use federal grant funds to obtain binoculars, flashlights and GPS units but cannot obtain laptop communications equipment that would assist in protecting Nogales Police Department officers in the field by allowing our department to use encryption technology

that would prevent persons from monitoring our movements that are broadcast over our current radio system. As a result, anyone with a police scanner purchased at an electronic store can monitor our communications, learn the movements of our officers, count the number of officers currently on duty, and potentially learn confidential information when we communicate with our dispatchers. Obtaining encrypted communications equipment would assist in protecting our officers and our community.

9. Protecting our officers is paramount because we have received threats of violence against our officers from known drug cartels operating out of the Mexican side of the border.

10. Federal grant funds do not allow our department to use the funds for critical needs despite our partnership in programs like "Operation Stonegarden." For example, the Nogales Police Department is in dire need of additional funds to acquire and complete a police facility that meets current safety requirements for law enforcement. The current facility lacks proper fencing and security cameras to protect our employees and police department equipment, lacks a secure parking facility for our sworn officers and employees, and lacks a barrier system that would prevent someone from driving an automobile into our current facilities.

11. Grant funding cannot be used to modernize and improve our ability to store and safeguard evidence that is seized in our efforts to combat the smuggling of large amounts of illegal narcotics. At a minimum, our department could benefit from being able to modernize our current evidence storage by implementing modern access controls, such as electronic "key cards," that monitor who has accessed our evidence storage.

12. As the Chief of Police, I am concerned about the safety of my employees and officers due to these threats and the lack of adequate facilities and equipment. Specifically, I have learned that a known drug cartel that operates from within Mexico and transports narcotics across the border into my jurisdiction has made specific threats to off-duty officers in my jurisdiction.

13. The drug cartel has warned Nogales Police Officers “to look the other way” if they are off-duty and has threatened that they will be targeted by sniper or by other means if they do not.

14. These threats by foreign drug cartels highlight the need for additional law enforcement at the border and are a direct result of the Nogales Police Department’s efforts to assist in securing the Mexico-Arizona border.

15. These threats also highlight the need my department has for proper facilities and equipment, including tools to keep our officers safe, rather than extra binoculars, flashlights and GPS units.

16. As Chief of the Nogales Police Department, I have written a letter to Secretary Janet Napolitano sharing my concerns about the real problems faced by our department as a result of border security issues. To this date, I have not received the resources that my department needs to keep Nogales Police Department employees safe from the increasing violence and threats of violence along the border.

17. I have also unsuccessfully sought grant funding to provide our officers with ballistic panels for our department’s patrol cars.

18. Despite our less than ideal circumstances as it relates to facilities and equipment, Nogales police officers continue to assist ICE and Border Patrol to stop the flow of drugs, the smuggling of humans, and to generally try to secure the Mexico-Arizona border. In fact, in the first six months of the year, Nogales Police Officers have seized in excess of 15,000 pounds of marijuana.

19. Despite our best efforts, our department cannot stop the inflow of drugs, weapons, and human smuggling that occurs along the border near Nogales, Arizona. In my opinion, as the Chief law enforcement officer in Nogales, Arizona, additional security is needed along the border between Mexico and Arizona.

20. Nonetheless, despite the lack of proper facilities and equipment, and in tough budget times, Nogales’ police officers are committed to enforcing the law,

including Senate Bill 1070. I am confident that Nogales Police Department's officers will be adequately trained, prior to Senate Bill 1070's implementation on July 29, 2010, to enforce Senate Bill 1070 in a manner that is consistent with Federal immigration law and without violating the Constitutional rights of any person in our jurisdiction.

I declare under penalty of perjury that the foregoing is true and correct.

DATED July 14, 2010.

Santa Cruz County, Arizona.

By 
Chief Jeffrey S. Kirkham

11692469

EXHIBIT E

DECLARATION OF BRENDAN P. DOHERTY

Brendan P. Doherty declares as follows:

1. The facts set forth below are of my own personal knowledge and, if called as a witness, I could and would testify competently thereto.
2. My name is Colonel Brendan P. Doherty, and since 2007, I have served as the Superintendent of the Rhode Island State Police. In this position, I am the commanding officer of the Division which has statewide law enforcement jurisdiction. As Superintendent, I am also the Commissioner of the Rhode Island Department of Public Safety.
3. The Rhode Island State Police consists of 224 sworn members who are charged with enforcing all motor vehicle and criminal statutes of the General Laws of the State of Rhode Island and to assist city, town, and federal law enforcement agencies.
4. On March 27, 2008, Governor Donald L. Carcieri issued Executive Order 08-01 titled "Illegal Immigration Control Order." A true and accurate copy of Executive Order 08-01 is attached as Exhibit A to this declaration.
5. Executive Order 08-01 includes the following provision: "It is urged that all law enforcement officials, including state and local law enforcement agencies take steps to support the enforcement of federal immigration laws by investigating and determining the immigration status of all non-citizens taken into custody, incarcerated, or under investigation for any crime and notifying federal authorities of all illegal immigrants discovered as a result of such investigations." Executive Order 08-01 at page 3, paragraph 6.
6. As the Superintendent for the Rhode Island State Police, I have directed all sworn members of the Rhode Island State Police to comply with Executive Order 08-01 and, consistent with paragraph 6, to investigate the immigration status of all non-citizens taken into custody, incarcerated, or under investigation for another crime. Additionally, I issued General Order 56A10 to the Rhode Island State Police ordering compliance with Executive Order 08-01. A true and accurate copy of General Order 56A10 is attached as Exhibit B to this declaration.

7. Members of the Rhode Island State Police have been professional in their application of the law and have complied with Executive Order 08-01 in all respects.

8. When a person is taken into custody by the Rhode Island State Police, is under investigation for a violation of the General Laws of the State of Rhode Island, or is lawfully stopped by a sworn member for a motor vehicle violation in this state and the Trooper has reasonable suspicion that the subject is unlawfully present in the U.S., notice is given to the 287(g) certified members of the Rhode Island State Police or, alternatively, contact is made with the ICE Law Enforcement Support Center to assist in determination of their immigration status. The troopers have reported to me that the Law Enforcement Support Center has provided excellent, prompt service to the Rhode Island State Police.

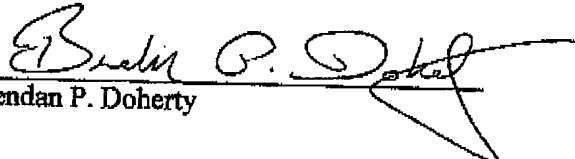
9. If it is determined that a person is unlawfully present in the U.S., the Rhode Island State Police acts at the direction of Immigration and Customs Enforcement to either detain or release the person depending on ICE's enforcement priorities.

10. It has been my experience, and the experience of the 224 sworn officers that I direct, that ICE is appreciative of our referrals to their agency. Further, the Rhode Island State Police takes great pride in assisting ICE and other Federal Law Enforcement agencies in their enforcement priorities.

I declare under penalty of perjury that the foregoing is true and correct.

DATED July 18, 2010.

Providence County, Rhode Island

By 
Brendan P. Doherty

11751333

EXHIBIT A



DEPARTMENT OF STATE
PUBLIC INFORMATION
CENTER

08 MAR 27 PM 2:49

State of Rhode Island and Providence Plantations
State House
Providence, Rhode Island 02903-1196
401-222-2080

JF

Donald L. Carcieri
Governor

EXECUTIVE ORDER

08-01

March 27, 2008

ILLEGAL IMMIGRATION CONTROL ORDER

WHEREAS, most Rhode Islanders and most Americans are descendants of immigrants from all regions of the world and Rhode Island continues to welcome new immigrants who legally seek the opportunities that the state, its economy, and its resources offer; and

WHEREAS, Congress and the President have been unable to resolve the problem of illegal immigration, leaving the states to deal with the consequences of 11 to 20 million illegal immigrants residing in the United States, the number in Rhode Island being between 20,000 and 40,000, more than the population of 32 of Rhode Island's 39 cities and towns; and

WHEREAS, the presence of significant numbers of people illegally residing in the State of Rhode Island creates a burden on the resources of state and local human services, law enforcement agencies, educational institutions and other governmental institutions and diminishes opportunities for citizens and legal immigrants in Rhode Island; and

WHEREAS, in 1996 Congress amended the Immigration and Nationality Act, 8 U.S.C. §1373(c), to allow government entities or officials to send to or receive from the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual and the federal government established the E-Verify program to help employers electronically verify the employment eligibility of new hires and the validity of their Social Security numbers; and

Executive Order 08-01
March 27, 2008
Page 2

WHEREAS, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) added Section 287(g), performance of immigration officer functions by state officers and employees, to the Immigration and Nationality Act (INA), and authorizes the Secretary of the U.S. Department of Homeland Security to enter into agreements with state and local law enforcement agencies, permitting designated officers to perform immigration law enforcement functions pursuant to a Memorandum of Agreement (MOA), provided that the local law enforcement officers received appropriate training and function under the supervision of sworn U.S. Immigration and Customs Enforcement (ICE) officers; and

WHEREAS, law enforcement can more effectively combat criminal activity related to illegal immigration if federal, state and local authorities work on a cooperative basis.

NOW, THEREFORE, I, DONALD L. CARCIERI, by virtue of the authority vested in me as Governor of the State of Rhode Island and Providence Plantations do hereby order as follows:

1. The Department of Administration shall register and use the federal government's E-Verify program to electronically verify the employment eligibility of new hires in the Executive Branch and the validity of their Social Security numbers to ensure that all employees of the Executive Branch are legally eligible to be employed in the United States and take appropriate action against those that are not eligible for employment, consistent with federal and state law. For purposes of this Order, the Executive Branch of government is considered to be all agencies and departments in the Executive Branch, excluding the offices of general officers, said officers being the Department of Attorney General, Lieutenant Governor, Secretary of State, and General Treasurer.
2. The Department of Administration shall require that all persons and businesses, including grantees, contractors and their subcontractors and vendors doing business with the State of Rhode Island also register with and utilize the services of the E-Verify program to ensure compliance with federal and state law.
3. The Directors of each department and state agency in the Executive Branch shall attempt to notify any person whose identity was stolen or otherwise improperly used by any person in order to receive any benefit, including but not limited to child care, health care, any government issued identification card, including driver's license and non-driver's license identification, welfare or employment.

Executive Order 08-01
March 27, 2008
Page 3

4. The Rhode Island State Police, pursuant to the authority set forth in Section 287(g) of IIRAIRA and INA, shall work to secure a MOA with ICE to receive training necessary to enable them to assist ICE personnel in the enforcement of federal immigration laws.
5. The Department of Corrections shall also work with ICE officials to secure an MOA that will define the scope of state correctional personnel authority to perform certain immigration law enforcement functions which shall be subject to the cross-supervision of ICE and permit certain correctional personnel to complete appropriate training and function under the supervision of sworn ICE officers to combat illegal immigration issues at the Adult Correctional Institution, consistent with federal and state law.
6. It is urged that all law enforcement officials, including state and local law enforcement agencies take steps to support the enforcement of federal immigration laws by investigating and determining the immigration status of all non-citizens taken into custody, incarcerated, or under investigation for any crime and notifying federal authorities of all illegal immigrants discovered as a result of such investigations.
7. The Parole Board and the Department of Corrections shall work cooperatively with ICE personnel to provide for the parole and deportation of criminal aliens.
8. Nothing in this Executive Order shall be construed to supersede, contravene or conflict with any federal or state law or regulation or deny a person's rights under the Rhode Island or United States Constitution and to this extent employees of the Executive Branch may act independently of this Executive Order in order to avoid such conflict or violation.

So Ordered:



Donald L. Carcieri

Dated: _____

3/27/08

EXHIBIT B



**Rhode Island State Police
General Order – 56A10**

<i>Section</i>	Law Enforcement Operations – Field Operations
<i>Article</i>	56A – Traffic Enforcement
<i>Title</i>	Illegal Immigration Procedures & Consular Notification
<i>Special Instructions</i>	

I. PURPOSE

The purpose of this General Order is to provide sworn members, in the execution of their duties, with general guidance when coming into contact with persons who are not legal citizens of the United States.

II. DEFINITIONS

UNITED STATES CITIZEN

1. Any person born in the United States or its possession (i.e. Puerto Rico, U.S., Virgin Islands and Guam).
2. Any person born outside of the United States who has been granted U.S. citizenship through the proper judicial channels.
3. Any person born outside of the United States who has derived U.S. citizenship through their parents.

ALIEN

1. Any person in the United States who is not a U.S. Citizen.
2. There are four (4) major classifications of Aliens in the United States:
 - a. Non-Immigrant: Persons admitted to the United States for a temporary period of time for a specific purpose. Examples of non-immigrants are visitors, foreign students, crewman and foreign diplomats.
 - b. Immigrant: Persons admitted to the United States for permanent residence. They may reside and work in the United States for an unlimited time. They must carry their Form I-551; Resident Alien Card or Permanent Resident Card, commonly referred to as a "Green Card."
 - c. Illegal Alien: Includes all persons who are in violation of the immigration laws. A few examples are persons who enter the United States without inspection along the Mexican and Canadian borders and non-immigrants who stay beyond their authorized time period.
 - d. Alien Absconders: Foreign nationals who entered the United States legally, but have since violated the conditions of their visa and who have had a removal, deportation, or exclusion hearing before an immigration judge and are under a final order of deportation and have not left the United States.

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ALIEN REGISTRATION

Under the Immigration and Nationality Act (INA), Alien Registration (Form I-551) must be carried by Foreign National.

DETAINER

A detainer is a notice to another law enforcement entity or penal facility that U.S. Immigration & Customs Enforcement (ICE) has an interest in the subject of such detainer for the purpose of enforcement of the provisions of the Immigration and Nationality Act (INA). A detainer serves as a request for the custodial agency to notify the Service in advance of the release of an alien. It may also serve as a request to hold an alien for a brief period of time until ICE can arrange to assume custody of an alien.

CRIME OF MORAL TURPITUDE

Generally, moral turpitude has been described as anything done to the contrary to justice, honesty, principle, or good morals. Moral turpitude involves crimes against persons and crimes against property, i.e. Murder, Voluntary Manslaughter, Sexual Assault, Indecent Assault, Assault with a Dangerous Weapon, Aggravated Battery, Arson, Shoplifting, Larceny, Forgery, Fraud, etc.

DEPORTABLE OFFENSES

Offenses that ICE can initiate deportation proceedings to include but not limited to: narcotics violations, aggravated felonies, crimes involving moral turpitude and administrative violations (violations of the INA such as entering the U.S. without being inspected, staying beyond authorized period of time, working without authorization, etc.)

LAW ENFORCEMENT SERVICE CENTER (LESC)

A national, single point of contact, law enforcement center that provides timely immigration status and identity information to law enforcement agencies. The LESC provides real-time 365 days a year, 24 hours a day, 7 days a week assistance with information gathered from Department of Homeland Security (DHS) immigration and other databases, the National Crime Information Center (NCIC), the Interstate Identification Index (III) and state criminal history indices.

III. FOREIGN NATIONAL – CRIMES INVESTIGATED BY U.S. IMMIGRATION & CUSTOMS ENFORCEMENT (ICE)

ICE has primary jurisdiction over the following offenses:

1. Alien Smuggling: This involves an organization recruiting and arranging the passage of undocumented aliens into the United States without authorization of ICE.
2. Sale of Counterfeit Documents: In order for illegal aliens to obtain employment, counterfeit "green cards," social security cards and legitimate or valid Puerto Rican birth certificates are sold to third parties.

3. Re-entry after Deportation: After ICE deports an alien, it is against the law to re-enter the U.S. without permission from the U.S. Attorney General. Stiff criminal penalties apply if the alien was convicted of an aggravated felony, was deported and re-enters the United States without permission.
4. Aliens Involved with Weapons: ICE will coordinate with the Bureau of Alcohol, Tobacco and Firearms (ATF) to ensure the alien offender is prosecuted in the U.S. District Court.

IV. POLICY

1.2.9 Division members shall support the enforcement of federal immigration laws by investigating and determining the immigration status of all non-citizens taken into custody or under investigation for any crime and notifying federal authorities of all illegal immigration discovered as a result of such investigations. Division members shall not engage in bias based law enforcement and, therefore, may not be motivated solely by an individual's race, ethnicity, national origin, gender, sexual orientation, religion, economic status, age, cultural group or other identifiable group in selecting which individuals to subject to law enforcement or investigatory activities, or in deciding upon the scope and substance of law enforcement or investigatory activity. No member shall request Form I-551 documentation, commonly referred to as a "green card," from any individual unless preliminary non-biased based inquiry causes said member to reasonably suspect that an arrestee, detainee or subject of an investigation is a non-U.S. citizen.

Nothing in this policy shall preclude consideration of race, ethnicity, national origin, gender, sexual orientation, religion, economic status, age, cultural group, or other identifiable group when it is part of a suspect's description or is otherwise validly related to a Division member's investigation of criminal activity.

