

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

CITY OF FLAGSTAFF et al,

Plaintiff-Intervenors,

vs.

THE STATE OF ARIZONA et al.,

Defendants in Intervention.

Civil Action No. 4:10-CV-00249-DCB

Assigned to: Hon. David C. Bury

**DECLARATION OF CHIEF OF POLICE OF FLAGSTAFF, ARIZONA**

I, **Brent Cooper**, hereby declare and state as follows:

1. I have been the Chief of Police for the City of Flagstaff, County of Coconino, Arizona, for four years, since July 2006. I was previously Deputy Chief of Flagstaff Police Department. I have thirty-two years of law enforcement experience.

2. As the Chief, I am responsible for protecting and ensuring the public safety of all people living and traveling in my jurisdiction, regardless of their immigration status. The City of Flagstaff is the largest city in Coconino County, Arizona, and is located in the north central part of the state. It has a diverse population of approximately 65,000 people, and is home to the state's third largest public university which includes students and teachers from a variety of foreign countries.

3. As the Chief of Police, I am also responsible for establishing policies and priorities

for the department and my officers. The department has 114 officers who engage in a broad range of law enforcement activities and actions, including but not limited to, investigating and solving serious and violent crimes, responding to domestic violence calls, taking and responding to complaints from the public, and working with the community to encourage reporting of crime and cooperation with police. Deterring, investigating and solving serious and violent crimes are the department's top priorities, and it would be extremely difficult for us to do our job without the cooperation and support of community members, including of those who may be in the country unlawfully.

4. Arizona S.B. 1070, which was signed into law on April 23, 2010 and becomes effective July 29, 2010, mandates that my officers determine the immigration status of any person they lawfully stop, detain or arrest in every case in which there is reasonable suspicion that the person is in the country unlawfully, regardless of the severity of the suspected or actual offense at issue. This would include all suspected violations of the Flagstaff City Code, most of which are non-violent, low-priority offenses.

5. I am responsible as Chief for setting my agency's law enforcement priorities. My top priority is investigating, preventing and deterring the most violent crimes. This law undermines my ability to set law enforcement priorities for my agency, because we will now have to expend substantial and already scarce resources on immigration matters. Currently, my department engages in immigration matters by making consulate and ICE notification when individuals are arrested and believed to be from a foreign country. The new law appears to require that my department change its processes by requiring officers to detain all persons who are arrested, including those who have adequate documentation who are arrested for non-violent misdemeanor offenses, until federal immigration agents verify their immigration status.

6. If my department does not enforce the State's immigration laws without exception,

we risk being sued by private parties under this new law. The threat and real possibility of litigation requires that my officers determine the immigration status of any person they stop or detain if they have any reason to suspect that the person may be in the country unlawfully, as well as to hold for federal immigration agents every person they arrest.

7. Under this new law, based on last year's experience, my department will likely be making in excess of 10,000 additional inquiries to Immigration and Customs Enforcement (ICE) per year, and I believe that ICE will not be able to respond with an immediate verification of the immigration status of every person my officers stop, detain or arrest and who they suspect is in the country unlawfully. As a result, I fear that this law will require my officers to either hold people for prolonged periods of time to verify their status (and face potential liability for unlawful detention) *or* release people and face liability for not enforcing S.B. 1070 strictly enough.

8. Because of the law's verification mandate, my officers will be required in many cases to determine the immigration status of U.S. citizens and other people who are in the country lawfully but cannot easily produce documentation that proves their status. For example, my officers frequently come into contact with U.S. citizens and non-citizens living in or visiting Arizona who do not have a valid Arizona driver's license, non-operating identification license, tribal identification, or any other state, federal or local identification that is only issued upon proof of legal presence in the United States. We regularly encounter, for example, people from New Mexico whose state driver's licenses are issued without proof of legal presence. We also frequently come into contact with minors who usually do not have any sort of government-issued identification. Under this new law, the lack of such documentation would raise suspicion as to their lawful status and therefore require my officers to conduct immigration-status checks even if the person encountered is in the country lawfully and was stopped for jaywalking, loitering or any other minor offense.

