



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

**Statement Regarding SB 1070  
Submitted in Writing at the House Military Affairs & Public Safety  
Committee Meeting  
9 a.m. Wednesday, March 31, 2010  
House Hearing Room 3**

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

Mr. 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'd like to just make a few quick points about the provisions that I think can do the most harm to Arizona and then explain why the striker does not remedy any of the constitutional problems with this bill. The question that I hope will all consider as you vote on this bill today is "AT WHAT COST?" How much are we prepared to sacrifice, how many of our basic liberties are we willing to compromise, for this issue of immigration?

Section 2(B) of the bill dictates to officers that they must make a reasonable attempt to determine the immigration status of any person they have reasonable suspicion to believe is in the county unlawfully. I think it's important to take a moment and understand what that will look like in practice. Imagine a state where officers would potentially be required to investigate *every* person they come across who fails to carry identification, regardless of whether they have reason to believe you've committed any crime.

The striker does not fix these problems, and in fact, makes them even worse. It specifically singles out the failure to carry ID as a reason to believe someone is an illegal immigrant.

The striker language further states that officers may not rely solely on race, color or national origin in implementing these provisions. But our commitment to a colorblind society requires that we not consider race, color or national origin to any degree. This is an important point because Section 2(B) in particular will almost certainly lead to never-ending requests to produce identification for our Latino citizens, including our young people (who do not carry identification except their school ID). Many U.S. citizens, Native Americans, and lawful residents will predictably be swept up in the application of this law, for something as simple as having an accent or leaving their wallet at home.

*This provision could be the most costly to defend because it will foster new forms of discrimination and harassment of anyone perceived as looking or sounding "foreign."*

Section 2(F) of the bill [Section 2(E) of the striker] is another blow to our liberties. That section encourages government officials to maintain information that has nothing to do with the verification of eligibility or residency for the government service they are trying to access, and communicate with other agencies about it, without proper safeguards to protect Arizonans' privacy.

NEXT, Section 2(E) the bill [Section 6 of the striker] and Section 3 of the bill [and the striker] are an attempt to expand police powers in a way that is prohibited by the Constitution. In other words, it is entirely likely that Arizona will never be allowed to implement these provisions by a federal court.

The bill attempts to expand the circumstances in which officers can make warrantless arrests to include "commission of any public offense that makes the person removable from the United States." To the extent that this includes administrative violations of the immigration law, the Ninth Circuit Court of Appeals has *already* held in a case called Gonzales v. City of Peoria, that Arizona peace officers' authority to arrest is QUOTE "limited to the criminal violations" of the Immigration and Nationality Act.

The strike everything amendment also attempts to "fix" the trespassing provision in the bill by directly making it a state crime to violate the federal immigration registration laws and the carrying of registration documents. I can tell you that this is not going to do anything to make it more constitutional. 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. Just last Wednesday, a federal court in Texas permanently enjoined the City of Farmer's Branch from implementing its own immigration enforcement ordinance. This was the City's *third* attempt at drafting a constitutional ordinance—two other ordinances had been litigated and lost on the ground that they violated the Supremacy Clause, costing the town more than \$1.5 million in legal fees to defend. The problem with the original bill was not that it had the label of trespassing, but that state legislation in this area is preempted by federal law. Other ordinances have been struck down in Riverside, NJ, Valley Park, MO, and Hazelton, PA, just to name a few.

There are many parts of the bill and the striker language that simply copy provisions in federal law. I would like to ask this committee, then, if this bill is even necessary. Arizona peace officers already have the authority to investigate anyone for whom they have reasonable suspicion to believe has violated the law, and arrest anyone upon probable cause of a crime. And federal law has already covered the registration document, information sharing, and harboring provisions. Considering the potential costs, both financial and otherwise, I think the answer is clearly NO.