V. PROCEDURE

1.2.5 INVESTIGATIONS/CHARGES INVOLVING LEGAL/ILLEGAL ALIENS OR ANY FOREIGN NATIONALS

- A. If through the course of investigating violations and infractions of the Rhode Island General Laws, a Division member has reason to suspect that an arrestee, detainee, or subject of an investigation is in violation of the immigration laws, whether having illegally entered, having stayed beyond their authorized time period, etc. , the member may:
 1. Request that the Telecommunications Unit submit an ICE Alien Query (IAQ) through the NLETS Computer System to the ICE Law Enforcement Support Center (LESC) located in Williston, VT
 - a. The ICE LESC will check their databases and respond via an Immigration Alien Response (IAR) through NLETS back to the requesting telecommunication personnel/terminal. This reply shall be reported to and/or forwarded to the requesting member. (The response time may be 20 minutes or more.)

- b. Any member who requests an IAQ through the Telecommunications Unit will notify their Division supervisor that the query was conducted to ensure that the results are reviewed prior to the release of any arrestee, detainee or subject of an investigation and for further guidance and assistance.
- c. Division members will review the final IAR and ensure that any requests from ICE are reported to ICE Officials.
- d. Division members will document the nature of the facts leading him/her to make the request, the outcome of the query and any follow-up actions that are result of the query (i.e. hold for ICE).

2. Division members may contact ICE for further guidance and assistance.

- B. Division members who come into contact with a suspected non-U.S. citizen, whom the member has probable cause to believe is committing or has committed a criminal offense, may take the appropriate action to effect the arrest of the individual. Once the arrest is made, members are to contact ICE to determine the suspect's immigration status and possible proceedings by ICE.
- C. No Division member shall contact ICE without prior authorization from a Division supervisor or Officer-In-Charge (OIC).
- D. The Division member shall, based on a reasonable suspicion that an arrestee, detainee, or subject of an investigation is a non-U.S. citizen, notify ICE. Although each case will be handled based on its own merit, the ICE duty agent may respond in the following manner:
 1. Respond to the scene or to the barracks in a reasonable time period.
 2. Request information so the matter can be investigated at a later time.
 3. Request the subject be held while they prepare a detainer:
 - a. The ICE duty agent will prepare the detainer and fax a copy to the barracks within reasonable time.
 - b. Request that the subject be given a Form G-56 (Call-In Letter) requesting a follow-up appointment. The ICE duty agent will prepare and fax said Form to the barracks within a reasonable time. The Division member will hand the Form G-56 to the subject and document the time it was presented on the incident/arrest report.
- E. All contacts of suspicious non-U.S. citizens should result in the completion of a Division incident report identifying the suspicious persons, their addresses, places of employment, telephone numbers and all other pertinent information that can be forwarded to ICE.
- 1.1.4 F. CONSULAR NOTIFICATION: When a foreign national is arrested or detained, sworn members shall inquire as to their country of origin to determine whether consulate notification is mandatory. Detained foreign nationals are

entitled to communicate with their consular officers. Foreign consular officers must be given access to their nationals and permitted to communicate with them. Such officers have the right to visit their nationals, to converse and correspond with them, and to arrange for their legal representation; however, consular officers may not act as attorneys for their nationals.

1. Mandatory Notification: If a detainee or arrestee is a foreign national of a mandatory notification country (See Exhibit 1), the Division Patrol Commander or Unit Commander shall notify, as soon as practicable, the nearest consular official of the arrest/detention. Division members must inform the foreign national of this notification. Division members must document or record their actions taken and the details of the notification.
 - a. Division members must inform the arrestee or detainee that notification is being made as follows: "Because of your nationality, we are required to notify your country's consular representatives here in the United States that you have been arrested or detained. After your consular officials are notified, they may call or visit you. You are not required to accept their assistance, but they may be able to help you obtain legal counsel and may contact your family and visit you in detention, among other things. We will notify your country's consular officials as soon as possible."
 - b. Privacy concerns or the possibility that a foreign national may have a legitimate fear of persecution or other mistreatment by his/her government may exist. The notification requirement should still be honored, but it is possible to take precautions regarding the disclosure of information. For example, it may not be necessary to disclose information about why a foreign national is detained. Moreover, *under no circumstances should any information indicating that a foreign national may have applied for asylum in the United States or elsewhere be disclosed to that person's government.* The Department of State can provide more specific guidance in particular cases if necessary.
2. Non-Mandatory Notification: If a detainee or arrestee is a foreign national from a country that is not listed as a mandatory notification country (See Exhibit 1), Division members shall, without delay, offer to notify the foreign national's consular official of their arrest or detention. If the foreign national requests notification, the Division Patrol Commander or Unit Commander shall notify the nearest consular official of the foreign national's country within a reasonable amount of time.
 - a. The right to consulate notification must be read as follows: "As a non-U.S. citizen who is being arrested or detained, you are entitled to have us notify your country's consular representatives here in the United States. A consular official from your country may be able to help you obtain legal counsel and may contact your family and visit you in detention, among other things. If you want us to notify your country's consular officials,

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you can request this notification now, or at any time in the future. After your consular officials are notified, they may call or visit you. Do you want us to notify your country's consular officials?"

- b. If the arrestee or detainee refuses consulate notification, the Division member will indicate such refusal upon the appropriate form or Division paperwork.
 - c. If an arrestee or detainee requests notification, the Division Patrol Commander or Unit Commander shall fax a Consular Notification Form to the appropriate consulate, without delay in order to satisfy the notification requirement. When available, a fax sent receipt should be maintained with any arrest package or Division paperwork.
3. The Division Patrol Commander/Unit Commander shall enter all notification information into the "Consular Notification Log", located in the Supervisor Central Files (W:) Drive, which shall be maintained and reviewed by the Detective Commander/Rhode Island Liaison for the Consular Notification Program.
 4. For more guidance, questions regarding Consular Notification should be directed to the Detective Commander/Rhode Island Liaison for the Consular Notification Program.

VICTIMS/WITNESSES SUSPECTED OF BEING AN ILLEGAL ALIEN

- G. When a Division member has reason to believe that a witness or victim of crime, especially relating to domestic violence, is suspected of being an illegal alien, the member will ensure normal investigative procedures are followed. A person's residency status shall not be reason to not pursue a complaint or complete an investigation. In those instances when a victim's and/or witness's citizenship is in question, the investigating member shall contact ICE Officials for feasibility in possibly securing potential temporary non-immigrant status pursuant to applicable federal laws and statutory provisions.

VI. U.S. IMMIGRATION & CUSTOMS ENFORCEMENT ADDRESS & CONTACT NUMBERS

- A. Rhode Island Address: 200 Dyer Street, Providence, RI 02903
- B. Telephone Numbers:
 1. Normal Business Hours: Providence Field Office – (401) 528-5543.
 2. Duty Phone: 24-hour number for matters that require immediate attention, the Providence ICE Resident-Agent-In-Charge can be reached at 1-800-X-SECTOR. Contact this number and request to speak to the ICE Providence Duty Agent and you will be connected directly to said agent.

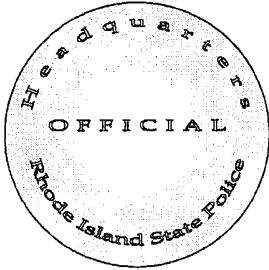
VII. CONSULATE CONTACT NUMBERS

- A. Assistant Legal Advisor for Consular Affairs L/CA, Room 5527A, U.S. Department of State, Washington, D.C. 20520 – Telephone: 202-647-4415, Facsimile: 202-736-7559.
- B. Urgent “After Hours” inquiries may be directed to: 202-647-1512 (State Department Operations Center).

VIII. PROVISIONS

- A. Each Barracks/Unit will be provided with Consular Notification and Access Reference Cards: Instructions for Arrests/Detentions of Foreign Nationals.
- B. Each Barracks/Unit shall maintain readily available to members a list of Mandatory Notification Countries (See Exhibit 1). Members can also access said information by going to www.travel.state.gov; click on the “Law and Policy” tab, click on “Consular Notification and Access,” then click on “Mandatory Notification Countries and Jurisdictions” for a list of mandatory countries.
- C. Members can access Consular Office/Embassy phone number list by going to: www.travel.state.gov; click on the “Law and Policy” tab, then click on “Consular Notification and Access,” scroll down to and click on “Contact Information for Foreign Consular Officers in the U.S.” for the appropriate/most currently available contact number(s).
- D. Members shall adhere to the procedures set forth in General Order 55D “*Managing Communication Barriers*” in their communications and/or interactions with Limited English Proficient (LEP) individuals when a language barrier exists.
- E. For the purposes of this General Order, nothing shall be construed to supersede, contravene or conflict with any federal or state law or regulation or deny a person’s rights under the Rhode Island or United States Constitution and to these extent members may act independently of this General Order in order to avoid such conflict or violation.
- F. This policy shall be construed in accordance with the “Racial Profiling Prevention Act of 2004” of the Rhode Island General Laws, Title 31, Chapter 21.2, which prohibits Division members from engaging in “racial profiling,” being defined as “*the detention, interdiction or other disparate treatment of an individual on the basis, in whole or in part, of the racial or ethnic status of such individual, except when such status is used in combination with other identifying factors seeking to apprehend a specific suspect whose racial or ethnic status is part of the description of the suspect, which description is timely and reliable.*” (31-21.2-3)
- G. This policy shall be construed in accordance with Executive Order 08-01: “Illegal Immigration Control Order” dated March 27, 2008.

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By Order of Colonel Doherty

A handwritten signature in black ink, appearing to read 'Brendan P. Doherty'. The signature is fluid and cursive, written over the printed name.

Brendan P. Doherty
Colonel
Superintendent

Exhibit 1

Mandatory Notification Countries

Algeria	Malta
Antigua & Barbuda	Mauritius
Armenia	Moldova
Azerbaijan	Mongolia
Bahamas, The	Nigeria
Barbados	Philippines
Belarus	Poland (non-permanent residents only)
Belize	Romania
Brunei	Russia
Bulgaria	Saint Kitts and Nevis
China ¹	Saint Lucia
Costa Rica	Saint Vincent/Grenadines
Cyprus	Seychelles
Czech Republic	Sierra Leone
Dominica	Signapore
Fiji	Slovakia
Gambia, The	Tajikistan
Georgia	Tanzania
Ghana	Tonga
Grenada	Trinidad and Tobago
Guyana	Tunisia
Hong Kong ²	Turkmenistan
Hungary	Tuvalu
Jamaica	Ukraine
Kazakhstan	United Kingdom ³
Kiribat	U.S.S.R. ⁴
Kuwait	Uzbekistan
Kyrgyzstan	Zambia
Malaysia	Zimbabwe

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¹Notification is not mandatory in the case of persons who carry "Republic of China" passports issued by Taiwan. Such persons should be informed without delay that the nearest office of the Taipei Economic and Cultural Representative Office ("TECRO"), the unofficial entity representing Taiwan's interests in the United States, can be notified at their request

²Hong Kong reverted to Chinese sovereignty on July 1, 1997, and is now officially referred to as the Hong Kong Special Administrative Region, or "SAR". Under paragraph 3(f)(2) of the March 25, 1997, U.S. - China Agreement on the Maintenance of the U.S. Consulate General in Hong Kong Special Administrative Region, U.S. officials are required to notify Chinese officials of the arrest or detention of bearers of Hong Kong passports in the same manner as is required for bearers of Chinese passports - - i.e. immediately, and in any event within four days of the arrest or detention.

³United Kingdom includes England, Scotland, Wales, Northern Ireland and Islands and the British dependencies of Anguilla, British Virgin Islands, Bermuda, Montserrat, and the Turks and Caicos Islands. Their residents carry British passports.

⁴Although the U.S.S.R. no longer exists, some nationals of its successor states may still be traveling on its passports. Mandatory notification should be given to consular offices for all nationals of such states, including those traveling on old U.S.S.R. passports. The successor states are listed separately above.

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EXHIBIT F

Snell & Wilmer
LLP
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10 Fax: (602) 542-7602
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11 *Attorneys for Intervenor Defendants Janice K. Brewer,*
12 *Governor of the State of Arizona, and the State of*
13 *Arizona*

14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE DISTRICT OF ARIZONA**

16 Friendly House, et al.

17 Plaintiffs,

18 v.

19 Michael B. Whiting, Apache County
Attorney, in his official capacity, et al.,

20 Defendants,

21 and

22 Janice K. Brewer, Governor of the State
of Arizona, in her official capacity; and
23 the State of Arizona,

24 Intervenor Defendants.

No. CV-10-1061-PHX-SRB

**DECLARATION OF JOSE
VASQUEZ**

25
26 Jose Vasquez declares as follows:

27 1. The facts set forth below are of my own personal knowledge and, if called
28 as a witness, I could and would testify competently thereto.

1 2. Since 1986, I have worked as a police officer. I am currently employed as a
2 police officer by the Gila River Police Department which serves the Gila River Indian
3 Community which is located south of Phoenix, Arizona.

4 3. I am certified by AzPOST and have completed all continuing education
5 requirements to maintain my AzPOST certification for the last 24 years.

6 4. My AzPOST certification included specific training on the reasonable
7 suspicion and probable cause standards. Based on my training, I understand that these
8 standards set forth the constitutional limitations on an officer's ability to stop, detain, or
9 arrest a person the officer believes may have engaged in or is engaging in unlawful
10 activity.

11 5. My AzPOST certification also included training relating to cultural
12 awareness, racial profiling, and ethical standards for law enforcement professionals. I
13 have received substantial additional training about cultural awareness and racial profiling
14 from my department.

15 6. I attend formal continuing education classes each year to maintain my
16 AzPOST certification and to keep current on law enforcement practices. Also, it has been
17 my experience that police officers learn about changes to the law or proper enforcement of
18 a new law during daily briefing sessions that occur prior to each shift.

19 7. In becoming a police officer, I took an oath of office. The oath of office I
20 took is important to me and in so doing I agreed to protect the citizens in my community
21 without regard to race or religion. I also took an oath to uphold the Constitution.

22 8. I have read Senate Bill 1070 and the related amendments and am familiar
23 with the changes to Arizona law that will become effective on July 29, 2010.

24 9. I do not understand SB 1070 to authorize racial profiling or to permit me to
25 violate any person's constitutional rights.

26 10. I further understand that SB 1070 permits me to exercise some discretion as
27 to when an investigation into a person's immigration status may be appropriate. I also
28 understand that SB 1070 does not authorize investigations into the immigration status of

1 victims or witnesses.

2 11. I am currently assigned to a traffic unit. In this role, I patrol highways,
3 enforce traffic laws, enforce laws relating to driving under the influence, and assist people
4 who experience problems while on the roadway. On a very slow day, I will stop as few as
5 seven vehicles. On a busy day, which I prefer, I will stop as many as 30 vehicles.

6 12. Prior to any stop, I must have reasonable suspicion or probable cause that a
7 person is engaging in or has engaged in unlawful activity. I must have reasonable
8 suspicion or probable cause before pulling a vehicle to the side of the roadway. Thus, I
9 make a determination of reasonable suspicion or probable cause many times each
10 workday.

11 13. After making a stop, I have to rely upon my training and experience to
12 determine whether reasonable suspicion exists to conduct further investigation to
13 determine whether a suspect is engaging in or has engaged in unlawful activity.

14 14. Based on my 24 years of experience as a police officer, I believe that police
15 officers on patrol or those police officers who investigate crimes apply the reasonable
16 suspicion or probable cause standards on a regular basis.

17 15. I am also required to make regular determinations relating to the
18 reasonableness of a stop or the reasonableness of a detention under the Fourth
19 Amendment.

20 16. Race and ethnicity are not a basis for a determination of reasonable
21 suspicion or probable cause. In fact, the only instance in which I can use race or ethnicity
22 as indicia of reasonable suspicion or probable cause is when a witness identifies the race
23 of a particular suspect.

24 17. In my 24 years as a police officer, I have never witnessed another officer
25 engage in racial profiling or use race or ethnicity as indicia of reasonable suspicion or
26 probable cause.

27 18. When I stop someone based upon probable cause that a person is engaging
28 in or has engaged in unlawful activity, the first question I ask the driver or suspect is

1 whether they have identification.

2 19. Determining the identity of the person I have stopped is important for my
3 safety and for the safety of the community I serve. Once I have a person's identity, I will
4 enter the name in the computer in my police cruiser or call dispatch to determine if the
5 person I have stopped has any outstanding warrants.

6 20. In the vast majority of the stops, the driver or suspect produces an Arizona
7 driver's license as identification. I understand that, according to SB 1070, someone who
8 has a valid Arizona driver's license or Arizona identification card is presumed to be
9 lawfully present in the United States. In these circumstances, my inquiry into the person's
10 immigration status would end.

11 21. I also understand that a tribal member identification card creates a
12 presumption of lawful presence.

