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Arizona's Senate Bill 1070: A Case Study on State-Sponsored Immigration Policy

Ryan Murphy
rjmurphy@usfca.edu

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Arizona's Senate Bill 1070: A Case Study for State-Sponsored Immigration Policy

Graduate Thesis in the Masters of Art in International Studies

This study assesses the origins of Arizona's state-sponsored immigration policy. It attempts to identify the social dynamics within Arizona that contributed to the overwhelming public support for SB 1070. Since it has been two years after the law was passed, this analysis determines what impact the law has had thus far within the state. Finally, it postulates the future of Arizona's immigration policy.

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I dedicate this Master's Thesis, first and foremost to everyone who works tirelessly for comprehensive immigration reform. A federal solution is the only plausible way to resolve the ineffective immigration system. If Congress took on the initiative to truly address this issue, millions of unauthorized immigrants could come out of the shadows of society and contribute even more to our fantastic country. Hundreds would be spared horrific deaths crossing through the Arizona desert. National security would be strengthened because border enforcement could focus solely on narcotics and criminals. Finally, our economy would flourish with access to sufficient visas for temporary workers.

My passions and convictions for social justice, I owe to my two fantastic parents. I care about this topic, because I identify with the humanity of unauthorized immigrants. An unauthorized immigrant's devotion to their loved ones, reminds me of my parents hard work and sacrifice they made for my family. Mom and Dad, you have been and will always be my inspiration. Additionally, I want to express my gratitude to my younger brother. Your support means a lot and it has helped me complete this project. To my girlfriend Liz, thanks so much for your love. It was hard being away from you for two months to conduct this research. I was only able to do it with your encouragement and understanding.

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Chapter 1: Introduction

From an early age, Americans are taught that their country is the world's melting pot of cultures, identities and religions. This widely accepted portrayal of the United States implies that every group in society is fairly represented and has the same rights, privileges and opportunities to achieve the American Dream. Unfortunately, the reality is more complex. Throughout the history of the United States, there has been a perpetual struggle for true equality. The better established groups in society have perceived the inclusion of newer nationalities, ethnicities and religious communities, as potentially divisive. This flaw dates back to the beginning of the United States, when immigrants from certain European countries, such as the Irish-Catholics, were despised as invaders and deemed to be morally corrupt.

The status of Irish-Catholic immigrants and ethnically Irish-Catholic Americans in the country did not improve until another group was viewed as a greater threat to American values. It was the Civil War and the liberation of African-American slaves that made the Irish-Catholics no longer a vilified demographic. In comparison to African-Americans, the Irish have since been considered the same *white* race as the elites and ruling class.¹ Therefore, Irish-Catholic Americans are now equally entitled to the same opportunities as descendants of English-Protestants.² Although the United States has come a long way in creating equal opportunity, this cycle of discrimination continues to exist. Regrettably, minorities, including African-Americans and recent immigrant groups, mainly Latinos, are still struggling with structural violence, discrimination and economic hardship.

This thesis analyzes the Arizona law *Support Our Law Enforcement and Safe*

¹ Ignatiev, N. (1995) *When the Irish Became White*. (p. 148-176) New York: Routledge

² *Ibid*

Neighborhoods Act, better known as *SB 1070* (refer to appendix 1 to view the law).³ When SB 1070 was enacted in April 2010, it became the “toughest immigration law in the nation.”⁴ The specific resolve of SB 1070 was to promote *attrition through enforcement* -- meaning its purpose was to create a situation where life would be too unbearable for unauthorized immigrants and they would decide to leave the state. This pledge was clearly articulated in the preamble of SB 1070, which declared this bill was designed to “make attrition through enforcement the public policy of all state and local government agencies in Arizona...intended to work together to discourage and deter the unlawful entry and presence of aliens and economic activity by persons unlawfully present in the United States.”⁵ The legality and social benefits of this immigration policy are debatable and will be evaluated in great detail throughout my thesis. Thus far, the law has already generated significant fear in the unauthorized immigrant population, forcing many to leave the state. Proponents of the law point to the fact that over 200,000 unauthorized immigrants have moved out of Arizona, roughly a 36% decline from the peak population in 2008.⁶

Critics of SB 1070 claim that the law is not only unjust to unauthorized immigrants, but also oppresses Latinos who are legal residents or U.S. citizens. Several civil rights organizations have joined the condemnations of SB 1070, arguing that the controversial law institutionalizes racial profiling and perpetuates ethnic divisions. Among these civil rights organizations, the

³ Appendix 1: Senate Bill 1070: Support Our Law Enforcement and Safe Neighborhoods Act

⁴ Halpern, J. (2012, June 25). *The supreme court rules on arizona immigration law sb 1070*. Fox News. Retrieved from <http://radio.foxnews.com/2012/06/25/supreme-court-strikes-down-most-of-sb-1070/>

⁵ Arizona State Legislature, (2010). *Support our law enforcement and safe neighborhoods act* (SB 1070). Phoenix:

⁶ Hoefer, M., Rytina, N., & Baker, B. Department of Homeland Security, Office of Immigration Statistics Policy Directorate. (2011). *Estimates of the unauthorized immigration population residing in the united states*. Retrieved from website: http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2011.pdf

Hoefer, M., Rytina, N., & Baker, B. Department of Homeland Security, Office of Immigration Statistics Policy Directorate. (2008). *Estimates of the unauthorized immigration population residing in the united states*. Retrieved from website: http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2008.pdf

American Civil Liberties Union (ACLU) has taken on a prominent role in challenging the legality of SB 1070 in federal courts as well as directly informing the Latino communities of their civil rights. On their website, the ACLU explains how SB 1070 “requires police to determine the immigration status of someone arrested or detained when there is ‘reasonable suspicion’ they are not in the U.S. legally.” They further describe how under this pretense, anyone who appears or sounds different than an officer’s perception of a typical American, has the undue burden to prove they have a legitimate right to be in this country.⁷

This thesis discusses the origins of SB 1070, the effect it has had in Arizona and any future implications it may have in the state or across the country. In doing so, I hope to determine whether SB 1070 represents a modern example of backlash against the Latinos, or, whether it maintains order and assists the federal government in preserving its sovereignty. To some degree, this is a matter of opinion, but the impact of SB 1070 on: local communities, on the economy and on the overall presence of unauthorized immigrants, are nevertheless, a subject that can be measured and analyzed.

Elected officials have long debated the appropriate means of reforming the broken immigration system and dealing with the millions of unauthorized immigrants who already live in the country. As the federal government increasingly appeared inept and unwilling to create comprehensive immigration reform, state and local governments began to pass their own legislation. For example, from 2005 to 2010, state and local governments introduced 6,000 bills and ordinances, regarding unauthorized immigration. From this set of proposed legislation, 1,000 became laws.⁸ Arizona’s SB 1070 is just one example of many other attempts to resolve the issue

⁷ American Civil Liberties Union. (2012, August 14). *Arizona’s sb 1070*. Retrieved from <http://www.aclu.org/arizonas-sb-1070>

⁸ Council of the Americas, (2012). *The economic impact of immigration-related local ordinances*. (p. 6). New York: Americas Society.

of unauthorized immigration at the local level.

As a case study for state-sponsored immigration policies, Arizona's establishment of SB 1070 exposes a litany of issues related to the U.S. immigration system. Only two years after it was produced, advocates on both sides of the immigration debate have made Arizona and SB 1070 the epicenter of a nationwide immigration debate. Following the example of Arizona, five states, Alabama, Georgia, Indiana, South Carolina and Utah, passed *copy-cat legislation* that embodies the same questionable tactics.⁹ Meanwhile, the Supreme Court reinterpreted the constitutionality of SB 1070 and therefore redefined the role of state-sponsored immigration policies.

Needless to say, much can be learned through examining Arizona's creation and application of SB 1070. Unfortunately, little academic research has been conducted on this law and the reports that reveal significant findings are dense and difficult to comprehend. Too often, they rely solely on numbers, statistics and a quantitative investigation. Without substantial time to read such a document and without the ability to personally engage with Arizonans, one cannot fully comprehend SB 1070 and the effect it has had on individuals and families in the state. This situation also makes it more difficult to understand how Arizona is related to some of the larger issues that frame the national immigration debate and how the catalysts that led to SB 1070 also exist elsewhere in the United States.

For these reasons, my research is applicable beyond the borders of Arizona. Ultimately, if comprehensive immigration reform is to be pursued by the federal government, an analysis of SB 1070, could pave the way for a more equitable and effective national policy. The Arizona Republican Party has demonstrated the impact attrition through enforcement can have on local

⁹ American Civil Liberties Union. (2012, August 14). *Arizona's sb 1070*. Retrieved from <http://www.aclu.org/arizonas-sb-1070>

communities as well as its influence on the overall economy. Before promoting or executing a similar mandate on the federal level, as many conservative Republicans have suggested, it would be valuable to comprehend the consequences it had in Arizona.

In my research, I specifically draw attention to attrition through enforcement, also referred to as *self-deportation* because the Presidential Candidate, Mitt Romney made this a plank of his immigration policy, which he expressed in the Arizona Republican Presidential Debate. While attempting to court the conservative branch of the Republican Party, he suggested (before the Supreme Court Ruling), “The right course for America, is to drop these lawsuits against Arizona and other states trying to do the job Barack Obama isn’t doing and I will drop those lawsuits on day one...we can stop illegal immigration, it is time we do it.”¹⁰ Before Romney made the statement, Kris Kobach, a co-author of SB 1070 and the then consultant for the Romney campaign, told ABC News, "I've encouraged the Romney campaign to take a stand of attrition through enforcement, which is what Arizona's SB1070 is all about."¹¹ Mitt Romney lost the election and his policies will not be implemented this Presidential cycle. If nothing is done in the next four years, it is possible the next Republican Presidential Nominee will once again introduce this concept as a plausible national policy.

Thus, the need for an accurate, comprehensive study of SB 1070 is vital. My thesis aims to contribute to such an analysis. I rely primarily on qualitative research in this endeavor, and provide further support for my argument through a quantitative examination of my data. My knowledge of SB 1070 is informed and developed from firsthand accounts by people who live in

¹⁰ Romney , M. (2012, February). In J King (Moderator) CNN Transcript. *Arizona republican presidential debate*, Phoenix. Retrieved from <http://archives.cnn.com/TRANSCRIPTS/1202/22/se.05.html>

¹¹ Sign , C. (2012). *Sb 1070 co-author tells abc15 he's an advisor for mitt romney*. ABC News Channel 15, Retrieved from http://www.abc15.com/dpp/news/region_phoenix_metro/central_phoenix/sb-1070-co-author-tells-abc15-he-is-an-advisor-for-presidential-candidate-mitt-romney

Arizona and who have directly experience the effects of SB 1070. The purpose of this approach is to present a variety of viewpoints on unauthorized immigration. My research includes personal insight from unauthorized immigrants as well as the perspectives from self-appointed border vigilantes. By engaging with a diversity of opinions, I uncover the roots of SB 1070 and discover the local responses from across the state. In order to determine the validity of specific claims made in my interviews, I compare various statements to the numbers and statistics found in reports produced by government agencies, independent immigration think tanks and reputable organizations. I also rely on academic theories to explain my data. This wide-ranging approach of assessing SB 1070, displays significant aspects of the law, which many people are unaware of both inside and outside of Arizona.

Chapter 2: Literature Review

It is important to note that the creation of SB 1070 was not a spontaneous reaction but a slow escalation of events, which directly correlates with the federal government's failed immigration system. For this reason, it is vital to examine the background of the federal and state responses to unauthorized immigration. The first two subsections in my literature review will briefly lay out a timeline of events that led to SB 1070. I will then conclude this chapter with two subsections, which introduce several theories that may help clarify why the United States has unauthorized immigration and the potential reasons SB 1070 was created.

Historical Background: The U.S. Immigration Policy

Unauthorized immigration from Latin America is not a new phenomenon but dates back to the establishment of the territorial boundaries between the United States and Mexico. Although there has always been movement of people and products across the border, the current proportion and circumstances of unauthorized immigration are a direct consequence of the U.S.

immigration system. The transformation occurred when the *Bracero Program* ended in 1964 and the *Immigration Nationality Act of 1965* passed Congress. Together these events dramatically reduced the temporary work visa and unintentionally established the current incentive for unauthorized immigration into the United States.¹² Ever since these paradigms shift in the U.S. immigration policy, millions have crossed the southwest border without legal authorization, so they can fill the demand of cheap labor in the U.S. economy.

The Bracero Program was a system of granting temporary work visas to Mexican nationals from 1942-1964. It originally began as a means of sustaining the U.S. economy with sufficient labor during the Second World War. By 1964, the rationale for the Bracero Program was no longer justified and it was terminated.¹³ Shortly afterwards, Congress passed the *Immigration Nationality Act of 1965*, thereby reforming the visa process.¹⁴ The law was created during the civil rights era, when Congress was attempting to be more progressive. Their decision to remove the race-based quotas from the distribution of visas was perceived as a positive development. The law also promoted family reunification to benefit the immigrant community already living in the country. To acquire a visa, it then became advantageous to be sponsored by a family member already in the United States. Ultimately, these good intentions overlooked the dependency that several industries had developed for cheap immigrant labor. The new law did not address the necessity for temporary work visas. As a matter of fact, the Immigration Nationality Act included a specific exemption for employers, so they could hire foreign nationals without government issued visas. For Mexicans who had successfully profited under the Bracero

¹² Rosenblum, M., & Brick, K. (2011). Us immigration policy and mexican/central american migration flows: Then and now. *Migration Policy Institute and Woodrow Wilson International Center for Scholars*, 5-6.

¹³ Massey, D., Durand, J., & Malone, N. (2002). *Beyond smoke and mirrors: Mexican immigration in an era of economic integration*. (p. 35-39). New York: Russell Sage Foundation.

¹⁴ Rosenblum, M., & Brick, K. (2011). Us immigration policy and mexican/central american migration flows: Then and now. *Migration Policy Institute and Woodrow Wilson International Center for Scholars*, 5-6.

Program and who were still encouraged by higher wages and job availability in the United States, crossing without a visa (unauthorized) became more sociably acceptable.¹⁵

The increased rate of unauthorized immigration post-Immigration Nationality Act, benefited both the business community dependent on immigrant labor and also the Mexican immigrants in search of higher wages.¹⁶ For the 21-year period before the next immigration reform, roughly 28 million Mexican immigrants came to the United States. Out of this 28 million, only 5.8 million were in the U.S. by 1986. This fact implies that during this period of time, unauthorized immigration was a circular system, with most Mexicans coming for seasonal work or for short-periods of time.¹⁷

In the 1980s, “politicians in the United States manufactured an immigration ‘crisis’ and created a false impression that the border was out of control.”¹⁸ The heightened demand on Congress led to the creation of the *Immigration Reform and Control Act (IRCA) of 1986*. The law increased security and made it illegal to hire unauthorized immigrants, thereby giving a public appearance of *cracking down* on the problem. Additionally, the IRCA attempted to solve the issue of unauthorized immigrants already living in the United States.¹⁹ Under the new law, unauthorized immigrants who came to the country prior to 1982 were provided an opportunity to earn United States citizenship. In total, 2.3 million Mexicans (a majority of unauthorized immigrants that qualified), were legalized under the program.²⁰

¹⁵ Massey, D., Durand, J., & Malone, N. (2002). *Beyond smoke and mirrors: Mexican immigration in an era of economic integration*. (p. 40-41). New York: Russell Sage Foundation.

¹⁶ Ibid (p. 70-71)

¹⁷ Ibid (p. 45)

¹⁸ Ibid (p. 45)

¹⁹ Rosenblum, M., & Brick, K. (2011). Us immigration policy and mexican/central american migration flows: Then and now. *Migration Policy Institute and Woodrow Wilson International Center for Scholars*, 6. Retrieved from <http://www.migrationpolicy.org/pubs/RMSG-regionalflows.pdf>

²⁰ Massey, D., Durand, J., & Malone, N. (2002). *Beyond smoke and mirrors: Mexican immigration in an era of economic integration*. (p. 49). New York: Russell Sage Foundation.

Within four-years, unauthorized immigration was once again increasing. By 1990, in one year alone, the apprehension rates on the southwest border grew by 26%.²¹ Congress responded by passing the *Immigration Act of 1990*, which expanded the funding for border security and as well as the number of work visas.²² The effort was futile and the rate of unauthorized immigration continued to increase. Ultimately, the post-1986 immigration system has been a fiasco because it has been unsuccessful in transforming the factors that exacerbate unauthorized immigration.

Since IRCA was seen as incapable of eliminating unauthorized immigration, the American public has become suspicious of immigration reform that promotes a system of legalization.²³ Hardline critics and anti-immigration advocates claim *amnesty* is not an option because it did not work under IRCA. To this day, there continues to be a heated debate in Washington D.C. over what to do with the unauthorized immigrants who are already living in the United States. Such bureaucratic grid-locking impedes the development of realistic strategy toward fixing the ineffective immigration system. Meanwhile, the rest of the country observes this gridlock and assumes the federal government is unable to resolve this issue. In Arizona, voters and law-makers moved to create new immigration policies out of frustration with the perceived inefficacy of the federal government's response to unauthorized immigration. The state's legislative backlash eventually led to the creation of SB 1070.

The SB 1070 law set a precedent in many respects, but the controversy exposed over a state's ability to create and enforce its own immigration policy, was not a new concept. As far

²¹ Ibid (p. 91)

²² Rosenblum, M., & Brick, K. (2011). Us immigration policy and mexican/central american migration flows: Then and now. *Migration Policy Institute and Woodrow Wilson International Center for Scholars*, 6. Retrieved from <http://www.migrationpolicy.org/pubs/RMSG-regionalflows.pdf>

²³ Kerwin, D. (2012, August 22). Interview by R Murphy [Personal Interview]. Us immigration , via telephone

back as the 1889, in the *Chae Chan Ping v. United States* case, the Supreme Court established that the federal government retains sole responsibility for the national immigration policy. In the official ruling, the Supreme Court mandated that the federal government “is invested with power over all the foreign relations of the country, war, peace, and negotiations and intercourse with other nations; all of which are forbidden to the state governments.”²⁴ For over a hundred years, the *stare decisis*, known as *plenary power*, was upheld by the Supreme Court. Recently, SB 1070 forced the Supreme Court to once again reinterpret the role of the state and the federal government, in regards to immigration policy. The federal government argued that SB 1070 was inherently unconstitutional because it violated the plenary power, while Arizona viewed the law as a tool to assist the federal government in carrying out its neglected duties. The Supreme Court’s ruling was neither a victory for Arizona nor for the federal government. I explain the Supreme Court’s verdict in greater depth later in my thesis but for now, it is important to be clear that Arizona was not unique in trying to fortify a federal deficiency with its own legislative solutions.

Preceding SB 1070, the 1980s and 1990s witnessed states beginning to rally around the anti-immigrant legislation, predominantly around laws to make English the official language. Prior to 1980, only 5 states had laws that reinforced English as the official language but by 1998, the number grew to 25 states.²⁵ During this time, the standard bearer for state-sponsored immigration policy was California’s *Proposition 187*. Also known as *Save Our State*, the proposition attempted to regulate unauthorized immigration without the authority of the federal government. When this law was created in 1994, it restricted unauthorized immigrants’ access to

²⁴ Varsanyi, M. (2010). Immigration policy activism in us states and cities: Interdisciplinary perspectives. In M. Varsanyi (Ed.), *Taking local control :Immigration policy activism in U.S. cities and states* (p. 7). Stanford: Stanford University Press.

²⁵ Massey, D., Durand, J., & Malone, N. (2002). *Beyond smoke and mirrors: Mexican immigration in an era of economic integration*. (p. 93). New York: Russell Sage Foundation.

government services, such as medical care and education.²⁶ In the end, the law was ruled as unconstitutional and was not implemented.²⁷ The Ninth Circuit Court proclaimed in the *League of United Latin American Citizens v. Wilson* verdict, that “state agents are unqualified and also unauthorized to make independent determinations of immigration status.”²⁸ Although the law was unsuccessful in achieving its objectives, it paved the way for similar legislation to be created in Arizona. When Arizona’s *Proposition 200* was drafted, the architects of the law constructed it in order to avoid similar legal entanglement that led to the demises of Proposition 187.²⁹

Another significant moment that influenced Arizona in passing SB 1070 also occurred in 1994. That year, the United States committed itself to the *North American Free Trade Act* (NAFTA). The neo-liberal economic policy removed many tariffs, subsidies and economic safeguards between the United States, Mexico and Canada. Although the treaty was described as a way to increase trade and overall wealth between all three countries, the overall benefits of NAFTA are dubious. Clearly, for many small scale farmers in Mexico, the treaty was extremely detrimental. Under NAFTA, family farmers in Mexico could not compete with the influx of U.S. subsidized crops. According to the World Bank (an organization which promotes neo-liberal economic policies), in the seven-years after NAFTA was implemented, Mexico’s poverty level nearly doubled from 16% to 28% of the total national population.³⁰ The imports of U.S. corn (Mexico’s staple crop), had a significant bearing on the livelihood of the Mexican farming community. For instance, in 2001, the year of the World Bank’s report, an estimated 6.2 million

²⁶ Varsanyi, M. (2010). Immigration policy activism in us states and cities: Interdisciplinary perspectives. In M. Varsanyi (Ed.), *Taking local control :Immigration policy activism in U.S. cities and states* (p. 1). Stanford: Stanford University Press.

²⁷ Massey, D., Durand, J., & Malone, N. (2002). *Beyond smoke and mirrors: Mexican immigration in an era of economic integration*. (p. 93). New York: Russell Sage Foundation.

²⁸ Varsanyi, M. (2010). Immigration policy activism in us states and cities: Interdisciplinary perspectives. In M. Varsanyi (Ed.), *Taking local control :Immigration policy activism in U.S. cities and states* (p. 2). Stanford: Stanford University Press.

²⁹ Ibid

³⁰ Zanetta, C. (2004). *The influence of the world bank on national housing policy and urban policy*. (p. 64). Burlington: Ashgate Publishing Company

tons of U.S. corn were sent to Mexico.³¹ By the year 2010, the U.S. corn exports grew to 21-times their pre-NAFTA level.³² With no other options, many of the Mexico's farmers were forced to seek work in the United States. This was a momentous blow to family farms: some estimates suggest that nearly 1.4 million Mexican farms went under by 2008, resulting in 600,000 Mexicans leaving their country for work in the United States.³³

Joseph Nevins, an expert on U.S. immigration, suggested that during President Clinton's administration, the federal government was aware of the inevitable impact NAFTA would have on Mexican farmers.³⁴ Prior to its creation in 1994, the *Immigration Nationalization Service (INS)* Director Doris Meissner testified before the U.S. Congress that NAFTA would increase the rate of unauthorized immigration to the United States.³⁵ In her 1993 testimony, Director Meissner warned that "responding to the likely short to medium term impact of NAFTA will require strengthening our enforcement efforts along the border, both at and between ports of entry."³⁶ The United States Border Patrol strategy implemented the following year attempted to impede the new migration caused by NAFTA.

Up until 1993, unauthorized immigrants typically crossed into the United States through urban centers. It was common for an unauthorized immigrant to travel from Ciudad Juarez into El Paso or from Tijuana into San Diego. Then in 1993, *Operation Hold the Line* in El Paso and in 1994, *Operation Gatekeeper* in San Diego, applied a *prevention through deterrence* model

³¹ Romero , F. (2008). *Hyper-border: The contemporary u.s. - mexico border and its future*. (p. 42). New York : Princeton Architectural Press.

³² Relinger, R. (2010). Nafta and u.s. corn subsidies: Explaining the displacement of mexico's corn farms. *Prospect Journal of International Affairs at UCSD*. , Retrieved from <http://prospectjournal.ucsd.edu/index.php/2010/04/nafta-and-u-s-corn-subsidies-explaining-the-diplacement-of-mexicos-corn-farmers/>

³³ Stout , R. (2008). *Why immigrants come to america: braceros, indocumentados, and the migra*. (p. 9). Westport, Connecticut : Praeger.

³⁴ Nevins, J. (2002). *Operation gatekeeper*. (p. 138). New York : Routledge

³⁵ Ibid

³⁶ House of Representatives, 103rd Congress, Subcommittee on International Law, Immigration, and Refugees of the Committee on the Judiciary, (1994). *Immigration-related issues in the north american free trade agreement* (Nov. 3, 1994). Washington DC: U.S. Government Printing Office.

along the border.³⁷ The initial success led to the 1995 *Operation Safeguard* in Nogales and 1996 *Operation Rio Grande* in New Mexico. Altogether these operations inhibited most unauthorized crossing in urban centers and pushed the routes unauthorized immigrants take to remote areas along the border.³⁸

The outcome did not actually reduce the rate of unauthorized immigration, but rather, it funneled people through the isolated and dangerous terrain of the Arizona desert. In 1993, the year before this new Border Patrol strategy was fully implemented, the San Diego and the El Paso Border Patrol sectors accounted for 67.3% of total border apprehensions. In 1994, the year Operation Gatekeeper and Operation Hold the Line were put into action, the two Border Patrol sectors in Arizona, the Tucson sector and the Yuma sector, together accounted for 16% of all border apprehensions.³⁹ By 2000, Professor Wayne Cornelius from the *University of San Diego* found in his report entitled *Death at the Border: The Efficacy and "Unintended" Consequences of US Immigration Control Policy 1993-2000*, that “apprehensions in Arizona rose by 351 percent.”⁴⁰ After ten years of this Border Patrol policy, the apprehensions for Arizona’s two sectors combined, made up roughly 50% of the national total and remained at that level until 2010⁴¹ (refer to Appendix 2: to see graph for the U.S. Border Patrol Apprehension Rates).⁴²

As a byproduct of post-NAFTA policies, Arizona was transformed into the most viable yet dangerous route for unauthorized immigration. These circumstances endangered the lives of

³⁷ Massey, D., Durand, J., & Malone, N. (2002). *Beyond smoke and mirrors: Mexican immigration in an era of economic integration*. (p. 94-95). New York: Russell Sage Foundation.

³⁸ Ibid (p. 94-95)

³⁹ United States Border Patrol. (2011). *Southwest border sector: Total illegal alien apprehension by fiscal year (oct. 1st through sept. 30th)*. Retrieved from Federal Government website:

http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/60_10_app_stats.ctt/60_11_app_stats.pdf

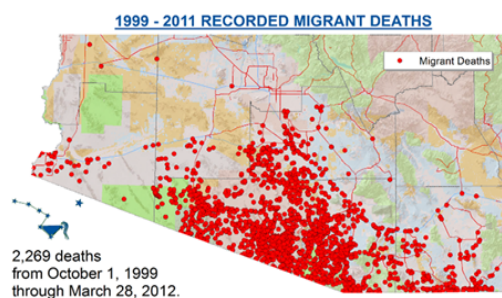
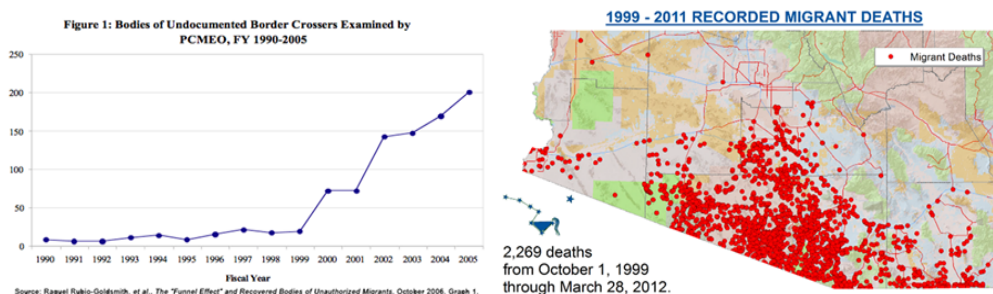
⁴⁰ Cornelius, W. (2001). *Death at the border: the efficacy and "unintended" consequences of us immigration control policy 1993-2000*. *The Center for Comparative Immigration Studies*, (No. 27),

⁴¹ United States Border Patrol. (2011). *Southwest border sector: Total illegal alien apprehension by fiscal year (oct. 1st through sept. 30th)*. Retrieved from Federal Government website:

http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/60_10_app_stats.ctt/60_11_app_stats.pdf

⁴² Appendix 2: United States Border Patrol: Southwest Sectors

hundreds of thousands of desperate individuals. Unauthorized immigrants, prior to 1994, had avoided the extreme heat and treacherous hike through rural Arizona. For example, during the 1980s, there was an annual average of 10 deaths of unauthorized immigrants along the southwest border. From 1995 to 2008, the death toll of unauthorized immigrants in the Arizona desert alone skyrocketed to 237 - 374.⁴³ After 15 years of the Border Patrol strategy, the Arizona desert had claimed the lives of 5,067 unauthorized immigrants.⁴⁴ The two graphs below exhibit the dramatic escalation in death associated with unauthorized immigration.⁴⁵



Every year, as the Border Patrol increasingly sealed off safer routes to cross, unauthorized immigrants were forced to travel through more dangerous territories. By 2009, the odds of an unauthorized immigrant dying in the desert were 30-times more likely than in 1998.⁴⁶ Tragically, this rate of death in the desert did not proportionally decrease as unauthorized immigration declined. In 2011, when apprehension levels were at their lowest numbers since 1971, the number of unauthorized immigrants dying in the Arizona desert remained extremely

⁴³ Jimenez, M. (2009). Humanitarian crisis: Migrant deaths at the u.s.-mexican border san diego. *ACLU of San Diego and Imperial Counties*, Retrieved from www.aclu.org/files/pdf/immigrants/humanitariancrisisreport.pdf

⁴⁴ Annerino, J. (2009). *Dead in their tracks: Crossing america's desert borderlands in the new era*. (p.113) Tucson: University of Arizona Press.

