

ARIZONA CIVIL RIGHTS ADVISORY BOARD

Minutes of Public Meeting

May 30, 2013

Board Members Present

Jeff Lavender
Janet Bain
Juan Ciscomani
Daisy Flores
Beverly Dupree
Robert Garcia

Board Members Absent

Wendy Freeman

Staff Members Present

Sandra Kane, Executive Director
Jennifer Larson, Legal Counsel

I. Call to Order

Chairperson Jeff Lavender called the meeting to order at 5:07 p.m., with the following Board Members present: Janet Bain, Juan Ciscomani, Daisy Flores, and Beverly Dupree. Robert Garcia arrived at 5:29 p.m. The meeting took place at Pima Community College Downtown Campus in the Amethyst Community Room, Rm. CC 180, 1255 Stone Avenue, Tucson, Arizona 85709.

II. Approval of Minutes of Meetings of March 26, 2013 and April 4, 2013

Upon motion by Juan Ciscomani, which was seconded by Daisy Flores, the Board unanimously voted to approve the meeting minutes of March 26, 2013 and April 4, 2013.

III. Public Forum re: Law Enforcement Post-SB 1070

a. Recap re AZ POST training and Phoenix forum

Jeff Lavender welcomed the public and explained the purpose and jurisdiction of the Arizona Civil Rights Advisory Board (ACRAB). He then informed of the Board's interest in the issue of racial profiling and SB 1070, and that the Board held a public forum in Phoenix on March 26, 2013 to hear directly from the public on their personal experiences with law enforcement since the passage of SB 1070. During that forum, an attendee from Tucson suggested that the Board hold a forum in Tucson to hear from Tucson community members. Consequently, the Board scheduled this evening's forum. Jeff Lavender introduced Executive Director Sandra Kane to the audience.

Sandra Kane explained that the event is being hosted by the Attorney General's Office in collaboration with ACRAB. She informed that the Board has looked into the training provided by AZ POST to law enforcement regarding SB 1070. Ms. Kane informed the audience about a recent ruling by the U.S. District Court regarding the Maricopa County Sheriff's Office ("MCSO") involving racial profiling by law enforcement, which the ACLU

has litigated. She introduced Alessandra Soler, Executive Director of the ACLU, as the first speaker at the forum to discuss the ruling and its implications on law enforcement post-SB 1070.

Ms. Soler stated that the ACLU, in collaboration with Somos America, filed a class action lawsuit called *Ortega-Melendres v. Arpaio*. The District Court recently ruled that Sheriff Arpaio had engaged in racial profiling. While the ruling did not directly relate to SB 1070, the court did rule that the practice of questioning or detaining individuals based on perceived immigration status is unconstitutional. District Court Judge Snow found that since 2006, Sheriff Joe Arpaio had engaged in a systematic agency-wide “policy and practice of unconstitutionally relying on race to determine who may be an immigration violator or unlawfully present in the United States.” Judge Snow ruled that these practices violate the 4th and 14th Amendments of the United States Constitution, Title VI of the Civil Rights Act of 1964, and the Arizona Constitution. Ms. Soler pointed out that many of those detained were lawful citizens of the United States, and were detained based on the way that they looked. Judge Snow issued a preliminary injunction preventing Sheriff Arpaio from engaging in the enforcement of civil immigration laws. The failure to respond to police in English or being unable to furnish an identification while a passenger in a car are not sufficient grounds to establish a reasonable suspicion of criminal activity. The injunction also prevents Sheriff Arpaio and his deputies from using employer sanction Laws and human smuggling laws as a pretext to enforce federal immigration policies. Sheriff Arpaio has released a video calling for his deputies to cease using these existing practices. He is also going to appeal the Court’s ruling.