13 22. On occasion, a driver or suspect provides me with a driver's license issued
14 in Mexico as identification. On some occasions, the driver does not provide any form of
15 identification. When the driver provides me with a driver's license issued in Mexico, I
16 ask the driver how long they have been in Arizona. In my experience, drivers or suspects
17 that have presented me with a Mexican driver's license tell me how long they have lived
18 in Arizona. When the time period is substantial, I will ask the driver or suspect why they
19 have not followed Arizona law and obtained an Arizona driver's license. In many cases,
20 the driver or suspect responds by telling me that they are unable to obtain an Arizona
21 driver's license because they do not have proper documentation. At that point, I will ask
22 the driver if they are unlawfully present, and, in my experience, drivers and suspects often
23 answer in the affirmative. When a driver or suspect does not present identification, it has
24 been my experience that those persons who are unlawfully present in the United States
25 often explain their unlawful status as the explanation for not having a valid driver's
26 license.

27 23. Once a driver admits to being unlawfully present in Arizona, my practice is
28 to call my dispatcher who in turn contacts Border Patrol. I am aware that some officers

1 call Border Patrol or ICE directly on their cell phone. On various occasions Border Patrol
2 officers have advised me to detain a suspect until they could arrive to make a
3 determination as to the suspect's immigration status.

4 24. At other times, ICE and Border Patrol have requested that I transfer custody
5 of persons unlawfully present to their custody.

6 25. In my experience, ICE and Border Patrol have promptly responded to my
7 calls and have been appreciative of my assistance. I have talked with other officers who
8 have shared their similar positive experiences with ICE and Border Patrol with me.

9 26. After reading Senate Bill 1070 and learning about the changes to Arizona
10 law, I am confident that I can receive sufficient training to enforce Senate Bill 1070 in a
11 short period of time.

12 27. Because I am already trained in making reasonable suspicion and probable
13 cause determinations and because I have been trained to avoid racial profiling or the use
14 of race or ethnicity as indicia of reasonable suspicion or probable cause, limited training
15 about the documents that provide a presumption of lawful presence and training about the
16 elements of the crimes identified in the Arizona statutes will adequately prepare me to
17 enforce SB 1070.

18 28. Under the new law, I will continue to rely upon ICE and Border Patrol
19 officers to make final determinations of a person's immigration status when required.

20 29. Also, when I make a custodial arrest for a state or federal law crime, I
21 follow department policy and transport the suspect to one of two jail facilities depending
22 on whether the suspect is a tribal member or not a tribal member. If the suspect is a tribal
23 member, the tribe's sovereign law requires me to transport the suspect to the tribal jail. If
24 the suspect is not a tribal member, then I transport the suspect to the Madison Street jail in
25 Phoenix, Arizona where the jail determines the immigration status of all suspects booked
26 into the jail.

27 30. In my experience, utilizing ICE and Border Patrol to make a determination
28 about a person's immigration status will not result in a significant increase in the amount

1 of time needed to detain a person arrested for a state or federal law crime. Also, ICE and
2 Border Patrol are available to assist in determining someone's immigration status at all
3 times because they work 24 hours a day 365 days a year.


4 I declare under penalty of perjury that the foregoing is true and correct.

5 DATED 7-7-10

6 Maricopa County, Arizona.

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By 
Officer Jose Vasquez

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EXHIBIT G

DECLARATION OF BRANDON L. JUDD

I, Brandon L. Judd, declare as follows:

1. The facts set forth below are of my own personal knowledge and, if called as a witness, I could and would testify competently thereto.
2. Since 1997, I have been employed as a Border Patrol Agent with the United States Border Patrol.
3. During my almost thirteen years of employment with the Border Patrol, I have served as a canine agent, field training officer, detailed intelligence officer, post-academy instructor, Spanish academy instructor at the Federal Law Enforcement Training Center, and twice filled in as the temporary supervisor for the Border Patrol's Naco Station. In 2001, I was elected President of National Border Patrol Council Local 2554 in El Centro, California, and I have also served as the executive Vice President of National Border Patrol Council Local 2544 in Tucson, Arizona.
4. Currently, I am the President of National Border Patrol Council Local 2544, which covers the Tucson, Arizona Border Patrol Sector. On the national level, I am Vice President at large of the National Border Patrol Council.
5. As a Border Patrol agent, I conduct field work from the Wilcox, Arizona Border Patrol Station. In this role, I patrol the highways and desert near the United States Border with Mexico for the purpose of enforcing federal immigration laws by stopping, questioning and detaining individuals I reasonably suspect are unlawfully entering or unlawfully present in the United States.
6. Prior to any stop, I must have reasonable suspicion based upon articulable facts that an individual has either unlawfully entered or is unlawfully present in the United States, or that a vehicle is transporting individuals that have either unlawfully entered or are unlawfully present in the United States.

7. When making a stop, I approach the vehicle or pedestrian and conduct a field interview. During the field interview, I identify myself as a Border Patrol Agent, ask to see identification, and typically ask where the individual was born and the name of his or her country of citizenship. Once the individual has established his or her lawful presence in the United States, the stop ends.

8. In the vast majority of the stops, the individual involved attempts to establish his or her lawful presence in the United States by showing a valid document that allows me to verify, through the Border Patrol Dispatch, that the individual is indeed lawfully present in the United States. For non-United States citizens these documents typically include an I-551 Permanent Resident Card or an I-688B/I-766 Employment Authorization Card. Pictures of these cards, as well as other valid forms of identification may be found in Form M-396, The Customs and Border Protection's booklet, "A Guide to Selected U.S. Travel and Identity Documents."

9. When handed one of these cards, I contact the Border Patrol Dispatch with the alien registration number, or "A" number, listed on the card to verify an individual's lawful presence in the United States. The "A" number is similar to a social security number, specific to an individual and used on all alien registration documents to identify the specific individual to whom that number was issued.

10. In my experience as a Border Patrol Agent, and based upon my conversations with other Border Patrol Agents, documents with an "A" number allow agents to easily verify a person's lawful presence in the United States. When a person provides a Border Patrol Agent with an "A" number that person's immigration status can be verified immediately, typically in less than ten minutes. It is my belief that local law enforcement and Border Patrol Agents are familiar with and can readily identify alien registration numbers and can use these numbers

to quickly identify whether an individual is lawfully present in the United States.

11. When making stops in the field, I generally encounter at least one individual per day who has misplaced or is not carrying his or her permanent resident card. In those situations, the individual frequently has his or her "A" number memorized. If so, I call the Border Patrol Dispatch with the number and I am then able to obtain additional facts, such as the card holder's birth date and country of citizenship, that allow me to verify whether the individual is indeed the lawful holder of a Permanent Resident Card and lawfully present in the United States.

12. Based upon my experience as a Border Patrol Agent, I further understand that a lawful permanent resident may obtain a duplicate card if he or she loses the original document.

13. In some instances, individuals that I have stopped will hand me a passport for verification of lawful presence in the United States. In such instances, I look at the visas and then request that the Border Patrol Dispatch verify the individual's lawful presence using his or her name and date of birth. In my experience, this process occurs almost immediately, but typically takes no longer than ten minutes.

14. In other instances, I have stopped individuals that do not have an alien registration card, passport, visa or other valid evidence of registration. Nevertheless, because individuals that are lawfully present in the United States are documented as part of the immigration process, I am able to verify their immigration status, including any pending immigration applications, by contacting the Border Patrol Dispatch with the individual's name and date of birth. If, based upon the information provided by the Border Patrol Dispatch, I am able to determine that the individual is lawfully present in the United States then my inquiry ends.

15. In my nearly 13 years of experience as a Border Patrol Agent, no one I have stopped has claimed that he or she was validly present in the United States pursuant to the Violence Against Women Act, an application for asylum, a “T” or “U” visa, an application for temporary protected status, or the Visa Waiver Program. Nor has the Border Patrol Dispatch ever responded to any of my immigration status checks by indicating that an individual was lawfully present pursuant to one of the aforementioned programs or visas.

16. In my experience as a Border Patrol Agent, and based upon my conversations with other Border Patrol Agents, every time an agent contacts the Border Patrol Dispatch to verify the immigration status of an individual, the agent also requests that the Border Patrol Dispatch run an inquiry for any warrants and warrants that have been issued, as well as an inquiry into the individual’s criminal history. These inquiries are run simultaneous to the immigration inquiry, and are processed immediately, typically taking less than ten minutes.

17. As a Border Patrol Agent, while patrolling the desert in Southern Arizona, I have encountered large amounts of debris deposited by individuals unlawfully present in the United States. The debris fields, or “layup areas,” contain, among other things, backpacks, clothing, water bottles, food, food wrappers, cans, and in some instances, pornographic magazines and drug paraphernalia (e.g., syringes, pipes, etc.). In my experience, I have found evidence of these “layup areas” more than 15 miles away from the Border. Based upon my conversations with other Border Patrol Agents, I also understand that these same types of materials, as well as deceased individuals, have been found near interior Border Patrol stations, in some instances 70-80 air miles away from the Border.

18. Based upon my observations and my unique experience of travelling to each station within the Tucson Sector as Executive Vice-President and President of National Border Patrol Council Local 2544, and in speaking with

various Border Patrol Agents and upper management, I conclude that the hiring policies in the mid-1990's in El Paso, Texas and San Diego, California have contributed significantly to the resource issues that make Arizona a particularly vibrant smuggling and immigration pathway. The hiring practices in San Diego and El Paso resulted in the placement of multiple agents along these border areas to deter immigrants from unlawfully crossing into the United States in those States. The purpose of these placements was to make it more difficult for immigrants to unlawfully enter the United States near major cities, instead forcing illegal immigrants to consider the less likely route of crossing into the United States through Arizona's inhospitable desert terrain. Based upon my experience as a Border Patrol Agent, this policy has merely served to push large amounts of illegal immigration across the Border through the Arizona corridor.

19. Also in my experience as a Border Patrol Agent and in the course of my immigration enforcement responsibilities, I have encountered individuals legally in the United States with active arrest warrants. I have been informed of other Agents who have performed vehicle stops and determined either the driver or passengers to be in the United States legally but who also had arrest warrants. In those instances, I and the other agents detained the individuals for local law enforcement to make a proper disposition.

20. Based upon my conversations with Border Patrol Agents, and on my own experience as a Border Patrol Agent, Border Patrol Agents are fully capable of working with and responding to local law enforcement in connection with Senate Bill 1070.

21. In my own experience and in my role representing agents throughout the Tucson Sector, I have found that Border Patrol Agents want and need the assistance of local law enforcement officers to assist the Border Patrol's efforts in enforcing Federal Immigration laws.

22. Based upon my experience as a Border Patrol Agent, local law enforcement officers are not determining whether an individual is lawfully present in the United States, but are instead serving the valuable purpose of notifying the Border Patrol of individuals suspected to be unlawfully present in the U.S. As a result of the coordination with, and with the assistance of local law enforcement, the Border Patrol's immigration efforts are more efficient.

I declare under penalty of perjury that the foregoing is true and correct.

DATED July 20, 2010

Pima County, Arizona.


By 
Brandon L. Judd

EXHIBIT H

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11 *Attorneys for Intervenor Defendants Janice K. Brewer,*
12 *Governor of the State of Arizona, and the State of*
13 *Arizona*

14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE DISTRICT OF ARIZONA**

16 Friendly House, et al.

17 Plaintiffs,

18 v.

19 Michael B. Whiting, Apache County
Attorney, in his official capacity, et al.,

20 Defendants,

21 and

22 Janice K. Brewer, Governor of the State
23 of Arizona, in her official capacity; and
the State of Arizona,

24 Intervenor Defendants.
25

No. CV-10-1061-PHX-SRB

**DECLARATION OF NATE
GAFVERT**

DECLARATION OF NATE GAFVERT

I, Nate Gafvert, declare as follows:

1. The facts set forth below are of my own personal knowledge and, if called as a witness, I could and would testify competently thereto.

2. Since 2000, I have been employed by the Mesa Police Department as a patrol officer and Street Crimes Detective.

3. From July 2008 to September 2009, I served as Vice-President of the Mesa Police Association. Currently, I serve as the Mesa Police Association's Grievance Chairman.

4. I graduated from AzPOST in 2000. While attending AzPOST I received training on, among other things, reasonable suspicion, probable cause, racial profiling and enforcement of the Constitution and Arizona statutes. I also participate in quarterly firearms certification and training, and receive yearly updates on changes to the Arizona Revised Statutes. My training has also included advanced investigation tactics, interview and interrogation policies, narcotics enforcement, as well as auto-theft and gang interdiction.

5. I have taken an oath to uphold the United States Constitution, Arizona Constitution, and State laws. I continue to abide by that oath in my daily work.

6. Every year over the course of my ten years of service with the Mesa Police Department, I have completed and exceeded the annual continuing education requirements necessary to maintain my AzPOST certification.

7. I have also received racial profiling training throughout my career, have never racially profiled anyone, and would not tolerate racial profiling by any officers I work with in the Mesa Police Department.

8. I have been briefed on Senate Bill 1070 by the President of the Mesa Police Association.

9. It is my understanding that Senate Bill 1070 is similar to the current policy employed by the City of Mesa, since the passage of Proposition 100. Under the City of

1 Mesa's current policy, victims and witnesses of crimes are not asked for proof of their
2 immigration status. However, individuals arrested for a separate criminal violation and
3 transported to the Mesa City Jail will receive a medical questionnaire and be asked
4 whether they are lawfully present in the United States by a 287(g) certified officer. If an
5 individual is booked on a misdemeanor and indicates that he or she is not lawfully present
6 in the United States, the 287(g) officer for the City of Mesa will proceed to verify that
7 person's immigration status.

8 10. Individuals booked on felonies have their immigration status determined by
9 the 287(g) officer at the Maricopa County 4th Avenue Jail.

10 11. In my experience, the 287(g) verification process takes very little time, and I
11 cannot recall an instance when it took more than ten minutes.

12 12. I further understand that under Senate Bill 1070, I will be authorized to
13 inquire into the immigration status of an individual if I have stopped, detained or arrested
14 that person for a separate criminal offense and have reasonable suspicion to believe that
15 he or she is an alien unlawfully present in the United States.

16 13. I understand that Senate Bill 1070 does not authorize police officers to
17 racially profile or violate an individual's constitutional rights, which is something that the
18 City of Mesa and the Mesa Police Department have not tolerated in the past. In my
19 experience as a City of Mesa patrol officer, I have no reason to believe that racial
20 profiling will be used or tolerated after Senate Bill 1070 becomes effective.

21 14. I also understand that Senate Bill 1070 affords me discretion when seeking
22 to determine the immigration status of an individual whom I reasonably suspect is in the
23 United States unlawfully after I have stopped that individual based upon reasonable
24 suspicion that he or she is involved in a separate offense. This discretion allows me to
25 prioritize law enforcement activities when it would not be prudent (or practicable) for me
26 to further investigate that an individual is unlawfully present in the U.S.

27 15. During my daily work as a patrol officer I use probable cause in conducting
28 vehicle stops and reasonable suspicion to investigate criminal activity. I am well versed

1 in both of these standards, and employ them without racially profiling.

2 16. When I make a stop, I approach the driver and ask if he or she has any
3 weapons in the vehicle. I then ask whether the individual knows why I stopped him or her
4 and request his or her driver's license or identification.

5 17. The purpose of asking these questions is to maintain my safety and the
6 safety of the public, as well as to find out additional information about the individual I
7 have stopped, including whether that individual has a warrant out for his or her arrest.

8 18. In the vast majority of these stops, individuals provide me with a valid
9 Arizona driver's license for purposes of identification.

10 19. In other instances, however, the individual does not have a physical form of
11 identification or provide identification that does not comply with A.R.S. § 28-1595(B),
12 such as a voter registration card, or I have reasonable suspicion to believe that the
13 document provided is falsified. In such situations, if I cannot determine the individual's
14 identity from information available to me from my patrol car computer, I will take that
15 individual into custody and have them fingerprinted.

16 20. It is also my understanding that, under Senate Bill 1070, presenting a valid
17 Arizona driver's license or a driver's license from a jurisdiction that requires proof of
18 lawful presence in the United States before issuing a driver's license creates a
19 presumption that the individual is lawfully present in the United States.

20 21. Based upon my experience as a patrol officer, an individual that is only able
21 to provide a driver's license from a jurisdiction that does not require proof of lawful
22 presence before issuing a license does not in and of itself create a reasonable suspicion
23 that the individual is unlawfully present in the United States. In fact, a driver's license,
24 even from such a jurisdiction, will likely reduce or eliminate any reasonable suspicion of
25 unlawful presence, as I will be able to run the driver's license through my patrol car
26 computer to learn more information about the individual.

27 ///

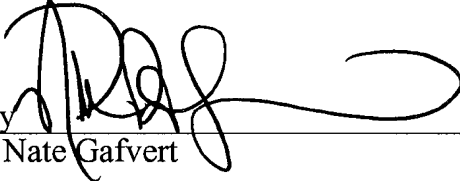
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I declare under penalty of perjury that the foregoing is true and correct.

DATED 07-08-2010

Maricopa County, Arizona.

By 
Nate Gafvert

11712480

Snell & Wilmer

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EXHIBIT I

DECLARATION OF MARGIE A. EMMERMANN

I, Margie A. Emmermann, declare as follows:

The facts set forth below are of my own personal knowledge and, if called as a witness, I could and would testify competently thereto.

1. I am the Policy Advisor for Mexico and Latin America and the Executive Director of Arizona-Mexico Commission. I work in the Office of the Governor.

