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Sheriff Joe Arpaio's Reign of Terror Becomes Arizona Policy, Thanks to State Senator Russell Pearce and Governor Jan Brewer

By Mike Lacey
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Editor's note: Mexicans lived in America before many territories became states. Indeed, much of our country was once their country. Today, Mexican immigrants are part of the fabric of this nation. Yet there is now fervor to drive immigrants out — almost at all costs. Keep them from coming here — almost at all costs.

What part of "illegal" don't you understand?

Arizona, ground zero for the so-called immigration problem in America, has passed a law requiring the police to stop anyone they think might be here illegally and force production of proof of citizenship. This puts the yoke of suspicion upon all with brown skin, including Americans. Other states are considering similar legislation.

Village Voice Media, in a national series, is telling the stories of Hispanics amongst us, the struggle they face, the groundswell of anti-immigrant sentiment, and the problems that drive immigrants from south of the border.

The project examines the consequences when federal authorities lack a coherent immigration policy.

Details:
An Opportunity to Stand Up

Village Voice Media is underwriting the cost of the American

With Governor Jan Brewer's April 25 signature affixed to Senate Bill 1070, Arizona is poised to direct all law enforcement agencies to adopt Sheriff Joe Arpaio's policy of rounding up and incarcerating Mexicans and then shipping them back across the border if they lack proper documentation of their status in America.

Arpaio's sweeps include deputies in black ski masks to underscore the tone of terror.

Civil Liberties Union of Arizona's forthcoming litigation against Senate Bill 1070, as well as two other immigration lawsuits.

Senate Bill 1070 mandates that a police officer who has "reasonable suspicion" that someone is a Mexican must detain that person. The cop must ask: Are your papers in order?

Similar legislation is under discussion in seven other statehouses.

Arizona has chosen to insist that all law enforcement in the state adopt the police-state tactics of infamous Sheriff Joe Arpaio.

Beyond the issue of immigration, Village Voice Media's journalists in Phoenix have been targets of the sheriff. Writers, editors, and our publisher have been stonewalled and harassed. The pursuit of public records has led to the filing of criminal charges against a reporter. The entire editorial staff was the target of a criminal grand jury, and the identities of our online readers

The new law, sponsored by former sheriff's deputy and current state Senator Russell Pearce, is, as a matter of fact, part of a national attack on Latino immigrants coordinated by FAIR, the Federation for American Immigration Reform.

Authored by FAIR's Kris W. Kobach, a controversial former Justice Department attorney under John Ashcroft, similar legislation is poised to be introduced in seven other states: Texas, Missouri, Oklahoma, Utah, Pennsylvania, Ohio, and South Carolina.

Senate Bill 1070 instructs police officers to demand proof of citizenship from anyone they have a "reasonable suspicion" may be in the country illegally.

Critics point out that the new legislation allows individuals to be stopped absent criminal behavior. The demand to know whether a person's papers are in order smacks of an authoritarianism not seen in this country in recent memory.

"Nazism," observed Los Angeles' Catholic archbishop, Cardinal Roger Mahony.

Such vivid, and vitriolic, reactions were not limited to the devout. Phoenix Mayor Phil Gordon announced he would file a lawsuit on behalf of the city challenging the legislation. Intent to litigate was also announced by the American Civil Liberties Union of Arizona, the Mexican American Legal Defense and Education Fund, the National Coalition of Latino Clergy and Christian Leaders, and two police officers, one each from Tucson and Phoenix. (Mayor Gordon could not secure the majority of the Phoenix City Council necessary to move forward legally, but he continues to speak out.)

Because the state has usurped federal authority over immigration, the legislation is open to a constitutional challenge.

More troubling is the fact that racial profiling is the very foundation of Senate Bill 1070. The Equal Protection clause of the U.S. Constitution prohibits selective enforcement based upon race. All Hispanics, no matter their citizenship, will be subjected to a police state that applies to no one else. No one else at all.

Driving While Brown now joins Driving While Black — not simply in the vernacular of human beings targeted because of skin color by law enforcement but also in the law books. Arizona, which at one point repealed the Martin Luther King Jr. holiday, appears determined to stake out racial frontiers.

Although Senator Pearce's name is on the bill, it is not surprising that the legislation is so heavy-handed racially, given the role of FAIR in drafting the contents. The Southern Poverty Law Center identified FAIR as a racially driven organization.

In 1986, FAIR's founder, John Tanton, wrote: "As Whites see their power and control over their lives declining, will they simply go quietly into the night? Or will there be an explosion?"

were the subject of a subpoena. That particular fight led to the arrests and jailing of *New Times* founders Jim Larkin and Michael Lacey.

The lawsuit from those arrests is in the appellate court.

For the past couple of years, Village Voice Media's newspapers have helped finance the ACLU's efforts to protect the rights of immigrants. Much work beyond the lawsuit remains on the immigration front.

We would like to extend an invitation to you, our readers, to join in this struggle against the cracker policies of Arizona politicians and certain elements within law enforcement typified by Sheriff Arpaio.