⁴⁵ Warning poster (2012, March 28). Humane Borders , Retrieved from <http://www.humaneborders.net/warning-posters/>
Rubio-Goldsmith, R., McCormick, M., Martinez, D. & Durarte, I. (2005, October) The funnel effect and recovered bodies of unauthorized migrants. Tucson: Bi-national Migrant Institute

⁴⁶ McCombs, B. (2009, December 27). No signs of letup in entrance deaths. *The Arizona Daily Star*. Retrieved from http://azstarnet.com/news/local/border/article_faf5b437-b728-527b-9eb8-77977d0cdf84.html

high.⁴⁷ According to *No More Deaths*, 177 remains were discovered from October 1, 2011 – September 30, 2012.⁴⁸

Clearly, the policy decisions made by the federal government from 1986 through 1994 irrevocably changed unauthorized immigration. In addition to transforming Arizona into the gateway for unauthorized immigration, the border enforcement strategy lengthened the period of time an unauthorized immigrant remained in the country from an average of two-years to nine-year intervals.⁴⁹ Together these policies “pushed migrants decisively away from seasonal, circular migration toward permanent settlement.”⁵⁰ A decade after the federal government embarked on its campaign to eliminate unauthorized immigration, it was apparent that the strategy implemented under IRCA was not achieving its objective. By 1996, the national unauthorized immigration population grew to 5 million.⁵¹ The demand on Congress amplified and it became apparent that Congress needed to further reform the immigration system.

The Republican-controlled Congress responded by passing the *Illegal Immigration Reform and Immigration Responsibility Act (IIRIRA)*. The law attempted to reduce unauthorized immigration, by establishing stricter enforcement.⁵² However, the population of unauthorized immigrants continued to escalate after this law was implemented. Much like IRCA before, IIRIRA was eventually viewed as ineffective at preventing unauthorized immigration. In 1996, when the law was created, Arizona’s unauthorized immigration population was 115,000. Twelve

⁴⁷ United States Border Patrol, (2011). *Southwest border sector: Total illegal alien apprehension by fiscal year (oct. 1st through sept. 30th)*. Retrieved from Federal Government website:

http://www.cbp.gov/linkhandler/cgov/border_security/border_patrol/usbp_statistics/60_10_app_stats.ctt/60_11_app_stats.pdf

⁴⁸ Remains found in the desert last year. (2012, September 30). *No More Deaths*. Retrieved from <http://nomoredeaths.org/Information/deaths.html>

⁴⁹ Massey, D., Durand, J., & Malone, N. (2002). *Beyond smoke and mirrors: Mexican immigration in an era of economic integration*. (p. 131). New York: Russell Sage Foundation.

⁵⁰ *Ibid* (p. 3)

⁵¹ Department of Homeland Security, (1999). *Statistical yearbook of the immigration and naturalization service*. Retrieved from Federal Government website: <http://www.dhs.gov/xlibrary/assets/statistics/yearbook/1999/Est99.pdf>

⁵² Massey, D., Durand, J., & Malone, N. (2002). *Beyond smoke and mirrors: Mexican immigration in an era of economic integration*. (p. 95). New York: Russell Sage Foundation.

years later, at the peak of Arizona’s unauthorized immigrant population, the number reached 560,000, nearly a fivefold increase. The chart below demonstrates that according to the federal government’s own estimates, these following immigration policies included in IRCA and IIRIRA, have failed at deterring unauthorized immigration.⁵³

**Period of Entry of the Unauthorized Immigrant Population:
January 2007**

Period of entry	Estimated population January 2007	
	Number	Percent
All years	11,780,000	100
2005-2006	890,000	8
2000-2004	3,270,000	28
1995-1999	3,470,000	29
1990-1994	1,880,000	16
1985-1989	1,300,000	11
1980-1984	960,000	8

Detail may not sum to totals because of rounding.
Source: U.S. Department of Homeland Security.

This is not to say that, IIRIRA did not renovate the U.S. immigration policy. On the contrary, the law fortified immigration enforcement throughout the country and on the southwest border. It also contained the 287(g) mandate, which legitimized state and local law enforcement’s application of federal immigration law.⁵⁴ Under the law, IIRIRA’s part 1, section C, permits the Attorney General to authorize state and local law enforcement with the ability to arrest and detain unauthorized immigrants for illegally entering the country. Initially, this portion of the law was not enacted because the Attorney General Janet Reno advised the federal government to ignore this provision. In response to the tragic events of September 11, 2001, Attorney General John Ashcroft reversed this decision and issued a memo asserting that 287(g) ought to be utilized as part of the *War on Terror*.⁵⁵ In practice, the mandate gave the *Immigration and Custom Enforcement (ICE)* the ability to equip state and local law enforcement agencies to

⁵³ Hofer, M., Rytina, N., & Baker, B. Department of Homeland Security, Office of Immigration Statistics Policy Directorate. (2008). *Estimates of the unauthorized immigration population residing in the united states*. Retrieved from website: http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2008.pdf

⁵⁴ Rosenblum, M., & Brick, K. (2011). *Us immigration policy and mexican/central american migration flows: Then and now*. *Migration Policy Institute and Woodrow Wilson International Center for Scholars*, 11. Retrieved from <http://www.migrationpolicy.org/pubs/RMSG-regionalflows.pdf>

Kerwin, D. and Yi-Ying Lin, S. (2009). *Immigration detention: Can ice meet its legal imperative and case management responsibility*. *Migration Policy Institute*. Retrieved from www.migrationpolicy.org/pubs/detentionreportSep1009.pdf

⁵⁵ Varsanyi, M. (2010). *Immigration policy activism in us states and cities: Interdisciplinary perspectives*. In M. Varsanyi (Ed.), *Taking local control :Immigration policy activism in U.S. cities and states* (p. 11). Stanford: Stanford University Press.

act as surrogate immigration officials, within their jurisdiction.⁵⁶ In 2002, Florida became the first of many states to comply with this program.⁵⁷ Today this provision has inspired more robust immigration enforcement on the state and local level and has been instrumental in Arizona's rationale to pass SB 1070.⁵⁸

Furthermore, the event of September 11 influenced many of the federal government's foreign and domestic policies, including the need for increased border security and immigration enforcement. When President Bush was initially elected in 2000, he endeavored to fix the broken immigration system and establish temporary work visas with Mexico. Just before the terrorist attacks were carried out, "President George W. Bush and Mexican President Vicente Fox reached a framework agreement for a major bilateral migration reform." On September 11, 2001, a potential bill was nearly ready to be introduced to the U.S. Congress.⁵⁹ Tragically, post-September 11, the United States prioritization of national security, has prevented any immigration reform from passing Congress.

Post-September 11 border security and unauthorized immigration have been an integral part of the War on Terror. The misperception of unauthorized immigration as a corollary to terrorism has paved the way for three federal programs to be implemented at the state and local levels of government. They include: the *Criminal Alien Program (CAP)* and the *Secure Communities program* in addition to the 287(g) program. Together these laws are now being widely applied across the country. The Criminal Alien Program has stationed ICE agents in state

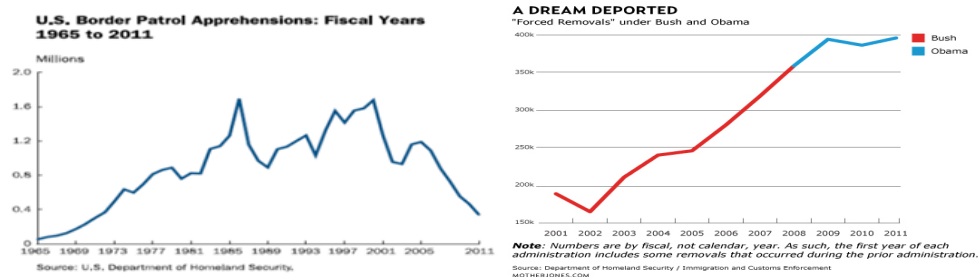
⁵⁶ Immigration and Customs Enforcement, (2009). *Delegation of immigration authority section 287(g) immigration and nationality act*. Retrieved from Federal Government website: <http://www.ice.gov/287g/>

⁵⁷ Varsanyi, M. (2010). Immigration policy activism in us states and cities: Interdisciplinary perspectives. In M. Varsanyi (Ed.), *Taking local control :Immigration policy activism in U.S. cities and states* (p. 2). Stanford: Stanford University Press.

⁵⁸ Rosenblum, M., & Brick, K. (2011). *Us immigration policy and mexican/central american migration flows: Then and now. Migration Policy Institute and Woodrow Wilson International Center for Scholars*, 6. Retrieved from <http://www.migrationpolicy.org/pubs/RMSG-regionalflows.pdf>

⁵⁹ Anderson, S. (2010). *Immigration*. (p. 17-18) Santa Barbara, Calif.: Greenwood.

and local jails to determine the immigration status of people arrested and to take into custody. The Secure Communities program implemented a system to share the fingerprints of individuals booked in state or local jails with the *Federal Bureau of Investigations (FBI)*, in order to check on their immigration status. If the person is determined to be an unauthorized immigrant, then ICE is notified and the person is deported.⁶⁰ This combination of post-September 11 security programs has ensured that the deportation rate remains at record levels, even as the number of border apprehensions has dramatically decreased.



For five years after the terrorist attacks, President Bush did not attempt to reform the immigration system. Then, in 2006, the President once again pursued an immigration reform bill with Senator Ted Kennedy (D-MA) and Senator John McCain (R-AZ). The proposed bill would have offered temporary work visas, citizenship for established immigrants and increased border security. Many of the Republican members of the House of Representatives were persuaded to vote against the bill as the result of a campaign carried out on conservative talk radio. Sufficient opposition in the House of Representatives prevented the bill from moving forward. Another attempt was made in 2007, but this time, unauthorized immigration became more political and the bill did not even pass the Senate.⁶¹ The realization that Washington D.C. offered no solutions

⁶⁰ Rosenblum, M., & Brick, K. (2011). Us immigration policy and mexican/central american migration flows: Then and now. *Migration Policy Institute and Woodrow Wilson International Center for Scholars*, 12. Retrieved from <http://www.migrationpolicy.org/pubs/RMSG-regionalflows.pdf>

⁶¹ Anderson, S. (2010). *Immigration*. (p. 18-20) Santa Barbara, Calif.: Greenwood.

caused many states to take their own initiative.

By 2007, the lack of faith in Congress was measurable in the proposed legislation at the state and local levels. That year alone, state and local government offered 1,562 resolutions on the issue of unauthorized immigration, a 250% increase from 2006.⁶² Most of these laws were designed to prevent unauthorized immigration, but 56 cities across the country passed sanctuary ordinances.⁶³ In response to the lack of action from the federal government, state and local governments started to take it upon themselves to regulate unauthorized immigration. Within Arizona, the public put more pressure on their state and local governments. A poll in 2007, conducted by the *Arizona State University's Walter Cronkite School of Journalism*, found that the majority of Arizonans believed unauthorized immigration ought to be the first priority of the state.⁶⁴ Even as the rate of unauthorized immigration has subsided nationally, the state reaction has not, as indicated by the passage of SB 1070 in Arizona.

Unauthorized immigration continued to increase in the United States until it reached its peak in 2007, coinciding with the onset of the recession. At that time, the Department of Homeland Security determined that 11.8 million unauthorized immigrants were residing in the United States.⁶⁵ Thereafter, the rate of unauthorized border crossing has substantially declined to the point that the *Pew Hispanic Center* determined that unauthorized immigration is currently at a rate of net-zero, meaning the percentage of unauthorized immigrants entering the United States matches the number of deportations. Still, the consequences of the federal government's

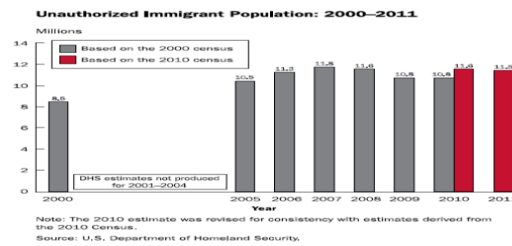
⁶² Doty, R. L. (2009). *The law into their own hands: Immigration and the politics of exceptionalism*. (p. 86) Tucson: University of Arizona Press.

⁶³ Varsanyi, M. (2010). Immigration policy activism in us states and cities: Interdisciplinary perspectives. In M. Varsanyi (Ed.), *Taking local control :Immigration policy activism in U.S. cities and states* (p. 3). Stanford: Stanford University Press.

⁶⁴ Doty, R. L. (2009). *The law into their own hands: Immigration and the politics of exceptionalism*. (p. 9) Tucson: University of Arizona Press.

⁶⁵ Hofer, M., Rytina, N., & Baker , B. Department of Homeland Security , Office of Immigration Statistics Policy Directorate. (2008). *Estimates of the unauthorized immigration population residing in the united states*. Retrieved from website: http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2008.pdf

immigration policies have created an unauthorized immigrant population of 11.5 million.⁶⁶



Historical Background: The Arizona Immigration Policy

In the early 2000s, the increased rate of border crossings caused many Arizonans to lose faith in the federal government. The disenchantment in 2003 resulted in the Arizonan Legislature coming together in a bi-partisan manner to request that the federal government immediately pass comprehensive immigration reform.⁶⁷ By 2004, Arizonans decided they could no longer wait for Washington D.C. to take actions. That year, Arizona passed its first proposition to intimidate unauthorized immigrants within the state. During the six years that followed (2004-2010), Arizona passed and enacted several laws designed to strip the rights, social services and ability to work from the thousands of unauthorized immigrants. Consequently, Arizona emerged as the most anti-immigrant state in the country.

It all began with *Proposition 200*, known as *Protect Arizona Now*. Modeled carefully after California's *Proposition 187*, the law required everyone in the state to provide proof of citizenship in order to vote or to apply for state funded programs. It also prohibited social services from being given to any unauthorized immigrant.⁶⁸ The *Mexican American Legal Defense and Education Fund* described the law as policy that "jeopardizes the health and well-

⁶⁶ Hoefler, M., Rytina, N., & Baker, B. Department of Homeland Security, Office of Immigration Statistics Policy Directorate. (2012). *Estimates of the unauthorized immigration population residing in the united states*. Retrieved from website:http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2011.pdf

⁶⁷ Lujan, D. (2012, June 28). Interview by R Murphy [Personal Interview]. Democrat senator perspective on sb 1070., Phoenix

⁶⁸ Stout, R. (2008). *Why immigrants come to america: Braceros, indocumentados, and the migra*. (p. 119) Westport, Connecticut: Praeger.

being of families and children who depend on public benefits for their basic necessities.”⁶⁹ This was just the first of many laws designed to deter the presences of unauthorized immigration in the state.

The situation was then made worse in 2005, when Governor Janet Napolitano declared a state of emergency on the Arizona/Mexico border. The Governor’s actions amplified the perception that Arizona was under an undue threat from unauthorized immigration.⁷⁰ Typically Arizona Democrats have been opposed to the harsh anti-immigrant legislation but the declaration of a state of emergency, gave credibility to the growing anti-immigrant rhetoric. Additionally in 2005, Democrats in the Arizona Legislature unintentionally contributed to legislation that personally targeted unauthorized immigrants. That year, the Arizona Legislature passed a bipartisan bill against human smuggling. Originally, the law was intended to prosecute *coyotes* (human smugglers) but the way it was written and later interpreted, permitted anti-immigrant extremists to manipulate its application. By 2006, Maricopa County Sheriff Joe Arpaio used it as justification to conduct immigration raids in the Phoenix metropolitan area. Thereafter, the Sheriff Department began arresting unauthorized immigrants on the felony charge of smuggling themselves across the border. The Maricopa County Attorney joined the effort and prosecuted each and every one of these arrest on the felony charge of human smuggling.⁷¹

In 2006, while the Maricopa County Sheriff and Maricopa County Attorney misused the anti-human smuggling law to terrorize the unauthorized immigrant population, the Arizona electorate assisted this effort, when they overwhelming endorsed four addition anti-immigrant

⁶⁹ Romero, F. (2008). *Hyperborder: The contemporary us-mexico border and its future* (1st ed. p.74) New York: Princeton Architectural Press.

⁷⁰ Stout, R. (2008) *Why immigrants come to america: Braceros, indocumentados, and the migra.* (p. 123) Westport, Connecticut: Praeger.

⁷¹ Campbell, K. (2011). The road to s.b. 1070: How arizona became ground zero for the immigrant’s rights movement and the continuing struggle for latino civil right in america. *Harvard Latino Law Review*,14 (Spring), 9.

propositions. First, *Proposition 100* prohibited bail for individuals suspected of being an unauthorized immigrant. Under the law, evidence of a person's immigration status is not necessary to deny bail, only reasonable suspicion.⁷² If a legal resident or U.S. citizen was wrongfully arrested and charged with the felony of self-smuggling, they would subsequently be denied their constitutional right to petition the court for bail.

The second law, *Proposition 102* prevented unauthorized immigrants from seeking any punitive damages in a civil lawsuit against a U.S. citizen. Prior to this law, there were multiple lawsuits against ranchers and border vigilantes who deprived unauthorized immigrants of their human rights.⁷³ Attention was drawn to this issue when a Rancher in Douglas Arizona, Roger Barnett, was tried for his attempts to secure the border. As an avid supporter of stricter immigration enforcement, Mr. Barnett, proudly proclaimed he made over twelve-thousand citizen arrests of *illegals* entering the United States. One of these *citizen arrests* was of two Mexican-American hunters and their three children. In 2006, Mr. Barnett was found guilty in an Arizonan Superior Court for emotional distress and unlawful imprisonment of these five Americans. Consequently, the Court ordered him to pay \$98,750 in punitive damages.⁷⁴ Proposition 102 would not have changed the outcome in Mr. Barnett's case but it insured he can carry out the same tactics against unauthorized immigrants and not be held financially liable for his actions.

The two other propositions that year were designed to focus on unauthorized immigrants who settled into Arizona's communities. *Proposition 103* made English the official language of the state. The law was mostly a symbolic expression to demonstrate how Spanish - which is

⁷² Ibid (p. 5)

⁷³ Ibid

⁷⁴ Doty, R. L. (2009). *The law into their own hands: Immigration and the politics of exceptionalism*. (p. 30-31) Tucson: University of Arizona Press.

associated with the unauthorized immigrant community - would never overtake English. *Proposition 300*, on the other hand, was more detrimental. The law restricted unauthorized immigrants from enrolling in community colleges or universities. In doing so, it required colleges and universities to verify and report the legal status of all its students. Moreover, it prohibited in-state tuition and financial aid from being granted to anyone deemed to be an unauthorized immigrant.⁷⁵ This law primarily targeted young adults who were brought to the United States as children. Limiting their access to higher education would hypothetically make them leave the state. In fact, all four propositions were a continuation of an immigration system to deliberately make life so unbearable in Arizona that unauthorized immigrants would leave.

A month after these four propositions passed, the *Maricopa County Board of Supervisors* approved the 287(g) agreement between the county and the Immigration and Custom Enforcement agency. Under the program, Sheriff Joe Arpaio used the federal training to expand his efforts to eradicate unauthorized immigration in the Phoenix metropolitan area. Immediately, the Sheriff created a *Human Smuggling Unit* to further enforce the Arizona's anti-human smuggling law. Moreover, the Sheriff established a *migrant hotline* to report people suspected of being an unauthorized immigrant.⁷⁶ If the Sheriff Department received a call about an unauthorized immigrant, they would go investigate and make an arrest if possible. Due to the prioritization of immigration enforcement, the Sheriff Department's response time to major emergencies significantly decreased. In 2007, out of the six thousand most vital emergencies,

⁷⁵ Campbell, K. (2011). The road to s.b. 1070: How arizona became ground zero for the immigrant's rights movement and the continuing struggle for latino civil right in america. *Harvard Latino Law Review*,14 (Spring), 6-7.

⁷⁶ Provine, D. (2010). Local immigration policy and global ambitions in vancouver and phoenix. In M. Varsanyi (Ed.), *Taking local control: Immigration policy activism in U.S. cities and states* (p. 225). Stanford: Stanford University Press.

Sheriff Deputies arrived late to two-thirds of incidents.⁷⁷

Tragically, as Sheriff Joe Arpaio embarked on his anti-immigrant campaign, he received affirmation from the Arizona Court of Appeals. In 2008, the Sheriff's application of the Arizona anti-human smuggling law was upheld.⁷⁸ To this day, the Maricopa County Sheriff Department has relied on this law as their justification for immigration raids. In Chapter four, I discuss how the United States Department of Justice have found reason to believe the Sheriff's tactics are potentially unconstitutional and qualify as racial profiling.⁷⁹

Arizona immigration enforcement mechanisms were strengthened in 2008, when the Arizona Legislature passed *Legal Arizona Workers Act (LAWA)*. The law mandated that the Arizona business community and the public sector, comply with the *Federal Electronic Employment Verify Program*, better known as *E-Verify*.⁸⁰ Under LAWA, employer must submit a potential hire's information with the federal government, to verify their immigration status. If business is found to neglect this obligation and hire an unauthorized immigrant, they would face a large fine for the first offense and revocation of their business license for a second offense.⁸¹ Pro-immigrant groups proposed it was unconstitutional and subsequently challenged it in federal court. The issue went before the Supreme Court and was upheld as constitutional.⁸²

The previous subsections were important to provide a context to SB 1070 and to explain

⁷⁷ Waslin, M. (2010) Immigration enforcement by state and local police: The impact on the enforcer and their communities. In M. Varsanyi (Ed.), *Taking local control: Immigration policy activism in U.S. cities and states* (p. 107). Stanford: Stanford University Press.

⁷⁸ Ibid

⁷⁹ Perez, T. United States Department of Justice, (2012). *Doj announces lawsuit against sherriff arpaio* . Retrieved from Federal Government website: http://article.wn.com/view/2012/08/05/MCSO_Arpaio_racial_profiling_trial_wraps_up/

⁸⁰ Campbell, K. (2011). The road to s.b. 1070: How arizona became ground zero for the immigrant's rights movement and the continuing struggle for latino civil right in america. *Harvard Latino Law Review*,14 (Spring),12.

⁸¹ Provine, D. (2010). Local immigration policy and global ambitions in vancouver and phoenix. In M. Varsanyi (Ed.), *Taking local control: Immigration policy activism in U.S. cities and states* (p. 225). Stanford: Stanford University Press.

⁸² Doty, R. L. (2009). *The law into their own hands: Immigration and the politics of exceptionalism*. (p.88) Tucson: University of Arizona Press.

how the law was not a random occurrence but a trajectory that was clearly visible. Between January 2005 and June 2010, Arizona passed 970 laws and approved 385 resolutions on the issue of immigration. These acts ranged from prevention and deterrence to measures to ensure immigrant rights.⁸³ This short description of events gives a snap shot of Arizona prior to the passage of SB 1070. The rest of my thesis periodically refers back to these monumental moments in the development of the Arizona's and the federal governments' immigration policies. In the next sections, I describe the theoretical reasons why unauthorized immigration occurs as well as theories to explain the origins of Arizona's anti-immigrant laws.

Understanding Why Unauthorized Immigration Occurs

Before I examine theoretical explanations for international migration, it is pertinent to have a foundation of what constitutes a *push factor* or a *pull factor*. These terms are used to identify the incentive within the globally economy that perpetuates international migration. The push and pull model is not a theory but a means of comprehending the movement of people according to varies internal and external influences.⁸⁴ A push factor, describes the motivation for an individual to leave his or her home country, while a pull factor indicates the enticements that attracts international migrants to a wealthy country. The model is not specific to legal or unauthorized immigration, but based solely on the potential economic advantage of seeking employment in one place over another location.⁸⁵

It is well understood, the push factors that cause international migration derive from extreme poverty. In order to elucidate why such disparities exist in the global economy, I refer to

⁸³ National Council of State Legislature. (2010, July 20). *Immigration policy project*. Retrieved from www.ncsl.org/default.aspx?TabId=2088

⁸⁴ Massey, D., Arango, J., Hugo, G., Kouaouci, A., Pellegrino, A., & Taylor, J. (1998). *World in motion: Understanding international migration at the end of the millennium*. (P. 12). Oxford: Clarendon Press.

⁸⁵ Rosenblum, M., & Brick, K. (2011). Us immigration policy and mexican/central american migration flows: Then and now. *Migration Policy Institute and Woodrow Wilson International Center for Scholars*, 12. Retrieved from <http://www.migrationpolicy.org/pubs/RMSG-regionalflows.pdf>

Immanuel Wallerstein's *World System Theory*. Wallerstein proposed global inequalities are a product of the capitalist system that emerged out of Europe in the 15th century. Europeans demand for more resources, inspired greater explorations, adding to their national wealth. Conversely, the regions that were exploited became dependent while losing their resources and traditional ways of living.⁸⁶ The world economic system that was developed through historical process, divides modern-day countries into three categories, *core*, *semi-peripheral* and *peripheral*. A core country (wealth-industrial economies) possesses the most power because they retain an economic advantage and access to resources. The status of a core country is maintained through continued extraction of natural and human resources from semi-peripheral (developing economy) and peripheral countries (impoverished economies). Likewise, semi-peripheral countries misuse peripheral countries to their advantage.⁸⁷

A core country's manipulation of semi-peripheral and peripheral countries is a two prong approach between government and corporations. First, government entities and treaty bodies, such as the *World Bank*, *International Monetary Fund (IMF)*, *General Agreement on Tariffs and Trade (GATT)* and *North American Free Trade Act (NAFTA)*, thrust trade and industry policies on poor countries, so they are forced to open up their economies to the global market.⁸⁸ The influx of imports, results in the inability to compete with wealthier nations, thereby destroying the livelihoods of many people. Douglas Massey, one of the leading intellects on international migration, suggested this theory explains how "Agricultural worker, displaced from the land, experience a weakened attachment to the community and become more prone to migrate

⁸⁶ Halsall, P. (1997). *Modern history sourcebook: Summary of wallerstein on world system theory*. Informally published manuscript, Fordham University, Retrieved from

⁸⁷ Massey, D., Arango, J., Hugo, G., Kouaouci, A., Pellegrino, A., & Taylor, J. (1993). Theories of international migration: A review and appraisal. *Population and Development Review*, 19(3), 443. Retrieved from <http://www.jstor.org/stable/2932462>

⁸⁸ Massey, D., Durand, J., and Malone, N. (2002). *Beyond smoke and mirrors: Mexican immigration in an era of economic integration*. (p. 78-90) New York.: Russell Sage Foundation.

internationally.”⁸⁹

As people are displaced and dispossessed from the economy in semi-peripheral and peripheral countries, multinational corporations benefit. These corporate institutions not only depend on natural resources in semi-peripheral and peripheral countries but also rely on desperate people willing to work for low-wages. Within the country being exploited, factories are constructed to facilitate access to this cheap labor. The temporary jobs they provide are short-term and mainly employ women. Thus, feminization and age restricted workforce further disenfranchises men and older women in the economy, leaving them with little option to earn enough money to survive.⁹⁰

Wallerstein’s theory gives context to the push factors of international migration. The survival of a family depends on consistent income. When staying in one’s community is no longer economically viable, a person will seek employment in another place. Since economic disparity in semi-peripheral or peripheral countries is not confined to a few areas, a person may be forced to travel abroad for job opportunities.⁹¹ Douglas Massey expressed this point when he wrote that “the absence of unemployment insurance in developing nations creates an incentive for families to self-insure by sending one or more members overseas for work...households diversify their labor portfolios to reduce the risk to income.”⁹²

Push factors are only part of the reason wealthy industrial countries experiences substantial international migration (both legal and unauthorized). People from all over the world desire to come countries, such as the United States because of it pull factors. In order to describe

⁸⁹ Massey, D, Durand, J, and Malone, N. (2002). *Beyond smoke and mirrors: Mexican immigration in an era of economic integration*. (p. 13) New York: Russell Sage Foundation.

