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punish "illegal immigrants." SB1070 is premised upon the idea that Arizona law enforcement can catch illegal immigrants by virtue of their "illegal" status and force their deportation because of federal government inaction. However, "illegal immigrant" is not a cognizable status under federal immigration law and Arizona's proxies that illegal immigrants are identifiable by their unlawful presence or through commission of a removable offense is based on fundamental misconceptions about federal immigration law – both in theory and in practice. *Amicus*, the American Immigration Lawyers Association ("AILA"), writes to correct myths that underlie SB1070 and to demonstrate that, when placed in context of federal immigration law, SB1070 is unworkable.

## II. ARGUMENT

SB1070 requires police "where *reasonable suspicion* exists that the person is an *alien* who is *unlawfully present* in the United States, a reasonable attempt shall be made, when practicable, to determine the immigration status of the person." SB1070, Section 2, as amended by Arizona HB 2162, Section 3, adding new Arizona Revised Statute ("A.R.S.") § 11-1051(B) (emphasis added). Detention is required until the immigration status of the person is verified. *Id.* The statute provides that an officer may make a warrantless arrest if he or she has probable cause to believe that an individual has "committed any public offense that makes the person *removable* from the United States." SB1070, Section 6, adding new A.R.S. § 13-3883(A)(5). (emphasis added). The emphasis on using unlawful presence and removable offenses as the law enforcement tool is unworkable. The purpose of the statute is equally misguided.

(A)(1). First, there are no *apparent* identifiable characteristics of "unlawful presence" that allow the law to be enforced in a constitutional manner. The term "unlawfully present" as used in SB1070 conflicts with the federal meaning of "unlawful presence." SB1070 fails to provide any definition of the critical terms "reasonable suspicion," "unlawfully present," or "alien." Moreover, SB1070's reliance on a statutory list of documents which purport to provide a presumption against unlawful presence, is misplaced as insofar as the list is incomplete and inadequate when compared to federal immigration law.

SB1070 is premised on the idea that police officers can easily identify alienage in an

ordinary, police contact. This is an erroneous premise. U.S. citizenship is not a characteristic apparent to the eye or dependent upon a person's appearance insofar as it is a *legal* determination. U.S. citizens are not required to carry proof of their citizenship while inside of the United States. Therefore, it is unlikely that in a routine encounter with law enforcement a U.S. citizen will possess a birth certificate, U.S. passport, naturalization certificate, or certificate of citizenship demonstrating citizenship.

Moreover, alienage determinations are complex because they are *inherently legal* rather than factual determinations. Congress has constitutional power over nationality law which determines whether a foreign-born person is a U.S. citizen and "[c]itizenship law is probably the area of law where statutes remain relevant the longest, because even the most ancient and long-repealed statutes can still apply in a current case." Mautino, *Acquisition of Citizenship*, Immigration Briefings (April 1990). Similarly, U.S. treaties and international covenants – which change over time – are often dispositive as to a person's citizenship status. *See, e.g., Sabangan v. Powell*, 375 F. 3d 818 (9th Cir. 2004) (person born in Commonwealth of Northern Mariana Islands (CNMI) after January 9, 1978 is a U.S. citizen by virtue of covenant between U.S. and CNMI).

Birth in the United States certainly is a clear indicator that a person is not an alien. *See* U.S. Const. amend. XIV, § 1. But foreign-birth is not a certain indicator of alienage. Acquisition of citizenship at birth depends on numerous factors, such as the parents' respective citizenship (8 U.S.C. § 1401(c)-(e), (g)-(h)); the duration and timing of their residence in the United States (§ 1401(d)-(e), (g)-(h)); their marital status at the time of the individual's birth (§ 1409); the year in which the person was born (§ 1401(h)); the place where the person was born (§ 1041(c)-(e), (g)-(h)); and in some situations, even the date on which a child born out of wedlock was legitimated (§ 1409) – *none* of which can be ascertained or observed by police in any contact or that could give rise, constitutionally, to any suspicion of alienage. *See generally*, 8 U.S.C. § 1401(c)-(h) (establishing conditions under which children born in-wedlock outside of the United States acquire U.S. citizenship at birth) and § 1409 (establishing conditions under which children born out-of-wedlock outside of the United States acquire U.S. citizenship at birth).

Hence, persons born outside of the United States, may still be U.S. citizens. Id.

