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February 6, 2011

Going Rogue on Immigration

By [Ruben Navarrette](#)

SAN DIEGO -- Did I ever tell you about the time that a police chief who organized an immigration sweep had his alibi unravel?

It was 1997, and I was a reporter at The Arizona Republic in Phoenix. In the suburb of Chandler, hundreds of illegal immigrants and U.S.-born Hispanics were indiscriminately detained and interrogated as to their immigration status by teams of police officers and Border Patrol agents. It was a half-baked idea that wound up costing that city a bundle in civil rights lawsuits and damaged community relations to this day.

When I got the Chandler police chief on the phone, I asked him where his officers got the jurisdiction to play dress-up as immigration agents. He responded that there was a new federal program allowing local police to enforce immigration law. The chief was talking about the enforcement scheme known as the 287(g) program.

It's named for Section 287(g) of the Immigration and Nationality Act, a provision that came into existence because of a failed piece of enforcement-only legislation known as the 1996 Illegal Immigration Reform and Immigrant Responsibility Act. That law, authored by Rep. Lamar Smith, R-Texas, promised to end illegal immigration by building fences along the border and deploying more Border Patrol agents. And it did such a bang-up job of accomplishing its goal that here we are, 15 years later, still debating what to do about illegal immigration.

The problem with the chief's explanation was that, as I informed him, the program was at the time so new that the guidelines hadn't even been written yet. The Chandler Roundup was not the result of a formal agreement drawn up in Washington but rather a good ol' boy partnership between the Chandler police chief and the supervisor of the local Border Patrol office. In other words, the Chandler cops had gone rogue. Then the boss tried to cover it up by claiming they were participating in a federal program not yet off the ground.

Now, according to a new report by the Washington, D.C.-based Migration Policy Institute, it seems a lot of local and state law enforcement agencies are going rogue these days.

The report uncovered that the cooperative program is not working as intended. Under 287(g), only designated officers could participate in the program, and only after they received specialized training by sworn federal immigration agents. Once in the field, those officers would continue to receive supervision by Immigration and Customs Enforcement agents to make sure they were properly using -- and not abusing -- their new power. All this was to be spelled out in a memorandum of agreement.

This isn't happening.

The program was supposed to operate under the auspices of ICE. However, in practice, local sheriffs and county officials have enormous discretion to decide whom to target and whether to detain only those immigrants who were wanted for specific offenses or to check the status of every immigrant with whom police come into contact. That's a recipe for racial profiling.

Also, ICE is supposed to set the priorities for the program. It decided that the enforcement priority should be arresting and deporting illegal immigrants who had -- in addition to the civil infraction of unlawfully entering the United States -- also committed serious crimes such as robbery, rape and assault. But the local and state law enforcement agencies didn't heed that directive. According to the report, about half of the immigrants who were detained for deportation under the program had committed only minor crimes or traffic violations.

No surprise there. Local and state enforcement officials probably don't care about the big picture of curbing crime by getting rid of criminal aliens. They're just as likely to want to get rid of all illegal immigrants.

Finally, while ICE is supposed to ensure that the 287(g) program is implemented uniformly around the country, the report found that there were many variations in what individual law enforcement agencies did and how they did it.

So basically, it's a free-for-all -- and an ironic one at that. As immigration restrictionists like to remind the rest of us, rules matter. We have a porous border because people don't follow the rules to come into this country legally. Is it too much to ask that law enforcement agencies follow the rules in removing them?

Apparently, it is.

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June 1, 2011

Deportation Machine

By [Ruben Navarrette](#)

SAN DIEGO -- How in the world was the Obama administration able to round up and deport nearly 1 million people over the last two and a half years?

No doubt, the people at the Immigration and Customs Enforcement agency are good at their jobs. But what's their secret?

Two words: Secure Communities. When first unveiled in 2008, the program was marketed to local governments and law enforcement agencies as an effective tool to allow U.S. immigration officials to identify and deport illegal immigrants convicted of serious crimes who were already in jail. And, in a point that has caused controversy, local and state officials were led to believe that participation in the program was voluntary.

It turns out, almost none of this is true. Everything about the initiative -- all the rules, goals, standards and procedures -- is written in invisible ink.

Many of the illegal immigrants who have been deported under the program were not hardened criminals or even criminals at all. (Being in the United States without proper documents is not a crime but a civil violation.) They were arrested, fingerprinted and dumped in holding cells. But they hadn't been formally arraigned, brought before a judge, or put on trial. They never made it that far because, as soon as local authorities took their fingerprints and alerted ICE of any suspected illegal immigrants, the feds swooped in and took custody. The catch of the day might include anyone from a drunk driver to a shoplifter to a battered wife hauled in along with her spouse after a domestic quarrel.