⁹⁰ Ibid (p. 14)

⁹¹ Ibid (p. 14)

⁹² Ibid (p. 21)

the theoretical explanation for pull factors, I refer to Michael Piore's *Labor Market Theory*. According to this theory, the wealthy industrial economies create a demand for low-wage jobs that are dangerous and largely unattractive. Generally, citizens in the wealth country would not do these jobs for the low-wages they pay, so employers hire foreigners to fill the positions.⁹³

Piore's theory suggests, a wage for specific profession is not solely dependent on the supply and demand for the job but also the prestige attributed to it.⁹⁴ The public admiration of one profession over another generates a job hierarchy attached to incomes. For example, in the restaurant business, a waiting position is viewed as more desirable than a dishwashing position, thus it pays more. If the dishwasher was offered a wage equivalent to a waiter, (so to encourage more citizens to take the job) the job hierarchy would be disrupted. Under this scenario, the pay would then increase "proportionately throughout the job hierarchy in order to keep them in line with social expectations, a problem known as structural inflation."⁹⁵ In the case of a restaurant, the wage of the waiter would then go up, causing the wage of the bartender to increase and same with the management, therefore, financially, the restaurant could not stay open.

The Labor Market Theory infers that the structure of the United States economy will always demand cheap immigrant labor. The coordination between employers and unauthorized immigrants will endure because both view their interaction as beneficial. Unauthorized immigrants normally desire to work temporary, in order to acquire sufficient funds to improve their family's quality of life.⁹⁶ During their time abroad, they continue to perceive themselves in the context of their culture and national identity, including their understanding of the monetary

⁹³ Ibid (p.15-16)

⁹⁴ Ibid (p.15-16)

⁹⁵ Massey, D., Arango, J., Hugo, G., Kouaouci, A., Pellegrino, A., & Taylor, J. (1993). Theories of international migration: A review and appraisal. *Population and Development Review*, 19(3), 441. Retrieved from <http://www.jstor.org/stable/2932462>

⁹⁶ Ibid

value of work. The low-wage by U.S. standards is still a high salary in their opinion.⁹⁷ Generally, their motivation to gain employment for a finite period of time, allows unauthorized immigrants to endure conditions unacceptable by U.S. citizens. For the employer, hiring an unauthorized immigrant is more cost efficient, allowing them to keep labor cost low.⁹⁸ A true concern is that these employers could be enticed to maximize their profit margin by hiring additional unauthorized immigrants, to the point that they replace U.S. citizens in the low-skilled, low-wage industries.

Since I am aware of this anxiety of unauthorized immigration, I apply Edna Bonachich's *Split Labor Market Theory* to my analysis of immigration policies. Bonachich's theory acknowledges the dual benefit for unauthorized immigrants and employers but also recognizes the third component, higher-waged workers displaced through the inclusion of a new cohort of laborers. The premise of the theory evaluates a wage disparity along ethnic division in the labor market and the antagonism it produces in the dominant ethnic group. Bonachich implied, on an economic basis, employers will opt to hire the cheapest laborers when possible. Therefore, as historically disadvantaged groups are included to the job market, they have been employed in low-skilled, low-waged position. The theory applies to both a pre-existing ethnic group that just received the right to join the job market (i.e. African Americans post-slavery) as well as the inclusion of foreign ethnic groups (immigrants). In both cases, the greater competition for jobs causes ethnic antagonism to arise from the dominant ethnic group, in the form of exclusion or cast system.⁹⁹ The repressive models are an attempt to preserve the economic status quo and

⁹⁷ Massey, D, Durand, J, and Malone, N. (2002). *Beyond smoke and mirrors: Mexican immigration in an era of economic integration*. (p. 15-16) New York: Russell Sage Foundation.

⁹⁸ Bonacich, E. (1972). A theory of ethnic antagonism: The split labor market. *American Sociological Review*, 37(October), 547-559.

⁹⁹ Ibid (p. 547-559)

prevent a split in the labor market, where overall wages will decrease.¹⁰⁰

Part of the justification for greater border enforcement is centered on the idea; unauthorized immigrants take jobs from hard working Americans. This argument is a perfect example of how the Split Market Theory applies to the current national immigration debate. The ethnic antagonism has been to exclude or minimize the presences of unauthorized immigrants in the United States. I examine the role that job access contributed to Arizonans demand for greater immigration enforcement.

While there is evidence the exclusion methods have reduced part of the incentive for unauthorized immigration, the pull to the United States remains strong. This is partially due to the complex social network immigrant communities have established in the country. When an immigrant settles down in a foreign country, they create relationships and bonds in their new place of residences. These connections can later be used to assist friends or family members when they come looking for work. As the social network of a potential immigrant grows, he or she finds it more manageable to leave their country because their network can help them find a job, a place to stay and assist them with the emotional transition.¹⁰¹

Douglas Massey proposes that the network of immigration qualifies as an example of Pierre Bourdieu's adaptation of *Social Capital Theory*.¹⁰² Bourdieu understood social capital as:

*“The sum of the resources, actual or virtual, that accrues to an individual or a group by virtue of possessing a durable network of more or less institutionalized relationships of mutual acquaintance or recognition.”*¹⁰³

¹⁰⁰ Ibid (p. 554-555)

¹⁰¹ Castles, S., & Miller, M. (2003). *International population movements in the modern world: The age of migration*. (3rd ed. p. 27-28). New York: The Guilford Press.

¹⁰² Massey, D., Arango, J., Hugo, G., Kouaouci, A., Pellegrino, A., & Taylor, J. (1998). *World in motion: Understanding international migration at the end of the millennium*. (p. 43). Oxford: Clarendon Press.

¹⁰³ Bourdieu, P., & Wacquant, L. (1992). *An invitation to reflexive sociology*. (p. 119)Chicago: The University of Chicago Press.

The impact of social network can't be ignored in an examination of the factors behind unauthorized immigration. In fact, the Migration Policy Institute, a non-partisan think-tank on international migration, concluded 10-20% of unauthorized immigrants from Latin America come to the United States because of their social network in the country.¹⁰⁴

I focus so much attention to describe the theoretical framework behind unauthorized immigration because SB 1070 attempts to regulate this complex issue. A state-sponsored policy will do little to disrupt the push and pull factors that propagate unauthorized immigration because it is an international issue. State-sponsored immigration policies thus will never completely eliminate unauthorized immigration. The campaign of anti-immigrant laws in Arizona were a result of more than just reducing unauthorized immigration, it was also a response to the societal anxiety in the state. Next, I attempt to articulate the theoretical explanations for the strong support Arizonans' have had for state-sponsored immigration policies.

Theoretical Explanation for Arizona's SB 1070

To truly comprehend what has occurred in Arizona, I apply theories on discourse analysis and the perceptions of identity, to the data I collected in the state. As I mentioned in the historical review, SB 1070 did not spontaneously happen. It was the final act in a series of anti-immigration policies. The question is: what happened within the state over this period of time and does it explain why SB 1070 became law?

Unauthorized immigration is often described by a narrow vocabulary that limits a person's ability to fully assess the issue. The current discourse on unauthorized immigration

¹⁰⁴ Rosenblum, M., & Brick, K. (2011). Us immigration policy and mexican/central american migration flows: Then and now. *Migration Policy Institute and Woodrow Wilson International Center for Scholars*, 2. Retrieved from <http://www.migrationpolicy.org/pubs/RMSG-regionalflows.pdf>

restricts true inquiry, due to the fact that select terms embody substantial connotations. In order to step back and interpret the discourse, I rely on the academic work of Michele Foucault. As a well-known social scientist, Foucault was famous for scrutinizing the epistemology of society, interpersonal relationships and even science. He discovered that language and discourse greatly influence how someone perceives a given truths. Foucault articulated that select vocabulary reinforces potential misperceptions that society believes are truths. In order to break through this impediment, he suggested we ought to be more critical and “renounce all those themes whose function is to ensure the infinite continuity of discourse and its secret presence to itself in the interplay of a constantly reoccurring absence.”¹⁰⁵ In regards to the discourse on unauthorized immigration, there are several *themes* that perpetuate a limited perception with significant *reoccurring absences*.¹⁰⁶ For example, the widely accepted term *illegal alien* shrouds the unauthorized immigrant in context of criminality and leaves no room for sympathizing with their reasons for seeking work in the United States.

Foucault proposed that we dissect the discourse around an issue and “define in what conditions and in view of which analyses certain of them [terms] are legitimate; and we must indicate which of them can never be accepted in any circumstance.” He further recommended “[what] we must do, in fact, is to tear away from them their virtual self-evidence, and to free them from the problems they pose; to recognize that they are not the tranquil locus on the basis of which others question, but they themselves pose a whole cluster of questions.”¹⁰⁷ In the discourse on unauthorized immigration, many assumptions are made due to the commonly used terminology. To actually comprehend the issue, we must identify what terms are detrimental to a productive dialogue. For instance, using *illegal* as a noun for unauthorized immigrants creates a

¹⁰⁵ Foucault , M. (1972). *Archaeology of knowledge*. (2 ed., p. 25). Padstow, Cornwall: Tavistock Publication Limited

¹⁰⁶ Ibid (p. 26)

¹⁰⁷ Ibid (p. 26)

cluster of questions. If a person is illegal, is the law that derides a person to this status moral? What is the hierarchy of law, are moral obligations to loved ones more or less important than the preservation of sovereignty? What degree of culpability do we all have under this law? If it is illegal to come pick the food, is it then illegal to benefit as a society from cheaper food cost? Obviously, deconstructing the discourse is an intensive process. Consequently many people are persuaded by the rhetoric of short sound bites. With limited access to information, it is no wonder why the current discourse has contributed to SB 1070.

Academics, who study immigration, are well-aware of the influence that discourse can have and how it has complicated the current immigration debate. Some of these academics are now theorizing how to strip away the negative connotations embedded within the current discourse, in order to craft a more productive dialogue. While conducting my research, I was able to attend a border conference in El Paso, Texas that dealt with this process. The conference entitled *Writing a New Narrative*, addressed the roots causes behind the current discourse and theorized how to reconstruct a new way for people view the issue. One of the main keynote speakers was Professor Joe Heyman, who is a leading expert on how people perceive of the Mexican/American border. In his speech, Mr. Heyman eloquently conferred the challenges of restructuring the discourse on unauthorized immigration. To prove his point, he posed a vital question to the crowd: “Why are well-documented facts about the border ignored in policy forums and political discussions?” This segue, gave Mr. Heyman the opportunity to describe that our societal, cultural and political conceptions shape the way each of us approach different issues. Every one of us recognized factual statements by stimulating constellations or patterns of pre-existing knowledge. The information that does not fit with our pre-existing knowledge is not committed to memory. This process known as *framing*, allows us to understand complex issues

and not to be overwhelmed by an immense amount of information we receive on a daily basis.¹⁰⁸

Therefore, when two people listen to a debate, they can both take away different *truths* that fit in their pre-existing knowledge. What we assume to be factual, we subconsciously attach feelings and emotion to.¹⁰⁹ So the alleged criminality alluded to in the term, *illegal alien* may be associated with an individual's emotional desire to protect their family. The truth reinforced in the discourse on unauthorized immigration is subconsciously intertwined with a person's passions, desires and fears.¹¹⁰ As I review in my fifth chapter, the majority of Arizonans supports SB 1070 but also favor comprehensive immigration reform and the DREAM Act. These conflicting policies are discussed with terms that appeal to different moral frames and thus both result in positive responses.¹¹¹

During a public lecture I attended at the San Francisco Commonwealth Club, cognitive scientist and well-known author, George Lakoff shared the scientific reasons a person is influenced by discourse. Depending on what way our brains are structured, we have varying conceptions of moral principles. The moral systems range from conservative and progressive but are not absolute. In fact, most people are bi-conceptual and possess a combination of both moral frames. For instances, a person may be conservative on some principles, such as national security and progressive on others, like support for personal liberties. The use of select terms in a political discourse can trigger an individual progressive or conservative moral frame and determine how they will conceptualize a given topic.¹¹² We are only able to learn facts and commit them to memory through strengthening the connections that already exist in our moral frame. In this

¹⁰⁸ Heyman, J. (2012, July). In West Grove (Chair). *Framing immigration*. Creating a new border narrative, El Paso, Texas.

¹⁰⁹ Ibid

¹¹⁰ Ibid

¹¹¹ Lakoff, G. (2012, August). *The little blue book: The essential guide to thinking and talking democratic*. Public Lecture Commonwealth Club Political discourse, San Francisco

¹¹² Ibid

process, the neurological synapses get stronger and the belief is supported and even reinforced.¹¹³

If an individual has a conservative moral frame on national security, the use of language that invokes ideas of national weakness will influence how that person interprets a political issue. For many Americans, the tragic event of September 11 strengthened their pre-existing moral frame for national security. Ever since, the description of the border as porous and a potential danger for the country, has garnered substantial public support for stricter immigration enforcement. This is important to recognize because many proponents of SB 1070 refer to national security as a main reasons for creating the law.

Russell Pearce, the man who wrote the SB 1070, openly proposes if his law was implemented nationally before 9/11, the terrorist attack would have been thwarted.¹¹⁴ To deconstruct this portion of the discourse, it is important to understand that according to the *9/11 Commission*, the hijackers all legally obtained U.S. visas. The final report from the Commission acknowledged that “None of the 9/11 attackers entered or tried to enter our country this way.”¹¹⁵ Moreover, less than one percent of the Border Patrol’s apprehensions of unauthorized immigrants are from *Special Interest Countries* (nations that pose a potential terrorist risk). Of the 2,039 people apprehended under this category, none of them were determined to be a significant threat to national security.¹¹⁶

In large part, xenophobia has become more accepted post-September 11. In 2004, the fear

¹¹³ Ibid

¹¹⁴ Chabin, T. (2012, June 27). Interview by R Murphy [Personal Interview]. Democrat senator perspective on sb 1070., via telephone

¹¹⁵ National Commission on Terrorism Attacks, (n.d.). *Staff statement*. Retrieved from Federal Government website: http://govinfo.library.unt.edu/911/staff_statements/staff_statement_1.pdf

¹¹⁶ McCombs, B., & Steller, T. (2011, June 7). Border seen as unlikely terrorist crossing point. *Arizona Daily Star*. Retrieved from http://azstarnet.com/news/local/border/border-seen-as-unlikely-terrorist-crossing-point/article_ed932aa2-9d2a-54f1-b930-85f5d4cce9a8.html

of terrorism abetted the birth of a border vigilante movement on the Arizona/Mexico border. Professor Lynn Doty from the *Arizona State University* wrote extensively on this movement from 2004 until 2009 in her book entitled *Taking the Law into Their Hands: Immigration and the Politics of Exceptionalism*. Her writing gives valuable insight into the discourse and perception that served as catalyst for SB 1070. In October of 2004, the border vigilante movement gained traction when two individuals, Jim Gilchrist and Chris Simcox formed the *Minuteman Project*.¹¹⁷ Both men were praised by the mass media including CNN, Fox News and major national newspapers.¹¹⁸ The publicity of the Minuteman Project encouraged thousands of people to travel to the Arizona desert and guard the border.

Doty found that the border vigilantes operated on their professed obligation to preserve the sovereignty of the United States. As a result, they believed they had the *right* and *duty* to protect the territorial boundary from foreign threats. The individuals determined to be outside this selected group of *Americans* (non-citizens and in some cases citizens of Latino decent) were classified as an enemy to America's sovereignty.¹¹⁹ With the favorable media coverage, a few anti-immigrant activists effectively changed the discourse on unauthorized immigration.

The perceived legitimacy of the Minutemen Project gave its founders substantial power to dictate the direction of the national immigration debate. For example, on May 10, 2006, Chris Simcox publically demanded that the President Bush deploy National Guard troops on the Arizona border. Within 5 days, President Bush caved into the demands and commissioned *Operation Jump Start*. The mandate deployed 6,000 U.S. National Guard troops on the border with the stated goal that the program would last until 2008, when the U.S. Border Patrol would

¹¹⁷ Doty, R. L. (2009). *Taking the law into their own hands: Immigration and the politics of exceptionalism*. (p. 3-5) Tucson: University of Arizona Press.

¹¹⁸ *Ibid* (p. 67-82)

¹¹⁹ *Ibid* (p. 11)

reach 18,000 agents.¹²⁰ These events indicate the extent the border vigilante groups were able to influence the State of Arizona and the federal government's policy on unauthorized immigration.

Arizona's border vigilantes groups were only part of the state's reaction to unauthorized immigration. Elected officials in the Arizona's government, specifically Russell Pearce, also moved the public towards more immigration enforcement. Similar to the border vigilante movement, Mr. Pearce argued he was acting in defense of Arizona's sovereignty, when he created SB 1070.¹²¹ Interestingly, the belief a government can ensure the preservation of sovereignty through enforcement of laws is found in Carl Schmitt's theories on governance. That is why I will examine SB 1070 through the lens of Mr. Schmitt's theoretical framework.

For historical context, Carl Schmitt was an academic in Germany during Nazi regime. While developing his political theories, Mr. Schmitt was witnessing the expansion of governmental authority to safeguard the sovereignty of the Third Reich. Schmitt's book *The Concepts of the Political* can give valuable insight into the political factors within a government that is attempting to protect its sovereignty. I want to make clear; my thesis is an objective analysis of SB 1070. I am not trying to infer that Arizona's actions are, in any way, comparable to the Nazi's crimes against humanity. I just believe the theory could explain the justification of protecting sovereignty through increased government authority.

Carl Schmitt defined *sovereignty* as a state's exercise of power. This power derives from its ability to create and enforce laws. As long as this mechanism in society is not threatened, the state retains its sovereignty.¹²² Therefore, when laws are seen as ineffective or disregarded, the

¹²⁰ Romero, F. (2008). *Hyper-Border: The contemporary us-mexico border and its future*. (p. 75). New York.: Princeton Architectural Press

¹²¹ Pearce, R. (2012, July 11). Interview by R Murphy [Personal Interview]. Background on sb 1070., via telephone

¹²² Schmitt, C. (1996). *The concept of the political*. (p. 47) Chicago: The University of Chicago

state appears weak and the sovereignty is jeopardized. Without the authority to maintain domestic peace and civility through law and order, a state hypothetically cannot ensure the constitutional protections of the society. In fact, the preservation of the government outweighs the constitutional safeguard of citizens. Thus, the government will do what it needs to, in order to reestablish its authority over the state.¹²³

Mr. Schmitt postulated that in order to defend its sovereignty, a state will distinguish between the *friends* and *enemies* within its territorial boundaries. Thus, every group or category of people is seen as political and capable of altering the government to their will. By identifying their enemies, a state is able to regain its legitimacy and protect itself from future threat to its power structure. Hence, “the rule of law means nothing else than the legitimatization of a specific status quo, the preservation of which interest particularly those whose political power or economic advantage would stabilize itself in this law.”¹²⁴ Schmitt’s interpretation of the use of authority begs the question: did SB 1070 target unauthorized immigrants or the overall Latino population? Does the law ensure the cultural, political and economic status quo of the state by reducing the rapidly growing Latino population?

This is a possible scenario because as unauthorized immigration population was on the rise, the Arizonan-Latino demographic was also increasing. The coinciding growth in both populations complicated the perception of who was an actually an unauthorized immigrant. According to the United States Census, from 1990 to 2007, the Latino community had a higher birthrate than all other ethnic groups in the United States.¹²⁵ Arizona demographics amplify this ethnic/generation gap. Although older Arizonans are more-likely Caucasian, Arizona’s youth is

¹²³ Ibid (p. 47)

¹²⁴ Ibid (p. 66)

¹²⁵ United States Census, (2011). *Total fertility rate by race and hispanic origin: 1980 to 2007* (Table 83). Retrieved from Federal Government website: <http://www.census.gov/compendia/statab/2011/tables/11s0083.pdf>

becoming more Latino. This was obvious during the run up to SB 1070. In the 2005-2006 school years, Arizona's public schools consisted of 42.4% Latino students and 44.5% Caucasian students.¹²⁶ The makeup of public schools was an over representation according to statewide demographics, thereby confirming the fact that the future of Arizona was on track to be more ethnically diverse.¹²⁷ Consequently, some Caucasian groups became frightened as the demographics of their communities appeared to be rapidly changing.¹²⁸

Arizona unauthorized immigrant population is often overestimated due to the fact that Latino citizens and legal residents are mistakenly assumed to be the same. In 2000, 1 in 5 U.S. children were born to a foreign-born mother, making it highly likely that a child would grow up speaking a non-English language. The perception of a large immigration population was enhanced as more citizens publically engaged in multilingual conversations. As a result, many Caucasian-Arizonans misjudge the hypothetical threat posed to society as their communities were quickly changing.¹²⁹ Such fears are of course irrationally. The Mexican population is assimilating to U.S. culture at a faster rate than historical immigrant communities. For example, up to 90% of first generation Mexicans in California speak fluent/native English.¹³⁰ When Arizona passed Proposition 103, which made English the official language of the state, it could be argued that this was a backlash to a rapidly changing community.¹³¹

In order to analyze the impact demographics had in Arizona, I apply the theories from

¹²⁶ Council of Chief State School Officers, (2005). *Action for health kids, arizona profile*. Retrieved from website: <http://www.a4hk.org/filelib/stateaction/profiles/Arizona.pdf>

¹²⁷ United States Census, (2012). *State and county quickfacts: Arizona*. Retrieved from Federal Government website: <http://quickfacts.census.gov/qfd/states/04000.html>

¹²⁸ Sobczak, M. (2010). *American attitudes toward immigrants and immigration policy*. (p.190) El Paso, Tex.: LFB Scholarly Pub. LLC.

¹²⁹ Sobczak, M. (2010). *American attitudes toward immigrants and immigration policy*. (p. 20-32) El Paso Tex.: LFB Scholarly Pub. LLC.

¹³⁰ Ganster, P., Lorey, D. E., & Lorey, D. E. (2008). *US-mexican border into the twenty-first century* (2nd ed. P. 183). Lanham: Rowman & Littlefield.

¹³¹ Pearce, R. (2012, July 11). Interview by R Murphy [Personal Interview]. Background on sb 1070., via telephone

Michael Sobczak's book *American Attitudes Towards Immigrants and Immigration Policy* and Peter Blau's book *Inequality and Heterogeneity*. Sobczak adapted the sociology theories of Peter Blau to explain how attitudes towards immigration can change as the immigrant population seems to be on the rise in a traditionally homogenous community. Blau suggested there are three divisions in our social distinctions that could alter our view of immigration. First is the heterogeneity which has no designated rank but is defined with specific boundaries (i.e. city's ethnic diversity), second is inequality, and the third is intersection between the inequality and heterogeneity.¹³² Blau described it as "not the significance of race but that of racial heterogeneity is a subject of structural inquiry; not the significance of the nature of occupations but that of the divisions of labor; not the significance of leadership but that of inequality in power."¹³³ I assess if the economic downturn in 2007/2008 was a possible explanation for SB 1070 passing in Arizona. As Caucasian-Arizonans witnessed inequality increasing, the Latino population was rising, meaning there was more competition for jobs and government resources.

A person's concept of their individual or group identity can considerably determine their actions in society and their opinion of others. Thus, identity theories could in part, explicate the origins of SB 1070 and how the law came about. If we are able to understand how a person sees their individual, ethnic and national identity, we can abstract what threatens their conception of themselves or their group. While analyzing my data, I intend to determine where identity is expressed in my interviews. My theoretical framework utilizes Rodolfo Stavenhagan theory of the conflict between national and ethnic identity, Anthony Smith's definition of nationalism and Vern Neufeld Redekop *Human Identity Need Theory* and *Scapegoat Function*.

¹³² Sobczak, M. (2010). *American attitudes toward immigrants and immigration policy* (p. 17). El Paso Tex.: LFB Scholarly Pub. LLC.

¹³³ Blau, P. (1977). *Inequality and Heterogeneity* (p.17). New York: Free Press.

This theoretical conflict between national and ethnic identity is best described in Rodolfo Stavenhagan's book *Ethnic Conflicts and the Nation State*. In it, Stavenhagan extrapolated 6 dynamics of collective identity and described how the ethnic and national identities interpret the following criteria. He wrote that *language, religion, territory, social organization, culture and race* together comprise of both ethnic and national collective identities. The interpretation of these components of society are then competing interest of national and ethnic collective identity. When some areas in Arizona appeared to be changing rapidly, the national (i.e. shared) identity of a community was uncertain in the future and potentially would disenfranchise the currently status quo of power and privilege.

To better understand national identity, I found it essential to truly conceptualize nationalism. There are many definitions of nationalism in political science but the interpretation of Anthony D Smith encapsulated the way nationalism was practiced in Arizona prior to SB 1070. Smith explained nationalism as a *political religion* in which sacred principles are mutually held in a given community.¹³⁴ A nation is defined as a system where a group of people share a *territory, common history, memories, culture and duties* in society. Nationalism is thus the "ideological movement for the attainment and maintenances of autonomy, unity and identity of a human population."¹³⁵ The four underlining principles of nationalism recognized by Smith are: *ethnic election, sacred territory, ethno-history and national sacrifice*. When assessing my findings, I determine if these four principles were present in Arizona.

Outside the group identity, I also determine if an individual's identity was relevant in the public support for the Arizona government's attempt to reduce or eliminate the unauthorized

¹³⁴ Smith, A. (2000). *The Sacred Dimensions of Nationalism*. (p. 792). Sage Publishing. Retrieved from website: <http://mil.sagepub.com/content/29/3/791.citation>

¹³⁵ Ibid (p. 796)

immigration population. To interpret the characteristics of an individual's perception of self, I turned to the *Identity Need Theory* of Vern Neufeld Redekop. In the theory, Redekop suggests a person has *identity needs*, much like he/she has physical needs. These identity needs include: *meaning, connectedness, security, recognition and action.*¹³⁶ When applied to the discourse on unauthorized immigration, we can gain better understanding into the strong feelings espoused by many Arizonans.

Prior to conducting and interpreting my data, I believed individual, ethnic and national identity were prevalent to the creation and application of SB 1070. When a group of individuals feel threatened, they will respond by protecting their sense of self or group identity. My reliance on these theories does not suggest the inclusion of more Latinos is detrimental to society. Instead, the potential existence of misperceptions surrounding identity may have contributed to the public outrage that has targeted all Latinos (U.S. citizens, legal residents and unauthorized immigrants). My hypothesis is that identity needs were exploited by the more fundamentalist anti-immigrant groups and politicians. As a result, they gathered more support for their anti-immigration policies.

Redekop discussed this process in his book as a *Scapegoat Functions*. In it, he quoted René Girard to explain the process. Girard wrote a Scapegoat Functions is when “two or more people are reconciled at the expense of a third party that appears guilty or responsible for whatever ails, disturbs, or frightens the scapegoaters.”¹³⁷ A scapegoat serves as a victim to unleash a wide variety of frustrations and anger towards. In regards to unauthorized immigration, Arizonans may have vented their fears of a whole range of societal issues on the individuals they

¹³⁶ Ibid (p. 796)

¹³⁷ Redekop, V. (2002). *From Violence to Blessing*. (p.85). Ottawa, Novalis: Saint Paul University.

label as *illegal aliens*.¹³⁸ Over the last decade, several crises led many Arizonans to feel vulnerable on their whole spectrum of their identity needs subsequently they sought to restoring justice to their lives via a societal scapegoat.¹³⁹ I determine if the support for SB 1070 could be clarified by the scapegoat function.

Throughout the rest of my thesis, this theoretical framework will be utilized to interpret the research I collected in Arizona. In the following chapters, I share my interactions with a variety of Arizonans and assess if these theories can explain the origins of SB 1070, the impact it has had on the state and what are the future implications of the law. Furthermore, I contribute to the literature on immigration, political discourse and conflict resolution by demonstrating an accurate portrayal of Arizona SB 1070.

Chapter 3: Methodology of Field Research

Introduction

In addition to my three research questions:

- 1) What are the origins of SB 1070?
- 2) What has been the impact of the law thus far in the State of Arizona?
- 3) What are the future implications of the law for the state and country?

The following questions were also addressed in my field research to gain more contexts from the respondents:

- 1) What has been the reaction to SB 1070 in state? How does support for state-sponsored immigration legislation vary between ethnic groups, social-economic levels and locality of a respondent?
- 2) In the opinion of unauthorized immigrants and Arizonan residents, what are the perceived consequences or benefits of the Supreme Court ruling on the constitutionality of SB

¹³⁸ Fisher, S., Abdi, D., Ludin, J., Smith, R., Williams, S. and William, S. (2007). *Working With Conflict: Skills and Strategies for Action*. (4th ed. p.45). New York: Zed Books.