2. I am the former Director of Arizona Tourism and previously served as Mexico policy advisor for two other Arizona Governors.

3. As part of my job responsibilities, I routinely meet with Mexican officials on a number of matters related to joint projects between Mexico and Arizona.

4. Since Arizona passed SB 1070, I have continued to work closely with my Mexican counterparts on a variety of issues. I have participated in several meetings with Mexican officials on various subjects.

5. I continue to be involved in cross border projects. For example, on May 24, I attended a special meeting to discuss the Punta Colonet project—a major new seaport being proposed by the Mexican government—in Baja California, Mexico. During the meeting, we discussed the location for the point of crossing at the international boundary for the new railroad that is to be constructed in support of this project.

6. I attended a meeting on May 27 regarding the State of Sonora Mexico's advertising campaign that had received much negative publicity and I assisted with trying to help Sonora re-asses its strategy.

7. The Arizona state agencies are staffing a number of committees for the 2010 Border Governors Conference. Those committees have been working for 10 months on issues involving transportation, the environment, tourism, water, wildlife, etc. The committee work of the Border Governor's Conference is on-going and the committee chairs continue to work with their counterparts in Mexico and the other border states to complete the work and to prepare for

an upcoming transition of leadership.

8. Although Governor Brewer cancelled the Border Governor's Conference due to Mexico's planned boycott, Arizona and various border state officials have continued to participate in the various working groups performing work related to the conference. Arizona has fulfilled all of its obligations as it relates to chairing the work committees for the Border Governors Conference and it has honored all of its commitments.

9. Over the last 90 days, Arizona state agencies have also continued their good work through the committees of the Arizona-Mexico Commission an organization that is chaired by the Governor of the State of Arizona and has been in existence for over 50 years on a number of projects involving Arizona, Mexico, and the state of Sonora.

10. For example, the Arizona-Mexico Commission is working on a public-private partnership between the Arizona Department of Transportation and a private company in Mexico that involves a pilot program for tracking, identifying, and validating insurance coverage for vehicles entering the United States through Arizona.

11. The Arizona Department of Environmental Quality has been involved with six meetings over the last 90 days regarding metals in water and waste water and discharges from Nogales, Sonora.

12. Representatives of the Arizona Department of Health Services ("DHS") met with the ten border states to develop international regulations to discuss bi-national cross-border collaboration. DHS representatives also participated in a planning conference with representatives of Sonora to discuss a four state communication planned response to events effecting public health based on the May 2010 measles outbreak in San Diego. These meetings involved travel to Arizona, Baja, California, and Mexico.

13. The Energy Office of the Arizona Department of Commerce has been involved with weekly phone calls for the Energy Work Table 2010 meeting in Baja, California, where participation from all ten border states is expected.

14. The Arizona Commission on the Arts is planning a conference for fall 2011 with

cooperation from the State of Sonora, Mexico.

15. The above examples illustrate the ongoing work by Arizona state agencies in conjunction with counterparts in the border states, including Sonora, Mexico.

I declare under penalty of perjury that the foregoing is true and correct.

DATED July 19, 2010

Maricopa County, Arizona.

By Margie A. Zimmermann
Margie A. Zimmermann

11760895.1

EXHIBIT J

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11 *Attorneys for Intervenor Defendants Janice K. Brewer,*
12 *Governor of the State of Arizona, and the State of*
13 *Arizona*

14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE DISTRICT OF ARIZONA**

16 Friendly House, et al.

17 Plaintiffs,

18 v.

19 Michael B. Whiting, Apache County
Attorney, in his official capacity, et al.,

20 Defendants,

21 and

22 Janice K. Brewer, Governor of the State
of Arizona, in her official capacity; and
23 the State of Arizona,

24 Intervenor Defendants.

No. CV-10-1061-PHX-SRB

DECLARATION OF DAN GLOVER

DECLARATION OF DAN GLOVER

Dan Glover declares as follows:

1. The facts set forth below are of my own personal knowledge and, if called as a witness, I could and would testify competently thereto.
2. I am a currently employed as a Street Crimes Detective by the City of Mesa. I have been employed by the City of Mesa since 2003.
3. I am also the Vice President of Mesa Police Association (“MPA”) which represents the interests of approximately 500 rank and file police officers.
4. As Vice President of MPA, I have had the opportunity to speak with officers at our agency and officers throughout Arizona about law enforcement tactics and about Senate Bill 1070.
5. I received my AzPOST certification in 2003. My certification included substantial training in reasonable suspicion, probable cause, constitutional law, racial profiling, search and seizure, and cultural awareness.
6. I, and most officers I know, complete continuing education courses each year in excess of the minimum amount required to maintain our AzPOST certification. In my case, I have completed formal continuing education courses in search and seizure, narcotics, and gang recognition.
7. Mesa Police Officers also receive training as part of daily briefings. Daily briefings represent a fast and efficient way to disseminate training to officers.
8. As a Street Crimes Detective, I typically work undercover to investigate narcotics violations, property crimes, prostitution and sex crimes enforcement, and I also assist with locating subjects who have outstanding warrants for their arrest.
9. As a Street Crimes Detective, I have extensive experience in working to investigate and combat the importing and dealing of dangerous drugs such as heroin.
10. Heroin is a highly addictive drug that is prevalent in schools, in the workforce, and in the community. Heroin that is bought and sold in the Mesa area is

1 commonly referred to as “black tar heroin” that, in my experience, is almost exclusively
2 imported from Mexico by using what are called “mules.” “Mules” are persons who carry
3 the heroin across the Mexico – Arizona border by circumventing inspectors at the border.
4 Once the heroin is transported to Mesa, it is delivered to buyers by runners or drivers
5 (“runners”). In my experience, heroin is unique in this regard – other drugs are typically
6 sold by having buyers travel to the seller. The tactics used to sell heroin makes it more
7 difficult for undercover officers to infiltrate a heroin ring in order to arrest the upstream
8 dealer. Most of our arrests relating to heroin trafficking are of those persons who work as
9 runners.

10 11. My team and I have arrested numerous runners who sell heroin. Our
11 interviews of the individuals we arrest have allowed us to definitively determine that the
12 black tar heroin we have seized has been delivered to Arizona from Mexico. In the three
13 years our team has been arresting runners, 100% of the arrested runners were unlawfully
14 present in the U.S.

15 12. One particular officer on my team has been working as a Street Crimes
16 Detective for over twelve years and, during that time, he has never arrested a runner who
17 was not unlawfully present in the U.S.

18 13. We have also learned from our interviews that runners typically agree to
19 deliver heroin in exchange for being smuggled into the U.S. Typically, runners tell us that
20 they are required to deliver heroin for between eight to twelve months before they are able
21 to stop working for the drug boss who arranged for their entry into the U.S. The runners
22 are provided with places to live, cars to drive, and a small amount of money to send to
23 their families. Otherwise, the runners work as indentured servants to the drug boss and
24 are considered completely expendable.

25 14. In late 2006, the Arizona voters passed Proposition 100 which denied bail to
26 those unlawfully present who committed serious felonies. Since then, our officers
27 complete a form that identifies each person arrested for a serious felony. The form
28 contains a description of our probable cause determination and also includes the facts that

1 form the basis for our belief that the person has entered the U.S. unlawfully.

2 15. Before Proposition 100, the City of Mesa was often referred to as a
3 “sanctuary city” because our department had policies that prevented our officers from
4 contacting ICE or Border Patrol, even when we had probable cause that someone was
5 unlawfully present in the U.S.

6 16. I have read Senate Bill 1070. Senate Bill 1070 is another tool for officers to
7 use to protect the citizens in our community and to prevent policies that would result in a
8 “sanctuary city.”

9 17. Before Proposition 100, Mesa police officers that I have talked with were
10 unable to effectively partner with ICE and Border Patrol because they were not permitted
11 to call ICE or Border Patrol. As a result, Mesa effectively became a safe place for
12 immigrants unlawfully present to sell drugs after being smuggled into the country by
13 heroin dealers. Since the passing of Proposition 100, trafficking in drugs such as heroin in
14 Mesa has declined.

15 18. Because Senate Bill 1070 will allow officers to contact ICE and Border
16 Patrol under some circumstances, I, and other officers I have talked with, expect that
17 Senate Bill 1070 will have a chilling effect on the sale of heroin in Mesa because those
18 unlawfully present will be less likely to conduct business in Mesa due to an increased
19 potential that they may be questioned about their immigration status if they are stopped
20 for committing another crime and the officer makes a reasonable suspicion determination
21 that the person is unlawfully present in the U.S.

22 19. Also, I understand that improving our partnerships with ICE and Border
23 Patrol will improve our ability to conduct drug investigations. Specifically, I am familiar
24 with informants who would be willing to provide our office with significant information if
25 we could offer them an S-Visa. My understanding of the S-Visa is that it can be offered
26 to provide lawful status for an informant and their family. The S-Visa is only available as
27 a law enforcement tool when it is offered by an ICE agent.

28 20. I am also aware that some people are concerned that Senate Bill 1070 will

1 result in racial profiling. In no uncertain terms, Mesa Police Officers who I know will not
2 engage in or tolerate racial profiling. If anything, the passing of Senate Bill 1070 will
3 result in our officers being hypersensitive to making sure that race and ethnicity are never
4 used as the basis for reasonable suspicion.

5 21. In my experience, Mesa police officers have enjoyed a good reputation in
6 the community we serve and in the surrounding communities as a quality law enforcement
7 agency whose officers are both ethical and highly skilled.

8 22. In reviewing Senate Bill 1070, I am confident that the officers I work with
9 will be able to implement Senate Bill 1070 beginning on July 29, 2010, without violating
10 the constitutional rights of the people in our community whether they are a U.S. citizen,
11 an immigrant with permission to be present in the U.S., or someone who is unlawfully
12 present.

13 23. I have a thorough working knowledge of reasonable suspicion, probable
14 cause, racial profiling and bias policing. I have talked with other officers who share the
15 same understanding. No additional training is necessary in these areas in order to begin
16 implementing Senate Bill 1070 because they are constitutional concepts that our officers
17 work with every day.

18 24. Some of the reports I have heard from various media outlets have left me
19 puzzled because their interpretations of Senate Bill 1070 are not consistent with how
20 police officers do their jobs everyday or how they will do their jobs once Senate Bill 1070
21 is in effect.

22 25. As one example, there has been some discussion that a person who carries a
23 New Mexico driver's license is at some greater risk than a person from Arizona or another
24 state that requires proof of lawful citizenship prior to issuing a license. From a police
25 officer's perspective, this interpretation is not based in reality. If I stopped a person who
26 presented me with a New Mexico driver's license, it would not be a factor that I would
27 consider in making a reasonable suspicion determination. In fact, I would do the same
28 thing as I would with an Arizona driver's license which is to run the license through the

1 computer to see what information I can learn about the person. The information that I
2 typically learn by running the license through the computer would likely reduce or
3 eliminate any reasonable suspicion that I was interacting with someone who was
4 unlawfully present.

5 26. Another example I have heard is that police officers will begin questioning
6 witnesses and victims of crime about their immigration status rather than working to stop
7 more serious crimes. But I cannot find any provision in Senate Bill 1070 that gives a local
8 law enforcement officer any authority to ever question a witness or a victim of a crime
9 about their immigrations status. Instead, I can only inquire into a person's immigration
10 status if I have first stopped them after having reasonable suspicion that they have
11 committed or are about to commit a crime and, if I also have independent reasonable
12 suspicion that the person is unlawfully present.

13 I declare under penalty of perjury that the foregoing is true and correct.

14 DATED 7/8/10

15 Maricopa County, Arizona.

16
17 By 
18 Dan Glover

19 11712582

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EXHIBIT K

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11 *Attorneys for Intervenor Defendants Janice K. Brewer,*
12 *Governor of the State of Arizona, and the State of*
13 *Arizona*

14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE DISTRICT OF ARIZONA**

16 Friendly House, et al.

17 Plaintiffs,

18 v.

19 Michael B. Whiting, Apache County
Attorney, in his official capacity, et al.,

20 Defendants,

21 and

22 Janice K. Brewer, Governor of the State
of Arizona, in her official capacity; and
23 the State of Arizona,

24 Intervenor Defendants.

No. CV-10-1061-PHX-SRB

**DECLARATION OF BRET
GLIDEWELL**

Snell & Wilmer

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DECLARATION OF BRET GLIDEWELL

I, Bret Glidewell, declare as follows:

1. The facts set forth below are of my own personal knowledge and, if called as a witness, I could and would testify competently thereto.

2. I have been employed as a Police Officer by the City of Phoenix since the spring of 2007 and I am certified by AzPost.

3. On October 14, 2007 at approximately 5:00 p.m., I made what I thought was a routine traffic stop of a Chevrolet S-10 pickup which I had witnessed run a stop sign at the corner of 36th Street and Sweetwater in Phoenix, Arizona.

4. As I approached the vehicle, the occupant of the pickup was hunched slightly forward. Before any words were said by me or by the occupant, the occupant turned and raised his right hand which was holding a .45-caliber semiautomatic pistol. The occupant fired his weapon twice.

5. I recall seeing the muzzle flash, and I immediately knew that I was hit. I recall an overwhelming urgency to try and stop the occupant from hurting anyone else and I returned fire.

6. I was struck in the chest by one of the bullets fired from the vehicle and the second bullet went by my head. After firing his gun, the occupant of the vehicle left the scene. I survived the shooting only because the bullet was stopped by the vest that I was wearing.

7. I think about some aspect of the shooting every single day. I particularly feel blessed that I was not shot in the neck or head and that I was wearing my vest.

8. The occupant of the vehicle fired his weapon at me without warning and intended to kill me.

9. Later that evening, Jose Abel Cabrera-Somosa was arrested and charged with shooting me in the chest. He was later tried and convicted for Attempted First Degree Murder, Aggravated Assault, and Misconduct Involving Weapons.

1 10. I subsequently learned that Mr. Cabrera-Somosa was unlawfully present in
2 the U.S. at the time he shot me. I understand that he was likely in the U.S. because he had
3 fled El Salvador where he was wanted for attempted murder.

4 11. I also learned that Mr. Cabrera-Somosa had been detained by Immigration
5 and Customs Enforcement (“ICE”) in 2001 and had been granted Voluntary Return to
6 Mexico.

7 12. I learned that Mr. Cabrera-Somosa had been pulled over on at least three
8 occasions after he was granted Voluntary Return status: (1) in August of 2003 he
9 received a criminal citation for failure to provide a driver’s license or evidence of identity
10 along with four civil violations – he was released; (2) in October of 2003 he received three
11 civil traffic violations – he was released; and (3) in January of 2006, he received a
12 violation for not having a driver’s license – he was released.

13 13. At the time that I was shot by Mr. Cabrera-Somosa, Phoenix police officers
14 were operating under a department policy that prevented officers from contacting ICE or
15 Border Patrol, even when the officer had reasonable suspicion that someone was
16 unlawfully present in the U.S.

17 14. On at least two of the three times that Mr. Cabrera-Somosa was stopped, he
18 was stopped by Phoenix police officers who were unable to contact ICE or Border Patrol
19 because of these orders.

20 15. Had ICE or Border Patrol been contacted, Mr. Cabrera-Somosa could have
21 been identified as a dangerous individual who was wanted for a violent crime in El
22 Salvador. ICE and Border Patrol would have certainly been able to learn that he was in
23 the United States unlawfully despite having previously been granted Voluntary Removal
24 status. I have learned that ICE or Border Patrol would have detained and deported Mr.
25 Cabrera-Somosa had they been contacted by an officer who had stopped someone with
26 Mr. Cabrera-Somosa’s background.

27 16. I believe that Mr. Cabrera-Somosa would have been deported had Phoenix
28 police officers been permitted to contact ICE or Border Patrol during any of the earlier

1 traffic violations.

2 17. Had Mr. Cabrera-Somosa been deported, I do not believe that he would
3 have been in the U.S., armed with a .45-caliber semiautomatic pistol, on October 14, 2007
4 and I would not have been shot in the chest.

5 18. Based upon my experience, it is critical that officers have the ability to
6 contact ICE and Border Patrol so that persons who are unlawfully in the U.S. and have a
7 dangerous background can be detained and deported prior to engaging in further violent
8 crimes.