Anyone can assert U.S. citizenship, and a law enforcement officer may be hard-pressed to identify a legitimate reason why such an assertion is untrue. Race, ethnic appearance, and language are not reliable indicators of alienage. *See, e.g., United States v. Montero-Camargo*, 208 F.3d 1122, 1132 (9th Cir. 2000) (*en banc*) ("The likelihood that in an area in which the majority – or even a substantial part – of the population is Hispanic, any given person of Hispanic ancestry is in fact an alien, let alone an illegal alien, is not high enough to make Hispanic appearance a relevant factor in the reasonable suspicion calculus."), *cert. denied*, 531 U.S. 889 (2000); *United States v. Manzo-Jurado*, 457 F.3d 928, 932 (9th Cir. 2006) (ruling that individuals' appearance as a Hispanic work crew, inability to speak English, proximity to the border, and unsuspicious behavior did not establish reasonable suspicion of illegal presence).

The citizenship question is further obscured because some individuals may not possess any documentation establishing their U.S. citizenship (because none is required). Foreign-birth is not dispositive on the question of alienage and it is an inappropriate factor for Arizona police to utilize. For example, a foreign-born child *automatically derives* U.S. citizenship if a parent naturalizes before the child reaches the age of 18, and certain other conditions are met. *See* 8 U.S.C. § 1431(a). Yet, that individual may not possess a certificate of citizenship, a U.S. passport, or other document as evidence of his status. Indeed, he may not realize he is, in fact, a U.S. citizen. *See*, *e.g.*, *United States v. Smith-Baltiher*, 424 F.3d 913, 920-21 (9th Cir. 2005) (rejecting government's claim in an illegal reentry case that an individual could not assert derivative citizenship status because, *inter alia*, he did not have a certificate of citizenship). Likewise, an individual may automatically acquire U.S. citizenship through birth abroad to a U.S. citizen parent, and may not know that he is a U.S. citizen or may not possess citizenship documentation. *See* 8 U.S.C. §§ 1401, 1409 (setting out various conditions whereupon individuals may acquire U.S. citizenship automatically).

(A)(2). SB1070's reliance on "unlawfully present" as an actionable event cannot be lawfully implemented because it lacks discernable meaning and conflicts with the federal

immigration statute. *Compare* Arizona SB1070, *with* 8 U.S.C. §§ 1182(a)(9)(B)–(C). Federal immigration law provides no general definition of the terms "unlawfully present" or "unlawful presence." The term "unlawful presence" in federal immigration law is partly defined by statute and partly left to the immigration agencies to define. *See* Donald Neufeld, Lori Scialabba, and Pearl Chang, *Consolidation of Guidance Concerning Unlawful Presence for Purposes of Sections* 212(a)(9)(B)(i) and 212(a)(9)(C)(i)(I) (May 6, 2009) available at http://www.uscis.gov/files/nativedocuments/revision\_redesign\_AFM.PDF.. SB1070's use of the term is misaligned with the federal design. Under federal law, unlawful presence is an inadmissibility ground that Congress intended to apply in limited circumstances. *See* 8 U.S.C. §§ 1182(a)(9)(B), (C). The unlawful presence grounds of inadmissibility apply only to certain aliens who were unlawfully present in the United States for more than 180 days, and who depart, or are ordered removed from the United States and, then again seek admission to the United States. 8 U.S.C. §§ 1182(a)(9)(B), (C).

Significantly, federal immigration law expressly exempts certain individuals from the unlawful presence scheme including children under the age of 18; certain asylum applicants; beneficiaries protected under the family unity program established by § 301 of the Immigration Act of 1990, Pub. L. No. 101–649, 104 Stat. 4978 (1990), and set out in 8 C.F.R. §§ 236.10–236.18; and certain victims of domestic abuse and human trafficking. Unlawful presence may also be tolled for individuals who file nonfrivolous applications for a change or extension of status and who meet certain other conditions. 8 U.S.C. § 1182(a)(9)(B)(iv). Arizona's use of the same term without definition is particularly problematic and unhelpful.

"Unlawful presence" is not synonymous with "illegal immigrant" or even "unlawful immigration status." Indeed, the latter two terms are nowhere defined or found within the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101, et seq. As an actionable event under Arizona law, there is simply no unbiased means of implementing the term "unlawful presence," because as a *legal* status there are no observable characteristics of "unlawful presence," or readily available means by which a police officer could discern "unlawful presence" in any stop, detention, or investigative encounter.