¹³⁹ Redekop, V. (2002). *From Violence to Blessing*. (p.88-91). Ottawa, Novalis: Saint Paul University.

1070? Has the law been viewed as effective in meeting the objectives and priorities of the Arizona government?

- 3) How could the issue of immigration be better addressed by the federal government and how can the State of Arizona and the federal government resolve the contested issue of immigration enforcement?

Setting

The majority of my research was conducted in Southern-Arizona and the Phoenix Metropolitan area. The base for conducting my investigation was in Nogales, Arizona. Nogales is small, border town, located roughly 200-miles south of Phoenix. This community is on the frontlines of immigration debate. A large percentage of Nogales residents are of Mexican heritage, with family and friends living across the border. Outside the town, ranchers hold a more favorable view of immigration enforcement. The dichotomy of opinions in such close proximity was advantageous to my study. Since Arizona is the primary point of entry for unauthorized immigration and narcotics, the presences of U.S. Border Patrol is significant in the Nogales area.

Another benefit of conducting my research from Nogales was the ability to cross the border on a daily basis and engage with migrant communities. I had the opportunity to speak with unauthorized immigrants before they crossed into the United States or shortly after they were deported. My access made it possible to personally hear from immigrants if they were aware of SB 1070 before they started their journey. Also, if and when they heard about the law, did it influence their decision to cross the Arizona border?

My research was also carried out in the City of Tucson, Phoenix metropolitan area, and a few small communities around the state. The City of Tucson is approximately 1 hour from the border. Its proximity makes it the closest urban center to the border, so many day tourists from Mexico travel to Tucson to go shopping or eat out at restaurants. Tucson historically has had a large Latino population, so the customs and traditions in the city are an amalgamation of

Mexican and American culture. As a result, Tucson has been more progressive in its interpretation and application of immigration law.

The dynamics in the Phoenix metropolitan area have resulted in a more favorable view of SB 1070. Phoenix has quickly transformed from a dusty farming community in the 1960s, into a thriving metropolitan of transplants from all over the country. The warm weather and low property taxes has encouraged a large population of retirees to move to Phoenix and its suburbs. By and large, the area is more conservative and Caucasian, although some communities in the Phoenix area have a fast growing Latino demographic.

Finally, my research includes the opinion of Arizonans from small towns and communities. Depending on the location of these communities, each one has different demographics, economic prosperity and historical relation with unauthorized immigrants. I attempt to fully represent the whole state in my final analysis of SB 1070. The input from these varies locations gives my thesis a well-rounded assessment of the law according to all Arizonans.

Sample/Participants

Overall, I interviewed: unauthorized immigrants, Arizonan elected officials, law enforcement officers, and activist groups for and against unauthorized immigration. Through a summer internship with the *Santa Cruz Community Foundation*, I was able to immerse myself directly in a border community. Although the Santa Cruz Community Foundation indirectly serves immigrant communities, they are seen as a-political organization that is highly respected in the area. In my internship role, I was permitted to engage with diverse view points and opinions on Arizona's immigration policies.

While conducting my research, I was purposeful in my sampling of opinions and

perspectives. I tried to incorporate a range in ethnicity, political ideology, gender, employment, and immigration status. The whole time, I was well aware of the vulnerability of specific individuals during interviewing. For all non-public officials, I offered the ability to remain anonymous in the final report. During an interview, the respondent was free to stop at any time or choose not to answer a given question.

Materials

All the interviews were conducted on a one-on-one basis in a private setting. I used a notebook to write the general outline of responses and to take down direct quotes. After every interview, I immediately transcribed the conversation and saved them on my laptop. Out of my own expenses, I occasionally rented a car to travel to Tucson and Phoenix for interviews. On some occasions, I was able to join other interns in the Nogales area and receive free transportation to attend events, rallies and interviews. Also, several interviews were conducted over the phone or via email to facilitate communication with a larger group. Overall, the materials and cost required for this research were minimal and they were never at the expense of the interviewee.

Measurement Instruments

This research was designed for a qualitative approach to interpret the impact and implications SB 1070 has had in Arizona. I rely on government documentations for statistics and analysis on the rate of apprehensions along the Arizona border, the significances of the economic collapse in the recent recession, the uptick of anti-Latino hate-crime and the change in state demographics over the last decade. I specifically attempted to measure the viewpoints of unauthorized immigration in relation to the respondent's ethnicity, economic status and their locality. This was done as an endeavor to verify or deny the validity of the sociological theories

on unauthorized immigration outlined in the literature review.

I collected most of my data through personal observations and interviews. The vulnerability of some of the populations I engaged with required an approach adapted to meet the needs of each group. All observations were conducted in a nonaggressive manner through my responsibilities with the Santa Cruz Community Foundation or during my independent research. The interviews were held after the participants gave full consent for the meeting to take place and were well aware of their ability to stop at any time during the interview.

My engagement with the unauthorized immigrant population was handled with the utmost care. The individuals were personally asked after a shared communal activity, such as dinner at a community food bank, if they would be willing to meet with me for a few minutes. We discussed immigration from their point of view. Instead of sticking to a questionnaire, I tried to provide a more conversational engagement where the individual could share their in-depth background, beliefs and opinions.

Similar to the unauthorized immigrant community, it was important to permit an open dialogue with Arizonans. Once again, I refrained from the use of a questionnaire. My questions varied depending on the ethnicity, social economic status of the participants and role they have in the regards to SB 1070. With the elected officials, my questions were gaged depending on their voting recorder and public statements on Arizona's immigration policies. Due to the fact these individuals voted on SB 1070, I could not offer anonymity in the final report. In fact, I applied their voting record and prior statement to my overall analysis of the law.

In conducting my research, I attempted to maintain academic integrity by utilizing a vocabulary that promotes a neutral tone. I adopted this approach because of the sensitivity and

volatility of responses to SB 1070, in recognition of Arizonans' polarized viewpoints on this matter. In my interviews and in the following chapters, I refrained from using certain terms and descriptions commonly found in the national discourse on unauthorized immigration. For example, this report describes the immigrant population who do not have legal status as *unauthorized immigrants*, in line with the definition used by the *Department of Homeland Security (DHS)* in its 2012 *Immigration Statistic Report*. The DHS clarified that "all foreign-born non-citizens who are not legal residents" are considered to be an "unauthorized immigrant."¹⁴⁰ The word *unauthorized* was emphasized because the immigrant personally lacks the legal authorization to be in the United States.

My choice to incorporate the phrase *unauthorized immigrant* demonstrated that I acknowledge the immigrants' status in the United States without a judgment on them. This description contrasts with the current discourse, which refers to unauthorized immigrants as *illegal aliens*. I believe the descriptor *illegal* inaccurately associates the immigrant as a public safety threat, in conflation with rapists, robbers and murderers. Although unauthorized immigrants commit a criminal offense by coming into the United States, the law they break, *Title 8 U.S.C. 1325(a)* is only a misdemeanor on the first offense.¹⁴¹ Legally speaking, a misdemeanor is equivalent to public intoxication or reckless driving, which are undesirable acts but do not necessarily infer criminal behavior or pathology.¹⁴² Furthermore, the word *alien* removes the notion of a shared humanity. Subconsciously, the use of *illegal alien* propagates a misperception that unauthorized immigrants are non-relatable beings who threaten the personal security of U.S. citizens.

¹⁴⁰ Hoefler, M., Rytina, N., & Baker, B. Department of Homeland Security, Office of Immigration Statistics Policy Directorate. (2011). *Estimates of the unauthorized immigration population residing in the united states*. Retrieved from website: http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2011.pdf

¹⁴¹ Rocha, J. (2010). *Found in the usa*. The Federal Lawyer, (November/December),

¹⁴² US Legal (2012). *Misdemeanor laws and legal definitions*. Retrieved from <http://definitions.uslegal.com/m/misdemeanor/>

I also refrained from depicting the rate of unauthorized immigration with metaphors that connote pollution, invasion or uncontrollable natural events, such as *wave*, *tsunami* or *flow*. For nearly 30-years, the political discourse on unauthorized immigration has perpetuated this misperception of unauthorized border-crossing in the Southwest. Ever since a 1983 *Washington Post* article quoted President Ronald Reagan expressing his belief that “a tidal wave of refugees – and this time they’ll be ‘feet people’ and not boat people – [are] swarming into our country seeking safe haven from communist repression to the south;” the metaphor of tide waves and uncontrolled flooding became familiar in the national discourse on unauthorized immigration from Latin America.¹⁴³ I reject this connotation because substantial evidence has demonstrated that the current proportion of unauthorized immigration is conducive to a variety of push and pull factors. Overall, the mainstream opinion on unauthorized immigration poses an alarming problem as it is not only inaccurate, but is counterproductive to pragmatic reforming of our currently divisive immigration system.

Chapter 4: Findings

Before I introduce my findings, it is important to have a context of the federal court proceedings that led to the Supreme Court’s ruling on the constitutionality of SB 1070. First in this chapter, I briefly explain the process in the federal courts and review the decision made by the Supreme Court. Next, I show the data I collected in interviews and participant observations. My sources range from members of the Arizona Legislature to civil servants. Then, I assess the role of civil society in support and opposition to SB 1070. Finally, I conclude this chapter by evaluating the validity of facts implied in my interviews by testing them against quantitative research.

¹⁴³ Massey, D., Durand, J., & Malone, N. (2002). *Beyond smoke and mirrors: Mexican immigration in an era of economic integration*. (p. 86). New York: Russell Sage Foundation.

4.1: The Legal Process Through Federal Court

On April 23, 2010, Governor Jan Brewer signed SB 1070 into law. By July 6, 2010, the Justice Department filed a lawsuit to prevent the law from being enacted. Three weeks later, Judge Susan Bolton from the U.S. District Court of Arizona issued temporary injunctions against four sections of SB 1070. The injunctions applied to *Section 2(b)*, *Section 3*, *Section 5(c)* and *Section 6* of the law. The next day, the parts of SB 1070 that were not enjoined, went into full effect.¹⁴⁴

Obviously, the State of Arizona was frustrated with the federal government impeding on their version of immigration reform. On November 1, 2010, the state responded to the enjoined sections by petitioning the decision to the Ninth Circuit Court of Appeals. Then on February 10, 2011, the State of Arizona went even further and filed its own lawsuit against the Justice Department, claiming that the federal government has neglected its duties to security the border. Both efforts in the end failed. On April 11, 2011, the Ninth Circuit Court of Appeals upheld Judge Bolton's injunctions and on October 21, 2011, Judge Bolton threw out Arizona's countersuit. The arduous process was only decided in the Supreme Court. Oral arguments on SB 1070 were presented to the Supreme Court on April 25, 2012 and the official decision was made on June 25, 2012.¹⁴⁵

In the court decision, three of the four enjoined sections were determined to be unconstitutional (refer to Appendix 3: to read the Supreme Court Ruling).¹⁴⁶ In a five to three vote, the Supreme Court ruled against: Section 3, which made it a state misdemeanor to not comply with the *federal alien registration requirement*, Section 5(c), which made it a

¹⁴⁴ Staff. (2012, June 25). Timeline: Story of controversial sb 1070. *ABC News 15*. Retrieved from <http://www.abc15.com/dpp/news/state/timeline-story-of-controversial-sb-1070>

¹⁴⁵ Ibid

¹⁴⁶ Appendix 3: Supreme Court Ruling

misdemeanor for an “alien to seek or engage in work in the state” and Section 6, that authorized law enforcement officers to make warrantless arrest if “the officer has probable cause to believe [a suspect] has committed any public offense that make the person removable from the United States.” The remaining injunction against Section 2(b) was overturned by the Supreme Court. Section 2(b) “provides that officers who conduct a stop, detention or arrest, must in the same circumstance make efforts to verify the person’s immigration status with the federal government.”¹⁴⁷

The majority opinion in the Supreme Court clearly defined the role of the state and federal government in the creation and application of immigration law according to the *Supremacy Clause* and *stare decisis*. For Section 3, the ruling was obviously based on the Supremacy Clause. The final decisions confirmed that “federal law makes a single sovereign responsible for maintaining a comprehensive and unified system to keep track of aliens within Nation’s borders.”¹⁴⁸ If enacted, Section 3 would have complicated the federal immigration structure by setting legal precedence for states to pursue their interpretation of federal immigration laws. In regards to Section 5(c), the majority opinion in the Court was that the IRCA was a “deliberate choice not to impose criminal penalties on aliens who seek, or engage in, unauthorized employment.” In fact, if permitted, Section 5(c) would have interfered with the structure Congress has established to regulate the employment of unauthorized immigrants.¹⁴⁹ Finally in Section 6, the Supreme Court determined that it would have “attempt[ed] to provide state officers’ even greater authority to arrest aliens on the basis of possible removability than Congress has given to trained federal immigration officers.” In this part of the verdict, the

¹⁴⁷ The United States Supreme Court, (2012). *Opinion of the court: Arizona, et al. petitioners v. united states*. Washington DC: Federal Government

¹⁴⁸ Ibid

¹⁴⁹ Ibid

Justices mentioned the 2011 Morton Memos, which mandates to Immigration and Customs Enforcement the need to exercise prosecutorial discretion for who they arrest, detain and deport.¹⁵⁰

The Supreme Court determined that it was improper to enjoin Section 2(b) “without some showing that 2(b)’s enforcement in fact conflicts with the federal immigration law and its objective.”¹⁵¹ This section could be enacted and applied within constitutional framework due to the protections embedded within the law. In the official verdict, the Court stated:

A detainee is presumed not to be an illegal alien if he or she provides a valid Arizona driver’s license or similar identification; officers may not consider race, color, or national origin ‘except to the extent permitted by the United States [and] Arizona Constitution[s]’; and §2(B) must be ‘implemented in a manner consistent with federal law regulating immigration, protecting the civil rights of all persons and respecting the privileges and immunities of United States citizens.’¹⁵²

In the Court’s final opinion, Justice Kennedy inferred Congress has encouraged this type of cooperation between local law enforcement and federal immigration officials. In doing so, the Justices referred to the federal statute 8 U.S.C. 1357(g) (10) (A), which prohibits any state or local government from not sending information directly to ICE.¹⁵³ However, the Supreme Court then warned that the Arizona law is ambiguous in clarifying the length of time a person could be detained in order to determine their immigration status. Justice Kennedy voiced his worried that this unanswered question “raise[s] constitutional concerns.”¹⁵⁴ Justice Kennedy continued by expressing his hesitation by saying:

There is a basic uncertainty about what the law means and how it will be enforced...This opinion

¹⁵⁰ Ibid

¹⁵¹ The United States Supreme Court, (2011). *Syllabus: Arizona, et al. v. united state* (Section 4). Washington DC: Federal Government

¹⁵² Ibid (Section 4)

¹⁵³ The United States Supreme Court, (2012). *Opinion of the court: Arizona, et al. petitioners v. united states* (p. 21) Washington DC: Federal Government

¹⁵⁴ The United States Supreme Court, (2011). *Syllabus: Arizona, et al. v. united state* (Section 4b). Washington DC: Federal Government

*does not foreclose other preemptions and constitutional challenges to the law as interpreted and applied after it goes into effect.*¹⁵⁵

To legal scholars and civil rights activists, Justice Kennedy’s admission of a potential legal challenge to Section 2(b), was a gate way for future litigation against the law. Later in this chapter, I describe how many civil rights organizations are currently contributing to the *Valle Del Sol et. al. v. Whiting* that challenge the constitutionality of Section 2(b) on grounds it violates the 4th amendment. The Supreme Court opinion concluded in its verdict that “Arizona may have understandable frustrations with the problems caused by illegal immigration while that process continues, but the state may not pursue policies that undermine federal law.”

Part 4.2: SB 1070 According to Arizona Government Officials

Governor Jan Brewer and former President of the Arizona Senate, Russell Pearce gained national and international recognition for their role in making SB 1070 a political reality. The current opinion of these two influential Arizonans can give us insight into why the law was establish and the future impact it will have in Arizona. Unfortunately, Governor Brewer’s office declined my request for a personal interview. Instead, they directed me to her official statements on SB 1070. In reality, press releases and public speeches do not always reveal the true character of an elected official. This is why, in absence of a personal interview, I acquired information about the Governor from other prominent Arizonans who have worked closely with her in the past. In these interviews, I discovered her real motivations for signing SB 1070 into law and an indication of what she will do in the future, on the issue of immigration enforcement.

Unlike the Governor, Russell Pearce was willing to speak with me. For over 45 minutes, he shared his opinion on the issue of immigration enforcement and the status of unauthorized

¹⁵⁵ The United States Supreme Court, (2012). *Opinion of the court: Arizona, et al. petitioners v. united states* (p.24). Washington DC: Federal Government

immigration in Arizona. After our interview, Mr. Pearce consistently replied to my additional requests for information, in order to clear up what he believed were misperceptions of him and the SB 1070 law. I was fortunate to establish a connection with Mr. Pearce because my research was conducted during his efforts to be re-elected to the Arizona Legislature. I appreciated his support for my investigation but I have not let his kindness cloud my final analysis of SB 1070.

Governor Jan Brewer

It is no secret where Governor Jan Brewer now stands on the issue of unauthorized immigration. After the Supreme Court's decision to allow Section 2(b) to be implemented, Governor Brewer celebrated it as a "victory" (refer to Appendix 4: to read Governor Brewer's Press Statement).¹⁵⁶ In her press statement, the Governor touted:

*"While we are grateful for this legal victory, today is an opportunity to reflect on our journey and focus upon the true task ahead: the implementation and enforcement of this law in an even-handed manner that lives up to our highest ideals as American citizens. I know the State of Arizona and its law enforcement officers are up to the task. The case for SB 1070 has always been about our support for the rule of law. That means every law, including those against both illegal immigration and racial profiling. Law enforcement will be held accountable should this statute be misused in a fashion that violates an individual's civil rights."*¹⁵⁷

Her confidence came from the Executive Order she issued in 2010, which mandated that Arizonan law enforcement be trained on how to properly implement SB 1070, without violating the civil rights of Arizona citizens. Later in this chapter, I demonstrate how some law enforcement agencies felt this supposed preparation was inadequate.

Within two hours of the Supreme Court's ruling on SB 1070, the Obama administration reciprocated by removing the 287(g) authorization from the State of Arizona. From the perspective of the Governor, this was another abuse of power by President Obama. In a public

¹⁵⁶ Refer to Appendix 4: U.S. Supreme Court Decision to Uphold Heart of SB 1070

¹⁵⁷ Brewer, J. Office of the Governor, State of Arizona, (2012). *U.s. supreme court decision upholds heart of sb 1070*. Phoenix:

statement to the media, she expressed:

*“I suppose I shouldn’t be surprised. The Obama administration has fought the people of Arizona at every turn – downplaying the threat that a porous border poses to our citizens, filing suit in order to block our State from protecting itself, unilaterally granting immunity to tens of thousands of illegal aliens living in our midst, and now this. Still, the disarmament of Arizona’s 287(g) agreements is a new low, even for this administration.”*¹⁵⁸

From Governor Brewer’s comments, it would appear that unauthorized immigration has always been a worry for Jan Brewer. I discovered that the Governor only became a staunch advocate for strict immigration enforcement out of a political calculation. In multiple interviews with influential Arizonans, I was informed that the Governor almost decided not to sign SB 1070 into law. Prior to endorsing the law, her administration worked diligently to modify it from its original format. After the bill was introduced by State Senator Russell Pearce, closed door meetings were held between emissaries from the Arizona State House, the Governor’s office, and the Arizona State Senate.¹⁵⁹ The focus was to make SB 1070 less severe in its approach.¹⁶⁰

From my conversation with Republican State Senator John McComish, I was informed on the unspoken reason that Governor Brewer ultimately endorsed and promoted SB 1070. In April 2010, when the SB 1070 bill awaited her signature, the Governor was not an elected official but instead was a political appointee. In 2009, the Governorship was vacated by Janet Napolitano after she was offered a prominent position in the Obama administration. It was then, Jan Brewer was appointed to the Governorship by the Republic led Arizona Legislature. Senator McComish described how “Brewer had a rough first year with Napolitano’s administration, huge tangle with Republican Legislature over the budget and she was running 3rd or 4th in the polls for

¹⁵⁸ Jan brewer unloads on obama. (2012, June 25). *Fox News*. Retrieved from <http://nation.foxnews.com/gov-jan-brewer/2012/06/25/jan-brewer-unloads-obama>

¹⁵⁹ Garcia, J. (2012, June 28). Interview by R Murphy [Personal Interview]. Hispanic chamber of commerce response to sb 1070., via telephone

¹⁶⁰ McComish, J. (2012, June 13). Interview by R Murphy [Personal Interview]. Republican senator perspective on sb 1070., Awitukee, Arizona.

the upcoming election.”¹⁶¹

After the bill passed in the Arizona Legislature, the Governor waited until the last possible day to sign the bill. During that time, she discussed the significance of the law with a variety of organizations that were opposed to the bill, including the Hispanic Chamber of Commerce.¹⁶² Senator McComish stated it is “only natural to conclude that she thought about not signing it.”¹⁶³ Eventually, Governor Brewer did sign SB 1070 into law and it rejuvenated her political aspirations in the election. After she won, she has maintained a firm support for SB 1070 and other immigration enforcement policies.

No matter the rationale for adapting her immigration stance, Governor Brewer is now firmly rooted in her position. The Governor once again made national news the day President Obama’s Executive Order to defer the deportation of DREAM Act qualified youth, officially went into action. Within hours of the federal mandate, Governor Brewer issued her own Executive Order, to complicate President Obama’s measure in the state (refer to Appendix 5: to see Governor Brewer’s Executive Order).¹⁶⁴ The document declared:

*The issuance of Deferred Action or Deferred Action USCIS employment authorization documents to unlawfully present aliens does not confer upon them any lawful or authorized status and does not entitle them to any additional public benefit...Arizona voters and lawmakers who enacted laws expressly restricting access to taxpayers funded benefits and state identification are enforced.*¹⁶⁵

In addition, the Governor’s office vowed they would continue their dedication to eradicate the presence of unauthorized immigrants in the state. Since her statement, the Governor

¹⁶¹ McComish, J. (2012, June 13). Interview by R Murphy [Personal Interview]. Republican senator perspective on sb 1070., Awitukee, Arizona.

¹⁶² Garcia, J. (2012, June 28). Interview by R Murphy [Personal Interview]. Hispanic chamber of commerce response to sb 1070., via telephone

¹⁶³ McComish, J. (2012, June 13). Interview by R Murphy [Personal Interview]. Republican senator perspective on sb 1070., Awitukee, Arizona.

¹⁶⁴ Appendix 5: Governor Jan Brewer’s Executive order

¹⁶⁵ Weinger, M. (2012, August 16). Gov. jan brewer defies w.h. on immigration. *Politico* . Retrieved from <http://www.politico.com/news/stories/0812/79779.html>

has done what she said they would. Her office sustained their fight to prevent another injunction against Section 2(b). In the end, the Governor's office won on September 18, 2012, when Judge Bolton abided by the Supreme Court decision and officially removed the injunction on Section 2(b), making it the law of Arizona.

Former State Senator Russell Pearce

Former State Senator Russell Pearce, retains most of the credit for transforming Arizonan's immigration policy into a national model for "attrition through enforcement."¹⁶⁶ Throughout his political career, Mr. Pearce has made it his primary objective to address what he perceived as the crisis of *illegal immigration*. As a State Senator, Mr. Pearce not only authored SB 1070 but he also contributed to every anti-immigration law that passed in Arizona over the last decade. In our interview, Mr. Pearce gleefully expressed to me that:

"I wrote all of them [propositions 100,102,103 and 300] and co-wrote the Legal Work Act. They passed with 75% of the voters, which is a majority in every category. Meaning, 50% of registered Democrats, 60% of Hispanic voters, and 80% of registered Republicans...I am just tired of the whinnies that spend it. In Arizona, they're 3 to 1 against the DREAM Act."

In my conclusion, I show how his assumption of support was actually a miscalculation. Polls have shown people embraced state-sponsored immigration legislation out of frustration with the federal government's inaction. When given a choice, Arizonans overwhelmingly support the DREAM Act and comprehensive immigration reform over SB 1070.¹⁶⁷

Next in our interview, I asked Mr. Pearce to explain what he thought that "SB 1070 achieved in Arizona?" Mr. Pearce then stressed that most of SB 1070 has been implemented. He told me that out of 14 sections; only 4 were enjoined by Judge Bolton and of them, the one

¹⁶⁶ Arizona State Legislature, (2010). *Support our law enforcement and safe neighborhoods act* (SB 1070). Phoenix: Retrieved from Arizona Legislature website: <http://www.azleg.gov/legtext/49leg/2r/bills/sb1070s.pdf>

¹⁶⁷ Sharry, F. (2012, April 25). Where the public really stands on immigration and arizona's sb 1070. *Huffington Post*. Retrieved from http://www.huffingtonpost.com/frank-sharry/where-the-public-really-s_b_1449837.html

critical part was ruled constitutional. The other sections, “were just icing on the cake because 2(b) has the compelling language.” According to Mr. Pearce, this is a victory because prior to SB 1070, the state spent “\$1.6 billion on education, incarceration and social security for illegals.” With less unauthorized immigrants in the state, the cost of government would decrease. To express this point, Mr. Pearce reiterated:

*“The Arizona Republic [Phoenix’s main newspaper] even admits that 200,000 illegal aliens have left. With less illegal, so far, we have closed 13 elementary schools with less enrollment and crime dropped 3 times faster than the national average.”*¹⁶⁸

Prior to our conversation, I was interested in the reasons why Mr. Pearce has such a strong devotion to this issue and if his past attributed to his fervor. On his re-election website, Mr. Pearce’s biography mentions several times how as a police officer, he was shot in the line of duty by a gang member in Guadalupe, Arizona. Guadalupe is a Latino enclave with 62.2% of the population identifying as Latino.¹⁶⁹ Furthermore, the re-election website described how “his son Sean Pearce, a Deputy Sheriff was also critically wounded in a gun battle by an illegal alien wanted on homicide charges.”¹⁷⁰ I inquired if these events factored into his overall opinion of unauthorized immigrations. He replied:

“I don’t think so. I have been working on this issue for a quarter of a century. I was in Washington D.C. speaking on the issue when I heard my son was shot. My son and I are fortunate to be alive but others are not. Many police officers are killed by illegal aliens...We have our own bad people; we don’t need more from other countries.”

Regardless of his inspiration and the role, if any, these events contributed to his devotion to this topic, Mr. Pearce has singlehandedly revolutionized Arizona immigration policy.

This is why I was surprised when Mr. Pearce expressed some sympathy for the plight of

¹⁶⁸ Pearce, R. (2012, July 11). Interview by R Murphy [Personal Interview]. Background on sb 1070., via telephone

¹⁶⁹ United States Census, (2012). *State and county quick facts: guadalupe (town), arizona*. Retrieved from Federal Government website: <http://quickfacts.census.gov/qfd/states/04/0430270.html>

¹⁷⁰ Re-election website. (2012). *About russell pearce – biography: His contribution in fighting illegal immigration* . Retrieved from <http://Russellpearce.com/about-russell/>

unauthorized immigrants. He told me, “We all have a heart! I know some [unauthorized immigrants] come from poverty and bad situations but we have to follow the law. It just destroys the fabric the Republic, to break the law.” According to his moral framework, upholding the law of the land supersedes any sympathy for the human suffering he acknowledged.¹⁷¹ In a later communication, Mr. Pearce emailed me a quote from Alexander Hamilton that encompasses his moral philosophy. In bold, red print, so not to miss it, the quote read, “If it be asked, what is the most sacred duty and the greatest source of our security in a Republic? The answer would be an inviolable respect for the Constitution and Laws.”¹⁷²

His view of moral obligation, then dictates how he understands his opposition. When Mr. Pearce observes civil rights organizations that fight against SB 1070 or the federal government intervenes to prevent large segments of SB 1070, he perceives it, not as an attack against him but as a violation of the sacred principle of the United States and a disregard for its sovereignty. For example, Mr. Pearce describes the American Civil Liberties Union as “an anti-rule of law organization.”¹⁷³ With greater disdain, he argued that the President Obama’s neglect for the sovereignty of the country is “ignoring and violating the law.” He went on to clarify that in his opinion, “it is impeachable.”¹⁷⁴

We finished our interview by discussing what is next for Mr. Pearce. I asked him his thoughts on the recall election that removed him from office and his re-election campaign. Obviously, a bitter moment in his career, Mr. Pearce described the recall election as “immoral, just clearly dishonest to remove me from office for protecting jobs and creating safer neighborhoods.” His frustration did not stop him from trying to re-enter politics. If Mr. Pearce

¹⁷¹ Pearce, R. (2012, July 11). Interview by R Murphy [Personal Interview]. Background on sb 1070., via telephone

¹⁷² Pearce, R. (2012, September 14). Interview by R Murphy [Personal Interview]. Email scandal., via internet.

