

Posted 4/26/10

EXTREME MEASURES

Angry over Federal dithering, Arizona enacts its own immigration laws

By Julius Wachtel, (c) 2010

Sooner or later it was bound to happen. Frustrated by the Fed's laissez-faire attitude about the effects of illegal immigration, the Grand Canyon State struck out on its own. Less than a month after the [murder](#) of a goodhearted Arizona rancher (police followed the suspect's tracks to the border) Governor Jan Brewer [signed into law](#) a comprehensive [measure](#) that turns illegal aliens into state outlaws and encourages local police to seek them out and hand them over to the Feds.

Key provisions include the following:

- When practical, law enforcement officers who reasonably suspect that someone is an illegal alien must try to determine their immigration status.
- Illegal aliens convicted of violating state or local laws including misdemeanors must be turned over to U.S. immigration officers, even if they were only fined.
- Illegal aliens and non-citizens over 18 not carrying a valid immigration card law are considered "trespassers." Those in possession of drugs or a weapon are guilty of a felony; otherwise, a first offense is a misdemeanor, and a subsequent offense is a felony.
- Illegal aliens are prohibited from applying for a job, soliciting work or working either as an employee or independent contractor. Violations are misdemeanors. (Arizona law already prohibits employers from knowingly hiring illegal aliens.)
- Knowingly transporting or harboring illegal aliens or inducing them to come to Arizona is a misdemeanor; if ten or more illegal aliens are involved it's a felony.
- Private citizens are empowered to sue and collect damages from political subdivisions that restrict the "full enforcement" of Federal immigration laws.

According to the [Department of Homeland Security](#) Arizona has 460,000 illegal immigrants, the seventh most in the nation. As a proportion of the [population](#) their

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number lags only behind California, and then by a whisker (6.9 percent versus 7.0 percent.)

SCAAP, the [State Criminal Alien Assistance Program](#), reimburses States and localities for part of the cost of confining illegal immigrants who are convicted of a felony or two misdemeanors and held for at least four days. (Illegal immigrants convicted of ordinary crimes are commonly called “criminal aliens.”) [The GAO reported](#) that in 2003 Arizona prisons housed 4,200 criminal aliens, costing state taxpayers \$50 million. SCAAP reimbursed \$7 million. Arizona placed fifth in numbers of incarcerated criminal aliens, behind California (30,200), Texas (11,200), New York (5,700) and Florida (5,200). But when adjusted for state [population](#), Arizona’s share was second to California’s.

In 2003 the Maricopa County (Phoenix) jail system housed 4,300 criminal aliens, costing state taxpayers \$15 million. Its reimbursement? \$1 million. Only four jails, two in California, one in Texas and one in New York City held more. Adjusting for [county](#) and [city](#) size, Maricopa was in third place, just behind the California counties.

Another [GAO report](#) examined the backgrounds of 55,322 criminal aliens who were incarcerated for any offense in Federal and State prisons and county jails in December 2003. Eighty percent came from three states: California (58 percent), Texas (14 percent) and Arizona (eight percent.)

Arizona is one of the nation’s principal gateways for illegal entry, regularly placing first in border arrests and second only to Texas, a state with a population four times its size, in [immigration prosecutions](#). It’s also a primary entry point for illegal drugs, with [Federal drug prosecutions in Arizona](#) increasing more than twofold during 2008-2010. And as we pointed out in [a prior post](#), the state’s gun dealers are a major source of firearms for the Mexican cartels.

The consequences are obvious. Human, drug and gun trafficking tear at the social fabric, attracting unscrupulous characters, consuming prodigious criminal justice resources and setting the stage for other crimes. According to the [Arizona Republic](#), Phoenix experienced an astounding 368 kidnappings for ransom in 2008, much of it ostensibly related to drug and cartel activity. What’s more, although its police chief touts the city as “one of America’s safest large cities,” [a 2008 survey](#) of cities over 75,000 population ranked Phoenix 302 out of 393. It was well behind Los Angeles, which placed 240th. (higher numbers are worse). Phoenix’s problems are no surprise to your blogger, who as an ATF agent in Arizona during the seventies got to experience the troubled city first-hand.

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Crunched by a tight economy, with a [2008 median household income](#) two percent below the national mean, Arizona has struggled for decades to deal with the social and economic consequences of being on the border. But to many observers its current response seems an overreaction. Concerns that the law will drain scarce police resources, cause racial profiling and discourage crime victims from coming forward led the Arizona Police Chiefs Association [to strongly oppose the measure](#). On the other hand many lower-ranking police officers, including presidents of police associations in Phoenix and Glendale favor it, in part because it would give officers more tools for combating crime.

It's no surprise that [political views](#) about Arizona's stern approach mirror Party affiliations. Senator John McCain (R-Ariz.) is for while President Obama, who warned that the Arizona bill would "undermine basic notions of fairness," is against. Interestingly, his Secretary of Homeland Security, Janet Napolitano, a Democrat, [repeatedly vetoed](#) similar legislation when she was Arizona governor, in part because it would "overwhelm" police. Yet in 2005 she declared a "state of emergency" at the border, then sent the National Guard to help secure it.

Within a couple of years, though, the Feds decided that physical barriers and a much-ballyhooed "[virtual](#)" fence were preferable to a heavy human presence. But only last month Secretary Napolitano [called a halt](#) to the multi-billion dollar project because of questions about its effectiveness. Arizona's senators have since proposed that the money be spent on – you guessed it – troops and additional border agents. Meanwhile the Department of Justice is getting set to challenge Arizona's new immigrant-unfriendly laws in Federal Court.

That, in a nutshell, is America's border "policy." If you're confused, join the crowd!