Ms. Soler stated that the ruling strikes at the heart of the problem over the implementation of SB 1070. She cited a 9th Circuit decision, which stated that race and/or ethnicity cannot be considered as even one of many factors that make up reasonable suspicion or probable cause about a person’s immigration status where there is a great concentration of Latinos in the population. She stated that the court will appoint a court monitor who will field and investigate complaints and issue public reports to promote transparency and oversight. The ACLU will also request data collection and additional training and guidelines for law enforcement and posse volunteer members. A hearing will take place on June 14, 2013, where the parties will report on their discussions with legal counsel of the MCSO and the court will set deadlines. She contended that SB 1070 was based on the practices of Sheriff Joe Arpaio, and that since the court found that Sheriff Arpaio's practices were unconstitutional, she believes that the courts will also find the implementation of SB 1070 unconstitutional.

Ms. Soler recommended the following: (1) data collection by police departments to track interaction of police and civilians, (2) police departments need to have a clear prohibition preventing law officers from referring victims and witnesses of crime to immigration authorities, (3) clear prohibitions preventing the arrest of pedestrians or passengers for failure to show identification (if there is no evidence of a crime), (4) guidelines and policies that educate law enforcement officials regarding deferred action applicants, (5) people who are in pending federal immigration proceedings should not be viewed by law enforcement as being in the United States unlawfully until such proceedings are resolved, and (6) School Resource Officers should not be questioning or reporting students to federal immigration authorities. Daisy Flores asked if the

injunction will prevent the MCSO from enforcing Section 2(b) of SB 1070. Ms. Soler replied yes, in the context of civil immigration violations. Beverly Dupree asked if there will be any punitive outcomes as a result of the ruling. Ms. Soler replied no, and that the plaintiffs did not seek damages in the lawsuit. Ms. Flores asked how the court monitor will require the sheriff's department to take action. Ms. Soler responded that the court monitor reports to the judge, and in instances where the MCSO refuses to comply with the recommendations, there could be sanctions.

b. Call to Public for experiences and recommendations

Alejandro Valenzuela reported that a year ago he was pulled over while he was riding his bike home and asked for his identification. He was handcuffed, detained, and his backpack was searched with his consent. In his backpack, he had his birth certificate and deferred action application, but the police did not find that sufficient to confirm his identity. He was detained for 40 minutes until the Border Patrol showed up. He was then detained in the back of a Border Patrol truck for 20 minutes after refusing to answer the officer's question "where are you from?" He was subsequently released after the officer found no criminal history. He was detained for a total of 1 hour.

Billy Lolos shared that he has never had an experience like Alejandro's because he is white. SB 1070 is racial profiling and is designed to keep the CCA's (Corrections Corporation of America) full.

Ann Yellott has lived in Tucson for 40 years and represents a coalition that is trying to repeal SB 1070. She addressed 6 areas of concern: 1) racial profiling, 2) community relationships with police have been negatively impacted; so violent crimes are going unreported as people fear reporting offenses to law enforcement, 3) families are being torn apart from arrests and deportations, 4) increased criminalization of immigrants, 5) growth of private prison industry as a result of increased criminalization of immigrants, 6) dehumanization of state and communities. She contended that when we dehumanize others we dehumanize ourselves.

Hannah Hafter stated that the Border Patrol is breaking up families. Many times people are not even afforded the opportunity to call and inform their families as to what has happened to them. She stated that many people are forced to sign legal documents with thumbprints. She stated that "dreamers," who are eligible to stay in the country, are also being deported. She cited many examples of people being pulled over and passengers being asked to furnish identification. One passenger asked why they were being stopped; the officer informed them that it was a random stop. Two children were taken into custody by Child Protection Services while their parents were detained. The parents could not attend the court custody hearing because they were in detention, and the children were ruled as being abandoned.

Gerardo R. is a member of the Southside Workers Center, which is a place where workers go to find work. He said he is fearful to leave his house to find work because of the police. He knows members of the center who have been detained because of the color of their skin. All he wants to do is be in this country and find work.

Alma H. was detained in 2010 for 2 months. She contended that her detention was due to the color of her skin. Her daughter was terrified that her mother was going to be taken away from her again when Alma was pulled over a second time later on. SB 1070 is taking its toll on her family and their community.

Egla G. read a poem to the Board that she wrote about how two of her brothers were detained as a result of SB 1070.

Laurie Melrood stressed that family members are fearful that they will not see each other again when they leave their home to go to work or school. She indicated that children and parents are being tortured by not knowing what happens to their family members after they are detained or deported. She contended that parents should have a voice in the future of their children even if they are incarcerated or detained.