¹⁷³ Ibid

¹⁷⁴ Pearce, R. (2012, July 11). Interview by R Murphy [Personal Interview]. Background on sb 1070., via telephone

was successful, I was curious what he had in mind for his next term in office. Astonishingly, he told me, on the issue of unauthorized immigration, “we won this battle; we can now take our victory lap.” If reinstated to the State Senate, he articulated his new focus would be on education reform.¹⁷⁵ After a quarter of a century advocating for anti-immigration policies, it is understandable why his fellow politicians don’t believe he would change this priority. Former State Senator Ken Cheavront, who served with Russell Pearce, shared that if he “gets re-elected, he will keep working on this issue.” Nevertheless, Mr. Cheavront reassured me, even if Mr. Pearce is able to continue crafting anti-immigrant legislation, he doubts any future bills would pass because there is no longer the political will for these types of laws in the Arizona Legislature.¹⁷⁶ As of August 30, 2012, Mr. Pearce lost the primary election in his district and his hopes of returning to the Arizona Legislature were brought to an end.¹⁷⁷ Without the spokesperson for anti-immigration laws, the Arizona Legislature will likely move in another direction on the issue of unauthorized immigration.

Arizona Legislature

Governor Jan Brewer and former State Senator Russell Pearce would not have been able to establish SB 1070 without significant support in the Arizona Legislature. This is why any effort to identify the origins of the law, its impact and future in the state requires several interviews with State Representatives and States Senators. Luckily, while in Arizona, I was able to interview 11 members of the Arizona Legislature. I spoke with 5 Democrats and 5 Republicans who voted on SB 1070 and the Republican State Senator who replaced Russell Pearce in the recall election. My objective was to incorporate a diverse cross section that

¹⁷⁵ Ibid

¹⁷⁶ Cheavront, K. (2012, June 13). Interview by R Murphy [Personal Interview]. Democrat senator perspective on sb 1070, Phoenix.

¹⁷⁷ Nelson , G., Russo, S., & Reid, J. (2012, August 30). Election night a dark, silent one for russell pearce: Worsley carries moderate gop banner into fall senate race. *The Arizona Republic*. Retrieved from <http://www.azcentral.com/community/mesa/articles/20120828dark-silent-election-night-russell-pearce.html>

included both of the political parties, urban and rural communities and varying populations of constituents.

Conservative Republicans

My interviews included 4 Republicans who strongly support SB 1070. I spoke with State Senator Jack W. Harper (Surprise Arizona), State Representative Ted Vogt (Southern part of Tucson and Cochise County), State Representative John Kavanagh (Fountain Hills) and State Representative Nancy McLain (Bullhead City). I found that every one of them supported SB 1070 on the basis of controversial facts. For example, State Representative Kavanagh explained that:

*“Illegal immigrants are a major problem. There was 500,000-600,000 with a population of 6 million. When you add the number of children born here, who are eligible for government services, the price of illegal immigration goes up.”*¹⁷⁸

Although there is a factual basis to his claim, Representative Kavanagh’s statement delegitimized many U.S. citizens. Regardless of their parent’s immigration status, these children are not a burden on Arizona but legal citizens who have a right to education. Providing government services for these children ought to be the same concern as it is for all children in the state because together they represent the future of Arizona.

Actually, Representative Kavanagh’s statement reflects the true purpose of the SB 1070. The preamble of the law clearly articulates that the bill was designed to discourage unauthorized immigrants from crossing the Arizona border and incentivize those already in the state to self-deport. It was apparent that these 4 Republicans felt SB 1070 had thus far achieved its objective. Before the Supreme Court made its ruling, Senator Jake Harper praised the fact that:

¹⁷⁸ Kavanagh, J. (2012, June 28). Interview by R Murphy [Personal Interview]. Republican representative perspective on sb 1070., via telephone.

"At a time that economy was in recession, Arizona passed two bills that resulted in over 200,000 illegal aliens leaving the state of Arizona. The work-place enforcement act required employers to use the federal E-Verify and if an employer knowingly hired illegal aliens, they jeopardized their business license. The "Safe Neighborhoods Act" [SB 1070], even while not fully implemented, encouraged many illegal aliens to move out of Arizona and into neighboring California, taking their children out of Arizona's burdened public schools. Between the two acts, Arizona preserved jobs for American Citizens and was able to balance its budget by controlling public education funding."¹⁷⁹

This view was confirmed by Representative Nancy McLain who proudly claimed:

"I think it has been successful at causing illegals to leave. As an antidote, I know of a man from a foreign country that relocated his family to Nevada because he feared for his kids. He was a legal resident and had a license but he was scared...Yes, it has had an effect on people leaving."¹⁸⁰

Disturbingly, these statements acknowledge non-Caucasian citizens and legal residents were encouraged to leave Arizona, emphasizing legitimate concerns about SB 1070.

In Arizona, many Republicans associated high government spending with the unauthorized immigrant population. Although many studies have shown unauthorized immigrants are a net-positive for the economy, which I will cover in section 4.4 of this chapter, these four politicians believe otherwise. Instead, Representative Ted Vogt cited from the Governor official website, which suggest the cost of "illegal immigration to be somewhere between 900 million and 2 billion."¹⁸¹ Every one of these Republicans referred to reducing government spending as an important component of SB 1070.

Another corollary between these interviews was the view that crime is more prevalent among unauthorized immigrants. Representative Kavanagh made no quorums about his statement that "they [unauthorized immigrants] are more prone to crime." His reasoning comes

¹⁷⁹ Harper, J. (2012, June 6). Interview by R Murphy [Personal Interview]. Republican senator perspective on sb 1070., via internet.

¹⁸⁰ McLain, N. (2012, June 29). Interview by R Murphy [Personal Interview]. Republican representative perspective on sb 1070., via telephone

¹⁸¹ Vogt, T. (2012, June 14). Interview by R Murphy [Personal Interview]. Republican representative perspective on sb 1070., Tucson, Arizona

from his recollection of a *Center for Immigration Studies* report, which determined unauthorized immigrants make up 8.9% of the population but are responsible for 21.8% of the crime in Maricopa County.¹⁸² For Representative Vogt, when it came to public safety, he referred to his previous internship with the U.S. Attorney's office in Tucson and claimed that "90% of the cases involved illegals."¹⁸³ Altogether, in the opinion of these 4 politicians, SB 1070 was vital for both economic and public safety concerns.

I asked every one of these elected officials if their support for SB 1070 was reflected among their constituents. They all said the bill was viewed favorably in their districts for the same reasons they shared with me in our interviews. According to Representative Vogt:

*"At the time of SB 1070, 70% of the state supported it. I am not certain of the exact percentage in my district but it was really popular, especially around Sierra Vista...People down there don't feel safe to walk on their own property without a side arm."*¹⁸⁴

Since the bill gave the allusion that it created more safety, it is not surprising that SB 1070 has overwhelming popular with this group of people. It is important to note that the actions of these elected officials were at the behest of their constituents. It would be easy to wave SB 1070 off as an extreme law created by a few individuals in the Arizona government but these politicians were responding true concerns within their districts.

Moderate Republicans

Since 2010, some Arizonan Republicans are no longer ascribing to the party platform on unauthorized immigration. In 2011, 6 Republican Senators (Rich Crandall, Adam Driggs, John McComish, John Nelson, Michele Reagan and Steve Pierce) broke rank with the Republican

¹⁸² Kavanagh, J. (2012, June 28). Interview by R Murphy [Personal Interview]. Republican representative perspective on sb 1070., via telephone.

¹⁸³ Vogt, T. (2012, June 14). Interview by R Murphy [Personal Interview]. Republican representative perspective on sb 1070., Tucson, Arizona

¹⁸⁴ Ibid

Party and voted against 5 anti-immigration laws. On some of these proposed bills, additional Republicans Senators joined the opposition, including Nancy Barto and Steve Yarbrough.¹⁸⁵ Due to their actions, the Arizona Legislature has moved away from immigration enforcement and instead is now addressing more pressing issues, such as education, the economy and job creation. While in Arizona, I was fortunate to sit down and interview one of the now famous Senators, John McComish (Awitukee). In addition, I also met with the Republican State Senator who defeated Russell Pearce in the recall election. State Senator Jerry Lewis (Mesa) was happy to share his ideas on SB 1070 and unauthorized immigration. Although these Republican Senators hold varying opinions on the law; they represent the Arizona's Republican Party moving away from its current legacy as anti-immigrant.

When Senator McComish was the Majority Leader in the State House of Representatives, he voted in support of SB 1070. According to Senator McComish, the outcome was a modest bill that put in place policies the federal government was already doing. He told me that:

*"I think most people don't understand the full picture of what SB 1070 really is. The bill started as much more aggressive and complicated. At the time, neither proponents nor opponents were trying to do what was best for Arizona. We thought what passed was a modest bill, which put in place what federal government was already doing. For those who oppose it, SB 1070 was a more stricture, tougher bill."*¹⁸⁶

Prior to SB 1070 being passed, there was an internal battle to limit the most aggressive parts. The State House under Mr. McComish's leadership proposed an amendment to the original bill and gave more time for closed door negotiations to take place. The extra time permitted the bill Mr. McComish described as moderate, to be achieved.

I met Senator McComish before the Supreme Court made its ruling on SB 1070, so I

¹⁸⁵ Editorial. (2012, June 28). One step forward, big leap remains. *The Arizona Republic*, pp. B-6.

¹⁸⁶ McComish, J. (2012, June 13). Interview by R Murphy [Personal Interview]. Republican senator perspective on sb 1070., Awitukee, Arizona.

asked him his thoughts on what was next depending on what the verdict was. Senator McComish informed me if the federal government won the case, there would be some legislation to circumvent the Supreme Court's decision but no bills would pass. Senator McComish and some of his Republican colleagues realized that currently in Arizona, "polling show that people are more interested in the economy, jobs, debt and a big drop in immigration."¹⁸⁷ I concluded in my finding, the schism in the Arizona Republican Party alluded to by Senator McComish remarks, signifies, the future of Arizona immigration policy, will not be led by radical politicians, such as Russell Pearce.

Actually Russell Pearce's former Senate seat was occupied by a moderate Republican, who holds a more progressive view on unauthorized immigration. Senator Jerry Lewis, beliefs on immigration enforcement were not based on public polling but on personal convictions. Within a few minutes of speaking with the Senator, his passion was obvious. He began by sharing two personal stories from people in his district. In telling me these accounts, I could see in his eyes and hear in his voice, the strong connection he made with a potential DREAM Act student and a mix status family separated by deportation. Unlike many in his political party, Senator Lewis refused to associate unauthorized immigration with high economic costs or decline in government services. More importantly, he pointed out, we ought to look at our own human decency in how we address the issue of unauthorized immigration. To stress this point, within a few minutes, the Senator asked me a rhetorical question: "What does it say about our society when we can't find a solution that appeases all stakeholders, to continue to deride and subjugate any human being to a second class citizen?"

In my interactions with Senator Lewis, he demonstrated how he is a level minded

¹⁸⁷ Ibid

politician. Admittedly, Senator Lewis realized the issue of immigration reform is complex and affects many segments of society. Instead of becoming complacent or accusatory, Senator Lewis expressed optimism for the future. He elucidated how:

*“We have to hear what all have to say and find parts where we can all agree, which is about 80%. The rest, ten percent on both sides, we can work on to resolve much like we worked to get rid of slavery. We can do this but we have to be humble and listen to more than 30-second sound bites. Instead, it would require 1000s of hours of civil discussion.”*¹⁸⁸

I found Senator Lewis to be inspirational figure and a truly necessary addition to the Arizona political system. Clearly the election of Senator Lewis represented the public backlash against the policies of Russell Pearce. When it comes to the issue of unauthorized immigration, the two men could not be more different. Down to their definition of patriotic duty, there is a large divergence between these politicians. Instead of quoting Alexander Hamilton, as Russell Pearce did, Senator Lewis cited Alexis de Tocqueville’s quote, “America is great because she is good. If America ceases to be good, America will cease to be great.”¹⁸⁹ In the opinion of Senator Lewis, our duty is not to uphold American ideas as argued by Mr. Pearce but instead, American ideas are to uphold moral actions.

Democrats

There has been a major partisan divide over SB 1070. While the bill was being debated, Democrats in the Arizona Legislature were adamantly opposed to the policies it promoted. In 2010, Republicans held a supermajority in both the State House of Representatives and the State Senate, so the Democrat’s opinion was irrelevant. Defiantly, Arizona Democrats did not concede on the issue of immigration policy, consistently they expressed their disapproval for the law. In 2011, 24 Democrats co-wrote SB 1218, with the intent to repeal and revise many parts of the

¹⁸⁸ Lewis, J. (2012, June 13). Interview by R Murphy [Personal Interview]. Democrat senator perspective on sb 1070., Mesa, Arizona.

¹⁸⁹ Ibid

Arizona immigration policy, including SB 1070.¹⁹⁰ The symbolic bill undoubtedly failed to gain bi-partisan support and was killed on arrival in both chambers of the Arizona Legislature. Nevertheless, SB 1218 alluded to the future of the Arizona Legislature (refer to Appendix 6: to read SB 1218).¹⁹¹

I learned during my research that in Arizona the Republican Party overachieved in the 2010 elections. The 2012 election was projected to make the State Legislature more evenly divided.¹⁹² While conducting my interviews, many of my informants from both political parties, predicted the Democrats could take control of the Arizona State Senate.¹⁹³ In the 2012 election, Democrats gain seats in the Senate but did not take the majority. Regardless, Democrats won enough districts to break the Republican supermajority in the State Senate.¹⁹⁴ Along with the six Republican Senators who now cross party lines on the issue of immigration, a decisive coalition has emerged in the Arizona State Senate that will prevent additional aggressive immigration laws.

In Arizona, I was fortunate to communicate with 6 Democrats in the Arizona Legislature. My interviews included: former State Senator Ken Cheavront (Phoenix), State Senator Linda Lopez (Tucson), State Senator David Lujan (Phoenix), State Representative Lynne Parcazi (Yuma), and State Representative Tom Chabin (Flagstaff). As the minority party in the Arizona government, all six Democrats did not express resentment from being ignored during SB 1070's legislating process. Instead they remained committed to continue their fighting against the law

¹⁹⁰ Arizona State Legislature, (2012). *Immigration:law enforcement repeal* (SB 1218). Phoenix: Retrieved from Arizona Legislature website: <http://www.azleg.gov/legtext/50leg/2r/bills/sb1218p.pdf>

¹⁹¹ Appendix 6: Senate Bill: 1218 Immigration; Law Enforcement; Repeal

¹⁹² McComish, J. (2012, June 13). Interview by R Murphy [Personal Interview]. Republican senator perspective on sb 1070., Awitukee, Arizona.

¹⁹³ Chabin, T. (2012, June 27). Interview by R Murphy [Personal Interview]. Democrat senator perspective on sb 1070., via telephone

¹⁹⁴ Jo Pitzl, M., & Anderson, J. (2012, November 07). Democrats break republican supermajority at arizona legislature. *The Arizona Republic*. Retrieved from <http://www.azcentral.com/news/politics/free/20121025arizona-legislature-republican-supermajority.html>

and similar proposals.

The most fascinating discovery I made during my interviews with elected officials came from my conversation with Democrat Senator David Lujan. Prior to becoming a State Senator, Mr. Lujan worked as a political staffer at the Arizona State Capitol. He shared with me that:

*“[He] was a staff person in 2003 when the legislature unanimously passed a resolution to Congress asking them for comprehensive immigration reform. This positive immigration bill recognized the value of immigrants in the state. Many of the same legislators that voted for comprehensive immigration reform saw it becoming a wedge issue and voted for SB 1070.”*¹⁹⁵

Before embarking on this research project, I was unaware of the bi-partisan effort in Arizona to demand comprehensive immigration reform from Congress. This plea for the federal government to take immediate action was a pertinent event in determining the origins of SB 1070. The paradigm shift from the 2003 resolution to Congress to the first anti-immigrant proposition in 2004 was thus the tipping point that brought about in SB1070.

The most evident reason for the dramatic shift in policy was the consistent increase in the number of unauthorized immigrants entering the country through Arizona. Every elected official I spoke revealed over the last decade, they witnessed an escalation in their constituents’ anxiety over the out of control immigration problem. Some politicians even shared this concern with their constituents. For example, Republican State Representative Ted Vogt described that “in the last 18 years, the U.S. saw a fivefold increase and Arizona had a tenfold increase in the illegal alien population.”¹⁹⁶ The data I collected from these interviews confirm an overall rise in the Arizonans’ public fear of unauthorized immigration. Throughout my research, I was resolute to identify all the factors for this angst.

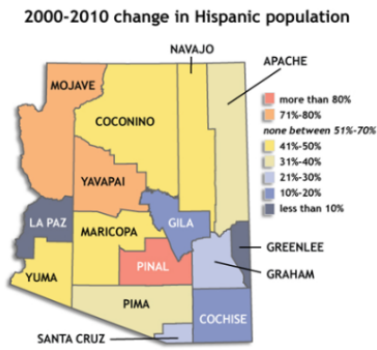
¹⁹⁵ Lujan, D. (2012, June 28). Interview by R Murphy [Personal Interview]. Democrat senator perspective on sb 1070., Phoenix

¹⁹⁶ Vogt, T. (2012, June 14). Interview by R Murphy [Personal Interview]. Republican representative perspective on sb 1070., Tucson, Arizona

In the literature review, I theorize that the thriving Latino population was mistaken for the coinciding increase in unauthorized immigration. My data authenticates this assumption, most notably in Senator Ken Cheavront’s comments. He candidly informed me that:

*“[Unauthorized immigration] is a toxic issue with strong feeling. As a native of Phoenix, this was never an issue. In one generation the population went from 5% to 35% Hispanic with no time to assimilate. [Frankly, he went on to explain] people began to feel uncomfortable with a population they can’t communicate with.”*¹⁹⁷

Phoenix is a destination center for unauthorized immigration, but the comment from Senator Cheavront refers to the demographic changes in Arizona. Furthermore, it suggests resentment based on the national (shared) identity within Phoenix. Moreover, Representative Lynne Parcazi, who serves a large Latino population in Yuma, expressed in her opinion, the reasons for SB 1070 and this demonization of Latinos is because “Arizona is becoming more and more diverse and a lot of people have problem with diversity.”¹⁹⁸ The map below, demonstrates the extent demographic changed in Arizona over the last decade.¹⁹⁹



The negative reaction to the rapidly growing Latino demographic occurred throughout the state. Senator David Lujan elucidated that “my district is the most liberal in Arizona.

¹⁹⁷ Cheavront, K. (2012, June 13). Interview by R Murphy [Personal Interview]. Democrat senator perspective on sb 1070 , Phoenix.
¹⁹⁸ Parcazi, L. (2012, June 14). Interview by R Murphy [Personal Interview]. Democrat representative perspective on sb 1070., via telephone
¹⁹⁹ Zepeda, A. (2011, March 10). State’s hispanic population makes big gains in 2010 census. *Cronkite News*. Retrieved from <http://cronkitenewsonline.com/2011/03/hispanics-post-big-gains-in-arizonas-2010-census-figures/>

Majority opposed 1070 but not as strong as you would think. There are some Democrats that support the law.” Senator Lujan did not mention if he thought Arizona’s demographic contributed to SB 1070. Although, in his comments, it was noticeable that some of his constituents were persuaded by the discourse on unauthorized immigration and how it was an out of control problem.²⁰⁰ Additionally, Senator Linda Lopez shared:

“While walking and campaigning in in 2010 and 2012, I engaged with a lot of Latinos in my district. I never knew what response they would have. There were some who supported SB 1070. You can’t assume there were several who supported SB 1070 because they bought the line that people crossing are a threat to them.”

I asserted the expanding Latino demographic enhanced the general fear and propagated the negative connotations embedded within the discourse on unauthorized immigration. Discovering Latino support for SB 1070 does not challenge my hypothesis but points towards the complexity of national and ethnic identity. The Latinos, who see the law as a positive, identify with the national identity in their community over their ethnic identity.

Proponents of SB 1070 declared the law as a success because of the sizable decline in the state’s unauthorized immigrant population. I inquired from the Democrats, what is their opinion of the supposed fact that 200,000 unauthorized immigrants left Arizona. Many of these Democrats expressed doubt in attributing the mass exodus solely to SB 1070. Instead, they speculated the U.S. recession was more responsible for people leaving the state. Democrats do acknowledge SB 1070 did persuade some unauthorized immigrant to leave Arizona but they also imply it convinced legal residence and citizens to flee as well. Senator Lopez mentioned how she personally knows of “several families who are all citizens, who have left because of the

²⁰⁰ Lujan, D. (2012, June 28). Interview by R Murphy [Personal Interview]. Democrat senator perspective on sb 1070., Phoenix

atmosphere and threat posed to them.”²⁰¹ In conjunction with Senator Lopez’s statement, Senator Lujan revealed, “It is a loss for Arizona, whether we lose undocumented immigrants or Latino citizens. It is a loss for the economy.”²⁰² The full impact of SB 1070 is yet to be determined. More people will continue to leave after the injunction against Section 2(b) was removed. The personal testimonies I collected from elected officials, signifies SB 1070 has reduced not only the unauthorized immigrant population but also the larger Latino population. In Section 4.4, I will evaluate if the extent of this exodus was really 200,000 unauthorized immigrants and how much of a role did SB 1070 contribute to it.

On a positive note, every politician I spoke with, including Russell Pearce, told me that Arizona, for better or worse, has done everything it could do in passing SB 1070. Representative Tom Chabin attested “we [Arizona] can’t do anything more, now it falls on Congress.” These Republicans and Democrats all shared their frustration with the Congress’s inability to address the issue of immigration. It is clear to see, that no solution would appease all Arizonans but as Senator Jerry Lewis wisely professed, we have to start somewhere. Politically, the make-up of Arizona legislature changed since the recent election so in the near future, the State of Arizona will not pass more anti-immigration laws. Nevertheless, if Congress refuses to take up comprehensive immigration reform, Arizona could once again emerge as ground zero in the national immigration debate.

Local Government Response

Similar to the Arizonan public, local government official are not unified on SB 1070. The city once represented by former State Senator Russell Pearce, has publicly endorsed the

²⁰¹ Lopez, L. (2012, July 06). Interview by R Murphy [Personal Interview]. Democrat senator perspective on sb 1070., Tucson, Arizona

²⁰² Lujan, D. (2012, June 28). Interview by R Murphy [Personal Interview]. Democrat senator perspective on sb 1070., Phoenix

controversial law. Both the Mesa City Council and the Mayor of Mesa aligned themselves with the once powerful Russell Pearce, during and after the passage of SB 1070.²⁰³ Civil society has been adamantly working to persuade the City of Mesa to change their official opinion on the law and some progress is being made. Conversely, other elected officials in some of Arizona's cities and towns have become strongest advocates against SB 1070. Prominent examples include the Mayor of Phoenix, the Mayor of Tucson and the Tucson City Council.

According to the Mayor of Tucson, Jonathan Rothschild, after SB 1070 passed in 2010, the City of Tucson immediately joined the *Friendly House al et. v. Whiting* lawsuit against the State of Arizona. This effort was intended to prevent the law from being enacted because of potential civil rights concerns. The motivation to fight against the law was in part due to the City of Tucson belief that:

*"The law shifted the burden of enforcement from federal government to the local law enforcement, when it was not funded or set up to do so. It is a burden on law enforcement and takes them away from their real job of stopping murders, rapes, robberies, and other crimes."*²⁰⁴

Mayor Rothschild's statement offered an interesting alternative juxtaposed to the ideology espoused in the discourse on unauthorized immigration. The Mayor's comments indicated the City of Tucson was placed in greater danger by wasting police resources on immigration enforcement than it was by the inclusion of unauthorized immigrants.

Besides proponents of SB 1070's confidence that unauthorized immigrants have a higher propensity of criminal activity, they also cite the alleged burden unauthorized immigrants are on the U.S. economy. During my conversation with Mayor Rothschild, I inquired if he agreed with this assessment, that unauthorized immigrants are burdensome on local economy. Contrary to

²⁰³ Solis, S., & Solis, L. (2012, August 7). Interview by R Murphy [Personal Interview]. Civil society against sb 1070., via telephone

²⁰⁴ Rothschild, J. (2012, June 29). Interview by R Murphy [Personal Interview]. Mayor of tucson , via telephone

this assumption, the Mayor claimed unauthorized immigrants are “a slight positive economically.” According to the Mayor, the passage of SB 1070 was more detrimental to the Tucson economy than the presence of unauthorized immigrants. The Mayor clarified that “1/3 of the city’s sales tax has been lost as a result of SB 1070 because less Mexicans come to shop in Tucson.”²⁰⁵ The Mayor’s concerns with SB 1070 were reinforced by the Tucson City Council.

Following the Supreme Court ruling on June 25, 2012, the Tucson City Council issued a resolution entitled, *The Response of the City of Tucson to SB 1070*. In it, they proclaimed that “the passage of SB 1070 has adversely affected many sectors of the Tucson community, in: business, tourism, social services, arts, culture and trust in local law enforcement.” Consequently, the City Council resolved to hold public hearings on racial profiling, serve as mediator between immigrant communities and Tucson Police Department and declared itself an *Immigrant Welcoming City*.²⁰⁶

The Mayor of Phoenix has also joined the fight against SB 1070. On June 25, 2012, hours after the Supreme Court’s ruling on the constitutionality of SB 1070, Mayor Phil Gordon’s made a public statement. In his response to the verdict, Mayor Gordon conveyed:

“I opposed 1070, I opposed it when it was going through the legislature and I oppose it now. Not just because of the constitutionality issue but because I believe it is bad public policy for our city and our state...Today’s decision by the Supreme Court is a reminder that we can’t have a patch work state laws on immigration around the country we need congress to act now on comprehensive immigration reform, including passage of the DREAM Act which is very important to our community in light of our demographics, it would help our economy and we need continued support for strong border security...I believe the spirit behind SB 1070, doesn’t represent the values of the city that I lead.”²⁰⁷

We can’t ignore the fact that the local governments in Arizona’s two largest cities have

²⁰⁵ Ibid

²⁰⁶ A Resolution: The Response of the City of Tucson to SB 1070. Tucson City Council

²⁰⁷ Gordon, P. Office of the Phoenix Mayor, (2012). *Public response to sb 1070*. Retrieved from City of Phoenix website: <http://youtu.be/RKcp3hCgu2o>

been critical of SB1070. Both cities comprise of diverse communities with a large Latino population. In the 2010 Census, the City of Tucson was found to be 41.6% Latino while the City of Phoenix was determined to be 40.8% Latino.²⁰⁸ The significant Latino demographic in these two cities provides a way for Caucasian residences to know neighbors, friends and co-workers of Latino heritage. Hence, the anti-immigrant rhetoric that contains racist undertones is not accepted as readily as it is in non-Latino areas. The majority of the support for SB 1070 is coming from cities and towns with small Latino populations or communities that recently had a large increase in the Latino population (U.S. citizens, legal residents and unauthorized immigrants). Mesa is a perfect example. Over the last decade, the demographics of Latinos enhanced in Mesa from 19.7% - 26.4% of the overall population.²⁰⁹ The demographics changed enough to be visible to residences but not to the point where daily interactions could debunk misperceptions embedded in the discourse on unauthorized immigration.

Law Enforcement Response

Outside the State of Arizona, Maricopa County Sheriff Joe Arpaio is known for his brazen tactics. He has repeatedly made national headlines for his policies that dehumanize inmates in his jails as well as his aggressive attempts to prevent unauthorized immigration within his jurisdiction. Sheriff Arpaio publicity has disseminated the misnomer that Arizona law enforcement is unified in their quest to target unauthorized immigrants. Within the state, Russell Pearce's has tried to perpetuate this claim. Often, Mr. Pearce public refers to the *Phoenix Law Enforcement Union (PLEA)* to vindicate SB 1070. PLEA was quick to suggest unauthorized immigration was a problem for the law enforcement community before SB 1070, which they

²⁰⁸ United States Census, (2012). *Quick facts: Phoenix*. Retrieved from Federal Government website: <http://quickfacts.census.gov/qfd/states/04/0455000.html>

United States Census, (2012). *Quick facts: Tucson*. Retrieved from Federal Government website: <http://quickfacts.census.gov/qfd/states/04/0477000.html>

²⁰⁹ United States Census, (2012). *Quick facts: Mesa*. Retrieved from Federal Government website: <http://quickfacts.census.gov/qfd/states/04/0446000.html>

espouse, was responsible for “an impressive drop in crime.”²¹⁰ I discovered that Sheriff Joe Arpaio and PLEA’s enthusiasm for SB 1070 is not reflexed by all law enforcement in Arizona. Actually, some of the most vocal critics of the law include police chiefs and sheriffs.