Moreover, the administration can't even decide whether the program is mandatory or optional. According to an article in the Los Angeles Times, "hundreds of ICE emails released in response to litigation by immigrant and civil rights groups show the agency knowingly misled local and state officials to believe that participation in the program was voluntary while internally acknowledging that this was not the case."

What a mess. Rep. Zoe Lofgren, D-Calif., has requested an investigation into who is being deported under Secure Communities and whether federal officials misled local governments into thinking that participation was voluntary. The Office of Inspector General for the Department of Homeland Security recently announced plans to conduct an inquiry into the program. And the California Assembly recently passed a bill requiring the state to renegotiate its agreement with ICE so that only convicted felons would be handed over and participation by the counties would be optional; if passed by the state Senate, the bill would then go to Gov. Jerry Brown for his signature.

I wanted to get to the bottom of what's happening with a program that is looking more and more like a toxic asset. So I called John Morton, director of ICE.

"It is designed to go after criminal offenders," Morton said. "And that's exactly what it does. And it's why we think it's good policy and it's a good program."

Yet, I pointed out, not everyone who winds up in the clutches of Secure Communities committed a crime.

"The vast majority of people identified and removed through Secure Communities -- over 70 percent -- are people who are here unlawfully and have a criminal conviction," he said.

Of course, they're here unlawfully. That's a given. But those convictions could go back a decade or two. Are those the folks this program was designed to protect us from?

"We do identify and remove certain non-criminals," Morton acknowledged. "In many of the jurisdictions, the underlying agencies will refer the person to us prior to the trial actually taking place."

As many as a third of the "non-criminals" removed under Secure Communities were previous deportees who came back, he insisted.

"What would you have the agency do when presented with someone who has been previously removed from the country and they've illegally re-entered again?" Morton asked.

That's easy. Deport that person. I have no trouble with removing illegal immigrants. What troubles me is that this administration cares so much about appearances that it can't admit what it is doing and why. It should just be honest about the fact that its real goal is to rack up as many deportations as possible.

And if Secure Communities helps meet that objective, then the administration will defend the concept with its last breath. Not because the program is right or just, but because it's useful.

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Arizona judge gets it exactly right - CNN.com

By Ruben Navarrette Jr. , Special to CNN

CNN.com

Editor's note: Ruben Navarrette Jr. is a nationally syndicated columnist, an NPR commentator, and a regular contributor to CNN.com.

San Diego, California (CNN) -- U.S. District Judge Susan Bolton ripped the guts out of SB 1070 on Wednesday, striking down the most egregious and indefensible parts of Arizona's immigration law.

That's exactly what you should do when confronted with a monster -- in this case, the monstrosity of a law that usurps federal authority over immigration enforcement, doesn't just allow for racial profiling but requires it by allowing police to arrest people they suspect are in the country illegally, makes it a state crime to ask for work if one is undocumented and requires legal immigrants to carry documents proving their legal status.

If I were grading this law, I'd give it straight D's. It's divisive, dangerous, dishonest and dysfunctional. It's divisive because whites and Latinos see the law differently; according to polls, about 70 percent of whites support it, and 70 percent of Latinos oppose it.

It's dangerous because, as Phoenix Police Chief Jack Harris argues, local police shouldn't have to enforce immigration law at the cost of reallocating resources aimed at tackling other kinds of crime.

It's dishonest because Arizonans created the very problem they're now complaining about so vociferously by hiring illegal immigrants.

And it's dysfunctional because neither local cops nor federal immigration agents had any idea how they were going to enforce the very provisions that the judge struck down.

Bolton cherry-picked those elements of the law that she found troubling and issued a preliminary injunction against those parts. The rest of the law -- allowing for perfectly reasonable things such as making it a state crime to transport illegal immigrants -- will go into effect Thursday as planned.

There were seven lawsuits seeking to block the law's implementation. Bolton based her ruling on the most significant of these challenges, the lawsuit filed by the Obama administration. It argued that Arizona had, through its power grab, exceeded its authority and violated the U.S. Constitution.

I can appreciate that Bolton was so unsympathetic to the Arizona lawmakers who wrote the flawed piece of legislation, as well as to Gov. Jan Brewer, who has been shamefully using her defense of the law to get elected in November.

That's because, frankly, after several weeks of digesting arguments in favor and against the Arizona law, I can't figure out which group of actors I find less sympathetic.

There are the Arizonans who play dumb about why it is that their state became, in the past 20 years, a magnet for illegal immigrants when they must know full well that it's because so many Arizonans hire illegal immigrants to do jobs that Arizonans won't do.

