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# Civil Liberties in Arizona

## National Day of Action Against SB 1070 ★ March 28, 2010



## Arizona Bans Ethnic Studies When It's Most Needed

By Alessandra Soler Meetze • [ameetze@acluaz.org](mailto:ameetze@acluaz.org)

The 2010 Arizona Legislative Session will undoubtedly go down in history as one of the worst for civil liberties. Aside from passing the most punitive, discriminatory anti-immigrant bill this country has ever seen, the Governor signed



HB 2281, which prohibits schools from teaching subjects that "advocate ethnic solidarity." The intent of the bill, according to numerous public statements made by Arizona Superintendent of Public Instruction Tom Horne, is to eliminate the popular Mexican American studies program in the Tucson Unified School District (TUSD). The program, which teaches history from a multi-cultural perspective, was ironically created in 1997 in response to segregation and racial inequality concerns raised by parents in a lawsuit against the school district. In December 2009, a judge monitoring the school district's compliance with the long-standing lawsuit actually recommended an expansion of the ethnic studies program, which also includes classes in African-American and Pan Asian studies. Yet, Horne and his counterparts in the Arizona Legislature, including John Huppenthal who is running for Horne's job, have vowed to shut down the Latino studies program, which they claim provokes racism.

The bill, signed just weeks after SB 1070 became law, excludes classes for Native American students. School districts or charter schools

could lose up to 10 percent of their state aid if they're found to be non-compliant.

Given the headlines surrounding SB 1070 and the potential for discrimination, now is precisely the time when students should be discussing race issues in the classroom. Without a doubt, SB 1070 is the topic of conversation when students talk with their friends and family members, so why not use these courses as an opportunity to look at the history of race relations in Arizona?

The ACLU believes this law violates the First Amendment rights of students and teachers and limits their right to access information. This law is a prime example of how politicians use their positions of authority to restrict speech and stifle important discussions about equality, tolerance and history – simply because they don't agree with what's being discussed in the classroom. What offends them is precisely what should be debated in the classroom and in public. The ACLU, which has been in frequent contact with TUSD staffers, filed a records requests on June 10th to gather additional information, including e-mails or documents, about state plans to eliminate the programs.

HB 2281 was one of 20 bills the ACLU tracked during this session. In addition to banning ethnic studies, the Arizona Legislature also expanded the controversial tuition tax credit programs, made it a crime for juveniles to send sexually explicit text messages, banned abortion health insurance coverage and restricted minors' access to certain extracurricular activities and mental health treatment. For more information on these bills, and SB 1070, go to our website and click on the Legislature tab.

## My Rights, Your Rights... Our Rights

Student leaders organized walk-outs, sit-ins, and protests across the state this spring. Their passion for civil rights is inspiring and their enthusiasm for community action is contagious. The ACLU of Arizona's *Youth & Students' Rights Project*, launched last fall, is working to provide these student leaders with accurate information about their legal rights to stand up and speak out on those issues they are passionate about.

Through formal presentations to classes and student clubs, community festivals and events, and ACLU-sponsored public education events, we have distributed hundreds of palm cards to youth and students across the state. The cards direct students to our *Students' Rights Handbook*, available at [www.acluaz.org/myrights](http://www.acluaz.org/myrights), where they can find specific and important information on the rights of public school students in Arizona.

In an effort to encourage students to utilize the resources and information provided to them in the *Students' Rights Handbook*, we placed ads in student-run, high school newspapers in Phoenix and Tucson. In April and May, the ads ran in Tucson High School's *Cactus Chronicle*, Cortez High School's *The Spectator*, and Catalina Foothills High School's *The Falcon Voice*, reaching out to thousands of student readers.



While there's been no shortage of discriminatory anti-immigrant laws across the country in recent years, SB 1070 is in a league of its own.

It requires police officers to stop and demand that people on the street present their papers simply because of the way they look and makes Latinos, and other presumed immigrants, potential criminal suspects in the eyes of the law.

Given that Latinos comprise an estimated 30 percent of Arizona's population, the law presents a pretty big target. How do you know people are unauthorized to be in the United States just by looking at them? No one, including Governor Brewer who signed this bill into law, has come up with a good answer to that question.

That's because the whole nature of racial profiling is that law enforcement will find a reason to stop people if they want to. Police officers could stop someone on a very minor traffic infraction, based on the way they look, and then demand their papers. Or they can stop them for an unbiased reason and then, based on appearance and nothing else, demand their papers. Either scenario is racial profiling and unconstitutional.