In Arizona, I was fortunate to interview the Tucson Police Chief Roberto Villaseñor. I enquired from Mr. Villaseñor, if he was consulted by Russell Pearce or other members of the Arizona Legislature prior to passing SB 1070. Mr. Villaseñor clarified:

*“No and that is part of the problem. The police chiefs were never involved in the discussion. We tried to get involved through the authority of our police department. Police unions have been consulted but not the law enforcement leadership. The opinion of the chief was united in saying it would cause problems before it was passed.”*²¹¹

Although the Arizona Legislature was not interested in his professional opinion, Mr. Villaseñor did not remain silent. In 2010, he provided his professional testimony for the United States District Court (refer to Appendix 7: to read Roberto Villaseñor testimony).²¹² His declaration expressed many of the consequences he believed the law would have for the Tucson Police Department.

Mirroring the concerns articulated by the Tucson Mayor, Mr. Villaseñor informed the Court in 2010 that SB 1070 “amounts to an unfunded mandate that imposes a federal responsibility on local law enforcement,” it also distracts police officers from their primary role of protecting the community. He expressed his fears that given the way the law was written, his department could be sued for prioritizing homicides, sexual assaults and robberies over investigating a “suspected violation of federal immigration law!”²¹³ Shortly after the testimony was given, Russell Pearce confirmed Mr. Villaseñor assessment when he sent a threatening letter

²¹⁰ Pearce, R. (2012, July 11). Interview by R Murphy [Personal Interview]. Background on sb 1070., via telephone

²¹¹ Villaseñor, R. (2012, July 12). Interview by R Murphy [Personal Interview]. Tucson police chief , via telephone

²¹² See Appendix 6: The Declaration of Robert Villaseñor

²¹³ Villaseñor, R. United States District Court, (2010).*Declaration of roberto villaseñor before the united states district court.* Phoenix:

to Mr. Villaseñor. The letter clearly stated the Tucson Police Department would be sued if the Police Chief did not instruct his officers to fully enforce SB 1070.²¹⁴

The legal predicament SB 1070 places on Arizona law enforcement, is best summed up by, Chuck Wexler, the executive director for the *Police Executive Research Forum*, who bluntly divulged, “We are going to see lawsuits on both sides of this.”²¹⁵ The legal mandate set by SB 1070 is difficult to navigate because of the way the law was structured. Marc Miller, vice dean and law professor at the *University of Arizona*, described “it literally creates an obligation for all law enforcement agencies to determine the status of individuals. By making it a mandate and lining it up against the warnings of the Supreme Court, it’s created difficult question for police and sheriffs.”²¹⁶ SB 1070, Section 2(b) opens police officers to allegations of racial profiling or not performing their duty to uphold the law.²¹⁷ The reality of what law enforcement agencies now face in Arizona, led Mr. Villaseñor to inform his officers to be prepared to be sued over their use of SB 1070, regardless of how they perform their jobs.²¹⁸

Federal Immigration Attorney Juan Rocha confirmed in our conversation, the legal ambiguity promoted by SB 1070. According to Mr. Rocha, the Supreme Court permitted Section 2(b) to be implemented with strict conditions to ensure racial profiling does not occur as a result of the law. In our discussion, Mr. Rocha explained how the legal definition of racial profiling is uncertain and vague in the context of SB 1070. Although, proponents of SB 1070 advocate that racial profiling is prevented under the law, “except to the extent permitted by the United States

²¹⁴ Villaseñor, R. (2012, July 12). Interview by R Murphy [Personal Interview]. Tucson police chief , via telephone

²¹⁵ Dade, C. (2012, June 26). Future murky for arizona’s immigration law. *National Public Radio*. Retrieved from NPR <http://www.npr.org/2012/06/26/155782697/future-murky-for-arizona-immigration-law>

²¹⁶ Martinez, M., & Castillo, M. (2012, June 27). Police department response: Arizona’s show-me-your-papers’ law rolls out a day after supreme court ruling. *CNN*. Retrieved from <http://www.cnn.com/2012/06/26/us/arizona-immigration/index.html>

²¹⁷ Dade, C. (2012, June 26). Future murky for arizona’s immigration law. *National Public Radio*. Retrieved from NPR <http://www.npr.org/2012/06/26/155782697/future-murky-for-arizona-immigration-law>

²¹⁸ Villaseñor, R. (2012, July 12). Interview by R Murphy [Personal Interview]. Tucson police chief , via telephone

and Arizona Constitution,” Mr. Rocha explained that the legal precedent on racial profiling, set by the Supreme Court, interpreted “a stop based solely on race was unconstitutional.”²¹⁹ In another Supreme Court case, it was determined reasonable suspicion of immigration status can be based on race, style of dress and the inability to speak English.²²⁰ Who is to say, that upon discovering one of these indicators, a police officer will not find a reason for a legal stop. If so, the police contact could be legally consider racial profiling but if the officer ignored these indicators, he could be sued for not fully enforcing SB 1070.

Racial profiling becomes more convoluted when reviewing the 2000 Ninth Circuit Court’s ruling in the *United States v. Montero-Camargo*. In this case, the Ninth Circuit Court decided *Hispanic ethnicity* could not be used as reasonable suspicion in a largely Hispanic-Latino area but is admissible in communities with a lower Hispanic-Latino population. As a result, SB 1070 could have “bizarre results” because the Tucson Police Department would have a different mandate to interpret racial profiling than the Scottsdale Police Department. Unlike the City of Tucson, the City of Scottsdale is predominantly Caucasian. Under the guidelines of the Ninth Circuit Court, in Scottsdale, “anyone whose skin is not white could be considered out of place and thus subjected to more scrutiny than a person with white skin.”²²¹ Uncertainty in what constitutes racial profiling within the federal courts only signifies how unclear Arizona law enforcement agencies will be when implementing the SB 1070’s Section 2(b).

Before Section 2(b) was condoned by the Supreme Court, the fears and concerns of racial profiling had already hampered community relations between local police departments and the Arizona public. Mr. Villaseñor foretold this negative impact in his 2010 testimony. In it, he

²¹⁹ Arizona State Legislature, (2010). *Support our law enforcement and safe neighborhoods act* (SB 1070). Phoenix: Retrieved from Arizona Legislature website: <http://www.azleg.gov/legtext/49leg/2r/bills/sb1070s.pdf>

²²⁰ Rocha , J. (2010). *Found in the usa*. The Federal Lawyer, (November/December),

²²¹ Ibid

detailed how SB 1070 would foster mistrust and “such fears could destroy the good relationship that currently exist between police and local communities.”²²² Two years later, his prediction has come true. Mr. Villaseñor attributes SB 1070 with hindering the Tucson Police Department’s community relations. In my interview, Mr. Villaseñor conveyed, “It is a subjective opinion on my part and I can’t prove it, but there is more fear in the community.”²²³ This observation was confirmed by the testimony of a young unauthorized immigrant in Tucson. The teenager disclosed the extent of the fear in her community, when she voiced, “I know a lot of people who are scared of the cops now. I know a lot of people who know that things have happened, and they just don’t do anything because they’re scared.”²²⁴ For a law drafted under the guise of strengthening public safety, it has done the opposite for many in Arizona.

Throughout the state, all law enforcement departments have said they will uphold and enforce SB 1070, even if they don’t agree with the law. Phoenix Police Chief Daniel Garcia announced after Mayor Gordon’s condemnation of SB 1070 that the Phoenix Police Department:

*“will enforce all laws including senate bill 1070, in a manner to ensure equal justice to every person regardless of race, color or national origin...Phoenix police will not tolerate any violations of anyone’s civil rights.”*²²⁵

The next day, the Phoenix Police Department spokesman Sgt. Tommy Thompson attempted to settle anxieties when he said:

“I think there’s a misconception that police officers in Arizona are going out and hunting down people who are illegally in the United States. I am mandated to make a reasonable attempt to contact ICE...How long am I going to stand on the side of the road with someone? It’s a matter

²²² Villaseñor, R. United States District Court, (2010).*Declaration of roberto villaseñor before the united states district court.* Phoenix:

²²³ Villaseñor, R. (2012, July 12). Interview by R Murphy [Personal Interview]. Tucson police chief , via telephone

²²⁴ Rabin, N., & Lopez, T. (2011). Left back: The impact of sb 1070 on arizona’s youth. *The University of Arizona* , Retrieved from http://www.law.arizona.edu/depts/bacon_program/impact_1070.cfm

²²⁵ Garcia, D. Phoenix Police Department , (2012). *Press conference: Public response to sb 1070* . Retrieved from City of Phoenix website: <http://www.azcentral.com/video/>

of minutes.”²²⁶

Currently, Section 2(b) is being enforced by all police and sheriffs, while the groups opposed to the law search for civil rights violations.

Unlawful stops, prolonged detainment and interactions between the police and their community will now be under close scrutiny. In order to prove SB 1070 is unconstitutional, pro-immigrant rights organizations are devoting significant resources to document and bring to trial every incident of racial profiling. When I asked Mr. Villaseñor if these potential lawsuits concern him, he admittedly told me:

*“Of course it does but it is the wrong tactic. It will twist circumstantial evidence to prove racial profiling. I trust my officer and they are held accountable when they step outside the bounds but it fosters accusations of racial profiling. This is a political flight now where everything will be painted with a racial profiling brush.”*²²⁷

Now that law enforcement agencies have no choice but the partake in implementing SB 1070, I was curious if Mr. Villaseñor thought law enforcement agencies were well prepared for the task. He remarked the training material provided by the Governor Office was not sufficient.

“The Governor gave the police departments’ guidelines in determining reasonable suspicion. It was vague at best for what constitutes reasonable suspicion...In Arizona, the police were required to watch a 90 minute video with 20 minutes that says ‘don’t profile’...[because the Governor’s material was inadequate] the Tucson Police Department created four hours of training that allowed officers to ask questions.”

He pointed out, under the Federal guidelines, state and local law enforcement officers were required to partake in 5 weeks of extensive training in order to gain 287(g) authorization.²²⁸ He rhetorically asked me: “How could any 90-minute video encompass 5 weeks of training?” Then he promptly answering his own question, when he proclaimed, “It is impossible!”

²²⁶ Dade, C. (2012, June 26). Future murky for arizona’s immigration law. *National Public Radio*. Retrieved from NPR <http://www.npr.org/2012/06/26/155782697/future-murky-for-arizona-immigration-law>

²²⁷ Villaseñor, R. (2012, July 12). Interview by R Murphy [Personal Interview]. Tucson police chief , via telephone

²²⁸ Ibid

Besides the controversial training, many critics of SB 1070 express that police discretion over immigration status is no longer optional. Although, Sheriff Joe Arpaio feels that SB 1070 “just confirms and affirms what we’ve been doing anyways,” not all law enforcement agencies operate under the same principles as the Maricopa County Sheriff Department.²²⁹ Sheriff Arpaio is right that the law does not change a thing for officers who already took the liberty to check the legal statuses of suspected unauthorized immigration but now it is mandatory for all Arizona law enforcement. For police and sheriff departments that do not share the passion Sheriff Arpaio, the mandate means more man hours and funding to prioritize immigration matters over local community issues. The Tucson Police Chief’s 2010 testimony projected that it would take extra 18 officers, working full time, to meet the demands set by SB 1070.²³⁰ Furthermore, Tucson Police Department project a possible costs of \$10 million annually (7 % of total operating budget), to lock up 36,000 individuals suspected of being unauthorized immigrants.²³¹

In conclusion, the statements from the Arizona Legislature, Mayors and Police Chiefs demonstrate that Arizona’s government officials are not unified in their support for SB 1070. Many prominent government officials question the legitimacy and the purpose of the law. The opinions of these leaders give insight to how unauthorized immigration will be addressed in the future.

²²⁹ Dade, C. (2012, June 26). Future murky for arizona’s immigration law. *National Public Radio*. Retrieved from NPR <http://www.npr.org/2012/06/26/155782697/future-murky-for-arizona-immigration-law>

²³⁰ Villaseñor, R. United States District Court, (2010). *Declaration of roberto villaseñor before the united states district court*. Phoenix:

²³¹ Martinez, M., & Castillo, M. (2012, June 27). Police department response: Arizona’s show-me-your-papers’ law rolls out a day after supreme court ruling. *CNN*. Retrieved from <http://www.cnn.com/2012/06/26/us/arizona-immigration/index.html>

Part 4.3: The Influence of Civil Society in the Origins and Future of SB 1070

Opponents of SB 1070: Valle Del Sol v. Whiting

Shortly after Governor Brewer signing SB 1070 into law, many civil rights organizations came together to file a joint lawsuit against the State of Arizona. This coalition included: the *American Civil Liberties Union (ACLU)*, the *National Immigration Law Center*, the *Mexican American Legal Defense and Education Fund*, the *National Day Labor Organizing Network* and the *Asian American Justice Center*. In the case formerly known as *Friendly House v. Whiting* (is now referred to as *Valle del Sol v. Whiting*) these complaints attempted to prevent SB 1070 from being implemented on the grounds it would institutionalize racial profiling in the State of Arizona.²³² The Department of Justice followed the example of *Friendly House v. Whiting* and filed their own lawsuit over SB 1070. Ultimately, the federal case was prioritized and the civil rights organizations were forced to wait more than two years before their case could move on.

Now that the Supreme Court has resolved the dispute between the federal government and the State of Arizona, the *Valle Del Sol v. Whiting* case has resumed. The matter of racial profiling has consequently become closely scrutinized in Arizona. The new focus of many civil rights organizations has been to document any allegations of racial profiling contributed to Section 2(b). The hope is to find compelling proof that when applied, the law deprives many Arizonans of their civil liberties.

In addition to the litigation, the ACLU has developed a strategy to assist local communities to protect and preserve their civil rights after the law has been implemented. Throughout the state, the ACLU's *Know Your Rights Forums* are taking place in local churches, schools and community centers. The plan is to inform Arizonans (of all legal status), their rights

²³² Billeaud, J. (2012, August 15). Has sb 1070 seen its last legal challenges? not by a longshot. *Associated Press*. Retrieved from <http://nbclatino.com/2012/09/15/has-sb1070-seen-its-last-legal-challenges-not-by-a-longshot/>

under the law and to answer questions or concerns they may have about SB 1070. While conducting my research, I was able to attend one of these forums in Tucson. During the event, a representative of the ACLU explained the legal proceeding and the current status of the law in the court proceedings. At the time, on July 16, 2012, she informed the crowd that “Section 2(b) was sent back down to the District Court of Arizona. It is now up to Judge Bolton to decide how or if it should be applied.” She made clear that the ACLU and their fellow plaintiffs in the *Valle Del Sol v. Whiting* case, were going to pursue another injunction against Section 2(b).²³³

The following day, on July 17, 2012, this coalition of civil rights organizations filed a *Plaintiffs’ Proposed Motion for Preliminary Injunction and Memorandum of Point and Authorities in Support* to the US District Court of Arizona (refer to Appendix 8 to view the document).²³⁴ The document petitioned for an additional injunction to be placed against Section 2(b) because the “law is preempted by the federal law and violates the 4th amendment,” as well as it violates the *Equal Protection Clause*.²³⁵ For the next month, the plaintiffs debated in the U.S. District Court of Arizona, how Section 2(b) would disenfranchise many U.S. citizens and legal residences of their civil rights.

The most convincing evidence presented by the plaintiffs, were thousands of emails sequestered from former State Senator Russell Pearce’s government account. After a year of appeals, the ACLU was able to acquire these emails through a public record request. The plaintiffs believed this “new evidence” proved beyond a reasonable doubt that Russell Pearce

²³³ American Civil Liberties Union. (2012, July). *Sb 1070.* , Tucson, Arizona

²³⁴ See Appendix 7: The Plaintiffs’ Proposed Motion for Preliminary Injunction and Memorandum of Point and Authorities in Support

²³⁵ National Immigration Law Center , (2012). *Valle del sol, et al. v. whiting et al.* . Retrieved from website: <http://www.nilc.org/sb1070friendlyhouse.html>

was “motivated by racial bias.”²³⁶ The emails dated from 2006 through 2011 (before, during and shortly after the passage of SB 1070) clearly exhibit Mr. Pearce animosity towards the Latino community. If the content of these correspondences convinced Judge Bolton that Mr. Pearce had racist inspirations in creating SB 1070, it was hoped she would find the essences of the law violated the 14th Amendment’s Equal Protection Clause.²³⁷ Outside of the courtroom, the ACLU intended to sway public opinion when it released these emails on its website. The Arizona media was quick to capitalize on this story and published many of the most shocking statements. The following excerpts were made available by the Arizona Republic newspaper over the summer. I put them in this report because I believe the content of these statements are unbecoming of an elected official and bring into question Mr. Pearce’s personal character.

“Can we maintain our social fabric as a nation with Spanish fighting English for dominance...It’s like importing leper colonies and hope we don’t catch leprosy. It’s like importing thousands of Islamic jihadists and hope they adapt to the American Dream.”

“The illegal aliens in the United States have a crime rate that’s two-and-a-half times that of non-illegal aliens. In particular, their children are going to make a huge additional crime problem in the U.S.”

“Last week, Denver’s illegal alien sang our national anthem in Spanish and bastardized the words of OUR country’s most sacred song.”

“Corruption is the mechanism by which Mexico operates. Its people spawn more corruption wherever they go because it is their only known way of life.”

“I’m a racist because I object to having to pay higher sales tax and property tax to build more schools for the illegitimate children of illegal aliens.”²³⁸

As the controversy grew, Mr. Pearce was forced to appear on the local news in Phoenix. He claimed that the emails were forwards he passed on from a “great patriot and a prolific writer

²³⁶ LaCroix, L. (2012, August 21). Judge hears argument in sb 1070. *Channel 3 News (Phoenix)*. Retrieved from <http://www.azfamily.com/news/Judge-hears-arguments-in-SB1070-civil-suit-166943946.html>

²³⁷ Beard-Rau, A. (2012, July 20). Sb 1070 opponents blast pearce emails. *The Arizona Republic*. Retrieved from <http://www.azcentral.com/news/politics/articles/20120719sb-1070-pearce-aclu-emails.html>

²³⁸ Beard-Rau, A. (2012, July 19). Aclu: Pearce emails prove sb 1070 was racially motivated. *The Arizona Republic*. Retrieved from <http://www.azcentral.com/arizonarepublic/news/articles/2012/07/19/20120719sb-1070-pearce-aclu-emails.html>

and he used metaphors, never used racist terms.”²³⁹ Since I had already interviewed Mr. Pearce, asked him if he would like to comment on the controversy. He promptly emailed me a lengthy response. According to Mr. Pearce, this was a desperate act to stop the enforcement of SB 1070. He expressed to me, he does not see the issues of unauthorized immigration through a racial lens and was frustrated with the assertion he is a racist. In bold, he wrote “Illegal is not a race, it is a crime. Enough is enough!!”²⁴⁰

After personally reviewing the document made available by the ACLU, it appears the selected emails comprised of forwarded documents as well as personally written emails. Irrespective if the emails were authored by Mr. Pearce or forwarded by him, on some level he verified his alignment with the ideology expressed in the messages. This evidence was not sufficient for Judge Bolton to grant another injunction against Section 2(b). On September 5, 2012, Judge Bolton issued a 12-page ruling that she would not impede the law by issuing another injunction. Nevertheless, *Arizona State University* law professor Paul Bender believes the Judge left herself an out if evidence later proves civil rights abuses.²⁴¹ This opening comes from Judge Bolton’s statement that Section 2(b) "cannot be challenged further on its face before the law takes effect." If at a later date, there are documented civil rights abuses, the matter could be reviewed again.²⁴²

This set back did not deter the legal challenges to Section 2(b). On September 14, 2012 the plaintiffs of *Valle Del Sol v. Whiting* filed an Appeal to the Ninth Circuit Court. Meanwhile,

²³⁹ Webb, B. (2012, July 20). Russell pearce response to racist email claims. *ABC News 15*. Retrieved from http://www.abc15.com/dpp/news/region_phoenix_metro/central_phoenix/russell-pearce-responds-to-racist-email-claims

²⁴⁰ Pearce, R. (2012, September 14). Interview by R Murphy [Personal Interview]. Email scandal., via internet.

²⁴¹ Kennedy, K. (2012, August 10). Az latinos react to sb 1070 being upheld. *NBC News (Phoenix)*. Retrieved from <http://nbclatino.com/2012/09/10/az-latinos-react-to-sb1070-being-upheld/>

²⁴² Handley, M. (2012, September 06). Federal judge oks controversial provision in arizona immigration law. *US News*. Retrieved from <http://www.usnews.com/news/articles/2012/09/06/federal-judge-oks-controversial-provision-in-arizona-immigration-law>

they asked Judge Bolton to hold off on her final ruling until the appeal was decided.²⁴³ Four days later, Judge Bolton lifted the injunction, thereby allowing law enforcement officers to implement the statute.²⁴⁴ As of October 10, the Plaintiffs in the *Valle Del Sol et. al. v. Whiting* case withdrew their motion requesting an additional injunction against Section 2(b). One of the members of this coalition, Linton Jonquin, from the *National Immigration Law Center* expressed to the media that their group “realized that the continued attempts to enjoin Section 2(b) in a federal court of appeals would only prolong the time it would take to argue the underlying legal case in U.S. District Court in Phoenix.”²⁴⁵

For most people, it may appear this angst over racial profiling is overblown and these civil rights organizations are grasping at straws to eliminate SB 1070. In reality, some segments of the Arizonan law enforcement community have revealed a precedent for racially profiling. For example, the ACLU 2006-2007 *Driving while Black or Brown* report discovered that Latinos and African Americans were 2.5 times more likely to be pulled over by the *Arizona Department of Public Safety (DPS)*.²⁴⁶ Besides evidence of DPS’s overwhelming focus on minority communities, Arizonan city and metropolitan police departments have also been found to implement racially motivated tactics. A prime example would be the *Chandler Police Department* (located in Phoenix Metropolitan area). This police department’s mistreatment of the Latino community resulted in the 1997 *Castro v. City of Chandler* case. In this case, the court asserted the City of Chandler was blatantly guilty “of harassing and detaining Hispanic-

²⁴³ Billeaud, J. (2012, August 15). Has sb 1070 seen its last legal challenges? not by a longshot. *Associated Press*. Retrieved from <http://nbclatino.com/2012/09/15/has-sb1070-seen-its-last-legal-challenges-not-by-a-longshot/>

²⁴⁴ Kiefer, M. (2012, September 25). Sb 1070 blok request denied by 9th circuit court. *The Arizona Republic*. Retrieved from <http://www.azcentral.com/news/politics/articles/20120925th-circuit-denies-bid-block-part-ariz-law.html>

²⁴⁵ Kiefer, M. (2012, October 10). Coalition gives up effort to block sb 1070 provision. *The Arizona Republic*. Retrieved from http://www.azcentral.com/news/politics/articles/20121010coalition-gives-up-effort-block-sb-1070-provision.html?nlick_check=1

²⁴⁶ Arizona American Civil Liberties Union, (2008). *Driving while black or brown: An analysis of racial profiling in arizona* . Retrieved from Arizona ACLU website: <http://www.acluaz.org/sites/default/files/documents/DrivingWhileBlackorBrown.pdf>

appearing individuals who had been in their cars, walking on the street, or sitting in their homes.” Subsequently, the court forced the city to pay \$400,000 in a settlement.²⁴⁷

The worst allegations of racial profiling in Arizona have been against Maricopa County Sheriff Joe Arpaio. On May 10, 2012, the U.S. Justice Department’s Civil Rights Division spokesperson, Thomas Perez announced that the Maricopa County Sheriff Office (MCSO) was being sued for its civil rights abuses. In a press conference, Mr. Perez stated:

*“The complaint alleges that at least from 2006 to the present, MCSO officers have unlawfully discriminated against Latinos and violated their constitutional rights in a number of ways, including: racial profiling Latinos in traffic stops settings, unlawful detentions, searches and arrest of Latino drivers and passengers, and unlawful targeting and illegal detention of Latino in home and worksite raids.”*²⁴⁸

Civil Society Rejection of SB 1070

The plaintiffs of *Valle Del Sol v. Whiting* are not alone in their fight against SB 1070. Several local organizations have also joined the effort to document civil rights abuses, informing communities of their rights under the law and advocating for government reform. In my participant observation in the state, I noticed these organizations vary in size, mission and overall effectiveness but together they make up an active civil society mobilized against SB 1070. During my two months in Arizona, I was fortunate to engage with a few of these organizations, including: religious institutions, *Derechos Humanos*, *No More Deaths*, and *the East Valley Patriots for American Values*.

In Tucson and the Phoenix metropolitan area, immigrant right organizations are coming together regularly to meet and coordinate their actions against SB 1070. Two days after the

²⁴⁷ Waslin, M. (2010) Immigration enforcement by state and local police: The impact on the enforcer and their communities. In M. Varsanyi (Ed.), *Taking local control: Immigration policy activism in U.S. cities and states* (p. 104). Stanford: Stanford University Press.

²⁴⁸ Perez, T. United States Department of Justice, (2012, May 10). *Doj announces lawsuit against sherriff arpaio*. Retrieved from: <http://www.youtube.com/watch?v=PMM78eDezRc>

Supreme Court's decision, I was able to attend one of these meeting at a community center in Tucson. Representatives from *Derechos Humanos*, *Alliance for Global Justice*, *No More Deaths*, *Occupy Tucson*, *the Universalist Unitarian Church* and the *Presbyterian Church* discussed what each group was doing and determined how they could work together to facilitate larger: protests, boycotts and information campaigns. I was impressed with the interconnection and willingness of diverse organizations to unite in a cohesive manner to contest SB 1070.

For the most part, Arizona's pro-immigrant civil society has been successful at achieving tangible results. The *East Valley Patriots for American Values* is a prime example. This organization has obtained considerable support for an alternative to SB 1070. Their strategy has been promoting the *Arizona Accord*, which was modeled closely after the *Utah Compact* (refer to Appendix 9: to view the document).²⁴⁹ The document aims to revamp the immigration discourse so policy makers can reach a realistic solution and break away from the rhetoric that inhibits any progress. In the Arizona Accord, signatories pledge support for: a federal solution to immigration reform, police discretion in applying immigration law, policies of not to separating families, acknowledging of the economic benefit unauthorized immigrants and treating all people with human dignity.²⁵⁰

While in Arizona, I had the honor of speaking with the co-founder of the East Valley Patriots, Saul Solis and his wife Lupe Solis. Saul a former principle and Lupe a former advocate for teachers, have devoted their retirement to preventing SB 1070, from hurting their community. Mr. and Mrs. Solis informed me of their concerns that the law, disregards human dignity, is detrimental to minority communities and hurts families separated from their loved ones. Their

²⁴⁹ Appendix 8: The Arizona Accord

²⁵⁰ The East Valley Patriots for American Values, (2010).*Arizona accord*. Retrieved from website: <http://www.azaccord.com/index.aspx>

disdain for SB 1070 prompted the creation of the East Valley Patriots as well as their participation in the recall of Russell Pearce. These two individuals' contribution to fight against SB 1070 signifies the impact many Arizonans are making to change the state's narrative on immigration.

Long before SB 1070, Saul Solis was a vocal critic of Russell Pearce's anti-immigrant policies. In fact, he frequently made speeches before the Arizona Legislature about the public resistance to anti-immigration policies. After the passage of SB 1070, Mr. Solis was inspired to do something more, so along with 15 other activist, he created the East Valley Patriots. In a matter of days, their group met with the Mesa City Council and implored them to reject SB 1070. Mr. Solis described the initial denial from the Mesa City Council as not a surprising. Nevertheless, the East Valley Patriots were determined not to give up. Adapting their approach, the group drafted the Arizona Accord. Over the past two years, the East Valley Patriots have traveled around the state to gain support for their measure. Thus far, more than 30 reputable organizations, city councils, and chambers of commerce, have signed onto it the document. Astonishingly, this support includes the Mesa Human Advisory Border, which works on behalf of the Mesa City Council. By a 7 to 0 vote, the Mesa Human Advisory Border signified an internal shift in the Mesa government. Recently, it appears that both the Mayor of Mesa and the Mesa City Council are also close to signing onto the Arizona Accord.²⁵¹

Mr. Solis efforts have not gone unnoticed. On June 28, 2012, the Arizona Republic recognized Saul as one of the top-twenty influential people in Arizona's denunciation of SB 1070.²⁵² I specifically discussed Mr. Solis because this one man exemplifies a growing

²⁵¹ Solis, S., & Solis, L. (2012, August 7). Interview by R Murphy [Personal Interview]. Civil society against sb 1070., via telephone

²⁵² Editorial. (2012, June 28). One step forward, big leap remains. *The Arizona Republic*, pp. B-6.

movement in the state to resist and repel the anti-immigrant legacy Arizona has acquired over the last decade. Pro-immigrant civil society is on the rise in the state and they are making significant alterations to the current discourse on unauthorized immigration. Mr. Solis is just one example of hundreds of Arizonans who have mobilized a concerted effort to reject SB 1070.