And then we have the illegal immigrants themselves, who seem to be shocked and offended the United States dares to enforce its laws and some of whom are fleeing the state because, up to now, they've been playing dumb about what it means to be living in this country illegally.

Isn't there a way for us to deport both groups? After all, the United States already has enough people who see themselves as helpless victims of gargantuan forces beyond their control. Do we really need more?

To be clear, most illegal immigrants who are leaving Arizona aren't going home to Mexico. They're just moving one or two states over. Adios, Arizona; hola, Utah, Texas and Colorado.

And what if they did go back? What would a state like Arizona, where employers have developed an addiction to illegal immigrant labor, do without the same illegal immigrants they love to complain about?

Are Arizona's teenagers going to step away from their video games and \$3 ice mochas and swing hammers on construction sites in Phoenix in July when it's 118 degrees outside? Good luck with that.

As for the immigrants themselves, if they refuse to admit that they did anything wrong in coming here illegally or overstaying their visa so that their legal status lapsed, then how in the world are they going to -- as immigration reformers like to say -- get right with the law to earn legal status?

Can't they understand why so many Americans, even those who oppose the Arizona law, resent the sense of entitlement we see from illegal immigrants who demand this and demand that without acknowledging that there are rules to follow and that those who break them have to make restitution?

For weeks, I've seen illegal immigrants tell CNN reporters that they feel victimized by the Arizona law, as if somehow a promise has been broken. They resent being hunted. That's too bad. They're supposed to be hunted. They're here illegally.

The difference of opinion in Arizona -- and it's a big one -- is who should do the hunting. I insist that the answer is federal immigration agents. The state of Arizona claims that badges are interchangeable and submits that local cops can do the job just as well.

This week, in a victory for common sense, a federal judge said otherwise.

The opinions expressed in this commentary are solely those of Ruben Navarrette Jr.

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April 18, 2010

The State of Hypocrisy

By [Ruben Navarrette](#)

SAN DIEGO -- In the late 1990s, I took a job writing for a newspaper and moved to Arizona.

At least I think it was Arizona. The place I remember bears little resemblance to the one you hear about today.

Back then, nativists were on the political fringe; now they're becoming mainstream. Republicans were anxiously reaching out to Hispanics; now GOP legislators are making Hispanics anxious with race-baiting measures to end affirmative action. Political leaders, including the Republican governor, had torpedoed efforts to bring before voters a ballot initiative that would have denied education and social services to illegal immigrants; now Arizonans are in such a punitive mood that they would easily approve such a measure.

Back then, none other than Maricopa County Sheriff Joe Arpaio was quoted as saying there wasn't much his deputies could do about illegal immigration since being in the country without documentation wasn't a crime; now Arpaio is so bent on rounding up illegal immigrants that even after the Obama administration stripped him of the authority to determine someone's legal status, he kept on doing it.

And perhaps most significantly, back then the business community was so desperate for labor that it was doing everything but recruiting illegal immigrants and offering them signing bonuses to make beds, cook meals, build homes and otherwise help construct a paradise in the desert; now that a lot of the work has been done, Arizonans want to portray themselves as innocent victims of an invasion. Fifteen years ago, Arizonans wanted cheap labor; today, they want your sympathy.

Arizona lawmakers think they're showing how tough they can be in passing a harsh new law that makes it a state crime to be in the United States without the proper legal documents. But really, all they're doing is showing their hypocrisy. If the legislators who voted for this law were serious about trying to curb illegal immigration, they would cut off the job magnet. The Arizona Legislature focused on employers a few years ago, but the effort was aimed at companies as

opposed to individuals. Start locking up soccer moms for hiring undocumented housekeepers or Paradise Valley lawyers for outsourcing their yardwork and then we'll talk.

The new legislation, billed as one of the strictest anti-illegal immigration laws in the country, would grant police the power to stop anyone suspected of being in the country illegally and verify their immigration status.

Arizona Gov. Jan Brewer, a Republican intent on scoring political points by railing against illegal immigrants, will likely sign the bill. And, shortly thereafter, the lawsuits will fly as critics try to get the law tossed out by the courts. There's a good chance of this happening. The law appears to be an unconstitutional power grab by the state that usurps the authority of the federal government to establish and enforce U.S. immigration policy. It will also almost certainly lead to racial profiling of Latinos, including those born in the United States.