9 I declare under penalty of perjury that the foregoing is true and correct.

10 DATED 7/9/10

11 Maricopa County, Arizona.

12
13
14 By 

Bret Gidewell

15 11720199

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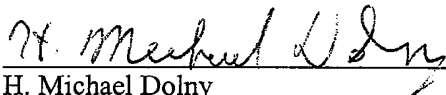
EXHIBIT L

Declaration of H. Michael Dolny

I, H. Michael Dolny declare that the following information is true and correct based upon my best information and belief:

- I have been employed by the Arizona Department of Corrections (ADC) for 5 years and 10 months, and have been in my present position for approximately 2 years and 9 months, as ADC Research Manager;
- I respond to requests for information, from internal departments within ADC, as well as to requests made by law enforcement agencies, other governmental agencies and members of the public;
- Data is collected from a database referred to as the AIMS System. (Adult Inmate Management System). Collected data is stored in the appropriate segments in the database, and retrieved when needed to respond to requests for statistics, inmate population information, and a variety of other types of data including percentages of inmates that fall into categories relating to nature of crimes committed and recidivism rates;
- My department was asked to provide data to the Governor's Office as to which offenses were committed by inmates who were not citizens of the United States, and to determine how the number of those offenses compared to the number of the same type of offenses committed by the population of inmates who are United States citizens;
- My department was also asked to break down the figures further by the gender of the inmates that fell within the overall data request;
- This data was requested for May 31, again for June 30;
- For this request, the following fields were obtained from the AIMS database: inmate status, gender, most serious current offense, citizenship status and place of birth;
- Upon determining the most serious current offense for the group of inmates incarcerated during the relevant time frames, the information was then divided into 24 categories that ADC reports on in "Corrections at a Glance." The offenses were then further divided into categories of gender and citizenship, and numerical codes were assigned to each;
- The attached spreadsheets and accompanying data is a true and accurate representation of the information generated through using the above-described process.

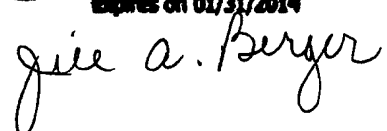
Dated this 6th day of July, 2010.



H. Michael Dolny
Research Manager, ADC



JILL A. BERGER
Notary Public—Arizona
Maricopa County
Expires on 01/31/2014



Arizona Department of Corrections Criminal Alien Analysis

data as of 06/30/2010

Criminal Aliens						
ADC Inmate Commitment Offenses	Male	Female	Total	Male %	Female %	Total %
Drug Offense	1,920	80	2,000	96.0%	4.0%	100.0%
Assault	612	8	620	98.7%	1.3%	100.0%
Robbery	424	5	429	98.8%	1.2%	100.0%
Burglary/Criminal Trespass	185	1	186	99.5%	0.5%	100.0%
Auto Theft	227	4	231	98.3%	1.7%	100.0%
Murder	330	7	337	97.9%	2.1%	100.0%
Sex Offense	235	2	237	99.2%	0.8%	100.0%
DUI	376	8	384	97.9%	2.1%	100.0%
Weapons Offense	156	-	156	100.0%	0.0%	100.0%
Child Molestation	234	-	234	100.0%	0.0%	100.0%
Other	122	5	127	96.1%	3.9%	100.0%
Theft	58	4	62	93.5%	6.5%	100.0%
Kidnapping	526	15	541	97.2%	2.8%	100.0%
Forgery	111	2	113	98.2%	1.8%	100.0%
Manslaughter/Neg. Homicide	152	5	157	96.8%	3.2%	100.0%
Trafficking in Stolen Property	8	-	8	100.0%	0.0%	100.0%
Rape/Sexual Assault	89	-	89	100.0%	0.0%	100.0%
Identity Theft	21	1	22	95.5%	4.5%	100.0%
Fraud	3	1	4	75.0%	25.0%	100.0%
Escape	11	2	13	84.6%	15.4%	100.0%
Child/Adult Abuse	15	2	17	88.2%	11.8%	100.0%
Criminal Damage	6	-	6	100.0%	0.0%	100.0%
Domestic Violence	6	-	6	100.0%	0.0%	100.0%
Arson	4	-	4	100.0%	0.0%	100.0%
Criminal Alien Total	5,831	152	5,983	97.5%	2.5%	100.0%

All Other ADC Inmates						
ADC Inmate Commitment Offenses	Male	Female	Total	Male %	Female %	Total %
Drug Offense	5,027	1,078	6,105	82.3%	17.7%	100.0%
Assault	4,188	303	4,491	93.3%	6.7%	100.0%
Robbery	2,959	199	3,158	93.7%	6.3%	100.0%
Burglary/Criminal Trespass	2,661	198	2,859	93.1%	6.9%	100.0%
Auto Theft	2,284	233	2,517	90.7%	9.3%	100.0%
Murder	2,180	172	2,352	92.7%	7.3%	100.0%
Sex Offense	1,888	50	1,938	97.4%	2.6%	100.0%
DUI	1,586	161	1,747	90.8%	9.2%	100.0%
Weapons Offense	1,419	43	1,462	97.1%	2.9%	100.0%
Child Molestation	1,252	13	1,265	99.0%	1.0%	100.0%
Other	910	109	1,019	89.3%	10.7%	100.0%
Theft	764	246	1,010	75.6%	24.4%	100.0%
Kidnapping	749	37	786	95.3%	4.7%	100.0%
Forgery	497	263	760	65.4%	34.6%	100.0%
Manslaughter/Neg. Homicide	582	90	672	86.6%	13.4%	100.0%
Trafficking in Stolen Property	416	70	486	85.6%	14.4%	100.0%
Rape/Sexual Assault	470	4	474	99.2%	0.8%	100.0%
Identity Theft	218	120	338	64.5%	35.5%	100.0%
Fraud	177	69	246	72.0%	28.0%	100.0%
Escape	176	41	217	81.1%	18.9%	100.0%
Child/Adult Abuse	148	60	208	71.2%	28.8%	100.0%
Criminal Damage	140	13	153	91.5%	8.5%	100.0%
Domestic Violence	137	5	142	96.5%	3.5%	100.0%
Arson	76	13	89	85.4%	14.6%	100.0%
ADC Total	30,904	3,590	34,494	89.6%	10.4%	100.0%

Arizona Department of Corrections Criminal Alien Analysis

data as of 06/30/2010

All ADC Inmates						
ADC Inmate Commitment Offenses	Male	Female	Total	Male %	Female %	Total %
Drug Offense	6,947	1,158	8,105	85.7%	14.3%	100.0%
Assault	4,800	311	5,111	93.9%	6.1%	100.0%
Robbery	3,383	204	3,587	94.3%	5.7%	100.0%
Burglary/Criminal Trespass	2,846	199	3,045	93.5%	6.5%	100.0%
Auto Theft	2,511	237	2,748	91.4%	8.6%	100.0%
Murder	2,510	179	2,689	93.3%	6.7%	100.0%
Sex Offense	2,123	52	2,175	97.6%	2.4%	100.0%
DUI	1,962	169	2,131	92.1%	7.9%	100.0%
Weapons Offense	1,575	43	1,618	97.3%	2.7%	100.0%
Child Molestation	1,486	13	1,499	99.1%	0.9%	100.0%
Other	1,032	114	1,146	90.1%	9.9%	100.0%
Theft	822	250	1,072	76.7%	23.3%	100.0%
Kidnapping	1,275	52	1,327	96.1%	3.9%	100.0%
Forgery	608	265	873	69.6%	30.4%	100.0%
Manslaughter/Neg. Homicide	734	95	829	88.5%	11.5%	100.0%
Trafficking in Stolen Property	424	70	494	85.8%	14.2%	100.0%
Rape/Sexual Assault	559	4	563	99.3%	0.7%	100.0%
Identity Theft	239	121	360	66.4%	33.6%	100.0%
Fraud	180	70	250	72.0%	28.0%	100.0%
Escape	187	43	230	81.3%	18.7%	100.0%
Child/Adult Abuse	163	62	225	72.4%	27.6%	100.0%
Criminal Damage	146	13	159	91.8%	8.2%	100.0%
Domestic Violence	143	5	148	96.6%	3.4%	100.0%
Arson	80	13	93	86.0%	14.0%	100.0%
ADC Total	36,735	3,742	40,477	90.8%	9.2%	100.0%

**Arizona Department of Corrections
Criminal Alien Analysis**

data as of 06/30/2010

**Criminal Aliens as a Percentage of ADC
Inmate Commitment Offenses**

ADC Inmate Commitment Offenses	Male %	Female %	Total %
Drug Offense	32.9%	52.6%	33.4%
Assault	10.5%	5.3%	10.4%
Robbery	7.3%	3.3%	7.2%
Burglary/Criminal Trespass	3.2%	0.7%	3.1%
Auto Theft	3.9%	2.6%	3.9%
Murder	5.7%	4.6%	5.6%
Sex Offense	4.0%	1.3%	4.0%
DUI	6.4%	5.3%	6.4%
Weapons Offense	2.7%	0.0%	2.6%
Child Molestation	4.0%	0.0%	3.9%
Other	2.1%	3.3%	2.1%
Theft	1.0%	2.6%	1.0%
Kidnapping	9.0%	9.9%	9.0%
Forgery	1.9%	1.3%	1.9%
Manslaughter/Neg. Homicide	2.6%	3.3%	2.6%
Trafficking in Stolen Property	0.1%	0.0%	0.1%
Rape/Sexual Assault	1.5%	0.0%	1.5%
Identity Theft	0.4%	0.7%	0.4%
Fraud	0.1%	0.7%	0.1%
Escape	0.2%	1.3%	0.2%
Child/Adult Abuse	0.3%	1.3%	0.3%
Criminal Damage	0.1%	0.0%	0.1%
Domestic Violence	0.1%	0.0%	0.1%
Arson	0.1%	0.0%	0.1%

**Criminal Aliens as a Percentage of Total
ADC Inmates**

ADC Inmate Commitment Offenses	Male %	Female %	Total %
Drug Offense	27.6%	6.9%	24.7%
Assault	12.8%	2.6%	12.1%
Robbery	12.5%	2.5%	12.0%
Burglary/Criminal Trespass	6.5%	0.5%	6.1%
Auto Theft	9.0%	1.7%	8.4%
Murder	13.1%	3.9%	12.5%
Sex Offense	11.1%	3.8%	10.9%
DUI	19.2%	4.7%	18.0%
Weapons Offense	9.9%	0.0%	9.6%
Child Molestation	15.7%	0.0%	15.6%
Other	11.8%	4.4%	11.1%
Theft	7.1%	1.6%	5.8%
Kidnapping	41.3%	28.8%	40.8%
Forgery	18.3%	0.8%	12.9%
Manslaughter/Neg. Homicide	20.7%	5.3%	18.9%
Trafficking in Stolen Property	1.9%	0.0%	1.6%
Rape/Sexual Assault	15.9%	0.0%	15.8%
Identity Theft	8.8%	0.8%	6.1%
Fraud	1.7%	1.4%	1.6%
Escape	5.9%	4.7%	5.7%
Child/Adult Abuse	9.2%	3.2%	7.6%
Criminal Damage	4.1%	0.0%	3.8%
Domestic Violence	4.2%	0.0%	4.1%
Arson	5.0%	0.0%	4.3%

**Arizona Department of Corrections
Criminal Alien Analysis**

data as of 06/30/2010

**All Other ADC Inmates as a Percentage of
ADC Inmate Commitment Offenses**

ADC inmate Commitment Offenses	Male %	Female %	Total %
Drug Offense	72.4%	93.1%	75.3%
Assault	87.3%	97.4%	87.9%
Robbery	87.5%	97.5%	88.0%
Burglary/Criminal Trespass	93.5%	99.5%	93.9%
Auto Theft	91.0%	98.3%	91.6%
Murder	86.9%	96.1%	87.5%
Sex Offense	88.9%	96.2%	89.1%
DUI	80.8%	95.3%	82.0%
Weapons Offense	90.1%	100.0%	90.4%
Child Molestation	84.3%	100.0%	84.4%
Other	88.2%	95.6%	88.9%
Theft	92.9%	98.4%	94.2%
Kidnapping	58.7%	71.2%	59.2%
Forgery	81.7%	99.2%	87.1%
Manslaughter/Neg. Homicide	79.3%	94.7%	81.1%
Trafficking in Stolen Property	98.1%	100.0%	98.4%
Rape/Sexual Assault	84.1%	100.0%	84.2%
Identity Theft	91.2%	99.2%	93.9%
Fraud	98.3%	98.6%	98.4%
Escape	94.1%	95.3%	94.3%
Child/Adult Abuse	90.8%	96.8%	92.4%
Criminal Damage	95.9%	100.0%	96.2%
Domestic Violence	95.8%	100.0%	95.9%
Arson	95.0%	100.0%	95.7%

Arizona Department of Corrections Criminal Alien Analysis Country of Origin

data as of 06/30/2010

Top Ten Countries of Origin	Male	Female	Total	Male %	Female %	Total %
Mexico	5,353	124	5,477	91.8%	81.6%	91.5%
CUBA	61	1	62	1.0%	0.7%	1.0%
JAMAICA	48	3	51	0.8%	2.0%	0.9%
GUATEMALA	46	-	46	0.8%	0.0%	0.8%
HONDURAS	36	-	36	0.6%	0.0%	0.6%
EL SALVADR	31	1	32	0.5%	0.7%	0.5%
VIETNAM	30	-	30	0.5%	0.0%	0.5%
CANADA	11	2	13	0.2%	1.3%	0.2%
AFRICA	12	-	12	0.2%	0.0%	0.2%
PHILLIPINE	11	1	12	0.2%	0.7%	0.2%
	5,639	132	5,771	96.7%	86.8%	96.5%
Other	192	20	212	3.3%	13.2%	3.5%
	<u>5,831</u>	<u>152</u>	<u>5,983</u>	<u>100.0%</u>	<u>100.0%</u>	<u>100.0%</u>

Arizona Department of Corrections Criminal Alien Analysis

data as of 05/31/2010

Criminal Aliens						
ADC Inmate Commitment Offenses	Male	Female	Total	Male %	Female %	Total %
Drug Offense	1,935	80	2,015	96.0%	4.0%	100.0%
Assault	601	8	609	98.7%	1.3%	100.0%
Robbery	427	5	432	98.8%	1.2%	100.0%
Burglary/Criminal Trespass	186	-	186	100.0%	0.0%	100.0%
Auto Theft	229	4	233	98.3%	1.7%	100.0%
Murder	330	7	337	97.9%	2.1%	100.0%
Sex Offense	235	2	237	99.2%	0.8%	100.0%
DUI	388	7	395	98.2%	1.8%	100.0%
Weapons Offense	155	1	156	99.4%	0.6%	100.0%
Child Molestation	231	-	231	100.0%	0.0%	100.0%
Theft	58	6	64	90.6%	9.4%	100.0%
Other	126	5	131	96.2%	3.8%	100.0%
Forgery	119	4	123	96.7%	3.3%	100.0%
Kidnapping	516	15	531	97.2%	2.8%	100.0%
Manslaughter/Neg. Homicide	152	5	157	96.8%	3.2%	100.0%
Trafficking in Stolen Property	9	-	9	100.0%	0.0%	100.0%
Rape/Sexual Assault	89	-	89	100.0%	0.0%	100.0%
Identity Theft	21	1	22	95.5%	4.5%	100.0%
Fraud	3	1	4	75.0%	25.0%	100.0%
Escape	12	2	14	85.7%	14.3%	100.0%
Child/Adult Abuse	15	2	17	88.2%	11.8%	100.0%
Criminal Damage	8	-	8	100.0%	0.0%	100.0%
Domestic Violence	6	-	6	100.0%	0.0%	100.0%
Arson	4	-	4	100.0%	0.0%	100.0%
Criminal Alien Total	5,855	155	6,010	97.4%	2.6%	100.0%

All Other ADC Inmates						
ADC Inmate Commitment Offenses	Male	Female	Total	Male %	Female %	Total %
Drug Offense	5,081	1,087	6,168	82.4%	17.6%	100.0%
Assault	4,172	309	4,481	93.1%	6.9%	100.0%
Robbery	2,935	189	3,124	94.0%	6.0%	100.0%
Burglary/Criminal Trespass	2,660	197	2,857	93.1%	6.9%	100.0%
Auto Theft	2,314	238	2,552	90.7%	9.3%	100.0%
Murder	2,157	169	2,326	92.7%	7.3%	100.0%
Sex Offense	1,883	49	1,932	97.5%	2.5%	100.0%
DUI	1,601	166	1,767	90.6%	9.4%	100.0%
Weapons Offense	1,429	43	1,472	97.1%	2.9%	100.0%
Child Molestation	1,247	13	1,260	99.0%	1.0%	100.0%
Theft	795	253	1,048	75.9%	24.1%	100.0%
Other	916	111	1,027	89.2%	10.8%	100.0%
Forgery	515	256	771	66.8%	33.2%	100.0%
Kidnapping	737	36	773	95.3%	4.7%	100.0%
Manslaughter/Neg. Homicide	580	88	668	86.8%	13.2%	100.0%
Trafficking in Stolen Property	409	65	474	86.3%	13.7%	100.0%
Rape/Sexual Assault	463	4	467	99.1%	0.9%	100.0%
Identity Theft	227	126	353	64.3%	35.7%	100.0%
Fraud	184	70	254	72.4%	27.6%	100.0%
Escape	176	45	221	79.6%	20.4%	100.0%
Child/Adult Abuse	152	59	211	72.0%	28.0%	100.0%
Criminal Damage	138	14	152	90.8%	9.2%	100.0%
Domestic Violence	144	4	148	97.3%	2.7%	100.0%
Arson	83	12	95	87.4%	12.6%	100.0%
ADC Total	30,998	3,603	34,601	89.6%	10.4%	100.0%