The ACLU and other civil rights organizations have focused significant resources and man hours to contest SB 1070. The legal battle will continue and eventually, the constitutionality of Section 2(b) will be challenged on grounds it promotes racially profiles. In this report, I specifically wanted to point to the local response because outside the state, it is assumed most Arizonans are complacent and supportive of SB 1070. What I witnessed was an active, vibrant civil society, united by their opposition to SB 1070. Ironically, as pro-immigrant right groups emerged in the state, there was a noticeable decline in anti-immigrant organizations. I am not suggesting that there is a correlation between the rise of one ideology and the decline of the other but the recent turn of events could have significantly impactions for the discourse on unauthorized immigration.

Civil Society in Support of SB 1070

The existence of SB 1070 is partially due to the emergence of the border vigilante movement in 2005. The Minutemen groups and its affiliated organizations contributed to the anti-immigrant sentiment within the discourse on unauthorized immigrants. Founder of the *Minutemen Project (MMP)*, Jim Gilchrist, estimates he did over 4,000 radio and T.V. interviews about his organization.²⁵³ The influence of the movement was monumental prior to SB 1070 but

²⁵³ Goodwin, L. (2012, April 16). The end of the minuteman: Tea party absorbs the border-watching movement. *Yahoo News*. Retrieved from <http://news.yahoo.com/blogs/lookout/end-minutemen-tea-party-absorbs-border-watching-movement-173424401.html>

in the end, it was short lived. Currently, neither of the main Minuteman groups, the *Minuteman Civil Defense Corp (MCDC)* or the *Minuteman Project (MMP)*, is functioning in Arizona.²⁵⁴

According to the Southern Poverty Law Center, in “2010, MCDC had 77 chapters and MMP had 38. By the end of 2011, there were only two MCDC chapters and eight MMP chapters left.”²⁵⁵ As of April, 2012, only 53 Minutemen affiliated groups were still active in the United States, down from a high of 115 groups in 2010. Moreover, none of the Minutemen affiliated groups, the MCDC or MMP still patrol the Arizona border. In the state, as these Minutemen organizations declined, the *Tea Party* has taken on the role of promoting anti-immigration legislation. In 2010, it was the Tea Party that held a rally in support for SB 1070, because the Minutemen organizations were already in disarray.²⁵⁶ However, the Tea Party is a complex coalition of conservative issues and unauthorized immigration is far from their primary concern. No longer in Arizona is there an extensive civil society demanding more immigration enforcement.

Academics and former members of the Minutemen movement attribute the decline of these organizations to “infighting and bad press.”²⁵⁷ Actually, the demise of the border vigilante movement is due to a vicious murder of a family, which was carried out by Minutemen affiliated organization. On May 30, 2009, in Arivaca, Arizona, three members of the *Minutemen American Defense (MAD)* (Shawna Forde, Jason Bush and Albert Gaxiola) impersonated U.S. Border Patrol agents and entered the home of a third generation Mexican-American family. Upon

²⁵⁴ Beirich, H. (n.d.). Nativist movement collapses amid infighting. *Southern Poverty Law Center. Intelligence Report*, 145 (Spring 2012), Retrieved from <http://www.splcenter.org/get-informed/intelligence-report/browse-all-issues/2012/spring/the-year-in-nativism>

²⁵⁵ Ibid

²⁵⁶ Goodwin, L. (2012, April 16). The end of the minuteman: Tea party absorbs the border-watching movement. *Yahoo News*. Retrieved from <http://news.yahoo.com/blogs/lookout/end-minutemen-tea-party-absorbs-border-watching-movement-173424401.html>

²⁵⁷ Ibid

entering the home, these radicals, brutally executed a 9-year old girl, and her father while critically wounding the mother. The three individuals who carried out the crime were promptly arrested and tried. The media coverage that ensued proved to be a fatal blow to the border vigilante movement.²⁵⁸

The media coverage exposed that Shawna Forde (leader of the hit squad) had close connections with both Minutemen founders Chris Simcox and Jim Gilchrist. In her past, Ms. Forde was a member of both Minutemen organizations and took on leadership roles in MCDC and MMP. Ms. Forde began her association with the border vigilante movement in Mr. Simcox the Minutemen Civil Defense Corp. She managed to acquire an official position in the organization before leaving in 2007 to create her own version of a Minutemen group, the *Minutemen American Defense (MAD)*. MAD immediately established a strong bond with Mr. Gilchrist's Minutemen Project. By February 2008, Ms. Forde took on the role as the Border Patrol Coordinator in the MMP meanwhile directing her own group.²⁵⁹

Shawna Forde associations with the Minutemen movement inflicted too much damage on both the MMP and the MCDC. For the first time, in 2012, the MMP annual event in May was canceled on the Arizona border, due to a lack of interest.²⁶⁰ Mr. Gilchrist has thus concluded his organization is dead and now he has moved onto the Tea Party. The same is true for the MCDC. In 2012, Al Garza, a former leader of an Arizonan branch of MCDC reported in an interview that

²⁵⁸ Neiwert, D. (2012, July 23). How the brutal murder of a little girl and her father doomed the xenophobic minutemen movement. *Investigative Fund at the Nation Institute* , Retrieved from http://www.alternet.org/story/156128/how_the_brutal_murders_of_a_little_girl_and_her_fater_doomed_the_Xenophobic_minute_man_movement?page=entire

²⁵⁹ Ibid

²⁶⁰ Goodwin, L. (2012, April 16). The end of the minuteman: Tea party absorbs the border-watching movement. *Yahoo News*. Retrieved from <http://news.yahoo.com/blogs/lookout/end-minutemen-tea-party-absorbs-border-watching-movement-173424401.html>

he can't remember the last time he patrolled the border. Like many others in the Minutemen movement, he has also moved onto the Tea Party.²⁶¹

While conducting my research, I discovered only one border vigilante group remained in Arizona. The *American Border Patrol (ABP)* founded by Glenn Spencer was still semi-active as of the summer of 2012. For over a decade, Mr. Spencer has used his ranch as a location to monitor the border. His group has functioned differently than other vigilante groups, relying primarily on technology to monitor the border. The APB's stated objective has been to capture footage of unauthorized immigrants crossing into the United States, in order to embarrass the federal government into fully securing the border.²⁶²

Glenn Spencer is less well-known than Chris Simcox and Jim Gilchrist. Still for some Arizonan politicians, he Mr. Spencer is respected as a legitimate spokesperson for immigration enforcement. For instance, in 2011, Mr. Spencer was invited by State Senator Sylvia Allen to testify before the *State Senate Border Security Committee*. Ultimately, he was disinvited after Democratic Senators publicly rejected the idea. However, the Maricopa County Republican Committee still continues to promote tours of the ABP compound. In 2011, two State Senators, Sylvia Allen and Al Melvin joined the tour. While at the ABP compound, Senator Al Melvin chimed in to the crowd, "there are many of us, including me, who would like to see the concept of the Minutemen, come back. I think there's a way to make it work."²⁶³ Fortunately, this aspiration is highly doubtful. Mr. Spencer acknowledges that about 5-years ago, the media lost interest, and its only public outreach is a monthly newsletter to committed members.²⁶⁴

²⁶¹ Ibid

²⁶² Spencer, G. (2012, June 9). Interview by R Murphy [Personal Interview]. American border patrol., Hereford, Arizona

²⁶³ Nelson, L. (2011, May 24). Arizona tea party affiliated promoting hate group leader. *Southern Poverty Law Center*, Retrieved from <http://www.splcenter.org/blog/2011/05/24/arizona-tea-party-affiliate-promoting-hate-group-leader/>

²⁶⁴ Spencer, G. (2012, June 9). Interview by R Murphy [Personal Interview]. American border patrol., Hereford, Arizona

On June 9, 2012 (two weeks before the Supreme Court's ruling on SB 1070), I visited the American Border Patrol compound in Hereford Arizona and spoke personally with Glenn Spencer. This desolate ranch on the Arizona/Mexico border was far from impressive. At the time, the whole operating staff was only Mr. Spencer. On the tour, I was shown the *headquarters* which was a large garage. Their operational facility was a small office with a few television monitors, fed by cameras positioned all over his property. For the last reminiscence of a large civil society movement, this organizations appeared frail and about to collapse.

Minutes into our conversation, the paranoid allusions expressed by Mr. Spencer, indicated he was out of touch with reality. He enlightened me on his theories of how globalization threatens the structure of our nation-states. With true distress, he described how "They [undefined malice element] intend to make a North American Union, with Canada, United States and Mexico being one unit." I assume this union to be similar to the development of the European Union. In Mr. Spencer's mind, the ABP was attempting to preserve the sovereignty of the United States and avert this horrific scenario from coming to fruition.

For Mr. Spencer, the changing demographics and the perceived loss of American identity are real threats to the country. He informed me that "California is going to be a Hispanic state and will no longer be inhabited by Americans [which at that moment he précised as a figure of speech] because they [Caucasian-Americans] will move to the desert [referring to Arizona]." Mr. Spencer felt Arizona is in a sense, the last Alamo. If America is going to be saved, Arizona could not be lost. Due to his paranoid fears, Mr. Spencer had nothing but praise for SB 1070 and the political figures that attempted to "save Arizona." He explained that "in Arizona, the politicians are honest and in California they are corrupt...I saw California destroyed." When asked what his opinion of the Supreme Court case was he replied, "If SB 1070 is found

unconstitutional, we are going to have a problem on the border. If found constitutional, fewer people will stay in Arizona but they will still cross here.” No matter the verdict, in his opinion, Mr. Spencer would still have a role to play on the border.

Before the end of my visit, Mr. Spencer shared the fact that the ABP had developed and modified sensor technology. He described how their technological advancement as a new *sonic barrier* that could be placed along the border. According to Mr. Spencer, the modification to the stand-alone sensors used by the U.S. Border Patrol, would improve the system capability to identify a human within 400 feet of the border. With joy, he proclaimed his technological advancement “is the answer...People say they want to secure the border before they deal with the people here. I have the solution, so we can talk about the people here. The American people might be generous if they know the border is secure.”²⁶⁵

I believe I found substantial evidence that civil society is no longer dominated by the border vigilante movement. There will always be a few anti-immigrant individuals, such as Mr. Spencer. Nevertheless, the associations of the vigilante movement with violence and openly racist affiliations made many its activists move onto other issues. The delusions of the remaining vigilante group will not insight new waves of legislation or thousands of volunteers to once again defend the border. I feel the future discourse on unauthorized immigration will be more inclusive because of the new civil society in Arizona. It is safe to say, in the near future, no longer will SB 1070-style legislation be drafted in the Arizona Legislature nor will anti-immigration groups lead a public outcry against unauthorized immigration. For now, the issue of unauthorized immigration is changing in Arizona.

²⁶⁵ Spencer, G. (2012, June 9). Interview by R Murphy [Personal Interview]. American border patrol., Hereford, Arizona

4.4: The Societal Effects of SB 1070 in Arizona

In my discussions with government officials and members of civil society, individual's perception of SB 1070 relied upon several presumed facts. In the following section, I analyze these facts and determine their validity. In addition, this section also unveils many of SB 1070's unintended side effects. I discover that both proponents and opponents of SB 1070 hold misperceptions about the law and the impact it is having in the state.

For supporters of SB 1070, the main indicator that the law has been successful, is the substantial drop in the state's unauthorized immigrant population. I was able to test if the recession or SB 1070 was primarily responsible for this phenomenon by contrasting Arizona's unauthorized immigrant population with the national total. If the Democrats' assertions were correct, that it was mostly due to the recession, then the national decline in the unauthorized immigrant population should mirror the Arizona outcome. The reason being, the recession was a national crisis and not confined to Arizona. Before analyzing these figures, it is important to clarify that the proponents of SB 1070's overall claim is a little misleading. They maintain the law resulted in 200,000 unauthorized immigrants leaving Arizona. This number refers to the difference between 2011 and the 2008's peak in the state's unauthorized immigrant population (two years before the SB 1070 was created). However, since 2004, Arizona has created a series of anti-immigration laws, so we can still measure the overall impact of these policies, including SB 1070.

State of Residence of the Unauthorized Immigrant Population: January 2000 and 2005-2010

State of residence	Estimated population in January						
	2000	2005	2006*	2007	2008	2009	2010
All states	8,460,000	10,490,000	11,310,000	11,780,000	11,600,000	10,750,000	10,790,000
California	2,510,000	2,770,000	2,790,000	2,850,000	2,850,000	2,690,000	2,570,000
Texas	1,090,000	1,360,000	1,620,000	1,710,000	1,680,000	1,680,000	1,770,000
Florida	800,000	850,000	960,000	960,000	840,000	720,000	760,000
Illinois	440,000	520,000	530,000	560,000	550,000	540,000	490,000
Arizona	330,000	480,000	490,000	530,000	560,000	460,000	470,000
Georgia	220,000	470,000	490,000	490,000	460,000	480,000	460,000
New York	540,000	560,000	510,000	640,000	640,000	550,000	460,000
North Carolina	260,000	360,000	360,000	380,000	380,000	370,000	350,000
New Jersey	350,000	380,000	420,000	470,000	400,000	360,000	370,000
Nevada	170,000	240,000	230,000	260,000	280,000	260,000	260,000
Other states	1,760,000	2,510,000	2,900,000	2,950,000	2,950,000	2,730,000	2,790,000

Detail may not sum to totals because of rounding.
 *Revised as noted in the 1/1/2007 unauthorized estimates report published in September 2008.
 Source: U.S. Department of Homeland Security

State of Residence of the Unauthorized Immigrant Population: January 2011 and 2000

State of residence	Estimated population in January		Percent of total		Percent change	Average annual change
	2011	2000	2011	2000	2000 to 2011	2000 to 2011
All states	11,510,000	8,460,000	100	100	36	280,000
California	2,830,000	2,510,000	25	30	12	30,000
Texas	1,790,000	1,090,000	16	13	64	60,000
Florida	740,000	800,000	6	9	-8	(10,000)
New York	630,000	540,000	6	6	18	10,000
Illinois	550,000	440,000	5	5	26	10,000
Georgia	440,000	220,000	4	3	95	20,000
New Jersey	420,000	350,000	4	4	19	10,000
North Carolina	400,000	260,000	3	3	53	10,000
Arizona	360,000	330,000	3	4	9	—
Washington	260,000	170,000	2	2	51	10,000
Other states	3,100,000	1,750,000	27	21	77	120,000

— Represents less than 5,000.
 Detail may not sum to totals because of rounding.
 Source: U.S. Department of Homeland Security

According to the *Department of Homeland Security (DHS)* in 2007, the United States hit its record population of unauthorized immigrants, roughly 11,780,000.²⁶⁶ To comprehend the scale of unauthorized immigration, I referred to the U.S. Census and found that in 2007 the United States' population was 301.6 million.²⁶⁷ This means, at the time unauthorized immigrants made up 3.9% of the total U.S. population. These numbers reflect what was happening in the country before the onset of national recession. The question is: what impact did the economic downturn have on unauthorized immigration? We now know, after the start of recession in late 2007/early 2008, the pull factors for unauthorized immigration significantly decreased. In fact, the *Pew Hispanic Center* concluded as of 2012 that unauthorized immigration is at a net-zero, implying the proportion of deportations matches the amount of people entering the United States without legal authorization.²⁶⁸

²⁶⁶ Hoefler, M., Rytina, N., & Baker, B. Department of Homeland Security, Office of Immigration Statistics Policy Directorate. (2008). *Estimates of the unauthorized immigration population residing in the united states*. Retrieved from website: http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2008.pdf

²⁶⁷ United States Census, Population Division. (2007). *Annual estimates of the population for the united states, regions, states, and puerto rico: April 1, 2000 to July 1, 2007* (Table 1). Washington DC: Federal Government

²⁶⁸ Passel, J., Cohn, D. & Gonzalez-Barrera, A. (2012, April 23). Net migration from Mexico falls to zero—and perhaps less. *Pew Hispanic Center*, Retrieved from <http://www.pewhispanic.org/2012/04/23/net-migration-from-mexico-falls-to-zero-and-perhaps-less/>

I discovered the decline in unauthorized border crossings did not directly correlate with the number of unauthorized immigrants already living in the United States. According to the DHS, by 2011, the national unauthorized immigrant population was projected at 11,510,000.²⁶⁹ When compared to the US population in 2011 (310.5 million), the national proportion of unauthorized immigrants marginally shrunk to 3.7% of the total national population.²⁷⁰ The last few years, simultaneously, with the recession, U.S. deportations have remained at a record level, nearly 400,000 a year. By taking this into account, it is fair to assume that the recession did not result in a large percentage of unauthorized immigrants leaving the United States to return to their place of origin.

When the United States reached its record number of unauthorized immigrants in 2007, DHS estimated that Arizona held 5% of the U.S. unauthorized immigrant population, more than the 3.9% national average. At that moment, roughly 530,000 unauthorized immigrants were living in Arizona.²⁷¹ In 2008, as the national total of unauthorized immigrants started to shrink, Arizona unauthorized immigrant population grew to its all-time record of 560,000.²⁷² Since then, according to the DHS 2011 estimates, Arizona unauthorized immigrant population has dropped by 200,000 to a total of 360,000. As a result, Arizona now retains 3% of the U.S. unauthorized immigrant population, below the 3.7% national average.²⁷³

²⁶⁹ Hoefler, M., Rytina, N., & Baker, B. Department of Homeland Security , Office of Immigration Statistics Policy Directorate. (2011). *Estimates of the unauthorized immigration population residing in the united states*. Retrieved from website: http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2011.pdf

²⁷⁰ Schlesinger, R. (2010, December 30). U.s. population, 2011: 310 million and growing. *US News*. Retrieved from http://www.usnews.com/opinion/blogs/robert-schlesinger/2010/12/30/us-population-2011-310-million-and-growing_print.html

²⁷¹ Hoefler, M., Rytina, N., & Baker, B. Department of Homeland Security , Office of Immigration Statistics Policy Directorate. (2008). *Estimates of the unauthorized immigration population residing in the united states*. Retrieved from website: http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2008.pdf

²⁷² Hoefler, M., Rytina, N., & Baker, B. Department of Homeland Security , Office of Immigration Statistics Policy Directorate. (2011). *Estimates of the unauthorized immigration population residing in the united states*. Retrieved from website: http://www.dhs.gov/xlibrary/assets/statistics/publications/ois_ill_pe_2011.pdf

²⁷³ Ibid

During the recession, from 2007 to 2011, the national population of unauthorized immigrants declined by 270,000. How could a state, that prior to the recession possessed 5% of the national total of unauthorized immigrants, account for 74% of this population of unauthorized immigrants leaving the United States during the recession? It is illogical. Instead, I believe the claim made by proponents of SB 1070 is, in fact, accurate. Arizona immigration policy leading up to SB 1070 and the hostile environment created after it became law, succeeded in pressuring many unauthorized immigrants to move out of Arizona.

Although in part SB 1070 attained what it set out to do, it is not a complete success by Russell Pearce's original objective. The law was designed not only to force unauthorized immigrant to leave the state but also to deter unauthorized immigrants from crossing the Arizona/Mexican border. Referring to the *Social Capital Theory* I mentioned in the literature review, it is reasonable to conclude, the unauthorized immigrant network in Arizona has diminished as people moved to more welcoming states. That being said, Arizona still has an unauthorized immigrant population of 360,000, so the existing network is at 64% of its high point in 2008. Also, the rapid flight of so many unauthorized immigrants left some jobs unfilled. As the economy in Arizona starts to pick up, so will the demand for cheap labor. The social capital network that remains in the state will help fill the positions vacated during the recession.

Despite SB 1070, unauthorized border crossing still occurs on the Arizona border. The social capital of unauthorized immigration did not leave the United States but partially moved to states neighboring Arizona. Therefore, SB 1070 does not deter unauthorized immigrants from crossing the Arizona border but may convince them from making the state their final destination. According to my research, SB 1070 has had little to no impact on the unauthorized immigrants

currently crossing the Arizona border. As I revealed in the methodology section, I conducted my research while working on the Arizona/Mexican border. My internship in Nogales afforded me the opportunity to encounter unauthorized immigrants on the Mexican side of the border. On a daily basis, I engaged with unauthorized immigrants shortly after they were deported or immediately before they crossed into the United States. I discovered they all were unaware or not concerned about SB 1070.

In regards to the individuals who were planning to cross into the United States without legal authorization, the majority were from impoverished parts of Southern Mexico or Central America. Their economic hardship, deficiency in education and lack of access to media in their home communities, prevented most of them from even hearing about SB 1070. If they knew of the law, the circumstances of their lives made SB 1070 trivial in their overall decision to cross into Arizona. In addition, I discovered that most of the unauthorized immigrants that were deported and subsequently separated from their loved ones in the United States, opted to cross back as soon as possible, even if it was to return to a city or town in Arizona. Once again, SB 1070 did little to nothing in deterring their decision to cross on the Arizona border. Proponents of SB 1070 might suggest that overall the rate of border crossings are down in Arizona but once again, when unauthorized immigration is viewed as a national issue, the same conclusion can be made about the other border states. Therefore, on this objective, I conclude the law has failed to completely accomplish its designed purpose of deterring future unauthorized border crossing.

Education and Family Structure

Although proponents of SB 1070 are correct that the law succeeded in persuading unauthorized immigrants to leave Arizona, I also wanted to evaluate the benefits they attribute to

this mass exodus. Frequently, in my interviews, proponents of SB 1070 suggested a financial incentive for reducing the unauthorized immigrant population. Their theory espouses that the state could reduce its government expenditures by eliminating the societal cost of unauthorized immigration on healthcare, the judicial system and on the education system. For example, Mr. Pearce bragged that SB 1070 successfully closed 13 elementary schools in Arizona. By abolishing this portion of the social service cost, the state could then balance the budget without raising taxes. Unfortunately, Mr. Pearce's comment and similar remarks by many of his Republican colleagues, assumes that Arizona schools are overrun with unauthorized immigrants. This could not be further from the truth. As I mentioned in the literature review, Arizona's public schools comprise of roughly 42.4% Latino students.²⁷⁴ Moreover, according to Joseph Garcia from *Arizona State University*, 88% of Arizonan Latinos under the age of 20 are natural citizens or born in the United States.²⁷⁵ When we compare these numbers, it would mean that a little over 5% of the students in Arizona public schools are unauthorized immigrants. Therefore, although this law targets unauthorized immigrants, it actually hurts many U.S. citizen children who are part of mix status families.

To observe the impact of SB 1070 on education and family structure, I consulted a *University of Arizona (U of A)* report entitled *Left Back: The Impact of SB 1070 on Arizona's Youth*. The U of A conducted 70 interviews with parents, teachers and students in Pima County (Tucson) and revealed "a disturbing picture of youth destabilized, disillusioned and disadvantaged by the passage of SB 1070."²⁷⁶ Several of the participants interviewed used

²⁷⁴ Council of Chief State School Officers, (2005). *Action for health kids, arizona profile*. Retrieved from website: <http://www.a4hk.org/filelib/stateaction/profiles/Arizona.pdf>

²⁷⁵ Garcia, J. (2012, June 22). Interview by M Chihak [Video Tape Recording]. Sb 1070 decision fallout. AZ Week, Arizona Public Media., Retrieved from <https://www.azpm.org/s/9384-az-week-sb-1070-decisions-fallout/>

²⁷⁶ Rabin, N., & Lopez, T. (2011). Left back: The impact of sb 1070 on arizona's youth. *The University of Arizona* , Retrieved from http://www.law.arizona.edu/depts/bacon_program/impact_1070.cfm

vocabulary such as *fear* and *panic* when discussing their home conversations on SB 1070. The report went on to show that within the unauthorized immigrant community, most families questioned if they should stay in Arizona. For children, the family structure was disturbed as uncertainty and fear was more noticeable in their parents.²⁷⁷ The U of A report confirms what I found through my interactions in Arizona. The mix status and unauthorized immigrant families that remained in Arizona are constantly worried about SB 1070. While conducting my research, I heard of many immigrant communities creating networks to care for each other's children, just in case they were unexpectedly deported. Increasingly after SB 1070, many Arizonan children know it is possible that one day after school, their parents could be gone and they would have to live with their neighbor or relative. That is, until that person is also taken away.

Undoubtedly, the stress of separated families and mistrust of public institutions has been detrimental to the education of many Arizonan children. The U of A report discovered that in the year following SB 1070, many schools witnessed more teen marriages (for legal status), an increase in youth stress related illness, a decline in school attendance, less parental involvement in schools and a shared community fear of law enforcement.²⁷⁸ The consequences of SB 1070 also negatively affected teachers and school districts. Every school that participated in the U of A study confirmed that fewer students enrolled the year following SB 1070. One elementary school reported a loss of a 100 students. As a result, this school was forced to lay off six teachers.²⁷⁹ The cost savings of education really means eliminating teacher jobs and state funding for school districts. In the local communities affected by SB 1070, the praised outcome of Russell Pearce is actually a nightmare for many children, families and school districts.

²⁷⁷ Ibid

²⁷⁸ Ibid

²⁷⁹ Ibid

Cost of Unauthorized Immigration

The anger over educating children of unauthorized immigrants is closely intertwined with the thought that these foreigners are exploiting federal and state social services. This claim fails to acknowledge the high rate of taxes paid by unauthorized immigrants. From the latest available data, employers paid \$72 billion to workers without Social Security Numbers. These wages were not only taxed for Social Security purposes but also paid into Medicare and federal unemployment.²⁸⁰ In fact, it could be reasoned, unauthorized immigrants have helped to keep the Social Security fund afloat. According to Stephen C. Goss, the Chief Actuary of the Social Security Administration, unauthorized immigration contributed somewhere between \$120 billion and \$240 billion to the Social Security program. That is roughly 5.4% to 10.7% of the total fund.²⁸¹ Because unauthorized immigrants cannot receive Social Security benefits, the overall fund is strengthened by their contribution.

Furthermore, statistically the use of social services of noncitizens (legal residents and unauthorized immigrants) is less than U.S. citizens. Although unauthorized immigrants are considerably worse off than most U.S. citizens, they fear applying for any services out of concern it could jeopardize their ability to work in the country. For example, in 2006, 7.7% of U.S. citizens relied on food stamps, while 6.2% of noncitizens used them. The same is true for Medicare. That year, 13.1% of U.S. citizens utilized the program while 11.6% of noncitizens benefited from it.²⁸² At least for federal programs, unauthorized immigrants statistically pay more than they extract. For state and local services, in some cases unauthorized immigrants use more social services than they contribute. In reality, if unauthorized immigrants were legally

²⁸⁰ Hirsch, M. (2012, April 11). How illegals pay billions in taxes and reap rewards. *The Fiscal Times*. Retrieved from <http://www.thefiscaltimes.com/Articles/2012/04/11/How-Illegals-Pay-Billions-in-Taxes-and-Reap-Rewards.aspx>

²⁸¹ Schumacher-Matos, E. (2010, September 03). How illegal immigrants are helping social security. *Washington Post*. Retrieved from <http://www.washingtonpost.com/wp-dyn/content/article/2010/09/02/AR2010090202673.html>

²⁸² Anderson, S. (2010). *Immigration*. (p. 196). Santa Barbara, Calif.: Greenwood.

permitted to work in the open, the CATO institute, a conservative think-tank, suggests unauthorized immigrants would also pay their fair share of state and local government.²⁸³

Crime Associated with Unauthorized Immigration

In multiple interviews with proponents of SB 1070, I was informed on how unauthorized immigrants pose a danger to public safety. Many of these interviewees cited this concern as their main motivation for supporting the law. In part, I attribute this assumption to the discourse's use of *illegal alien* or *illegal* as the descriptor for unauthorized immigrants. The association of unauthorized immigrants as non-legal in their existence establishes and/or fortifies the belief that they have a greater propensity to commit crimes. Because SB 1070 was deliberately created to reduce the presence of unauthorized immigrants, these interviewees assumed it would reduce Arizona's crime rate. In fact, after the law was passed, Arizona crime rate did drop. Proponents of the law interpreted this development as an indication of SB 1070's overall success.

