

ARIZONA CIVIL RIGHTS ADVISORY BOARD

Minutes of Public Meeting
Thursday, February 28, 2013

Board Members Present

Jeff Lavender, Chairperson
Juan Ciscomani
Beverly Dupree
Daisy Flores
Wendy Freeman

Board Members Absent

Robert Garcia

Staff Members Present

Sandra Kane, Executive Director
Jennifer Larson, Legal Counsel
Brian Kolosick, Administrative Assistant

I. Call to Order

Chairperson Jeff Lavender called the meeting to order at 1:42 p.m., with the following Board Members present: Juan Ciscomani, Beverly Dupree and Daisy Flores. Wendy Freeman arrived at 1:49 p.m.

II. Approval of Minutes of December 10, 2012 Meeting

Upon motion by Daisy Flores, which was seconded by Beverly Dupree, the Board voted unanimously to approve the Board Meeting Minutes of December 10, 2012.

III. Law Enforcement Training regarding Civil Rights protections following SB 1070.

(a) Intro by Assistant Attorney General Diana Stabler.

Jeff Lavender informed the Board that AZ POST Executive Director Lyle Mann would not be able to attend the meeting. Diana Stabler attended on his behalf and explained that she is an Assistant Attorney General and provides legal advice to AZ POST. Ms. Stabler explained that on April 23, 2010, Governor Brewer signed SB 1070 into law. Prior to that time, AZ POST had no official involvement in the legislation. After signing the law into effect, Governor Brewer ordered AZ POST to produce training within 90 days on how to implement the new law for 15,000 peace officers. Ms. Stabler was part of a team of attorneys that worked together to develop the training and determine the best way to present the training. They determined that the most effective way to present the training to that many officers in such a short amount of time was through a DVD of the training. A DVD training was created that dealt with all the elements of the law, such as what is reasonable suspicion of unlawful presence. The DVD was delivered to different law enforcement agencies in June 2010. On July 29, 2010, the effective date of SB 1070, the Federal District Court enjoined a number of central provisions of the law. Law agencies were then informed to not enforce the law. The case went up to the U.S. Supreme Court. On June 12, 2012, Governor Brewer issued another executive order

ordering AZ POST to update the training. The updated training video is broken into chapters, with each chapter exploring different elements of the law, so that if a section was invalidated by the U.S. Supreme Court, those chapters could be easily removed and officers could be trained without delay. On June 25, 2012, the U.S. Supreme Court issued its opinion invalidating three of SB 1070's provisions, and upholding one provision, Section 2(b), what people are calling the "show me your papers" provision. Ms. Stabler informed the Board that racial profiling is illegal and this law does not legalize racial profiling. The major feedback that AZ POST has received from police officers about the training DVD was that it was overkill and preachy, and that it was offensive in that it presumed that police officers would be racially profiling. AZ POST designed the training to refresh the police force on training that they received in the academy, to serve as a reminder that racial profiling is illegal and SB 1070 does not legalize racial profiling, and to send a message to the public that Arizonans are not in favor of racial profiling or racial bias. The training video features both supporters and opponents of SB 1070 to demonstrate that no one, supporter or opponent, is in favor of racial bias.

- (b) View AZ Post training video for law enforcement re-enforcing SB 1070 and avoiding racial profiling.

The Board watched chapters 1, 2, and 3 of the AZ POST training DVD.

- (c) Question and Answer session regarding training video.