Arizona Department of Corrections Criminal Alien Analysis

data as of 05/31/2010

All ADC Inmates						
ADC Inmate Commitment Offenses	Male	Female	Total	Male %	Female %	Total %
Drug Offense	7,016	1,167	8,183	85.7%	14.3%	100.0%
Assault	4,773	317	5,090	93.8%	6.2%	100.0%
Robbery	3,362	194	3,556	94.5%	5.5%	100.0%
Burglary/Criminal Trespass	2,846	197	3,043	93.5%	6.5%	100.0%
Auto Theft	2,543	242	2,785	91.3%	8.7%	100.0%
Murder	2,487	176	2,663	93.4%	6.6%	100.0%
Sex Offense	2,118	51	2,169	97.6%	2.4%	100.0%
DUI	1,989	173	2,162	92.0%	8.0%	100.0%
Weapons Offense	1,584	44	1,628	97.3%	2.7%	100.0%
Child Molestation	1,478	13	1,491	99.1%	0.9%	100.0%
Theft	853	259	1,112	76.7%	23.3%	100.0%
Other	1,042	116	1,158	90.0%	10.0%	100.0%
Forgery	634	260	894	70.9%	29.1%	100.0%
Kidnapping	1,253	51	1,304	96.1%	3.9%	100.0%
Manslaughter/Neg. Homicide	732	93	825	88.7%	11.3%	100.0%
Trafficking in Stolen Property	418	65	483	86.5%	13.5%	100.0%
Rape/Sexual Assault	552	4	556	99.3%	0.7%	100.0%
Identity Theft	248	127	375	66.1%	33.9%	100.0%
Fraud	187	71	258	72.5%	27.5%	100.0%
Escape	188	47	235	80.0%	20.0%	100.0%
Child/Adult Abuse	167	61	228	73.2%	26.8%	100.0%
Criminal Damage	146	14	160	91.3%	8.8%	100.0%
Domestic Violence	150	4	154	97.4%	2.6%	100.0%
Arson	87	12	99	87.9%	12.1%	100.0%
ADC Total	36,853	3,758	40,611	90.7%	9.3%	100.0%

Arizona Department of Corrections Criminal Alien Analysis

data as of 05/31/2010

Criminal Aliens as a Percentage of ADC Inmate Commitment Offenses			
ADC Inmate Commitment Offenses	Male %	Female %	Total %
Drug Offense	33.0%	51.6%	33.5%
Assault	10.3%	5.2%	10.1%
Robbery	7.3%	3.2%	7.2%
Burglary/Criminal Trespass	3.2%	0.0%	3.1%
Auto Theft	3.9%	2.6%	3.9%
Murder	5.6%	4.5%	5.6%
Sex Offense	4.0%	1.3%	3.9%
DUI	6.6%	4.5%	6.6%
Weapons Offense	2.6%	0.6%	2.6%
Child Molestation	3.9%	0.0%	3.8%
Theft	1.0%	3.9%	1.1%
Other	2.2%	3.2%	2.2%
Forgery	2.0%	2.6%	2.0%
Kidnapping	8.8%	9.7%	8.8%
Manslaughter/Neg. Homicide	2.6%	3.2%	2.6%
Trafficking in Stolen Property	0.2%	0.0%	0.1%
Rape/Sexual Assault	1.5%	0.0%	1.5%
Identity Theft	0.4%	0.6%	0.4%
Fraud	0.1%	0.6%	0.1%
Escape	0.2%	1.3%	0.2%
Child/Adult Abuse	0.3%	1.3%	0.3%
Criminal Damage	0.1%	0.0%	0.1%
Domestic Violence	0.1%	0.0%	0.1%
Arson	0.1%	0.0%	0.1%

Criminal Aliens as a Percentage of Total ADC Inmates			
ADC Inmate Commitment Offenses	Male %	Female %	Total %
Drug Offense	27.6%	6.9%	24.6%
Assault	12.6%	2.5%	12.0%
Robbery	12.7%	2.6%	12.1%
Burglary/Criminal Trespass	6.5%	0.0%	6.1%
Auto Theft	9.0%	1.7%	8.4%
Murder	13.3%	4.0%	12.7%
Sex Offense	11.1%	3.9%	10.9%
DUI	19.5%	4.0%	18.3%
Weapons Offense	9.8%	2.3%	9.6%
Child Molestation	15.6%	0.0%	15.5%
Theft	6.8%	2.3%	5.8%
Other	12.1%	4.3%	11.3%
Forgery	18.8%	1.5%	13.8%
Kidnapping	41.2%	29.4%	40.7%
Manslaughter/Neg. Homicide	20.8%	5.4%	19.0%
Trafficking in Stolen Property	2.2%	0.0%	1.9%
Rape/Sexual Assault	16.1%	0.0%	16.0%
Identity Theft	8.5%	0.8%	5.9%
Fraud	1.6%	1.4%	1.6%
Escape	6.4%	4.3%	6.0%
Child/Adult Abuse	9.0%	3.3%	7.5%
Criminal Damage	5.5%	0.0%	5.0%
Domestic Violence	4.0%	0.0%	3.9%
Arson	4.6%	0.0%	4.0%

**Arizona Department of Corrections
Criminal Alien Analysis**

data as of 05/31/2010

**All Other ADC Inmates as a Percentage of
ADC Inmate Commitment Offenses**

ADC Inmate Commitment Offenses	Male %	Female %	Total %
Drug Offense	72.4%	93.1%	75.4%
Assault	87.4%	97.5%	88.0%
Robbery	87.3%	97.4%	87.9%
Burglary/Criminal Trespass	93.5%	100.0%	93.9%
Auto Theft	91.0%	98.3%	91.6%
Murder	86.7%	96.0%	87.3%
Sex Offense	88.9%	96.1%	89.1%
DUI	80.5%	96.0%	81.7%
Weapons Offense	90.2%	97.7%	90.4%
Child Molestation	84.4%	100.0%	84.5%
Theft	93.2%	97.7%	94.2%
Other	87.9%	95.7%	88.7%
Forgery	81.2%	98.5%	86.2%
Kidnapping	58.8%	70.6%	59.3%
Manslaughter/Neg. Homicide	79.2%	94.6%	81.0%
Trafficking in Stolen Property	97.8%	100.0%	98.1%
Rape/Sexual Assault	83.9%	100.0%	84.0%
Identity Theft	91.5%	99.2%	94.1%
Fraud	98.4%	98.6%	98.4%
Escape	93.6%	95.7%	94.0%
Child/Adult Abuse	91.0%	96.7%	92.5%
Criminal Damage	94.5%	100.0%	95.0%
Domestic Violence	96.0%	100.0%	96.1%
Arson	95.4%	100.0%	96.0%

Arizona Department of Corrections Criminal Alien Analysis Country of Origin

data as of 05/31/2010

Top Ten Countries of Origin	Male	Female	Total	Male %	Female %	Total %
MEXICO	5,378	127	5,505	91.9%	81.9%	91.6%
CUBA	60	1	61	1.0%	0.6%	1.0%
JAMAICA	48	3	51	0.8%	1.9%	0.8%
GUATEMALA	44	-	44	0.8%	0.0%	0.7%
HONDURAS	35	-	35	0.6%	0.0%	0.6%
EL SALVADR	32	1	33	0.5%	0.6%	0.5%
VIETNAM	30	1	31	0.5%	0.6%	0.5%
CANADA	12	2	14	0.2%	1.3%	0.2%
SUDAN	13	1	14	0.2%	0.6%	0.2%
AFRICA	13	-	13	0.2%	0.0%	0.2%
	5,665	136	5,801	96.8%	87.7%	96.5%
Other	190	19	209	3.2%	12.3%	3.5%
	5,855	155	6,010	100.0%	100.0%	100.0%

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Governor of the State of Arizona, and the State of Arizona

14 **IN THE UNITED STATES DISTRICT COURT**
 15 **FOR THE DISTRICT OF ARIZONA**

17 Friendly House, et al.

18 Plaintiffs,

19 v.

20 Michael B. Whiting, Apache County
 21 Attorney, in his official capacity, et al.,

22 Defendants,

23 and

24 Janice K. Brewer, Governor of the State of
 25 Arizona, in her official capacity; and the
 State of Arizona,

26 Intervenor Defendants.
 27
 28

No. CV-10-1061-PHX-SRB

DECLARATION OF WENDY GLENN

Snell & Wilmer

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DECLARATION OF WENDY GLENN

I, Wendy Glenn, declare as follows:

I make this declaration based upon my personal knowledge of the matters set forth below. If called upon to do so, I could and would testify competently thereto.

1. My husband, Warner Glenn, and I live on a ranch east of Douglas, Arizona, and we were both born and raised in the Douglas area. In fact, my grandfather was one of the founders of Douglas.

2. My husband and I own a ranch along the Arizona state border with Mexico.

3. We have owned our ranch for 50 years. We bought it just after we were married in 1960.

4. Our ranch is located approximately 18 miles from Douglas, Arizona. Our nearest neighbor is about 5 miles away.

5. We ranch 15,000 acres, which is approximately 23 square miles.

6. Our ranch includes four miles of border fence with Mexico.

7. About 8 or 9 years ago, we noticed an increase in the amount of foot traffic across our ranch property. It has gotten much worse in the last 5 years.

8. We believe that these people are illegally crossing the border from Mexico into the United States.

9. In the beginning, we saw less than 10 people a month crossing through our land.

10. At that time, we understood that these individuals were illegal workers crossing the border headed for their jobs in Arizona.

11. The number of unlawful immigrants crossing the ranch increased significantly about 5 years ago.

12. Now we estimate that at times, 500 to 800 people a week cross into our ranch from Mexico.

13. The presence of so many people walking across our land has led to serious environmental problems on the ranch.

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- 1 14. For example, the illegal immigrants leave large amounts of trash, including
2 food, empty cans, medication, plastic bags, clothing and water bottles. We regularly have
3 to clean up this trash.
- 4 15. Illegal immigrants cut water pipelines in our valley, to access fresh water. It
5 is expensive to continually replace the pipelines and the water is wasted out on the
6 ground.
- 7 16. Illegal immigrants use our water troughs to wash clothing and bathe. This
8 creates serious health issues for our cattle.
- 9 17. Illegal immigrants create trails across our ranch. I estimate that there are
10 about 10 trails coming north that come through the four-mile southern border of the ranch.
- 11 18. Illegal immigrants leave gates open and cut fences, sometimes letting our
12 cattle out.
- 13 19. Illegal immigrants scare our cattle, causing the animals to run long distances
14 in fright causing stress. Stress causes the animals to lose weight, threatening their health.
- 15 20. Illegal immigrants regularly defecate on our property, often near our
16 springs. This can foul the water, is unsanitary, and can lead to health problems.
- 17 21. About 15 times a year, illegal immigrants come to the ranch house for
18 help—often needing food and medical assistance. When this happens, my husband or I
19 will call the Border Patrol. Border Patrol agents will come pick up the illegal immigrants.
- 20 22. If the situation warrants it, the Border Patrol will call an ambulance for
21 those who are seriously ill or injured.
- 22 23. One time, a woman had a baby in a pasture about 3 miles from our house.
23 She, her husband carrying the baby and her brother walked all the way to the house for
24 help. We called the Border Patrol to take care of her. They sent an ambulance.
- 25 24. We found a dead body last year in a pasture on the ranch.
- 26 25. We have found bundles of marijuana in pastures on the ranch.
- 27 26. Although our home has not been robbed, or experienced other violence, we
28 have had solar panels stolen from one of our wells, and we live with the threat of violence

1 daily. Many other nearby ranchers that we know have been victims of violence by illegal
2 immigrants.

3 27. Increased Border Patrol enforcement can have a positive effect on the
4 numbers of illegal immigrants crossing our ranch. But, as soon as the level of
5 enforcement drops, the number of illegal immigrants who cross the border and through
6 our ranch increases again.

7 28. The issues that my husband and I face on the ranch every day are serious.
8 We spend a huge amount of time attempting to address the problems that illegal
9 immigrants cause here. There have been Chinese, Pakistani, Yemencese, South American
10 and other foreign groups found in our area.

11 29. I believe that the State of Arizona has a responsibility to try to solve these
12 problems by enforcing the law.

13 30. I do not believe that the federal government is doing enough to protect our
14 border.

15 31. I believe that SB 1070 will have a positive impact on the situation at our
16 ranch.

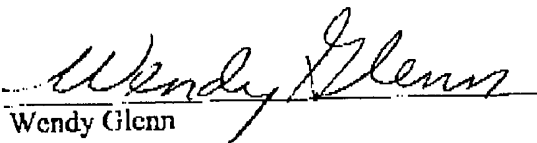
17 32. I am appreciative that by passing SB 1070, Arizona is finally trying to help
18 us.

19 I declare under penalty of perjury that the foregoing is true and correct.
20

21 DATED July 8, 2010

22 Cochise County, Arizona.

23
24 By

25
26 
27 Wendy Glenn

28 11714793

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14 *Governor of the State of Arizona, and the State of Arizona*

15 **IN THE UNITED STATES DISTRICT COURT**
16 **FOR THE DISTRICT OF ARIZONA**

17 Friendly House, et al.
18 Plaintiffs,
19 v.
20 Michael B. Whiting, Apache County
21 Attorney, in his official capacity, et al.,
22 Defendants,
23 and
24 Janice K. Brewer, Governor of the State of
25 Arizona, in her official capacity; and the
26 State of Arizona,
27 Intervenor Defendants.

No. CV-10-1061-PHX-SRB
**DECLARATION OF GARY A.
THRASHER**

DECLARATION OF GARY A. THRASHER

I, Gary A. Thrasher, declare as follows:

I make this declaration based upon my personal knowledge of the matters set forth below. If called upon to do so, I could and would testify competently thereto.

1. I am Gary A. Thrasher, a veterinarian who limits his practice to care for cattle and horses at ranches in Arizona, New Mexico and Texas.

2. I live approximately 4 miles north of the U.S./Mexico international boundary in Sothern Arizona, have a ranch operation 10 miles north of the border and also operate a cattle “stockyard/feedlot” in Cochise, Arizona.

3. I have many ranch clients that I am frequently called upon to service along more than 200 miles of the U.S./Mexico border in Arizona.

4. I’ve lived and worked out of my office, “Hereford Veterinary Service” in Palominas for 25 years, after first coming to Southern Arizona in 1971. From 1992 through 2005, I also owned and operated “Servicios Veterinarios Asociados, Hereford, S.C.”, a Mexican chartered corporation that processed cattle at ranches in Mexico for export to the U.S.

5. My travels and work along the U.S. border has given me a unique perspective on our changing border situation from both sides of the border.

6. While our international boundary has always been porous, until 1996 it was only a tolerable nuisance for remote rural ranchers, after 1996 it has become progressively more intolerable, uncontrolled, threatening, and violent.

7. I see firsthand the increasing degradation of the environment, losses of livestock due to trash left behind by trespassers and vehicle chases, the unnecessary and willful destruction of private property, and intimidation of remote rural Arizona residents.

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1 8. I hear, on a regular basis, the ranchers' reports of break-ins, home invasions,
2 vehicle thefts, and immigrant deaths on their property.

3 9. I've personally been confronted by large groups of illegal immigrants
4 demanding transportation to Tucson and Phoenix.

5 10. I've stopped to help some of those posing to need help only to be threatened
6 if I didn't help what turn out to be "coyote guides" returning to Mexico to guide their next
7 group of illegal immigrants or drug "back-packers."
8

9 11. I've been run-off remote rural roads by high-speed vehicles trying to get
10 stolen vehicles back into Mexico and vehicles loaded with illegal immigrants and/or
11 illegal drugs trying to pass into the U.S. without detection.

12 12. I've helped with numerous traffic fatality wrecks on interior Arizona roads
13 caused by people with vehicles overloaded with illegal aliens trying to "outrun" local law
14 enforcement trying to stop traffic offence violators. Some of those deaths and serious
15 injuries were U.S. citizens just going about their daily lives.
16

17 13. Those of us who live and work in the remote stretches of Arizona
18 ranchlands had been predicting that it was only a matter of time before one of us or our
19 immediate families would be seriously hurt or killed by the "type" of people now
20 controlling the illegal immigrant trade and passing, wave after wave through our ranches.
21

22 14. Then Rob Krentz, a long-time friend, client, and partner was murdered on
23 his ranch in an extremely remote place, and at a time that the murderer had no reason to
24 be there on foot except to be using the immigrant and drug trail that runs through his
25 ranch.

26 15. Time and time again, I've seen caravans of illegal entrants on foot going
27 north along that trail coming from the Mexican border, and time upon time I've seen the
28

1 one or two “coyote guides” returning to Mexico along the same trail. And that’s only one
2 of the hundreds of trails used the same way all along the remote reaches of the Tucson
3 Border Patrol Sector border. And it’s well know that the Mexican syndicate that “owns”
4 that trail is prone to intimidation and scare tactics, but is not nearly as violent and deadly
5 as the syndicates controlling the trails through the western end of the Tucson sector
6 border.

7
8 16. At my home in a more populated region we have a “lay-up” in a 10-acre
9 pasture where illegal entrants wait for rides within 600 ft. of my front porch.