The ACLU believes this law will invite racial profiling and violate a host of federal civil rights laws and the Constitution's guarantee of Equal Protection under the law. That's precisely why we filed a lawsuit on May 17th challenging this unconstitutional law. To read the complaint, visit our website.

## ACLU Files Legal Challenge to Arizona's Racial Profiling Law

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A protester waves an American flag outside the state capitol on April 29th, at a press conference where the ACLU of Arizona announced plans to challenge SB 1070.

This is the fifth ACLU lawsuit against government officials in Arizona on behalf of a besieged immigrant community. Just last summer, we filed a lawsuit on behalf of a Latino citizen and lawful resident who were forcibly transported by Maricopa County Sheriff's deputies to the site of an immigration raid. And we're continuing with litigation challenging unlawful stops of many citizens and legal residents by the Maricopa County Sheriff's Office.

Unfortunately, we can only expect these shameful incidents to climb in number if this new law takes effect. SB 1070 will undoubtedly force good police officers to do bad things. And the last thing we need is yet another bill that will alienate Arizona residents from law enforcement.

Our fight against SB 1070 is a continuation of our long-standing commitment to eliminate racial profiling and police misconduct. We are devoting additional resources, including hiring more legal staff and launching targeted public education efforts, to inform the public about the harms caused when untrained police officers use immigration enforcement as an excuse to profile people based on race, language or national origin.

For the sake of all people of color in this state, let's hope justice prevails.

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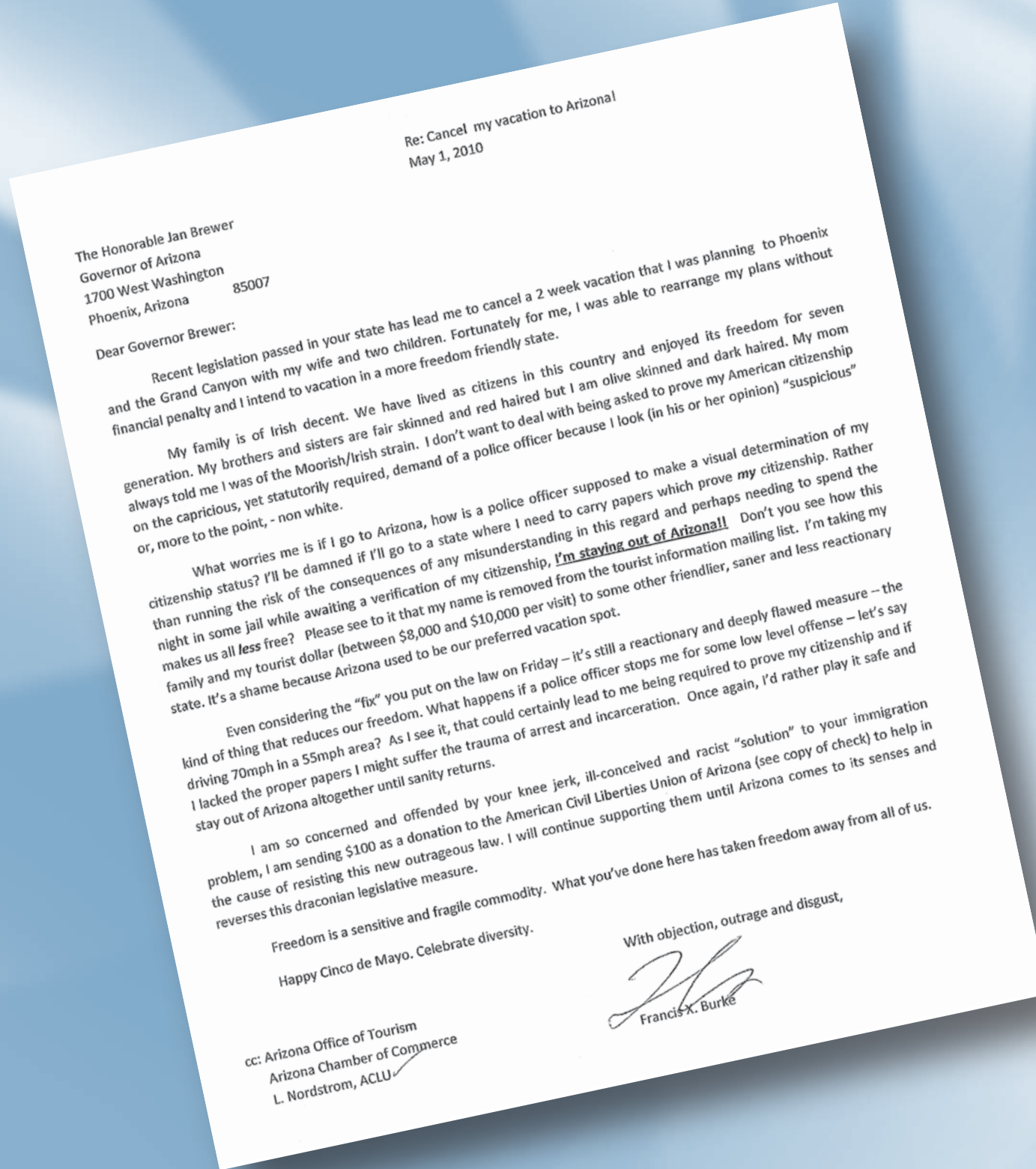
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### Give to the Annual Fund Campaign