Jeff Lavender inquired as to what might be considered suspicious attire. Ms. Stabler responded that a person's attire should be appropriate to the circumstances (e.g. seasonally inappropriate clothing may suggest that a person has recently crossed the border). Beverly Dupree inquired as to whether the 15,000 officers watching the training DVD have already been certified. Ms. Stabler responded that the video was designed for currently certified, serving officers. The training DVD would also be made available to any federal law enforcement officers that have been cross-certified by sheriffs. Wendy Freeman asked if anyone has sued a police force for enforcing SB 1070. Ms. Stabler responded that she is not aware of any pending lawsuit. Ms. Freeman asked whether AZ POST would be informed of complaints of racial profiling. Ms. Stabler responded that AZ POST may not be made aware of a complaint; it may go directly to the agency. Ms. Freeman asked if any complaints of racial profiling have been made to AZ POST since the implementation of SB 1070. Ms. Stabler responded that AZ POST has not received any complaints. However, AZ POST did hear of one allegation that proved to be unfounded after it was investigated. Juan Ciscomani asked whether there have been more complaints since SB 1070 went into effect as predicted by the media. Ms. Stabler responded no, and she attributed that to two things. First, because the provisions that could have lead to that perception were stayed, there was a two year cooling off period for the general public. Secondly, while the fervor died down, clarity was provided as to what measures an officer would take in the event that they suspected a person had unlawful immigration status. Mr. Ciscomani wanted to confirm that a police officer has discretionary authority to detain or release a suspect based on number of calls waiting, level of violations, etc. Ms. Stabler confirmed that is correct. Beverly Dupree recounted hearing public testimony of people complaining of racial

profiling. Ms. Stabler indicated that AZ POST is interested in any feedback coming from the community. While AZ POST has no authority to change policy, the feedback would be helpful for further training opportunities.

IV. Planning

(a) Public forum regarding law enforcement regarding SB 1070.

Sandra Kane briefly introduced the Board's discussion about having a bifurcated forum on law enforcement in the wake of SB 1070. At the previous Board meeting, a representative from the ACLU spoke to the Board about complaints the ACLU had received from people complaining of discriminatory treatment by law enforcement officers. Jennifer Larson requested possible dates and times for a future public forum on SB 1070. Beverly Dupree suggested that the Board solicit involvement from the general public to determine if the community feels a forum is necessary and people are still feeling like they are being racially profiled. Victoria Lopez, a representative from the ACLU, requested to speak about a perceived interest in a public forum on SB 1070. Ms. Lopez indicated that the ACLU currently has five speakers scheduled to speak to the Phoenix City Council about their experiences since Section 2(b) of SB 1070 was implemented in September 2012. The U.S. Supreme Court allowed Section 2(b) to go into effect, which is the section that allows law enforcement to question a person's immigration status if they have a reasonable suspicion, and is the provision they refer to as the "show me your papers" provision. In addition, the ACLU indicated that there are several appeals pending in the Federal Courts challenging the constitutionality of SB 1070 in its entirety. The ACLU stated that they have received over 500 complaints regarding racial profiling since the implementation of SB 1070, the majority of which are against the Phoenix Police Department. The ACLU is actively pursuing 53 of those complaints and the remainder have been forwarded to their legal department for review and potential legal action. The ACLU suggested that ACRAB join the forum already planned for the Phoenix City Council. Another ACLU representative, Dulce Juarez, stated that many law enforcement agencies are not privileged to receive community feedback because the community is fearful of the police. The ACLU representatives acknowledged that many of the complainants may not have legal immigration status; however, legal and illegal immigrants may be victims of racial profiling. Juan Ciscomani inquired as to how many of these complaints are merely stories and how many are proven legal violations, given that the ACLU is actively pursuing only 10% of the complaints. The ACLU asserted that even if the complaints are not pursued legally, the complaints are still valid and need to be heard and addressed by the State. Beverly Dupree stated that the Board needs to address complaints by legal residents of the United States who are being racially profiled, and that is the validity she hopes to see at the forum. Jeff Lavender asked the ACLU if people with pending lawsuits will be restricted or reluctant to testify as to the details surrounding their complaints. The ACLU responded that there are many people who were not able to file a lawsuit who would be willing to speak as to their experiences with the law since SB 1070 went into effect. Jeff Lavender suggested that the Board hold a forum separate from the City of Phoenix hearing. Wendy Freeman asked if complaints about racial profiling have actually increased since the adoption of SB 1070, given that racial profiling has been around for awhile. Ms. Freeman stated that her perception is that racial

profiling issues have greatly improved in recent years. Sandra Kane reminded the Board that one of the objectives of ACRA is to address civil rights concerns of the community and that there is no way to figure out what is going on in the community without hearing from the community. Therefore, a public forum would be instrumental in providing the Board with community feedback. Wendy Freeman suggested that the Board plan their forum a month away from the City of Phoenix meeting. Ms. Dupree indicated that she would like to attend the Phoenix City Council meeting. Ms. Kane indicated that the public forum could serve as an opportunity to hear from community members who could not attend the Phoenix City Council meeting. The Board agreed to tentatively plan its public forum for March 26, 2013, 6:00-8:00 p.m. March 21 was discussed as a back-up date.

