## UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

CITY OF FLAGSTAFF et al.	
Plaintiffs-Intervenors	) Civil Action No. 4:10-CV-00249-DCB
vs.	ý – jednosti se jednosti s
	) Assigned to Hon. David C. Bury
THE STATE OF ARIZONA et al.	)
	)
Defendants in Intervention	)
	)

## DECLARATION OF CHIEF OF POLICE OF SAN LUIS, ARIZONA

## I, **Rick Flores**, hereby declare and state as follows:

- 1. I have been the Chief of Police for the City of San Luis, County of Yuma, for the past three months. In addition to my experience in Arizona, I am a former Sheriff of Webb County, Texas and have fifteen years of law enforcement experience in border communities.
- 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 San Luis is the second largest city in Yuma County, Arizona, and is located in the southwest corner of the state. It has a population of approximately 28,000 people, is primarily of Hispanic or Latino descent, and has a large population of persons who are not United States citizens. It is a border community, bordered on two sides by Mexico, and is economically dependent on commerce with Mexico. With one active port of entry, and a second port about to open, it is a community with a high volume of traffic and visitors coming to and from Mexico.

1

- 3. As the Chief of Police, I am also responsible for establishing policies and priorities for the department and my officers. The department has 29 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. The department is uniquely challenged with traffic congestion in traffic seeking to enter into Mexico or coming to Arizona from Mexico, so traffic control is a an area that needs constant attention. 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 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 San Luis 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. In the event a person is

stopped which is suspected of being not legally present in the United States, and a determination is made that an arrest will not be made, ICE notification is made, and the person is briefly detained, on scene, until ICE can respond. If a timely response is not made, the person is released. 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 920 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. San Luis, as a border city with a port of entry, regularly encounters winter visitors from other states and Canada who spend winters residing in Yuma County and traveling to Mexico. We regularly encounter, people 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 take the time needed to process those arrests. San Luis is in a Jail District and therefore the costs of jail booking fees and detentions at the jail do not result in a direct bill to the city. But the Yuma County Jail is located in the northern part of the City of Yuma and the time to transport a person, book that person, and travel back to the City takes the officer out of the city for anywhere from 3 to 3 ½ hours. There are times there is only one officer on patrol for a city of 32 square miles. This means the city is unprotected for the time needed to book into the Yuma County Jail. If one projects the impact of booking an additional 920 persons into the county jail, this means the City will not be covered by a patrol officer for more than 2750 hours or more than 100 days during the fiscal year of 2010/2011.

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. For fiscal year 2010/2011, I will have a limited budget of approximately \$3,348.000 to fulfill all of my department's law enforcement duties, and the Department does not anticipate an ability to increase funding in this budget year or any time in the near future. The State of Arizona has diverted significant sums that would normally flow to local governments in the state for fiscal year 2010/2011. The City of San Luis projects for fiscal year 2010/2011 that it will receive approximately \$730,000 less in Urban Revenue Sharing from the State of Arizona resulting in approximately \$600,000 in less revenue to the City, overall, that is available for General Fund expenditures. This means less money available for operations of the Police Department. Monies

are not available for extra personnel or increased overtime to make up for the loss of coverage in patrol operations due to increased bookings at the Yuma County Jail.

- 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, 1 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.

Rick Flores, Chief of Police City of San Luis, Arizona

Executed this <u>22</u> day of June, 2010 in the City of San Luis, Yuma County, State of Arizona.