10 17. We report it; the Border Patrol watches it for a night or two, than as soon as
11 the Border Patrol assigns their watch to another location, the illegal entrants return en
12 masse. As many as fifteen backpacks are left behind with each of their visits.

13 18. A pickup truck loaded with “illegal entrants” trying to out-run an unmarked
14 law enforcement vehicle barreled through our pasture fence, and crashed through a dozen
15 large mesquites before totally wrecking the vehicle less than 100 yards from my doorstep.
16 All of the occupants escaped. I replaced ½ mile of fence and had to clean up the mess and
17 tow away the truck myself.

18
19 19. Three times my clinic/horse barn was occupied by illegal entrants when I
20 went to the clinic in the morning. Twice they came in while I worked alone late at night,
21 demanding rides, offering up to \$300 a piece to take them to Phoenix, then threatening
22 when I refused.

23 20. Once, my daughter came to my recue with an ax handle to chase them away
24 from me.

25
26 21. Twice I’ve stopped along lonely remote ranch roads to help desperate-
27 looking illegals only to have them jump up and jump into my pickup truck and refuse to
28 get out; once I had to physically drag him out of my truck. One threatened me with an

1 unloaded pistol. I can only, surmise he had stolen the pistol on a return trip but wasn't
2 able to find the ammunition.

3
4 22. Federal agencies in recent years have defended the border in more populated
5 border communities and at official ports of entry and sight reduced crime statistics as an
6 accomplishment, but ten and twenty miles away from there, where many of us live and
7 work, and where statistics are "minimal," we are being deluged.

8
9 23. There is, in fact a foreign invasion crossing the border in remote stretches
10 and we requested, petitioned, and even demanded, that the federal government fulfill their
11 duty and responsibilities for many years now, to no avail. The federal government has not
12 had the will, nor political desire, to correct the injustice, enforce our nation's laws in
13 Arizona, nor protect Arizona's citizens and their property.

14
15 24. Recently, Mr. David Aguilar, an official in DHS was quoted saying that "the
16 border is not a line in the sand nor a juridical line, but a third country between Mexico and
17 the U.S."

18
19 25. To date he has not been made to retract, nor clarify, nor correct that
20 statement. It leads me to believe that we who live and work in that third country are no
21 longer to be given the protections and security of the United States. Yet the international
22 boundary was delineated, surveyed and ratified by both the United States and Mexico in
23 the Gadsden Treaty, and a large portion of the lands acquired in that treaty became the
24 Arizona Territory and later the State of Arizona.

25
26 26. The United States of America has refused to secure the international
27 boundary, yet Arizona's southern boundary is well defined in the Gadsden Treaty, and the
28 U.S. government has refused to enforce its own federal immigration laws throughout the
state that would mitigate the security breaches of the Arizona border.

29 27. Arizona residents have demanded that the federal government enforce the

1 laws of the United States in Arizona, they have not, so to provide for our security along
2 the border Arizona citizens have demanded Arizona fulfill its duties and responsibilities
3 within the state.

4 28. With the passage of Arizona S.B. 1070, the Arizona legislature and
5 Governor have passed a law which mimics federal immigration law, and adds only anti-
6 discrimination provisions that better clarifies how the law is to be enforced.
7

8 29. When the passage of the bill was announced many of us living and working
9 on the border saw an immediate reduction in illegal immigrant traffic and have heard from
10 our Mexican counterparts on the other side of the border that the “staging” of illegal
11 immigrants planning to come into the U.S. through Mexico is either “building-up and
12 waiting out” the current lawsuit or being diverted elsewhere than Arizona to cross, which
13 depends on what Mexican border community the “staging” is taking place in, and what
14 syndicate is controlling the trails across the border in that region.

15 30. The law is already having a mitigating affect on illegal crossings, even
16 before enforcement begins.

17 I declare under penalty of perjury that the foregoing is true and correct.
18

19 DATED _____

20 Cochise County, Arizona.

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22 By

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Gary A. Thrasher

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18
19 DATED 9 July 2010

20 Cochise County, Arizona.

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22
23 By

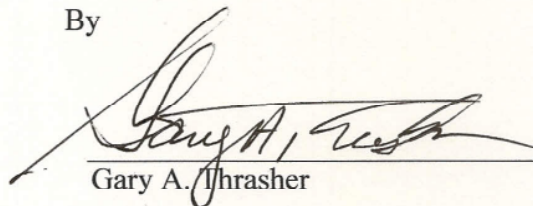
24 
25 _____
26 Gary A. Thrasher

EXHIBIT O

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13 *Attorneys for Intervenor Defendants Janice K. Brewer,*
14 *Governor of the State of Arizona, and the State of Arizona*

15 **IN THE UNITED STATES DISTRICT COURT**
16 **FOR THE DISTRICT OF ARIZONA**

17 Friendly House, et al.
18 Plaintiffs,
19 v.
20 Michael B. Whiting, Apache County
21 Attorney, in his official capacity, et al.,
22 Defendants,
23 and
24 Janice K. Brewer, Governor of the State of
25 Arizona, in her official capacity; and the
26 State of Arizona,
27 Intervenor Defendants.
28

No. CV-10-1061-PHX-SRB
DECLARATION OF RYAN SMITH

Snell & Wilmer
L.L.P.
LAW OFFICES
One Arizona Center, 400 E. Van Buren
Phoenix, Arizona 85004-2202
(602) 382-6000

DECLARATION OF RYAN SMITH

I, Ryan Smith, declare as follows:

I make this declaration based upon my personal knowledge of the matters set forth below. If called upon to do so, I could and would testify competently thereto.

1. I live in Gilbert, Arizona and work in Phoenix, Arizona.

2. Attached as Exhibit A is a true and correct copy of a photograph that I took on June 23, 2010 at approximately 5:00 pm.

3. The sign in Exhibit A is located on the South side of the Highway near mile marker 124 on I-8, in Maricopa County, Arizona.

4. Attached as Exhibit B is a true and correct copy of a photograph that I took on June 23, 2010 at approximately 5:00 pm.

5. The sign in Exhibit B is also located on the South side of the Highway near mile marker 124 on I-8, in Maricopa County, Arizona.

6. The signs are located approximately 80 miles from the Mexican border and 30 miles from Phoenix.

7. The signs, which face north, have been erected on either side of a dirt road that I understand to be operated by the Bureau of Land Management.

8. The photos attached as Exhibits A and B fairly and accurately depict the signs located at mile marker 124 near I-8 as they appeared on June 23, 2010 at approximately 5:00 pm.

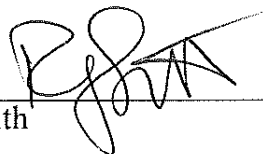
I declare under penalty of perjury that the foregoing is true and correct.

DATED 7-7-2010.

Maricopa County, Arizona.

By

Ryan Smith



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Snell & Wilmer

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EXHIBIT A

TRAVEL CAUTION
SMUGGLING AND ILLEGAL
IMMIGRATION MAY BE
ENCOUNTERED IN THIS AREA



Exhibit B

**DANGER - PUBLIC WARNING
TRAVEL NOT RECOMMENDED**

- Active Drug and Human Smuggling Area
- Visitors May Encounter Armed Criminals and Smuggling Vehicles Traveling at High Rates of Speed
- Stay Away From Trash, Clothing, Backpacks, and Abandoned Vehicles
- If You See Suspicious Activity, Do Not Confront! Move Away and Call 911
- BLM Encourages Visitors To Use Public Lands North of Interstate 8.

For more information,
call (623) 580-5500.



EXHIBIT P

DECLARATION OF AMBASSADOR OTTO REICH

I, Otto Reich, declare as follows:

The facts set forth below are of my own personal knowledge and, if called as a witness, I could and would testify competently thereto.

1. I received a Bachelor's Degree in International Studies from the University of North Carolina (1966) and a Master's Degree in Latin American Studies from Georgetown University (1973). I served in the US military from 1966-1969 as a lieutenant in the U.S. Army's 3rd Civil Affairs Group (Airborne), Panama Canal Zone.

2. I served as Washington Director of the Council of the Americas; Community Development Coordinator for the City of Miami; International Representative of the State of Florida Department of Commerce; and staff assistant in the U.S. House of Representatives.

During the 1980's, I received three appointments from President Ronald Reagan. From 1986 to 1989, I served as U.S. Ambassador to Venezuela, for which I was awarded the highest commendations of both the State Department and the Republic of Venezuela. As Special Advisor to the Secretary of State from 1983 to 1986, I directed the Office of Public Diplomacy for Latin America and the Caribbean, which received the Department's Meritorious Honor Award. From 1981 to 1983, I was Assistant Administrator of the U.S. Agency for International Development (USAID) in charge of U.S. economic assistance to Latin America and the Caribbean.

3. In 1991 and 1992, as a private citizen and at the request of President George H. W. Bush, I served as Alternate U.S. Representative to the UN Human Rights Commission in Geneva.

4. From 1990 through 2001, I worked as a private consultant, advising clients on international government relations, market access and strategic planning.

5. In 2001, President George W. Bush selected me to be the Assistant Secretary

of State for Western Hemisphere Affairs, reporting to Secretary of State Colin Powell. In 2003, I became President Bush's Special Envoy for Western Hemisphere Initiatives, reporting to Dr. Condoleezza Rice at the National Security Council.

6. I left government service in June 2004 and later formed Otto Reich Associates, LLC, of Washington, DC, a consulting firm which provides international government relations, trade and investment advice to US and multinational clients.

7. I have spent most of my life working in the field of foreign affairs, primarily related to Latin America and the Caribbean, including private enterprise, government, and the U.S. military.

8. I am an immigrant and, at the time I had my green card, I understood I needed to carry it until I became a citizen. Based on my personal experience, and my professional experience as an observer of foreign and domestic policy, I understand the value of legal immigration in allowing the US to continue to welcome immigrants to this country. I strongly believe that controlled immigration is good for the United States, the country to which I owe my freedom and any success I have had in life. Uncontrolled, illegal immigration undermines not only the respect for the rule of law that made this country the envy of the world, but also undermines support by US citizens for continued legal immigration.

9. I have reviewed the Declaration of James B. Steinberg, Deputy Secretary of State, dated July 2, 2010, submitted in the case of *US of America v. The State of Arizona, et al.*, 2:10-cv-01413-SRB.

10. I have reviewed SB 1070 as amended by HB 2162.

11. I offer the following statements with the benefit of my prior government service; my continued work with US and multinational clients related to international government relations, trade and investment advice; and my extensive history working in foreign affairs, primarily related to Latin America and the Caribbean.

12. The Declaration of Deputy Steinberg addresses various issues that the State

Department must take into consideration as it coordinates the foreign policy for the United States. I agree with many of the various considerations he identifies. That said, Deputy Steinberg makes a number of statements about the potential impact of SB 1070 based on concerns about the viewpoints of several historically anti-American governments, leaders, and international organizations. He further suggests that SB 1070 has caused criticism in the international community but fails to acknowledge that the State Department has wholly failed to educate the international community about SB 1070 or the extent to which federal law already allows what Arizona seeks to accomplish. Additionally, Deputy Steinberg insinuates that United States foreign policy is dictated by the views of the foreign governments or foreign publics and without further explanation that SB 1070 implicates human rights considerations. In my considered view, the State Department and other federal officials, including the President of the US, Secretary of State Hillary Clinton, Secretary of the Department of Homeland Security Janet Napolitano, and Attorney General Eric Holder have each played a significant role in exacerbating the response by the international community. Accordingly, the validity of the statements by Deputy Steinberg is undermined by the federal government's role in creating the intense international response, the reliance on criticism from some anti-American leaders and organizations and the State Department's failure to explain US immigration policy in the face of such criticism.

I. The State Department Acknowledges It Plays a "Substantial Role" in "Managing" Foreign Relations.

13. The State Department has failed in its role to manage foreign relations as it relates to Arizona's passage of SB 1070 as amended by HB 2162.

14. Deputy Steinberg acknowledges in paragraph 22 of his declaration that, the Department of State is *often* in the position of managing problems associated with changes to immigration law. Indeed, he acknowledges that countries routinely raise concerns about changes in bilateral, regional, and multilateral areas as it relates to immigration. In my experience, events occur every single day in the US, and outside of

the US, that foreign governments find objectionable as it relates to the US.

15. In the context of foreign policy, public criticism in bilateral exchanges is part of the normal conduct of diplomatic relations. If others countries are criticizing the US, that criticism may be deserved. If it is not deserved, the US should defend itself vigorously. With respect to SB 1070, the federal government has apparently made the choice not to defend the US against criticism.

The US was criticized for its immigration policy before SB 1070 and, based on my experience, it will be criticized after SB 1070 whether or not the law is enjoined or invalidated. In short, the US can expect to be criticized – whether valid or not – with or without SB 1070.

16. On any given day, the US is going to take action that some foreign governments find objectionable. For example, I fielded and responded to various complaints by foreign governments during my years of service. In one case, I received formal complaints from a number of Western Hemisphere nations about airport security for their traveling diplomats. As a result, the State Department tried to set up a system to make sure that it was informed of travel plans in advance so that a protocol official could meet the traveling diplomat to be escorted through the airport and to avoid the need to go through public security procedures. This is a simple example of the type of relationship building that the State Department is charged with managing.

17. Paragraphs 16-17 of Deputy Steinberg's declaration address the revocation of visas in Honduras as a result of a constitutional crisis in 2009. In that case, the State Department revoked visas to convince other interests to (unsuccessfully) restore the Honduran President who had been removed from power. This was a subjective and very controversial decision by the US government. In fact, this was a decision that was criticized by some in our own Congress and in countries of Latin America. This is an example of the State Department doing what it feels needs to be done without regard to criticism from within or without the US. The federal government has the power to decide

who can come into the country as Steinberg recognizes at Paragraphs 16 and 17 of his declaration.

18. In the case of immigration enforcement, however, the federal government has fallen short in its responsibility to control borders. In light of this failure, the federal government should then not criticize a state government who offers to help, such as in the case of Arizona and SB 1070. This is particularly true as Deputy Steinberg recognizes that states may play beneficial roles in assisting with the enforcement of federal immigration law.

19. In my experience, the US is much more restrictive in its immigration policy and is stricter in enforcing the law than many other foreign countries. As a result, State Department officials frequently receive complaints from foreign governments.

20. One of the roles of the State Department is to convince other countries that US policy is correct. The job of the State Department is to find some compromise when disagreement occurs. I have not seen any effort by the State Department to find any compromise with respect to SB 1070. On the contrary, the lawsuit filed by the DOJ has given critics of the US a further basis to disparage the US.

A. The US State Department Is Charged with Day-to-Day Conduct of Foreign Affairs Which Includes Educating Foreign Governments and Their Public About US Immigration Law

21. The State Department has an obligation, as part of its diplomatic mission, to educate foreign countries and the international community about US policy, including the enforcement of immigration laws.

22. I have reviewed reports in the press and watched television interviews about SB 1070, and I have also participated in international meetings where SB 1070 was discussed. I have reviewed Spanish television programs that included reports about SB 1070, and in particular, comments made by US officials regarding SB 1070.

23. Since the passage of SB 1070, I am not aware of any attempt by the State Department (or any other federal department or official) to either educate foreign

countries and the international community about SB 1070 or to explain that SB 1070 simply deals with Arizona's assistance in enforcing existing federal law. For example, as I understand SB 1070, Arizona will not be deporting or removing individuals as that decision will remain vested with the federal government. I am not aware of any instances in which the State Department has explained publicly that existing US law already contains certain requirements for obtaining authorization to enter the US and that SB 1070 does not change that or the way in which decisions are made to remove or deport those unlawfully present in the United States.

24. I taped a Spanish-language television program on July 16, 2010 for Oppenheimer Presenta, a weekly show hosted by Andres Oppenheimer, a Pulitzer Prize-winning journalist for the Miami Herald. It is broadcast to US media in the Spanish-language, to Spain and Latin America. One of the panelists was a Mexican Senator who had critical comments about SB 1070, but they were based on a distorted understanding of the law. Based on the various public media sources that I have reviewed over the last thirty to sixty days, the impression in Latin America is that law is negative. Not only has SB 1070 been distorted by local politicians in Latin America and the media, including Univision and CNN (Spanish), but it has not been fully explained to the international community by US authorities. Such steps, had they been taken, could have alleviated some of the criticism about which the Deputy Steinberg complains.

B. SB 1070 Has Been Distorted by US Officials Resulting in Widespread Criticism That Has Been Exacerbated by the DOJ's Lawsuit Against Arizona

25. The various statements about SB 1070 made by President Obama, Secretary Clinton, Secretary Janet Napolitano, and Attorney General Eric Holder, have contributed to the negative publicity about which Department of Justice now complains in its lawsuit against Arizona. I understand that both Attorney General Holder and Secretary Napolitano made negative comments about SB 1070 before (according to their own admissions) reading the legislation. If the US Attorney General and the Secretary of Homeland Security did not read the law before criticizing it, it is fair to assume the

reporters in Latin America and the general public did not read it prior to criticizing it either.