(b) Update on anti-bullying initiatives/legislation.

Jeff Lavender reported on the Casa Grande presentation that was done by the Community Outreach Division of the Arizona Attorney General's Office. He reported that it was well received by the students, and that the students came up with some helpful suggestions to take back to their schools. Sandra Kane informed the Board that Community Outreach is planning on doing an anti-bullying summit in August and that she will keep the Board informed about that. She also reported that the Division has been in contact with Nicole France Stanton who has been working on introducing new anti-bullying legislation. Unfortunately, the legislature is not moving forward with such legislation at this time. Ms. Kane indicated that she will follow-up with Mrs. Stanton regarding initiatives in which the Board could participate. Mr. Lavender noted that Superintendent Huppenthal will be hosting a meeting on April 23, 2013 and that he is planning on attending. Beverly Dupree suggested that Superintendent Huppenthal would benefit from seeing the Community Outreach anti-bullying program firsthand. Mr. Lavender stated that they could make that suggestion to Mr. Huppenthal. Mr. Lavender also requested that Community Outreach provide a copy of the PowerPoint presentation to the Board, and then Mr. Lavender can send it to Mr. Huppenthal.

(c) Other civil rights issues to address this year.

Sandra Kane mentioned that the Phoenix City Council has amended an ordinance to provide protections to the LGBT community in the areas of Housing, Employment, and Public Accommodation. The only governmental entity that previously provided such protection was Pima County. She asked if the Board has any interest in that issue. Daisy Flores said that it would be interesting to see the legislation that was passed and determine if it was something the Board wanted to get behind and recommend to other governmental entities. Ms. Kane said a copy of the ordinance would be requested and sent to the Board, and that she would reach out to Flagstaff, which is considering a similar ordinance, to see if there is some way that they could maybe hold a forum or do something to move forward in that area.

V. Board Vacancies and Reappointments

Sandra Kane reported that Ezra Loring had resigned from the Board. Beverly Dupree, Daisy Flores, and Wendy Freeman were all reappointed by the Governor to the Board. Juan

Ciscomani asked about his term expiration and requested an oath of office so that he could renew his term. Sandra Kane will follow up with the Governor's Office. Daisy Flores, Jeff Lavender and Beverly Dupree indicated that their contact info has changed and that they will provide their new information to the Division.

VI. Elections for Chairperson and Vice-Chairperson

Beverly Dupree nominated Jeff Lavender for the position of Chairperson. The motion was seconded by Wendy Freeman. The Board unanimously elected Jeff Lavender to the Chairperson position. Daisy Flores nominated Wendy Freeman for the position of Vice-Chairperson. The motion was seconded by Beverly Dupree. The Board unanimously elected Wendy Freeman as the new Vice-Chairperson.

VII. Legislative Update

Jennifer Larson stated there were no legislative updates to report.

VIII. Division Report

Sandra Kane informed the Board that the Civil Rights Division received a favorable ruling in the Colorado City housing discrimination case, in which the judge ruled that all of the discrimination claims on the basis of religion and retaliation could go forward to trial. The State v. Geo Group case that involves sexual harassment and hostile work environment claims is going forward to trial as well, and is being litigated by the Division in conjunction with the EEOC.

IX. Call to the Public

Victoria Lopez of the ACLU thanked the Board for the opportunity to speak. Juan Ciscomani asked Ms. Lopez if there is education out there about the rights of victims and witnesses under SB 1070. Ms. Kane suggested that the Board include an educational element in the SB 1070 forum to inform the public about their rights. Ms. Kane also requested that the Board provide names of groups or organizations that would be interested in the public forum (e.g. Mexican Consulate, various police agencies).

X. Announcement and Current Events

None.

XI. Adjournment

Upon motion by Ms. Freeman, which was seconded by Mr. Ciscomani, the Board adjourned at 3:53 p.m.

#3166988.1