Help us carry the torch forward and lead the way into the future by making a tax-deductible gift to the ACLU Foundation of Arizona. We cannot continue our work without your support. We ask you today to make a special, tax-deductible gift that will directly support our efforts. Please send your gift in the enclosed envelope or contact Lindsay Nordstrom at (602) 650-1854 ext. 105, [lnordstrom@acluaz.org](mailto:lnordstrom@acluaz.org), or visit [www.acluaz.org](http://www.acluaz.org).



### A message from President Roberto Reveles

This is a sad and tragic time for Arizonans. On April 23rd, Governor Jan Brewer signed Arizona SB 1070 into law. Among other flaws, the bill mandates all local police to question people about their immigration status during everyday encounters.



This law legitimizes the shameful use of racial profiling. It is discriminatory, unfair and inconsistent with the U.S. Constitution, and comes at a high cost both to Arizona taxpayers and to our treasured civil liberties.

By signing this bill into law, Governor Brewer has authorized violating the rights of millions of people living and working in Arizona. She has forced every police agency in our state to divert precious resources away from promoting public

safety and has instructed them to detain and question anyone who looks or sounds "foreign." Sadly, it is a dark day for Arizona when the goal of appeasing one state senator, Russell Pearce, takes priority over fundamental constitutional rights and also piles unneeded costs onto already overburdened taxpayers.

Before the Governor signed the controversial bill, President Barack Obama justifiably criticized the proposal as "misguided," and pointed out the bill's threat to "undermine basic notions of fairness that we

cherish as Americans." The President promised to "closely monitor the situation and examine the civil rights and other implications of this legislation."

The ACLU is doing more than just closely monitoring the situation.

On May 17th, the American Civil Liberties Union and a coalition of civil rights groups filed a lawsuit in the U.S. District Court for the District of Arizona challenging the constitutionality of this new law. Armed with outstanding and dedicated legal talent, we expect to win.

#### We cannot win without your vital support!

I implore you today to make a special, tax-deductible gift that will directly support our litigation and public education efforts by using the enclosed envelope or by going to our website at [www.acluaz.org](http://www.acluaz.org) and clicking on "donate now." If you have questions or comments about this tragic legislation or the ACLU of Arizona's plan to counter it, please e-mail me at [president@acluaz.org](mailto:president@acluaz.org).

I know I can count on your support.

Sincerely,

Roberto Reveles

## In His Own Words: A Story of LGBT Discrimination in Arizona Schools

Gay teens should be protected under the law just like anyone else, but sometimes the rights of LGBT students are not respected. That's precisely why the ACLU of Arizona has identified youth and First Amendment rights as one of our strategic priorities over the next five years. From assisting with the establishment of GSA (gay/straight alliance) clubs in schools to intervening when schools are indifferent to harassment and threats made against LGBT-identified students, the ACLU of Arizona has been regularly involved in challenging discriminatory and abusive actions directed at LGBT students by governmental bodies in Arizona. This first person account tells the story of the challenges faced by one brave gay teen who is fighting discrimination and harassment in his school.

