



**AMERICAN CIVIL LIBERTIES UNION OF
ARIZONA**
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American Civil Liberties Union of Arizona

**Statement Regarding SB 1070
Delivered at the Senate Public Safety & Human Services
Committee Meeting
9 a.m. Wednesday, January 20, 2010
Senate Hearing Room 3**

**Submitted by Alessandra Soler Meetze
Executive Director,
American Civil Liberties Union of Arizona**

Madam Chair, members of the committee, for the record my name is Alessandra Soler Meetze and I am the Executive Director of the American Civil Liberties Union of Arizona, we're a statewide, non-partisan organization of nearly 6,000 members and supporters dedicated to protecting the principles set forth in the Bill of Rights.

I want to just make a few quick points about what we believe to be unconstitutional about this bill and then address why we think it makes bad public policy.

- ✓ First of all, this bill makes any non-citizen who has entered the United States without permission guilty of the additional state crime of trespassing.
- ✓ We know of no state or town that has passed a statute specifically enumerating unlawful presence as a state crime.
- ✓ The reason for that is that the Constitution gives the federal government exclusive power to regulate our borders, and with very few exceptions, states are not free to create their own laws regulating immigration.
- ✓ A similar attempt to give local police additional powers using a trespassing statute in 2005 in New Hampshire was found to violate the Supremacy Clause of the U.S. Constitution, Art. 6.
- ✓ What Arizona is trying to do with this bill would be an even more direct attempt to regulate immigration, and would therefore be even more likely to be preempted by federal law.
- ✓ As a result, the state would expose itself to all sorts of legal challenges, which leads me to my next point.

While I don't like focusing solely on the issue of litigation costs, I do think it's important for this committee to raise questions about the fiscal impact of this bill.

When local police in Chandler, Arizona conducted an immigration raid based on racial profiling, the city ended up paying approx \$ 400,000 in settlements to U.S. citizens swept up in the operation.

The Farmer's Branch litigation in Texas over rental bans has already cost the town \$ 1.5 million in legal fees, and they face a potential liability of \$900,000 in plaintiffs' fees. As a result, the town has had to dip into reserves and is having to come up with ways to raise revenues and cut costs.

The Hazelton, Pennsylvania litigation has already cost the city hundreds of thousands of dollars, and it faces a potential bill of \$2 million in plaintiffs' fees. The city may have to issue bonds to fund the expenses.

You're all well aware of the costs to Maricopa County, but other police departments in California, Connecticut and New Mexico that are currently enforcing immigration laws have already incurred costly litigation for violations of civil liberties.

But, it's important to note that there are other important fiscal costs that go far beyond just litigation.

For example, there is the:

- Cost of training officers. Because this bill requires even departments without 287(g) agreements to investigate civil violations of federal law, it means the state will be responsible for the costs of training those officers. Those estimates differ, but you can count on thousands of dollars per officer to do it right and this will not be covered by the feds. The bill as written now gives officers 287 arrest authority (not just investigative detention authority) without the benefit of proper training, which means if you don't train officers, the end result will surely be the prolonged detention of citizens and legal residents.
- Just to give you a more concrete example of costs. The Board of Supervisors for Prince William County in Virginia passed a similar immigration law, but the Board eventually delayed implementation

of law when it learned from the police chief that the local law enforcement portion of measure would cost \$14.2 million over 5 yrs to implement¹.

- There are costs to incarcerate and transport prisoners (again, costs not provided by feds)
- There are public relations and public education costs – how will police departments reach out to domestic violence victims who are afraid to call police?
- Finally, there are costs of undermining public safety.

This bill goes beyond just enlisting the help of local police agencies to enforce immigration laws.

It severely ties the hands of cities and counties by requiring that they prioritize civil immigration enforcement over their other public safety responsibilities.

Rather than going after serious, dangerous felons, local police departments will be forced to arrest people for the civil immigration violation of “illegal presence.”

This is particularly harmful at a time when Arizona’s local governments are already making difficult choices about how to allocate their limited resources to arresting and detaining violent and serious offenders.

I would strongly urge members of this committee to visit www.policefoundation.org and download the group’s 256-page report.² It concludes that the costs of local police enforcement of immigration far outweigh the benefits and recommends that police officers be prohibited from detaining anyone to investigate immigration status where there has been no state criminal law violation.

I’m not here to threaten litigation; I’m in no position to make that assessment at this time. I’m here to urge this committee to do what’s in the best interest of Arizona residents. And, given the state’s current fiscal crisis, we believe it makes little sense to burden municipalities and police departments across the state – already struggling to close massive budget gaps – with additional costs.

For these reasons, I would strongly urge you to vote no on this piece of legislation. Thanks and I’d be happy to answer any questions.

¹ <http://www.washingtonpost.com/wp-dyn/content/article/2007/10/02/AR2007100202446.html>.

² <http://www.policefoundation.org/strikingabalance/strikingabalance.html>