This bill is as bad as they come. Not surprisingly, it is the brainchild of state Sen. Russell Pearce, who has spent years teaching Arizonans division. By tapping into a fear of foreigners, Pearce has successfully scared up votes, headlines and political contributions. Some lawmakers accomplish those things through visionary leadership, courageous acts and soaring rhetoric. People like Pearce do it by pandering to racists and playing to the lowest common denominator.

The real tragedy in all this is that the bill, which professes to take a hard line against illegal activity, will almost certainly produce much more of it. By proposing a law that deputizes every local and state law enforcement officer in Arizona to enforce immigration law, Pearce has single-handedly destroyed the trust between law enforcement agencies and the immigrant communities they have spent years trying to better serve. Good luck finding people who are willing to report crimes and be interviewed as witnesses now that they are afraid they might be arrested or deported. That makes these communities easy prey for criminals and makes the job of law enforcement much harder.

This measure is not wise, or helpful or defensible. In fact, in many ways, it's a surefire recipe for disaster. And it's also the kind of thing that the Arizona I'm familiar with would never have considered.

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June 6, 2010

Arizona's Immigration Law: A Rebuttal

By [Ruben Navarrette](#)

SAN DIEGO -- If Arizona's new immigration law is supposed to be the best thing since warm tortillas, why do supporters have to prop it up by engaging in falsehoods and scare tactics? Let me count the ways:

-- *The law bans racial profiling.* Truth: Racial profiling is already banned by federal statute, yet it happens. The Arizona law requires that once local and state police make contact with someone over an alleged infraction, they must determine legal status if they have "reasonable suspicion" that the person is in the country illegally. It is naive to assume an officer can make that call *without* taking race into account.

-- *Arizona is being invaded. The law is a cry for help.* Truth: No, it's a claim to victimhood. Our society is full of people who duck responsibility for their actions by playing the victim. Now states are doing it. Arizona has illegal immigrants because Arizonans hire them. Take away the "help wanted" sign, and they won't come.

-- *The federal government is doing nothing to stop illegal immigration.* Truth: The Obama administration deported more illegal immigrants last year than the Bush administration did in its final year in office. There are 20,000 Border Patrol agents, more than any other federal law enforcement agency. The Border Patrol budget was \$3 billion last year, and it has increased almost tenfold since 1992. Not exactly an "open border" policy.

-- *The scope and intent of the law have always been clear.* Truth: Supporters like to forget that there have been two versions of the law. The first was defective and had to be fixed one week after it was signed by Gov. Jan Brewer.

-- *The Arizona law is no different than laws in other states, such as California, that require police to 'cooperate' with Border Patrol officers and allow them to inquire as to citizenship.* Truth: (1) Cooperating with the Border Patrol isn't the same as impersonating Border Patrol agents; (2) California Penal Code 834b pertains to "any person who is arrested." That's the key difference. In Arizona, you need not be under arrest to be interrogated.

-- *The Arizona law is a carbon copy of federal law. So, it can't be unconstitutional.* Truth: The problem is how the law will be implemented. Under existing federal statutes, immigrants may have their citizenship questioned but only by *federal* agents. Under the Arizona law, that power is extended to local police. Many legal scholars believe this to be clearly unconstitutional because immigration policy is a federal responsibility and not something that can be done piecemeal by individual states.

-- *The presence of immigrants, especially illegal immigrants, in a given town, city, county or state inevitably leads to more crime, i.e., burglary, assault, drunk driving, rape, murder, etc.* Truth: For a variety of reasons, as the immigrant population increases, crime rates go down. For one thing, immigrants aren't as bold and defiant as people think. Various researchers who studied the rise in immigration during the 1990s concluded that cities with increased numbers of immigrants had the most significant drops in crime rates.

-- *Americans show identification to cash checks, board planes, drive cars, etc. This is no different.* Truth: In such transactions, we're asking for a privilege or a benefit and we willingly identify ourselves to get it. It's a quid pro quo. In Arizona, where you can be grilled for attending a house party with loud music or being a passenger in a vehicle, the "privilege" Latinos are asking for is simply to breathe. This shouldn't come at a price.

-- *Latinos won't be racially profiled. But if they were, it would be justified given that most illegal immigrants come from Mexico and the rest of Latin America.* Truth: Supporters can't have it both ways, insisting that a practice won't occur while justifying it as logical and thus likely to occur.

-- *This law makes Arizonans safer.* Truth: Quite the opposite. By sending illegal immigrants underground, Arizona has created a pool of ready-made victims who can be preyed upon at will because they won't report crimes to police. Scoundrels, thieves and predators will pounce.

If supporters of the Arizona law truly believe in this legislation, they should ditch their list of disingenuous talking points and start speaking honestly. It would do wonders for their credibility -- not to mention the credibility of the dubious law they support.

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