*My name is Caleb Laieski. I am a 15-year-old gay teenager living and attending high school in Surprise, Arizona.*

*As a gay youth in a public school system, I have endured relentless harassment, threats, and bullying simply because I am a gay teenager. During my 8th grade year of school, I finally acknowledged to the public and myself that I am, in fact, gay. As the news of my gay "outing" made the rounds at school, "anti-gay" slurs and innuendos began. Words like "fag and homo" became a way of life for me.*

*When I started high school, the harassment, slurs, and threats became bolder and more frequent. Worse yet is that the vast majority of teachers failed to intervene. In fact, one teacher said, in front of his class, that all gays are "going to hell." As those issues worsened, I contacted the school district countless times for help. Help never came.*

*On March 24, 2010, at about 1:45 p.m., while walking home from the bus stop, I was pursued by several male classmates in a vehicle yelling, "Fuck you Caleb, you fucking faggot!" followed by "fuck gay people – you all need to die!" For me, this was the final straw. I was now in fear for my personal safety and well-being. Thus, I contacted the ACLU of Arizona for help.*

While Caleb's story seems shocking in 2010, it is unfortunately not unique. LGBT-identified youth continue to be threatened, harassed and victimized in Arizona schools. No student – regardless of his or her sexual identity, color or religion should be victimized in school, ever. The ACLU of Arizona is committed to make certain that indifference and abuse directed at LGBT-identified students ends. In the coming months, we will continue to work with Caleb and school officials until a successful resolution is reached, discrimination is eliminated and the school becomes a more welcoming place for him and other LGBT-identified students.

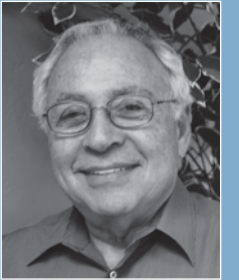
For additional resources on LGBT youth and schools, visit <http://www.aclu.org/lgbt-rights/youth-schools> or contact Addy Bareiss, ACLU of Arizona Program Coordinator, at [abareiss@acluaz.org](mailto:abareiss@acluaz.org).



## Updates

From the Desk of Legal Director Dan Pochoda

### Freedom of Speech and Prison Legal News



Censorship of books and publications sent to prisoners is an ongoing concern. While there are occasions when a valid reason leads to a rejection of a particular article, all too often prison officials use the mantra of "security" to deny prisoners a chance to read educational or entertaining material. For many incarcerated persons, such material is their sole contact with the outside world. The ACLU of Arizona represented the *Prison Legal News* in challenging unwarranted censorship practices at the Saguaro facility in Eloy, Arizona. This prison is run by the largest private prison company in the country and houses state prisoners, including many from Hawaii. In March, Dan Pochoda and attorney Ernie Galvan of San Francisco, with *PLN* publisher Paul Wright, participated in a day long negotiation before a federal magistrate. The resulting settlement guarantees that *PLN* will be removed from the "not approved" list and that prisoners may receive books and publications through *PLN*. In the future, *PLN* will be notified if any specific material is censored and provided the reasons and a chance to respond. The settlement was filed on June 3rd; it continues court jurisdiction over this matter and requires notice to all prisoners in the facility.

### Inmates' Religious Rights

In May, the ACLU of Arizona, with cooperating counsel from Snell & Wilmer, settled a second case against the Maricopa County Sheriff's Office (MCSO) for failing to accommodate the religious needs of a Muslim woman detainee. As set out in the complaint, the defendants, including the Sheriff, had failed to accommodate the religious needs of the plaintiff. They failed to provide her with the required religious diet, denied her adequate access to religious texts, and did not permit her to wear the Hijab head scarf. Injunctive relief became moot after the plaintiff was transferred to the Arizona Department of Corrections, but the case was settled upon payment of damages. We are investigating the practices at the Arizona Department of Corrections and are prepared to challenge the denial of the fundamental First Amendment right to practice religion, if necessary.

### Employment Discrimination

The ACLU case on behalf of Sinan Fazlovic, who was discriminated against while employed by MCSO, is in the active discovery phase. Sinan went to work as a detention officer after being assured that he could continue to wear a beard as required by his Muslim faith. Despite such assurance and after beginning work, Sinan was told that he could not maintain his position – and salary – as a detention officer unless he shaved. Sinan complained internally as well as to the EEOC; the MCSO responded by retaliatory and degrading employment decisions. Numerous depositions will be taken in June and July, including of MCSO Deputy Chief David Hendershott.