(A)(3). Section 2, SB1070, as amended, provides a list of documents that demonstrate "lawful presence." See SB1070, § 2, as amended; A.R.S. § 1-502. This list is inadequate to give meaning to "unlawful presence" when measured against the federal rules. The failure to possess any of these documents does not signify a person lacks authorized immigration status, or is deportable even if his status has expired or has been revoked. There are many examples of such situations. A lawful permanent resident with an expired or old "green card" remains a lawful permanent resident, and is not deportable. See, e.g., 8 U.S.C. § 1227 (listing classes of deportable aliens, and not including a ground for permanent residents without a valid green card); see also 72 Fed. Reg. 46922 (Aug. 22, 2007)(proposed rule, not promulgated, providing an application process for replacing certain old alien registration cards, and terminating the validity of the old cards, but not terminating the lawful status of permanent residents who possess the old cards), and USCIS Press Release of December 13, 2007 ("This proposed rule in no way affects the current validity of these permanent resident cards. Permanent residents who possess these cards may continue to use them as proof of permanent residency when traveling, when seeking employment, and at any time such proof is required."), available at http://www.uscis.gov/files/pressrelease/I551Update\_13dec07.pdf. Noncitizens who immediately qualify to adjust status to become lawful permanent residents, but who have not yet done so, are generally not deportable. See generally 8 C.F.R. § 1245.2 (providing immigration judges with jurisdiction over adjustment of status applications in removal proceedings). Asylum applicants, or individuals with non-frivolous claims for asylum that are not yet filed, cannot be deported until and unless their claims are adjudicated and a final administrative removal order exists. 8 U.S.C. §§ 1158 (establishing bases for asylum and procedures), 1187(b) (providing for review of asylum claims for people admitted to the United States through the Visa Waiver Program), 1225 (providing for review of asylum claims to applicants for admission to the United States), and 1231 (establishing removal procedures for people with final administrative removal orders). Noncitizens who qualify for cancellation of removal or temporary protected status are not deportable. 8 U.S.C. § 1229b (cancellation of removal), and § 1254a (temporary protected status). Even noncitizens with final removal orders

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may not be deported, for example, if they qualify for certain relief due to the risk of persecution in their home country, or if the government is unable to effectuate deportation or declines to enforce deportation for humanitarian reasons. 8 U.S.C. § 1231(b)(3) (withholding of removal) and § 1231(a)(7) (allowing employment authorization for certain aliens with final removal orders).

(B). Second, enforcement of Section 6, SB1070 is impractical because whether an offense makes a noncitizen removable is often not clear and often takes years of litigation to determine. See e.g., Carachuri-Rosendo v. Holder, No. 09-60, 2010 WL 2346552 (U.S. June 14, 2010); A.R.S. § 13-3883(A)(5). The criminal offenses that may render a person removable are defined by federal law where state labels familiar to peace officers are irrelevant. Id. Whether an offense makes a noncitizen removable depends upon a complicated analysis of noncitizen's personal history, criminal history and immigration history, a legal analysis of the elements of the offense, the record of conviction, the facts of the offense, the potential sentence, the sentence imposed, the noncitizen's immigration and criminal history, and the immigration history of the noncitizen's family. Id. None of these factors are amenable to police officer probable cause inquiries. It is a *legal* determination, not a factual determination. This legal determination "can often be simply too complex for a state or local law enforcement officer acting without a warrant to make promptly and accurately." See Plaintiffs' Motion for Preliminary Injunction and Memorandum in Support, Declaration of Bo Cooper (Doc. No. 235-3) at 6, ¶ 11.

There is ambiguity in the contours of federal immigration law on the question of what state law offenses might make an individual removable. Under federal immigration law an individual might be removable for having been convicted of a crime involving moral turpitude ("CIMT"), an aggravated felony (listing more than 21 different types of aggravated felonies), a controlled substance offense, a firearms offense, a prostitution-related offense, or a crime of domestic violence, stalking, child abuse, child neglect, or child abandonment. See INA § 237(a)(2).

The depth of analysis required to determine whether a state law offense triggers removal

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consequences underscores the impracticability of SB1070. There is no universal "list" of crimes; indeed, it is always a case-by-case analysis. A police officer is unlikely to have the necessary legal expertise to quickly determine if an alien is removable, or have documents readily available for inspection during any investigative encounter for the same.