Please send a donation to:

American Civil Liberties Union of Arizona Foundation
P.O. Box 17148
Phoenix, AZ 85011

Or donate online:
www.acluaz.org

All contributions are 100 percent tax deductible. —

Kobach, while at Harvard, fell under the sway of Professor Samuel Huntington, according to research by Kansas City journalist Carolyn Szczepanski.

In his 2004 book, *Who Are We: The Challenges to America's National Identity*, Huntington claimed immigration, particularly by Latinos, threatened American culture.

Writing in the Kansas City-based alternative newsweekly *The Pitch*, Szczepanski noted that Kobach does missionary work in Africa, where he distributes Bibles to "people who live in huts, who have no written material whatsoever."

Kobach's proselytizing allows him to instruct Africans in "Christian and universal values."

We know precisely what the impact of Senate Bill 1070 will be upon the streets of Arizona because of a little-noticed settlement in a lawsuit brought by the American Civil Liberties Union of Arizona.

In 2001, Flagstaff attorney Lee Brooke Phillips and the American Civil Liberties Union of Arizona sued the state, charging that the Department of Public Safety — the highway patrol — engaged in rampant racial profiling.

John Lamberth, a Temple University professor with expertise in racial-profiling research, produced data in 2000 that showed African Americans made up fewer than 3 percent of traffic offenders but 43 percent of all stops by the DPS.

Based upon this study, the court ordered the highway patrol to turn over all data on traffic stops in northern Arizona for a one-year period.

What happened next made seasoned observers blink.

Instead of turning over records, records were destroyed.

"Look, the judge ordered the state to turn over a year's worth of records, and the state's prosecutor's office refused to turn them over," noted Phillips in an interview at the time with an advocacy group. "We learned they weren't turning them over because half of them have been destroyed."

Arnold vs. Department of Public Safety reached a historic settlement in 2006 with a federal court's approval.

The settlement, among other provisions, required the DPS to collect information on all traffic stops between July 1, 2006, and June 30, 2007.

Of the 200,000 traffic stops made on Arizona's interstates during this period, 13,271 ended with a vehicle search.

According to the study: "On average, Native Americans stopped by DPS officers were 3.25 times more likely to be searched than whites stopped by DPS officers. African Americans and Hispanics were 2.5 times more likely

**Michael Lacey,
executive editor,
and Jim Larkin,
chairman and
chief executive
officer**

than whites to be searched by the DPS.

"Higher search rates for minorities were not justified by higher rates of transporting contraband. In fact, on average, whites were more likely to be carrying contraband than Native Americans, Middle Easterners, Hispanics, and Asians on all major Arizona highways. African Americans were at least twice as likely as whites to be searched on all six interstate segments, despite the fact that the rate of contraband seizures for African Americans and whites was similar."

Keep in mind that these stops occurred after the state cops knew their behavior was under court-ordered scrutiny. A federal court order mandated that racial profiling be studied, and the troopers continued pulling over minorities and searching them as if Bull Connor were their chief.

Arizona's highway patrolmen were not isolated bad actors when it came to racial profiling.

National studies — seven in recent years — have documented repeatedly that while minorities transport contraband at significantly lower rates than whites, minorities are, nonetheless, stopped and searched at dramatically higher rates than whites.

A Justice Department analysis in 2002 found that more than 8 percent of blacks stopped were searched, and of those searched, 3.3 percent were found to be holding.

Whites were stopped and searched only 2.5 percent of the time, a fraction as often blacks. Yet whites were found in possession of drugs in 14.5 percent of their searches, or nearly 400 percent more often than blacks.

Not only are minorities stopped more frequently, they are searched at alarming rates.

As noted in the American Civil Liberties Union of Arizona's conclusion of its 2008 report: "An analysis from 1999, conducted by the Attorney General of New Jersey, determined that discretionary consent searches of cars on the turnpike were even more racially disparate than initial stops: 77.2 [percent] of all 'consent searches' were of African Americans and other minorities.

"An extensive study of 175,000 pedestrian stops by the New York City Police Department found a highly disproportionate rate of minority stops. The Office of the Attorney General of New York State, which conducted the research, determined that: (1) African Americans were stopped six times more frequently than whites; (2) African Americans were stopped at a rate more than 10 times their percentage of the population; and (3) stops of African Americans were less likely to result in arrests than stops of whites."

In other words, while whites committed the crimes, it was blacks who were hassled.

Although the DPS' report in 2007 mostly agreed with the ACLU's findings that emerged from the lawsuit's settlement research, the Highway Patrol denied there was a problem.

According to the state's expert witness, Dr. Robin S. Engel, racial disparities in enforcement "may be explained by legitimate factors unmeasured by these data."

She went on to list a severity of traffic offenses, motorist attitudes, and socio-economic factors as possible influences left unmeasured. "Until I can get into the mind of an officer," said Engel, "I cannot determine whether he or she is making stops based on race."