9. Immigration law and determining immigration status are complex matters, and my

officers are not experts in immigration matters. There is a real risk that determining a person's immigration status will, therefore, result in his or her prolonged detention, potentially violating that person's constitutional and civil rights and further subjecting the department to liability.

10. Because of the complexity of immigration law, it will require a great deal of training to sufficiently prepare my officers to become experts in immigration enforcement. Developing the necessary expertise will also take time away from the officers' ability to pursue violent criminals.

11. S.B. 1070 also requires me to divert department resources away from serious crimes not only to conduct immigration-status inquiries but to arrest persons who pose no threat to public safety. Under the new law, my officers must arrest any person who fails to carry alien registration documents or who cannot prove his or her legal status. My officers must make those arrests, and the department must pay the necessary jail booking fees and other costs associated with those people's detention.

12. To enforce all of S.B. 1070's provisions, my department will be forced to divert police officers from patrol and the investigation of major crimes as well as incur significant additional costs for training and lost time due to participation in such training. This is a significant burden because my department already has scarce resources. I have a limited budget of approximately \$13,000,000 to fulfill all of my department's law enforcement duties. This is a reduction of approximately \$2,000,000 over the last two years because of the City's fiscal limitations, and the Department does not anticipate an ability to increase funding in this budget year or any time in the near future.

13. S.B. 1070 will also undermine the necessary trust between my department and community members whom we have a duty to protect and serve. It will deter immigrants, including those who are here legally, and other individuals, particularly those in the Latino community, from coming forward and interacting with the police, because they will fear being

questioned about their status and possibly arrested for violating one of Arizona's new state immigration crimes. This will undoubtedly damage my department's ability to investigate and solve serious and violent crimes. In addition, it is foreseeable that reporting parties will refuse to testify or may even recant or seek dismissal out of fear concerning the implications of S.B. 1070 on either themselves or others involved in the investigation.

14. Many families in my community live in "mixed status" households, meaning that some members of the household are either U.S. citizens or otherwise have legal immigration status, while others do not have legal status. This law will make it more difficult to secure cooperation in the investigation of violent crimes from U.S. citizens, because I fear that many of them will not come forward out of concern that police will question and arrest their family members who lack legal status.

15. Immigrant victims and witnesses of crime are made more vulnerable by S.B. 1070. It is standard police practice to identify victims and witnesses of crimes. Many victims or witnesses do not have a valid Arizona driver's license, non-operating identification license, tribal identification, or any other state, federal or local identification that is only issued upon proof of legal presence in the United States. Under this new law, the lack of such identification will raise suspicion that such victims or witnesses are in the country unlawfully and thus possibly in violation of the state alien-registration requirement or another new state immigration crime. My officers will be placed in the precarious position of deciding whether to treat the person as a crime victim/witness or as a possible immigration violator, effectively undermining our law enforcement priorities and ability to protect people from serious crime.


16. My officers investigate domestic violence cases in which many victims are undocumented and their assailants take advantage of this fact. Based on my years of law enforcement experience, I know that victims of domestic violence are less likely to come forward

and report crimes if they fear that the police is there not to protect them but instead to report them to immigration officials. This new law will serve to push these victims further underground and make our job to identify and arrest the perpetrators of such crimes that much more difficult.

17. My officers have in the past investigated human trafficking cases, in which most of the victims and witnesses are undocumented and their assailants take advantage of this fact. Based on my years of law enforcement experience, I know that victims and witnesses of human trafficking are less likely to come forward and report crimes if they fear that the police is there not to protect them but instead to report them to immigration officials. This new law will serve to push these victims and witnesses further underground and make our job to identify and arrest the perpetrators of such crimes that much more difficult.

18. My officers have in the past investigated alien smuggling cases, in which those being smuggled are undocumented. Under this new law, my officers will be required to determine the immigration status of those persons being smuggled and will be forced to arrest them for failing to carry alien registration documents or violating other state immigration crimes. Without the victims' cooperation, my officers will have difficulty identifying and arresting the smugglers themselves.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

  
Brent Cooper, Chief of Police, City of Flagstaff, Arizona

Executed this 10<sup>th</sup> day of June, 2010 in the City of Flagstaff, Coconino County, Arizona.