For example, a state law offense may be considered a CIMT if it is "inherently base, vile, or deprayed, and contrary to the accepted rules of morality and the duties owed between persons or to society in general." *Matter of Silva-Trevino*, 24 I. & N. Dec. 607, 705 (Att'y Gen. 2008) at 705 (internal citations and quotations omitted). As applied to common state law offenses, such as driving under the influence, this standard has provided little or no clarity and there are often inconsistent results reached by adjudicators with respect to Arizona law. Compare *Matter* of Torres-Varela, 23 I. & N. Dec. 78 (BIA 2001) (multiple DUIs is not a CIMT) with Matter of Lopez-Meza, 22 I. & N. Dec. 1188 (BIA 1999) (aggravated DUI is a CIMT). The U.S. Court of Appeals for the Ninth Circuit later rejected the Board's CIMT finding in Lopez-Meza. See Hernandez-Martinez v. Ashcroft, 329 F.3d 1117 (9th Cir. 2003). Similarly, assault offenses may and may not involve moral turpitude. Compare Matter of Solon, 24 I. & N. Dec. 239 (BIA 2007)(New York's third degree assault offense involves moral turpitude) with Matter of Sejas, 24 I. & N. Dec. 236 (BIA 2007) (Virginia's domestic assault and battery statute does not involve moral turpitude).

Not only does federal immigration law include distinct definitions for removable offenses that bear no particular resemblance to state offenses, federal law also incorporates provisions of other federal statutes unfamiliar to local police. Some assault offenses may be removable offenses if they are aggravated felony "crimes of violence" or if they are "crimes of domestic violence" as defined in 18 U.S.C. § 16, 8 U.S.C. §§ 1101(a)(43)(F), and 1227(a)(2)(E) (referencing 18 U.S.C. § 16 for definitions of these terms). In addition, as in the CIMT context, crimes of violence are not obvious in every case. Some convictions for assault and battery are crimes of violence and others are not. Compare Matter of Sanudo, 23 I. & N. Dec. 968, 973-75 (BIA 2006) (California domestic battery is not a crime of violence) with Matter of Martin, 24 I. & N. Dec. 491 (BIA 2002) (Connecticut third degree assault is a crime of violence). Even the

concept of a "drug trafficking crime" is a hazard of legal analysis. *See Carachuri-Rosendo*, No. 09-60, slip op. at 2 (characterizing the immigration definition of a drug trafficking crime as a "maze of statutory cross-references"). Facts or the actual conduct of an individual – the stock and trade of police work – is not truly relevant in determining removability because it is almost always a *legal* determination. *See Nijhawan v. Holder*, 557 U.S. \_\_\_, 129 S. Ct. 2294, 2300-01 (2009).

Section 6 is problematic because it permits a warrantless arrest if the peace officer has probable cause to believe that an individual has "committed" a removable offense. Under federal law, removability is usually determined *after* a conviction, not when committed. For most offenses to qualify as "removable" offenses, there must first be a conviction. If there is *no* conviction, there is *no* removable offense. Even for removal grounds that do not require a conviction, such as those listed in 8 U.S.C. § 1182(a)(2), it would be premature to decide whether a noncitizen is removable until the conclusion of the underlying criminal proceeding. This is because a dismissal of a criminal charge or a conviction to a reduced charge is generally dispositive of whether the noncitizen is removable. *See Matter of Arreguin de Rodriguez*, 21 I. & N. Dec. 38 (BIA 1995).

Like the legal nature of the offense, an individual's personal history is not readily ascertainable by a police officer in a probable cause inquiry and would require analysis of records and information beyond the reach of most police officers. Whether a noncitizen is "admitted" to the U.S. is relevant to the removability inquiry. Congress enacted specific policy determinations that aggravated felony, crimes of domestic violence, and firearm convictions predating a noncitizen's admission are not removable offenses. *Compare* 8 U.S.C. § 1182(a)(2) (not including these offenses as grounds of inadmissibility) *with* § 1227(a)(2) (listing offenses as grounds to remove alien who has been "admitted").

The technical, code-driven state of immigration law is difficult to overstate. The complexity of the law to be applied in the hyper-technical field of immigration law is demonstrated by the explosion in federal court litigation on immigration questions. In fiscal year 2009, circuit courts received 8,890 new petitions for review challenging BIA decisions. U.S.