But, with the passage of Senate Bill 1070, it will no longer be necessary to get into the mind of an officer. Law enforcement is now instructed to pull over any brown-skinned motorist if there is reasonable suspicion he or she is in Arizona illegally.

As a result of the judicial settlement in the ACLU lawsuit against the DPS, there is an unprecedented record of racial profiling by state troopers.

While such documentation does not exist with other law enforcement agencies in Arizona, grounds for concern are, nonetheless, ample.

Four days after Brewer signed SB 1070, the city of Phoenix announced the establishment of a citizen commission to review allegations of "race-related civil rights abuses" by Phoenix police.

Despite concrete efforts by the Phoenix Police Department to improve relations within minority neighborhoods, the impression remains that city cops brutalize blacks and Latinos. This sense was aggravated in March when black city Councilman Michael Johnson was handcuffed and arrested in a predawn fight with a white cop. Johnson, a former PPD homicide detective, said he was assaulted while investigating an early-morning fire at a neighbor's home.

Councilman Johnson claims that complaints of minority constituents regarding aggressive policing often go uninvestigated. In the South Mountain Precinct, 82 percent of the complaints come from black and Hispanic residents.

If concerns about the Phoenix Police Department's relations with the city's blacks and Hispanics raise questions about their coming implementation of SB 1070, there is little ambiguity when it comes to Sheriff Joe Arpaio and his deputies.

One week after Brewer signed the controversial legislation, Arpaio conducted his 15th roundup of undocumented Hispanics.

Arpaio has explained clearly how he and his deputies determine which individuals are brown Mexicans and which are brown Americans.

"If you look like you came from Mexico," Arpaio told listeners of KPHO radio, that will get you searched.

On national television, Glenn Beck was informed by Arpaio of his standard: "If local law enforcement comes across some people that have erratic, or scared, or whatever, you know, they're worried . . . And if they have, their speech, whatever they look like, if they just look like they came from another country, we can take care of that situation."

Last year, Arpaio informed the *GQ* magazine that Mexicans are contagious.

"All these people that come over, they come with disease. There's no control. No health checks or anything. They check fruits and vegetables. How come they don't check people? No one talks about that!

"They're all dirty."

If Arpaio's rationales sound more cracker than constitutional, his popularity for such brazen candor thrust him into the upcoming governor's race as a leading Republican candidate until his May 3 withdrawal from consideration. His popularity reflects, in fact, grassroots support not only for his tactics but for Senate Bill 1070 — support that ranges as high as 70 percent in some national polls.

Even without 1070, the sheriff's reign of terror apparently drove Mexicans out of Arizona. On May 3, *CBS Evening News* reported that of an estimated half-million undocumented residents in Arizona, more than 100,000 had moved to other states.

Initially, 1070 even caught the eye of President Barack Obama, who labeled it a misguided effort to address border issues that the federal government had ducked. But his promise to move immigration to the top of his agenda faded three days later. The president was soon telling journalists that with all of the political capital expended on healthcare, now was not the time to tackle such an incendiary issue.

Resorting to Orwellian syntax, the president abused decency in declaring that immigration could not be addressed before mid-term elections "just for the sake of politics."

America's first black president's dodging racial profiling goes well beyond irony.

But immigration politics in Arizona and throughout America are a sardonic riddle.

Janet Napolitano made her bones representing Anita Hill in the Congressional hearings into the confirmation of Clarence Thomas as a Supreme Court Justice. More than most, she grasped the issues of dignity and constitutional safeguards. Yet she was Arizona attorney general, the state's top law enforcement officer, when the DPS ran roughshod over minorities. And later she would embrace Arpaio, defend the brutalization of his prisoners, and push the federal government to train the sheriff in the roundups of Mexicans (see "Nope," November 27, 2008).

With the profiles in courage demonstrated by Janet Napolitano and Barack Obama, it makes sense that Kobach, the real author of Senate Bill 1070, is a Christian missionary.

Under these circumstances, where does one find hope?

Personally, I find the words of C.S. Lewis to be more than a straw.

During World War II, he famously broadcast a series of talks that were published in *Mere Christianity*.

Perhaps Kobach has forgotten these thoughts from Lewis. And it would seem that Obama and Napolitano never read them at all:

"I said in a previous chapter that chastity was the most unpopular of the Christian virtues. But I am not sure I was right," wrote Lewis. "I believe there is even one more unpopular. It is laid down in the Christian rule, 'Thou shalt love thy neighbor as thyself.'

"Because in Christian morals 'thy neighbor' includes 'thy enemy,' and so we come up against this terrible duty of forgiving our enemies.

"Everyone says forgiveness is a lovely idea, until they have something to forgive, as we had during the war. And then to mention the subject at all is to be greeted with howls of anger. It is not that people think this too high and difficult a virtue: it is that they think it is hateful and contemptible."

Hispanics are not our enemy.

We just treat them that way.

It is not the Mexican who needs to be forgiven.