26. I am aware of comments made by Secretary of State Hillary Clinton in Quito, Ecuador on June 8, 2010 to an Ecuador television reporter. In this interview, Secretary Clinton stated that President Obama spoke out against the law and, in a rather surprising way she further announced to the world that the DOJ would be bringing a lawsuit against the State of Arizona. In my experience, this type of announcement is unprecedented, and the State Department should have expected a significant negative response from the international community, and in particular, from countries who regularly criticize the US for their own political or economic reasons.

27. Rather than using the interview in Quito, Ecuador to explain US immigration policy, Secretary Clinton fueled the fire at the international level by announcing that the US was suing one of its states to enjoin legislation that by its express terms, prohibits racial profiling and that seeks to parallel federal immigration law. Secretary Clinton unquestionably used the media opportunity in Ecuador to attack SB 1070. As a result, the Latin American population, in particular, has been led to believe that the Arizona law is draconian rather than simply consistent with federal law.

28. For example, during the 1980's, the US adopted certain policies related to Central America and the Caribbean that were particularly controversial. President Reagan set up an Office of Public Diplomacy to explain the policies to various constituencies, domestic, international and foreign governments, and the press. The Office of Public Diplomacy gathered, processed and disseminated information in an effort to explain US policy. I have seen no evidence that the State Department or the Office of Public Diplomacy has made any effort to use available resources to educate the public about SB 1070 both domestically and abroad, except to incite criticism and fear as it relates to the enforcement of the legislation.

II. Many Foreign Nations Have Significant Political And Economic Reasons To Criticize And Discourage Any Action by the US, Including The Individual States, As it Relates to Limiting Immigration, Whether Legal or Illegal

29. As a matter of foreign policy, the US should consider the positions of foreign nations but not the exclusion of enforcing its own federal laws. In my experience, the views of foreign governments and people are important considerations but they do not drive the decisions made by the State Department, which is charged with, among other things, administering federal immigration law and policy and managing and negotiating its foreign relations impact.

30. In the area of immigration, many foreign countries have particularly strong views as to how the US should enforce its laws. In my experience, most countries would prefer to see the US border remain as open as possible to allow the exportation of surplus labor to the US. The declaration submitted by Deputy Steinberg ignores the reality that the US is under constant pressure from countries all over the world to keep its borders as fluid and accessible as possible. Based on my experience, the pressure from other countries to stem efforts to limit entry has existed for at least the last twenty five years and I have no reason to believe that it will change any time in the near future.

31. By way of example, in the 1990's, the US granted Temporary Protected Status ("TPS") to nationals of El Salvador, Honduras and Nicaragua. TPS is typically extended every 18 months. In the case of El Salvador, that has not been the case. Following Hurricane Mitch in 1998, then-Attorney General Janet Reno announced that she would temporarily suspend the deportation of aliens from El Salvador and other countries affected by the hurricane. Before Hurricane Mitch, Congress was contemplating revoking the TPS for the several hundreds of thousands of El Salvador nationals in the US. Today, some twelve years after Hurricane Mitch, those nationals of El Salvador continue to maintain TPS. In this case, the TPS status has become permanent status since over twelve years have passed and there is no indication that the status will be revoked.

This type of result is not uncommon. Various Central American countries hire paid lobbyists to convince the US Congress that it cannot eliminate TPS status for their foreign nationals because sending them back would be destabilizing to the economies, socially and politically. Presidents of these Central American and Mexico countries have met with Presidents of the US to make the same argument and plead for the US to allow their foreign nationals to remain in the US.

32. I was personally involved in similar discussions as it related to requests by Colombia and Argentina. During the early 2000's, I was approached by the Ambassadors of Colombia and Argentina to extend TPS to Colombians and Argentines who were in the US illegally based on the dire economic situation facing those two countries at the time. At that time, the US declined to agree to the request, in part because the number of illegally present Argentines and Colombians was unknown and in part because the potential immigrant population of these two countries was in the millions. It is no surprise, and nothing novel, that countries in this region will take the opportunity to criticize US policy to the extent it seeks to enforce the federal immigration laws.

33. The Latin American region wants the US borders to remain open to undocumented workers because the number of legal aliens that the US allows is not enough to offset the problems of overpopulation and unemployment in those countries. In particular, these countries favor amnesty so that those unlawfully present can continue to send money to their friends and families back home. These remittances represent up to 25% of the gross domestic product of countries like Honduras and El Salvador. It is therefore essential for the stability of the countries to have their citizens remain in the US. Based on my work with Mexico, I understand that the ultimate desire of Mexico is complete amnesty.

34. Deputy Steinberg cites public opinion polls from Mexico to suggest that SB 1070 has "significantly harm[ed] foreign attitudes towards the US as whole." Deputy Steinberg relies on one opinion poll from Mexico to draw this conclusion. Time after

time, the US has taken positions that have been very unpopular in Central America and Mexico. Without question, the US will continue to take positions that are not palatable to countries in Central America and Mexico. Even if the polling is accurate, that is not a basis for dictating US immigration policy. If it were, the US might never have taken other unpopular steps, such as supporting some governments and opposing others during the civil wars that ravaged Central America in the 1980's. The Government of Mexico vigorously opposed US policy at the time, a policy that resulted in great gains for freedom and democracy in the region, and therefore for US objectives.

35. Before SB 1070, Mexico sought open borders for workers via NAFTA and publicly criticized the building of the border fence by the US. Based on my observations as a student of foreign policy for over thirty years, it is not the Arizona law that Mexico objects to, it is the limitation on the ability of its workers to cross the border at will, with or without the permission of the US. To the extent the State Department has presented these arguments about public opinion in Mexico, the State Department has effectively become the representative of the will of some people in Mexico. While public opinion polls should certainly inform foreign policy decisions, they should not be a factor cited to suggest the need for court intervention or to justify invalidating a state law which seeks, in the express language of the bill, to enforce existing federal immigration law.

36. The examples above establish that the countries of Latin America have a significant stake in keeping US labor markets as open to their people as possible – whether legal or undocumented. As a result, these same Latin American countries are predisposed to criticize any attempt by the US – whether justified or not – to enforce its immigration laws.

III. The US – Just Like Other Countries – Should Be Entitled to Enforce Its Own Immigration Laws

37. Deputy Steinberg makes multiple assertions about potential retaliatory treatment by other countries. The truth is that the US and its citizens are already subject to retaliatory treatment for a host of immigration actions by the US.

38. For example, after 9/11 the US imposed stricter identification requirements and eliminated visa waivers for some countries. Countries like Brazil were very upset because the US was requiring Brazilians to be photographed and fingerprinted on arrival in the US. The US believed this was prudent to avoid terrorist activities. The Brazilians retaliated by having Americans be photographed and fingerprinted. The US accepted the changes in Brazil. During this period, Brazil was harassing documented US citizens (as opposed to illegal aliens) by making them wait in long lines for several hours.

39. My understanding is that Brazil believed its retaliation efforts would force the US to change its laws. Brazil was wrong, and they eventually changed their rules after losing significant tourism from the US.

40. I have a former colleague who traveled to Brazil using a diplomatic passport after he retired from the State Department but before obtaining a diplomatic visa. Brazil sent him back immediately on a plane to US because he was not complying with Brazilian law which required either a diplomatic visa or a common passport. Brazil, like other countries, has its own laws which it enforces. The same should be true for the US. It is simply an empty threat to suggest that US citizens are going to be retaliated against for traveling to another country legally and with documentation because the US and one of its sovereign states are enforcing federal immigration law.

A. Criticism By Anti-American Governments and Leaders Should Not Dictate The Policy of The US As It Relates to Immigration Law

41. Deputy Steinberg points to objections or criticisms raised by various countries and leaders. Additional criticism has come from a variety of anti-US organizations.

42. Mexico has been the most vocal opponent of SB 1070. This is not surprising since

Mexico has an interest in the US border remaining as open as possible. When NAFTA was negotiated, Mexico wanted to include the free-flow of labor across the Mexico, US and Canadian borders. The US and Canada rejected Mexico's proposal. This position was reiterated by Mexico's former President Vicente Fox after NAFTA had been in effect for several years. The same sentiment was presented during 2001 when the Mexican Foreign Minister, Jorge Castaneda, indicated that Mexico didn't want piecemeal immigration reform in the US but instead wanted "the whole enchilada" (i.e., open borders). Once again, the US did not agree with Mexico's long-standing objective to allow their citizens to cross into the US to get jobs at will. The fact that Mexico wants US borders to remain open is nothing new and the recent criticism of SB 1070 in my view is simply another iteration of Mexican policy beyond that already exerted over the past twenty plus years.

43. The UN and the Organization of American States ("OAS") have also been cited by Deputy Steinberg to support the Obama Administration opposing to SB 1070

44. These organizations often adopt positions inimical to US interests and often pass resolutions critical of the US. That the US may be subject to additional critical resolutions by the United Nations or the OAS is par for the course for one of the most powerful countries in the world. Deputy Steinberg overstates the effect of SB 1070 and its effects on foreign relations.

45. For example, a number of bodies such as the UN criticize the US for various things, including: 1) its support of Israel ; 2) the wars in Iraq and Afghanistan; and 3) the Cuban embargo. Simply because the UN asserts criticisms or does not agree with US policy does not mean the US is wrong, that the criticism is warranted, or that it should drive US policy.

46. Some of the very countries and individuals criticizing SB 1070 are among the most anti-American and corrupt governments and leaders in the world. Aside from Mexico, which is a friend and ally, the most vocal opponents of SB 1070 have been

Venezuela, Cuba, Bolivia, and Ecuador. These four countries are among the most virulently anti-American governments in the region. These countries routinely criticize US policy for purely political purposes.

47. First, Rafael Correa, President of Ecuador is an ally of Hugo Chavez and Fidel Castro. President Correa has confiscated properties without compensation and expelled the US from the Manta air base that was used for surveillance of the Amazon basin and the Andes to prevent narcotics trafficking. To suggest that the US should be concerned about the views of President Correa as it relates to SB 1070 is ridiculous and undermines the credibility of Deputy Steinberg's declaration.

48. Second, Evo Morales, President of Bolivia, *expelled the American Ambassador* in 2008, accusing the Ambassador of interfering with the internal affairs of Bolivia. In addition, President Morales even expelled the US Drug Enforcement Agency (DEA) and USAID, the US economic and humanitarian assistance program, from his country. To date, the State Department has not sent an Ambassador back to Bolivia. Accordingly, it is disingenuous to imply that the US has significant foreign policy concerns about Bolivia's criticism of US immigration policy or SB 1070.

49. President Morales and President Correa are both members of the Bolivarian Alternative of the America ("ALBA"). ALBA is the alliance established by Cuba's Fidel Castro and Hugo Chavez. The members of ALBA include Cuba, Venezuela, Ecuador, Bolivia, Nicaragua, and several small Caribbean islands. In my experience, ALBA is nothing more than an anti-American organization controlled by Hugo Chavez and Fidel Castro. Based on my experience, ALBA is used as a vehicle to criticize the US on any number of topics.

50. Third, President Funes from El Salvador was elected as part of the Farabundo Martí National Liberation Front ("FMLN") party, known as a violent Marxist guerilla group from 1979-1992. The FMLN now purports to be a political party that has renounced violence. Nevertheless, the current Vice President of El Salvador has been

accused of participating in the deaths of hundreds of people during the period of the Salvadorean civil war (1979-1992).

51. Fourth, Alvaro Colom is the President of Guatemala. Guatemala suffers from significant governance problems, and the rule of law in Guatemala is essentially non-existent. Just last month, Carlos Castresana of the International Commission against Impunity (CICIG) resigned his post in Guatemala after saying that he could do no more when the government had not kept its promise to reform the justice system.

52. Paragraph 50 of Deputy Steinberg's declaration further identifies criticism by the Union of South American Nations ("UNASUR"). This entity was also created at Hugo Chavez's suggestion. The current head of UNASUR is the former President of Argentina, Nestor Kirchner. President Kirchner was accused of massive corruption. His wife, now President of Argentina, received suitcases of cash from Hugo Chavez for her presidential campaign. Given the history of UNASUR and the individuals involved at the leadership level, any suggestion by Deputy Steinberg that UNASUR's opinion should be considered while determining US foreign policy is simply without merit.

B. Requiring Aliens To Present Identification or Comply with Federal Law Is Not A Violation of Human Rights

53. Under US law, since 1940, foreign nationals have been required to carry documentation of their authorized presence in the US.

54. Requiring that foreign nationals comply with the requirement to provide documentation of authorized presence is not a violation of human rights – if it were, the US has been violating human rights in this way since the 1940s.

55. US citizens traveling overseas are similarly required to obtain proper authorization and, in most cases, to carry documentation of authorization on their person at all times. To the extent a US citizen is traveling overseas without proper documents then that citizen is likely breaking the law and should not be heard to complain when the foreign country enforces that law against him. The same standard applies for foreign nationals traveling to the US.

56. In my experience, it is not unusual even for pro-American foreign governments to complain about steps taken by the US to limit the ability of their citizens to enter the country. Many times, the basis for the complaints has nothing to do with the fact that they are unwilling to cooperate with the US or that they intend to impose sanctions or take some other step to harm the US. Often, the basis for the complaints is merely a matter of policy because they do not have enough jobs for their populations. Again, for many of the Latin American countries, the US serves as a destination for their unemployed citizens which helps to alleviate the significant burdens associated with high unemployment.

57. To the extent that Deputy Steinberg is concerned about the opinion of the UN Human Rights Council (“UNHRC”), that concern is unfounded. This concern is unfounded because countries such as Libya, China, and Cuba are voting members. These countries are gross violators of human rights but frequently sit in judgment of the US and other countries. The UNHRC has also criticized Mexico for its treatment of immigrants making their way across Mexico toward the US border.

58. The United Nations (“UN”) resolution regarding SB 1070 is unremarkable. The United Nations (“UN”) regularly adopts resolutions regarding human rights and protection of migrants. Having said that, the United Nations regularly adopts resolutions that the US does not like, and the US says so (e.g., the US regularly criticizes actions that involve Israel). The issues raised in paragraph 46-47 by Deputy Steinberg are not germane to the internal debate in the US about immigration.

59. In paragraphs 31-33 of his declaration, Deputy Steinberg attempts, via innuendo, to suggest that SB 1070 is violating the human rights of migrants without offering *any* proof that such rights are being violated. Deputy Steinberg never expressly says SB 1070 violates human rights or explains how SB 1070 is expected to violate human rights. Additionally, in paragraphs 24-25, Deputy Steinberg insinuates that SB 1070 violates treaties such as the Vienna Convention on Consular Relations (“VCCR”) which requires

that foreign nationals receive consular notification when in US custody. Deputy Steinberg has not explained how SB 1070 expressly or implicitly violates VCCR. US federal law does not violate VCCR, and Arizona mirrors federal law, then the suggestion that SB 1070 implicates the Vienna Convention is simply a mis-statement.

60. I was a US delegate to the UN Human Rights Council on two occasions. In my experience, the US has questioned the validity of the Council and resigned on at least one occasion. The same is true for UNESCO, where President Reagan withdrew the US from UNESCO because they were constantly undermining the policy of the US and supporting our enemies. At one point, President Bush elected not to participate in the UN Human Rights Commission which was seen by the international community as a vote of no confidence. Accordingly, Deputy Steinberg's reliance on criticism lodged by these and similar organizations is misplaced.

61. I have traveled a great deal during my over thirty years in government service and foreign policy. I have negotiated with violators of human rights. To suggest that the enforcement of existing federal immigration law would make it difficult for the State Department to promote advancement of human rights is a reflection on the State Department and its skills as opposed to SB 1070.

IV. The Federal Government Is Targeting Arizona While it Ignores Cities And States That Affirmatively Encourage Non-Compliance With Federal Immigration Law

62. At the same time the US is claiming that Arizona's action in passing SB 1070 has interfered with its ability to coordinate a uniform federal policy, it is ignoring jurisdictions across the country that prohibit their officers from complying with Federal law. My understanding is that several cities and other localities in the US have policies in place that prohibit law enforcement from contacting immigration authorities if they believe a person is in the US unlawfully. Based on my understanding, the Federal government has not pursued any of the so-called sanctuary cities that direct their law enforcement offices to refrain from inquiring about immigration status or contacting ICE.

I am not aware of such enforcement by the federal government in the last 25 years.

63. I agree with Deputy Steinberg's statements in paragraph 56 to the extent that independent enforcement policies by several states could present challenges for the US. The statement presumes two things: 1) Arizona has created an independent enforcement policy; and 2) the federal government has no competing immigration enforcement priorities and agendas, and has otherwise acted to enforce immigration policy. Both are false. That the US cannot speak with one voice has nothing to do with SB 1070 and everything to do with the federal government abdicating its responsibilities to protect the US borders on the one hand, and creating an international media dialogue about SB 1070 on the other. After having failed to protect the borders and having alerted the world to the US government's dissatisfaction with the Arizona law, the Federal government is now criticizing Arizona for trying to assist with enforcing federal law and blaming it for the resulting foreign affairs challenges in the process.

I declare under penalty of perjury that the foregoing is true and correct.

DATED *July 18,* 2010

Dade County, Florida

By

Otto Reich