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Courts, Judicial Business, 9 (2009). By the time the circuit court renders a decision, the entire removal process could take four or more years. See Alvarez-Reynaga v. Holder, 596 F.3d 534 (9th Cir. 2010) (conviction for receipt of stolen property is not a CIMT, proceedings pending for four years); Nunez v. Holder, 594 F.3d 1124 (9th Cir. 2010) (indecent exposure not a CIMT, proceedings pending for seven years).

(C). If implemented, SB1070 would frustrate the federal government's immigration enforcement priorities. Contrary to what Arizona may believe, the federal government actively enforces immigration laws, often teaming up with state and local law enforcement to do so. For example, there are currently fourteen "ICE ACCESS" Programs providing tools for state and local governments to help enforce immigration law. These programs include the Criminal Alien Program, Secure Communities, the § 287(g) program, E-Verify, the Social Security No-Match program, and the Student and Exchange Visitor Program. While AILA is highly critical of these programs and their implementation, they provide solid evidence of comprehensive federal activity in immigration enforcement. See Attached Exhibit, List of Resources (providing information on ICE programs, related analyses, and articles).

## III. CONCLUSION

AILA, like many of Arizonans, is frustrated over the failure of the federal government to fix our broken immigration system. However, the Arizona law presents an unworkable and unlawful response to this frustration. It ought be enjoined as it cannot be implemented in a fair and constitutional manner.

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## **EXHIBIT**

## **List of Resources Concerning Immigration Enforcement Programs**

- 1. U.S. Immigration and Customs Enforcement, *Programs: Office of State and Local Enforcement, available at* <a href="http://www.ice.gov/oslc/iceaccess.htm">http://www.ice.gov/oslc/iceaccess.htm</a> (last visited July 13, 2010). The ICE Office of State and Local Coordination developed the ACCESS program in response to the widespread interest from local law enforcement agencies who have requested ICE assistance through the Section 287(g) program. This program cross-designates local officers to enforce immigration law as authorized through § 287(g) of the Immigration and Nationality Act. This bulletin issued by ICE lists all the ICE ACCESS Support and Programs and provides information on each.
- 2. <a href="http://www.ice.gov/partners/287g/Section287">http://www.ice.gov/partners/287g/Section287</a> g.htm This link provides a current list of states with a Memorandum of Understanding ("MOU") between local law enforcement and ICE as authorized by "Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act."
- 3. <a href="http://www.ice.gov/pi/news/factsheets/criminal alien program.htm">http://www.ice.gov/pi/news/factsheets/criminal alien program.htm</a> This ICE bulletin highlights the Criminal Alien Program, which is responsible for identifying, processing and removing criminal aliens incarcerated in federal, state and local prisons and jails throughout the United States, preventing their release into the general public by securing a final order of removal prior to the termination of their sentences, when possible.
- 4. <a href="http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=75bce2e261405110VgnVCM1000004718190aRCRD&vgnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD">http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=75bce2e261405110VgnVCM1000004718190aRCRD</a> This USCIS portal provides information about the E-Verify Program that allows businesses to determine the eligibility of their employees to work in the United States.
- 5. 74 Fed. Reg. 51447 (Oct. 7, 2009) available at <a href="http://edocket.access.gpo.gov/2009/pdf/E9-24200.pdf">http://edocket.access.gpo.gov/2009/pdf/E9-24200.pdf</a> Setting forth the Social Security No-Match program. This regulation provides the most recently amended procedures for employers who receive no-match letters from the Social Security Administration. Employers who do not follow the new rule will risk penalties for hiring unauthorized workers.
- 6. <a href="http://www.ice.gov/sevis/">http://www.ice.gov/sevis/</a> This ICE website provides information about the

joint system among the U.S. Department of State, U.S. Customs and Border Protection, U.S. Citizenship and Immigration Services, and U.S. Immigration and Customs Enforcement for tracking foreign students upon entry to the United States.