Patricia Moreno, advocate from Derechos Humanos, answers emergency phone calls related to immigration detainees. Two girls were detained after leaving a church and were taken to a Phoenix juvenile detention center where they were held for 3 months. It was very difficult for their parents to find them and their parents were even subjected to a DNA test to prove that they were the parents. A woman had been raped. Because she did not have identification, she was detained, and her assailant was set free. The same woman's two children, who were "dreamers," were detained because they did not have any identification. One of her children was dropped off at a remote gas station and the other was detained for 3 hours. In the end everyone was released, but they still had to prove they were in the country legally.

Raul Ochoa argued that Arizona has instituted genocidal racial policies against the Latino population. He qualified "genocide" as being the deaths that take place along the Sonoran Border as people try to cross the desert. He challenged the Board to act to prevent the ongoing genocide propagated through Arizona Law.

Isabel Garcia, member of Derechos Humanos, stated that two students were followed from a store by the Tucson Police Department and Border patrol. The police allegedly offered the brothers a deal; if one would volunteer for deportation, the other could stay in the country. This occurred before SB 1070. She asserted that SB 1070 has magnified a culture of racial profiling in Arizona. She argued that violent crimes are being ignored because resources are being spent on SB 1070.

Maria Z. stated that on April 4, 2013, a Border Patrol car began following her even though she was driving under the speed limit, and then stopped her. An officer shined a light in her face and asked her if she was undocumented. She did not answer and presented her driver's license. The officer continued to ask her if she was undocumented. He grabbed her out of the car and handcuffed her. The officer allegedly told her that he would release her if she admitted that she was undocumented. She told him to just do his job. The border patrol agent then asked if the children in the car were undocumented. She replied that they were United States Citizens. The border patrol agent stated that she was pulled over because the car was driving too low to the ground. She said that the experience was traumatic and

humiliating. She stated that she is only trying to support her children so that they do not grow up to be delinquents.

Chuck Kauffman, coordinator for Global Justice, talked about the ongoing economic and social reputation damage caused by SB 1070, such as conference cancellations, lost tax revenues, and job loss. He cited that the Cato Institute produced a report on the negative economic effects of SB 1070. He argued that businesses have packed up and moved their businesses out of state. He wants Arizona to be known for its skies, mountain ranges, and a welcoming atmosphere, and not SB 1070.

Dulce Juarez, Immigration Rights Project Coordinator for the ACLU, shared that her office documents abuses by law enforcement resulting from SB 1070. She shared that since the court ruling, Sheriff Arpaio has taken down signs that urge citizens to report illegal immigration. She stated that challenges to SB 1070 can be compared to the case against Arpaio.

Dr. Margie King, University of Arizona, wished to look at SB 1070 from a historical perspective. She stated that it is important that Anglos say that SB 1070 is wrong. She shared a story about a Hispanic man who stopped his car after seeing a dog hit by a vehicle so that he could help the dog. A law enforcement officer then questioned and detained him. She asked the Board to consider the kind of message this teaches to children, particularly Hispanic children. She encouraged the Board to take action.

Jeff Lavender and the Board Members thanked everyone for attending and sharing their stories. Juan Ciscomani shared how helpful it was to hear from the community and how the Board is a reflection of the Governor and the Attorney General's desire to hear directly from the community. He informed the community that no law is perfect, which is why forums like this are so helpful in making meaningful reforms. Beverly Dupree stressed how much more emotional this forum was compared to the forum in Phoenix, and that ACRA is committed to doing what it can to improve the situation. Daisy Flores noted the diversity of the audience and their common cause in preventing racial profiling.

IV. Planning for Future Meetings

Jeff Lavender reminded the attendees that all ACRA meetings are open to the public and all minutes to those meetings are available to the public. The Board decided to have their next meeting on June 24, 2013 at 1:00 p.m. at the CAPS center across from the Attorney General's Office.

V. Adjournment

Upon motion by Daisy Flores, which was seconded by Beverly Dupree, the Board unanimously voted to adjourn at 6:57 p.m.