- 7. Kaye, Re–Living Our Immigrant Past: From Hazelton to Arizona and Back Again, Immigration Policy Center (Immigration Perspectives Series) May 2010, a v a i l a b l e a t http://www.immigrationpolicy.org/sites/default/files/docs/Jeffrey Kaye Hazleton 052010.pdf This article outlines present-day patterns of economic opportunity, ensuing migration, and the reactions of states and locales to the influx of newcomers. The author describes these initiatives as recycled versions of old stories. Kaye juxtaposes the heated rhetoric surrounding Hazleton's 2006 immigration laws with those following Hazleton's immigrant influx in the late 1800s. While migrant workers' countries of origins might differ, the anti-immigrant arguments are the same.
- 8. Guttin, *The Criminal Alien Program: Immigration Enforcement in Travis County, Texas*, Immigration Policy Center (Special Reports) (Feb. 2010) *available at*<a href="http://www.immigrationpolicy.org/sites/default/files/docs/Criminal Alien Program 021710.pdf">http://www.immigrationpolicy.org/sites/default/files/docs/Criminal Alien Program 021710.pdf</a> This report provides a brief history and background of the CAP program. It includes a case study of CAP implementation in Travis County, Texas, which finds that the program has a negative impact on communities because it increases the community's fear of reporting crime to police, is costly, and may encourage racial profiling.
- 9. Immigration Policy Center, Local Enforcement of Immigration Laws Through the 287(g) Program, (Just the Facts Series) (Apr. 2, 2010) available at <a href="http://www.immigrationpolicy.org/sites/default/files/docs/287g">http://www.immigrationpolicy.org/sites/default/files/docs/287g</a> fact sheet 04021 0.pdf This report summarizes recent reports finding that § 287(g) agreements are costing localities millions of dollars to implement, while ICE provides little oversight and support to the program. Additionally, crime-solving activities are compromised, trust between police and community is eroding, and accusations of racial profiling and civil rights violations are on the rise. Furthermore, § 287(g) agreements are being used as political tools that interfere with the kind of true community policing that protect and serve our communities.
- 10. Immigration Policy Center, Q&A Guide to Arizona's New Immigration Law: What You Need to Know About the New Law and How It Can Impact Your State, (Jun. 2010) at 8 (Special Report series) available at

http://www.immigrationpolicy.org/sites/default/files/docs/SB1070 Guide 060210 1.pdf. - Providing answers to questions about the impact of Arizona's SB1070 on crime, community safety, and financial costs.

- 11. AILA, DHS Inspector General Report Exposes Abuses in State & Local Immigration Enforcement, AILA InfoNet Doc. No. 10040238 (Apr. 1, 2010), available at <a href="http://www.aila.org/content/default.aspx?docid=31684">http://www.aila.org/content/default.aspx?docid=31684</a> AILA calls for the end of the § 287(g) programs due to the abuses by state and local law enforcement.
- 12. Gardner & Kohli, *The Cap Effect: Racial Profiling in the ICE Criminal Alien Program*, (Aug. 2009), The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity at the University of California, Berkeley Law School *available at* <a href="http://www.law.berkeley.edu/files/policybrief\_irving\_FINAL.pdf">http://www.law.berkeley.edu/files/policybrief\_irving\_FINAL.pdf</a> This paper describes biased-based enforcement of the Criminal Alien Program. Despite ICE's claim that the CAP program intends to target serious criminals for removal, with the expansion and enhancement of CAP, it often misses its target and instead engages in profiling and pretextual arrests.
- 13. Rights Working Group & ACLU, *The Persistence of Racial and Ethnic Profiling in the United States*, AILA InfoNet Doc. No. 09102169, (Aug. 2009) at 24-29 *available at* <a href="http://www.aclu.org/pdfs/humanrights/cerd\_finalreport.pdf">http://www.aclu.org/pdfs/humanrights/cerd\_finalreport.pdf</a> This document describes racial profiling through § 287(g) and ICE ACCESS programs.
- 14. Keck, Will others follow Arizona's lead on immigration? (Apr. 21, 2010), a v a i l a b l e a t http://www.cnn.com/2010/POLITICS/04/21/arizona.immigration.bill/index.html
- This article raises the question of whether other states will follow in Arizona's footsteps. It describes the atmosphere created by SB1070's stated policy of attrition through enforcement as a climate of fear and desperation so that noncitizens will self-deport.
- 15. Archibold, *Arizona Enacts Stringent Law on Immigration*, New York Times, (Apr. 24, 2010) *available at* <a href="https://www.nytimes.com/2010/04/24/us/politics/24immig.html">www.nytimes.com/2010/04/24/us/politics/24immig.html</a> This article sets the stage for a national debate between the punitive and the practical solutions to the nation's immigration issues.