Among the most vocal proponents of this claimed benefit of SB 1070, has been the *Phoenix Law Enforcement Association (PLEA)*. Publicly they have advocated that the law reduced crime in the state to a 20-year low. In a 2010 interview on a local Fox News affiliate, PLEA's spokesperson Levi Bolton shared that in 2007, "85% of the people involved in homicides were illegal foreign nationals but now it is down to 5%."²⁸⁴ He then went on to assert it was SB 1070 that was solely responsible for this huge improvement. Without a closer analysis, the appearance of police union endorsing SB 1070 was highly convincing. It is understandable why many proponents of SB 1070 would rely on PLEA to confirm their preconceived notion on

²⁸³ Griswold, D. CATO Institute, (2012). *Immigration and the welfare state*. Retrieved from The CATO Institute website: <http://www.cato.org/pubs/journal/cj32n1/cj32n1-11.pdf>

²⁸⁴ Bolton, L. (2010, September 24). Interview by j Hook [Video Tape Recording]. Plea speaks out on dropping crime rate., Fox News., Retrieved from http://www.azplea.com/index.php?option=com_content&view=article&id=355:plea-speaks-out-on-dropping-crime&catid=5:immigration&Itemid=25

the criminality of unauthorized immigrants. In order to check the accuracy of their claim, I compared PLEA's findings with the professional testimony of the Tucson and Phoenix Police Chiefs, studies on the criminal activity of unauthorized immigrants and impartial immigration think tanks. I found substantial evidence that PLEA is inaccurate in their support of SB 1070.

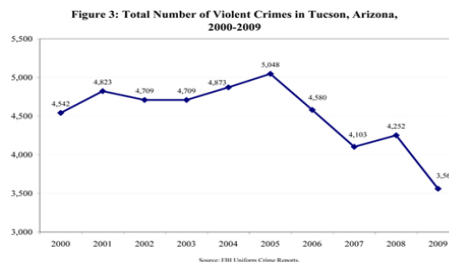
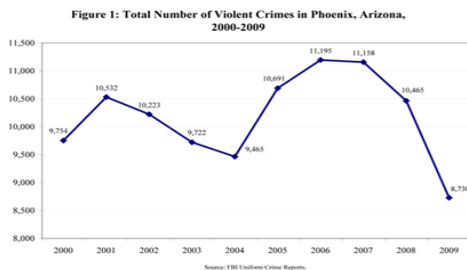
Although PLEA correctly identified a drop in crime, they failed to realize the reasons behind it or acknowledge how it was part of a trend before SB 1070 became a law. *The Police Executive Research Forum* concurs with PLEA that crime plummeted in Phoenix from 2007 to 2010, but they do not over simplify the reason for the decline in crime. In a report entitled *Police and Immigration*, the Police Executive Research Forum identified statewide a 32% drop in property crime and 26% drop in violent crime. Unlike PLEA, the Police Executive Research Forum explained that "several factors have been credited with contributing to these startling decreases in crime, including specific efforts by the Phoenix police, who have developed a number of strategies to address immigration related crime." Actually, the Phoenix Police Department did not demonize the majority of unauthorized immigrants but instead created specific task forces to combat bi-national criminal organizations.²⁸⁵

Obviously, targeting criminal organizations successfully reduced crime. Before the Phoenix Police Department implemented their new strategy, the city's overall crime rate was already decreasing. For example, from 1995 to 2010, Phoenix's property crime dropped 43%. Additionally, from 2006 to 2008, the rate of violent crime started to rapidly decline.²⁸⁶ Essentially, the consistent drop in property crime and violent crime is not confined to Phoenix or

²⁸⁵ Hoffmaste, D., Murphy, G., McFadden, S., & Griswold, M. Police Executive Research Forum, (2010). *Police and immigration: How chiefs are leading their communities through the challenges*. Retrieved from website: http://carnegie.org/fileadmin/Media/Publications/perf_police_and_immigration.pdf

²⁸⁶ Migration Policy Institute, (2010). *New fbi data confirms falling crime rates in arizona*. Retrieved from website: <http://www.immigrationpolicy.org/just-facts/new-fbi-data-confirms-falling-crime-rates-arizona>

the State of Arizona but is an ongoing occurrence all across the country. These two graphs show the drop in violent crime for both Tucson and Phoenix long before SB 1070.²⁸⁷



Nationally from 1994 to 2004, the Bureau of Justice documented a 35.1% decline in violent crimes and 25% decline in property crimes. These rates of crime have since remained at historically low rates.²⁸⁸ For the majority of the time the probability of crime was falling in Arizona and across the United States, the unauthorized immigrant population was increasing. This fact is not recognized by PLEA and brings into question their objective in promoting SB 1070. Furthermore, refuting PLEA’s argument, I found a 2008 study by the *American Majority Foundation* that determined the 19 states with the highest or growing population of unauthorized immigrants saw a greater decrease in overall crime when compared to states with a low unauthorized immigrant population.²⁸⁹

Phoenix Police Chief Jack Harris responded to a claim similar to the one made by PLEA, by saying “if you get rid of the illegal immigrants, you’ll get rid of 80% of the crime, which I’ve heard, that’s not true.”²⁹⁰ When I interviewed the Tucson Police Chief Roberto Villaseñor, I asked him if unauthorized immigrants have a higher rate of crime, he informed me that the most

²⁸⁷ Migration Policy Institute, (2010). *Arizona’s punishment doesn’t fit the crime: Studies show decrease in arizona crime rates*. Retrieved from website: <http://www.immigrationpolicy.org/just-facts/arizona’s-punishment-doesn’t-fit-crime-studies-show-decrease-arizona-crime-rates>

²⁸⁸ Ibid

²⁸⁹ Nadler, R. The Majority Foundation, (2008). *Immigration and the wealth of the states*. Retrieved from website: <http://www.amermaj.com/ImmigrationandWealth.pdf>

²⁹⁰ Riccardi, N. (2010, May 02). Both sides in arizona’s immigration debate use crime argument. *Los Angeles Times*. Retrieved from <http://articles.latimes.com/2010/may/02/nation/la-na-arizona-crime-20100503>

common interaction the Tucson Police have with unauthorized immigrants are minor traffic citations.²⁹¹ In the opinion of Phoenix and Tucson's Police Departments, it is apparent that PLEA's assertions are unfounded.

This was confirmed when the State of California researched the criminal activity of unauthorized immigrants. The final report revealed U.S. citizen males age 18-40 are 10 times more likely to commit crime (4.2 percent vs. 0.42 percent). Likewise, on the national level, a similar study discovered that U.S. born males aged 18 – 39, are 5 times more probable to commit crime than foreign born males, both legal residents and unauthorized immigrants (3.5 percent vs. 0.7 percent).²⁹² The nonpartisan immigration think tank, *Immigration Policy Institute* explained it best; when they disputed the idea SB 1070 reduced crime because it "overlooks two salient points. Crime rates have already been falling in Arizona for years despite the presence of unauthorized immigrants, and a century's worth of research has demonstrated that immigrants are less likely to commit crimes or be behind bars than the native-born."²⁹³

Unauthorized Immigration in the Jobs Market

I examine the idea that unauthorized immigrants threaten the availability of jobs and/or overall pay in Arizona. In my conversations with averaged Arizonans, I heard this concern expressed by several people who passively or firmly supported SB 1070. During the height of the recession, SB 1070 seemed to be a solution to someone out of work or underemployed. Russell Pearce had a similar motivation for creating SB 1070. In our interview, he communicated, "there is no need for illegal labor; it takes jobs from Americans."²⁹⁴ From my data, I believe this notion

²⁹¹ Villasenor, R. (2012, July 12). Interview by R Murphy [Personal Interview]. Tucson police chief , via telephone

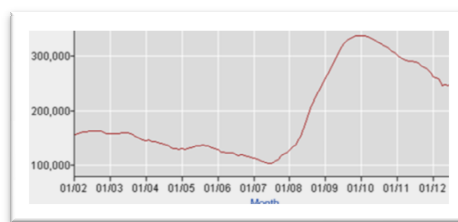
²⁹² Anderson, S. (2010). *Immigration*. (p195). Santa Barbara, Calif.: Greenwood.

²⁹³ Castillo, M. (2010, April 29). Crime stats test rationale behind arizona immigration law . *CNN*. Retrieved from http://articles.cnn.com/2010-04-29/justice/arizona.immigration.crime_1_sen-russell-pearce-illegal-immigration-immigration-law?_s=PM:CRIME

²⁹⁴ Pearce, R. (2012, July 11). Interview by R Murphy [Personal Interview]. Background on sb 1070., via telephone

was equally held by other Arizonan politicians when SB 1070 was introduced to the Arizona Legislature. The reason being, from November 2009 through March 2010, Arizona's unemployment hit a record high of 10.8%. The economic collapse coincided with SB 1070 being proposed and debated in the Arizona Legislature. In April 2010 - when SB 1070 was signed into law - unemployment slightly dropped to 10.7%.²⁹⁵ For some supporters of SB 1070, having too many unauthorized immigrants in the state, prevented Arizonans from finding work.²⁹⁶

Unemployment in Arizona



As the Latino population (U.S. citizens, legal residents and unauthorized immigrants) move to traditionally Caucasians communities or grew at a faster rate and seemed to be gaining the majority, more support in Arizona was generated for anti-immigrant laws. Since the changing demographics threatened the group identity of the Caucasians, it also endangers their pre-existing power structure in the state. Especially for low-skilled, low-educated Caucasians, who were already disadvantaged in their community, the growing minority group was perceived as more competition for jobs and government resources. To expose the influence ethnic identity and competition, I applied the theoretical work of sociologist Peter Blau and Edna Bonachich's *Split Labor Market Theory*.

²⁹⁵ The United States Department of Labor, Bureau of Labor Statistics, (2012). *Local area unemployment statistics: Arizona* . Retrieved from Federal Government website: <http://data.bls.gov/timeseries/LASST04000003>

²⁹⁶ Bureau of Labor Statistics , Database. (2012). *Tables and calculators: Arizona* . Retrieved from website: <http://data.bls.gov/timeseries/LASST04000003>

The growing Latino demographic and more unauthorized immigration both occurred at the same time the overall income of the middle class and poor Arizonans declined. Even before the onset of the great recession in 2007/2008, the middle class endured decades of diminished median income. According to the *Pew Research Center*, the median income of the middle class and the percentage of people who classify as middle class, both plummeted in the last 40-years.²⁹⁷ The great recession exacerbated the public's outrage over inequality in the state. The issue of unauthorized immigration provided a means of venting outrage in Arizona, over an economic system that inhibited economic advancement. What occurred in Arizona thus can be explained by Bonachich's *Split Market Theory* as ethnic antagonism. I believe when Blau and Bonachich's theories are applied to the case study of Arizona, it explains why the new competition between Latinos and Caucasians exacerbated the frustration of the widening disparity in inequality.²⁹⁸

The Unintended Economic Impact of SB 1070

The economics of SB 1070 are not confined to the low-wage job market. In many other regards, SB 1070 has substantially harmed the Arizona economy. This development was not predicted by the Arizonan government but the impact has been undeniable. Before 2010, Arizona's pristine winters made the state an ideal destination for vacations and corporate conventions. Out of opposition to SB 1070, many people across the country cancelled their vacations and events to boycott the state. Ultimately, the boycott paralyzed Arizona's \$18 billion tourist and convention industry. One estimate concluded that Arizona's hotels lost nearly \$141 million in convention revenue alone. Garrick Taylor of the *Arizona Chamber of Commerce*

²⁹⁷ Pew Research Center, (2012). *The lost decade of the middle class*. Retrieved from website: <http://www.pewsocialtrends.org/2012/08/22/the-lost-decade-of-the-middle-class/>

²⁹⁸ Sobczak, M. (2010). American attitudes toward immigrants and immigration policy (p. 20-22). El Paso Tex.: LFB Scholarly Pub. LLC.

described the boycott as “a lot of heartburn for companies here that saw potential customers outside the state dwindle.”²⁹⁹

While in Arizona, I had the opportunity to speak with James Garcia, the Public Relations Official for the *Arizonan’s Hispanic Chamber of Commerce (HCC)*. The HCC represents both the Arizona Latino community and their business interest in the state. I was intrigued to hear their opinion on the economics of SB 1070 and the national boycott that followed. Mr. Garcia informed me that shortly after SB 1070 was signed into law, the Arizona Chamber of Commerce and the Hispanic Chamber of Commerce (HCC) met to discuss the effect of the national boycotts. Overall, Mr. Garcia reported:

*“It caught the chambers of commerce off guard. It caused chambers of commerce from across the state to make a broad alliance, to see how to retake and redirect the trajectory of state economy. We all agreed that the leadership of the state was pursuing an agenda that endangered the economy.”*³⁰⁰

The economic pressures due to boycott forced the business community to no longer remain neutral on the issue of unauthorized immigration. When additional anti-immigration bills were proposed in 2011, the Arizonan Legislature heard a resounding *no* from the business community. More than 20 of Arizonan’s chambers of commerce signed a letter to persuade the Arizona Senators and Representatives to vote against these bills. Private corporations joined the effort, in total, 60 CEOs sent a letter addressed to Russell Pearce. In it, they asked Mr. Pearce to stop his anti-immigration campaign.³⁰¹ In the letter, the CEOs wrote “it is an undeniable fact that each of our companies and our employees were impacted by the boycott and the coincident

²⁹⁹ Duke, A. (2012, June 25). Immigration fight changes arizona, groups say. *CNN*. Retrieved from <http://www.cnn.com/2012/06/25/us/arizona-immigration-impact/index.html>

³⁰⁰ Garcia, J. (2012, June 28). Interview by R Murphy [Personal Interview]. Hispanic chamber of commerce response to sb 1070., via telephone

³⁰¹ Editorial. (2012, June 28). One step forward, big leap remains. *The Arizona Republic*, pp. B-6.

negative image”³⁰² In 2011, it was the influential of the business community that prevented the passage of anti-immigration bill on “birthright citizenship, schoolchildren and people seeking medical care” from becoming law.³⁰³ This was evident when Senator John McComish expressed his opposition to these anti-immigrants laws because “it has hurt the economy with tourism.”³⁰⁴

During my interview with Mr. Garcia, I desired to grasp the influence of SB 1070 according to the Hispanic Chamber of Commerce. From their viewpoint, Mr. Garcia expressed, SB 1070 has been damaging for the economy and moral of the state. He clarified that:

*“I am not saying it is okay for someone to break the law but it only has a negative impact on the economy to get them out of here. Immigrants buy stuff at Circle-K, grocery stores and many pay federal income tax with no hope of benefiting.”*³⁰⁵

To quantify the undesirable influence the law had on the Arizona economy, Mr. Garcia directed me to a study done by the *Center for American Progress (CAP)* and the *University of California Los Angeles (UCLA)*.³⁰⁶ Together CAP and the UCLA report accounted for the loss to the tourist industry as well as decline in government revenue as people moved out of Arizona. The report documented in the year following SB 1070, Arizona lost “2,761 jobs, \$253 million in economic output, and \$9.4 million in tax-revenue.”³⁰⁷ Furthermore, the studied concluded, if SB 1070 was completely successful in removing all unauthorized immigrants from the state, 7% of Arizona

³⁰² Wolgin, P., & Kelley, A. (2011, July 05). Your state can't afford it: The fiscal impact of states' anti-immigration legislation. *Center for American Progress*. Retrieved from

<http://www.americanprogress.org/issues/immigration/report/2011/07/05/9952/your-state-cant-afford-it/>

³⁰³ Editorial. (2012, June 28). One step forward, big leap remains. *The Arizona Republic*, pp. B-6.

³⁰⁴ McComish, J. (2012, June 13). Interview by R Murphy [Personal Interview]. Republican senator perspective on sb 1070., Awitukee, Arizona.

³⁰⁵ Garcia, J. (2012, June 28). Interview by R Murphy [Personal Interview]. Hispanic chamber of commerce response to sb 1070., via telephone

³⁰⁶ Ibid

³⁰⁷ Wolgin, P., & Kelley, A. (2011, July 05). Your state can't afford it: The fiscal impact of states' anti-immigration legislation. *Center for American Progress*. Retrieved from

<http://www.americanprogress.org/issues/immigration/report/2011/07/05/9952/your-state-cant-afford-it/>

workforce would dissipate, eliminating 581,000 jobs from the economy and shrinking tax-revenue by 10.1%.³⁰⁸

Mr. Garcia and I concluded our conversation with a question I asked in every interview: “what is your opinion of the claim that 200,000 unauthorized immigrants have left Arizona because of SB 1070?” Mr. Garcia was quick to explain this exodus hurts everyone in the state because it loss of tax payers. In the opinion of the HCC:

“[The real number of people who left Arizona] is more than reported because many of these undocumented immigrants have families with legal residents or children who are citizens. They don’t leave alone but with other people, up to 2-3 times as many. They are future tax payers.”³⁰⁹

The Unintended Bi-National Ramifications of SB 1070

The economic consequence of SB 1070 is not only confined to U.S. citizens boycotting Arizona; it also has a bi-national component. The Mexican government’s frustration with SB 1070 was expressed in an official press statement release the day the Supreme Court made its ruling on the law. In it, the Mexican government declared they regret Section 2(b) was not found to be unconstitutional. The press statement continued by expressing, in their opinion “laws such as these have a high political cost and do not improve the understanding between our societies.”³¹⁰

When the Arizonan government passed SB 1070, it clearly did not take into account its economic co-dependency with Mexico. For years, substantial trade passed through the Arizona/Mexico border. Jeopardizing bi-national relations with Mexico was impractical and potentially destructive for the Arizona economy dependent on this trade. In fact, Arizona is

³⁰⁸ Ibid

³⁰⁹ Garcia, J. (2012, June 28). Interview by R Murphy [Personal Interview]. Hispanic chamber of commerce response to sb 1070., via telephone

³¹⁰ Mexican Ministry of Foreign Affairs, (2012). *Press release:mexican government takes note of the u.s. supreme court decision on the arizona vs. united states case regarding sb 1070*. Retrieved from Mexico Federal Government website: http://www.sre.gob.mx/en/index.php?option=com_content&view=article

constantly competing with California, New Mexico and Texas for ways to increase its cross border trade (refer to Appendix 10 to see a document explaining the trade between individual states and the country of Mexico).³¹¹ Policies that demonize Mexicans could persuade Mexican companies and the Mexican Government to seek opportunities in more welcoming border states. In order to comprehend the scale of this trade, in 2011, \$26 billion of US/Mexico imports and exports passed through Arizona's ports of entries.³¹² More specifically, in 2011, Arizona had a direct trade with Mexico worth \$11.9 billion. Currently, in the state, it is estimated 120,000 jobs depend solely on this cross border trade.³¹³ Although, in 2012, Governor Jan Brewer acknowledged "Mexico is our number one trading partner, bring billions of dollars into our state," the Arizona government's support for SB 1070 has indubitably threaten this economic partnership.³¹⁴

The apprehension for Mexicans to do business with Arizonans is not limited to large scale trade. In fact, the economic impact of SB 1070 is more apparent at the individual level. Many Mexican citizens now feel discouraged from visiting Arizona because they are afraid they will be harassed by law enforcement. Obviously, this harms Arizona's local economy because it has a symbiotic relationship with Northern Mexico. According to the *Metropolitan Tucson Convention and Visitor Bureau*, Mexican day tourists annually contribute 1 billion to Tucson's restaurant and retail industries.³¹⁵ Currently, there is strong evidence that SB 1070 has already damaged the Southern Arizonan economy. According to the Tucson Mayor Jonathan Rothschild, the number of Mexican day visitors has significantly declined the last two years.³¹⁶ If the

³¹¹ Appendix 10: Trade between individual states and the country of Mexico

³¹² Fimbres, G. (n.d.). Gateway to economic opportunity. *Biz Tucson*, (Spring 2012), 76.

³¹³ De la Mora, F. (2012, June 28) Interviewed by R. Murphy [Personal Interview]. SB 1070 According Mexican Consulate in Phoenix.

³¹⁴ Fimbres, G. (n.d.). Gateway to economic opportunity. *Biz Tucson*, (Spring 2012), 76.

³¹⁵ Fimbres, G. (n.d.). Mexican shoppers pump \$1 billion into tucson economy. *Biz Tucson*, (Spring 2012), 82.

³¹⁶ Rothschild, J. (2012, June 29). Interview by R Murphy [Personal Interview]. Mayor of tucson, via telephone

Arizona government was partially motivated by economics in passing SB 1070, the national boycott and lost Mexican business is proof the law has completely backfired.

The Unintended Legal Aspects of SB 1070

My discussions with two lawyers, who regularly represent unauthorized immigrants in federal deportation proceedings, exposed a shocking revelation that challenges the perception of SB 1070's most hardening critics. Instead of encouraging blatant racial profiling, as promoted by the ACLU and pro-immigrant civil society, in some aspects, it could be said SB 1070 improved unauthorized immigrants legal safeguards against police inquisition of their immigration status. Obviously, complicating a police officer's ability to question a suspected unauthorized immigrant was an unintended consequence of Russell Pearce's law. However, this fact muddles the main legal complaint made against SB 1070.

Defense Attorney Dan Anderson explained to me how under federal law, which dictated Arizona immigration policies prior to SB 1070, police can question a person on their legal status if they committed no crime but appeared to be an unauthorized immigrant. To demonstrate this matter, he made reference to the circumstance of a former client. He began by sharing how a Latina mother was waiting at a Tucson bus stop so she could go pick up her child from day care. Then, for no apparent reason, other than her ethnicity, a police officer approached the woman to ask her a few questions. Upon discovering her inability to speak fluent English, the police officer contacted the U.S. Border Patrol and the woman was subsequently arrested and put through deportation process.³¹⁷ Clearly, this personal account exhibits racial profiling because the woman committed no acts to warrant police attention other than being a darker complexion.

³¹⁷ Anderson, D. (2012, July 06). Interview by R Murphy [Personal Interview]. Immigration attorney, Tucson, Arizona

When I spoke with another defense attorney, Juan Rocha, he described how it is completely constitutional for a police officer to casually approach a suspected unauthorized immigrant and question the person on their immigration status. This police tactic was determined acceptable in the Ninth Circuit Court ruling in *Martinez-Medina v. Holder*.³¹⁸ Mr. Rocha confirmed the point made by Mr. Anderson and explained that prior to SB 1070; it was common for Arizonan police officers to discover the immigration status of an individual and then, turn that person over to federal immigration authorities. When this happened, a police report was never filed because it is not a state or local crime to be in the country without authorization. Therefore, a defense attorney could not determine if racial profiling was committed because there was no documentation of the initial police contact.³¹⁹

As mentioned in previous chapters, SB 1070 was amended from its original format. The new version changed the original phrasing from *any lawful contact* to *any lawful stop*. What seemed to be a minor alteration, had significant implications. Now in Arizona, unauthorized immigration is considered a secondary offense and only relevant when an individual is being arrested or detained for another crime.³²⁰ Mr. Rocha contends this “provides greater protection against police harassment than existed before Arizona passed SB 1070” because legally speaking “police cannot simply inquire about a person’s immigration status without first having stopped, detained or arrested a person for having committed some other crime.”³²¹ Post-SB 1070, it is easier for immigration attorneys to expose racial profiling because Arizonan law enforcement are required to submit a police report after arresting or detaining a person for a state or local

³¹⁸ Rocha, J. (2010). *Found in the usa*. The Federal Lawyer, (November/December),

³¹⁹ Rocha, J. (2012, July 03). Guest column: Ruling on sb 1070 offers some protection against police harassment. *Arizona Daily Star*. Retrieved from http://azstarnet.com/news/opinion/mailbag/guest-column-ruling-on-sb-offers-some-protection-against-police/article_0e72d423-1e3b-54cf-9e64-c11aadf70.html

³²⁰ Rocha, J. (2010). *Found in the usa*. The Federal Lawyer, (November/December),

³²¹ Rocha, J. (2012, July 03). Guest column: Ruling on sb 1070 offers some protection against police harassment. *Arizona Daily Star*. Retrieved from http://azstarnet.com/news/opinion/mailbag/guest-column-ruling-on-sb-offers-some-protection-against-police/article_0e72d423-1e3b-54cf-9e64-c11aadf70.html

crime.³²² The opponents of SB 1070 would suggest that Arizona law enforcement can find minor infractions, to provide them an opportunity to question a person's immigration status. This is complete true, so although Mr. Rocha's description of SB 1070 complicates the legal complaint against the law, it does not rule out the law's potential to abuse civil rights.

Chapter 5: Conclusion

Throughout my research, I discover several potential explanations for the establishment of SB 1070. My study assesses the political discourse on unauthorized immigration and how it fostered public support for the law. Additionally, it examines the complex dynamics of individual and group identities, so to understand why unauthorized immigration became a societal scapegoat in Arizona. My findings are dependent on theories and philosophies thus they are vulnerable to different theoretical interpretations. That being said, the most significant discovery I unveil in my investigation, is undeniable when the facts are fairly scrutinized. I determine if it was not for the federal governments mismanagement of the immigration system, Arizonans would have never embraced the anti-immigration laws from 2004-2010. SB 1070 would not exist nor would the societal consequence attributed to the law.

Blowback to Federal Immigration System

As I lay out in the literature review, the federal government inadvertently established a circular migration into the United States. Furthermore, the policies introduced under the *Immigration Reform and Control Act (IRCA)* in 1986 and continued thereafter, ultimately failed. In fact, the strategy of greater border enforcement did not deter unauthorized immigration. On the contrary, it discouraged unauthorized immigrants from returning to their home countries. As

³²² Rocha, J. (2012, July 12). Interview by R Murphy [Personal Interview]. Immigration attorney , via telephone

a result, the population of unauthorized immigrants dramatically amassed the 25-years after the creation of IRCA.

In 2003, the Arizona government officially requested that Congress pass comprehensive immigration reform.³²³ Public outrage was on the rise and the initial response of the Arizona government was not to create its own immigration policy but to solicit help from the federal government. The next year, it became evident the federal government was unwilling or unable to act. Subsequently, Arizonans passed its first anti-immigrant proposition, which began its campaign to reduce unauthorized immigration within its borders. Provided that the U.S. Congress' ineptitude prevents the creation of comprehensive immigration reform, states such as Arizona, will take it upon themselves to respond to the fears and anxieties of their citizens, even if their worries are unfounded or misplaced resentment.

Irrelevant of political affiliation or overall opinion on the issue of unauthorized immigration, every interview I conducted confirmed the shared belief that the federal government has mismanaged the immigration system. Although the explanations for a person's discontent varied, the status quo was not satisfactory to the majority of Arizonans. While my interview pool was limited, my findings are confirmed by a series of polls conducted within the state. A prime example is a 2010 *Fox News Poll*, which indicated 65% of Arizonans favored SB 1070. Upon a close examination of the pollster's question, it is clear that the support for SB 1070 was actually a symptom the public's disappointment in the federal government. The pollsters enquired if Arizonans thought that "states should have the right to make their own immigration

³²³ Lujan, D. (2012, June 28). Interview by R Murphy [Personal Interview]. Democrat senator perspective on sb 1070., Phoenix

laws and protect their borders, if they believe the federal government has failed to act.”³²⁴ Nowhere did the question include a description of SB 1070 or any of the policies measures it contains. Instead, this poll just reaffirmed Arizonan’s opinion that unauthorized immigration was spiraling out of control and the federal response was ineffective.

I understand that polls are not a perfect science, as exhibited by the misinterpretation of the Fox News Poll. However, polls can uncover the public opinion on a greater scale than I could do with personal interviews. When I limited my search to polls that determined the preference for state or federal immigration policy, I revealed that people’s dissatisfaction with the federal government did not change their opinion that immigration is a federal matter. When matched up, poll after poll showed Arizonans and Americans, favored comprehensive immigration reform over a state-sponsored approach. Shortly after SB 1070 became a law, three national polls conducted in May of 2010 (*New York Times/CBS, AP/Univision and NBC/MSNBC*) aggregated an average of 63% of Americans approved of comprehensive immigration reform while roughly 51% endorsed the concept of SB 1070. Later that year, in July of 2010, 62% of Arizonans expressed their desire for comprehensive immigration reform while 55% supported SB 1070. Moreover, a poll 2010 poll conducted by the *America Voice Education Fund* concluded that 84% of Arizonans who held a positive view of SB 1070 also favored comprehensive immigration reform.³²⁵ Evidently, the public would prefer the federal government to be more proactive and pass comprehensive immigration reform. Even the majority of people, who espoused support for state-sponsored immigration legislation, when offered an option, would choose for the federal government to resolve the issue.

³²⁴ Sanchez, Y. (2012, April 23). Arizona immigration law still supported, poll suggests. *The Arizona Republic*. Retrieved from <http://www.azcentral.com/news/politics/articles/2012/04/23/20120423arizona-immigration-law-still-widely-supported-poll-suggest.html>

³²⁵ Sharry, F. (2012, April 25). Where the public really stands on immigration and arizona's sb 1070. *Huffington Post*. Retrieved from http://www.huffingtonpost.com/frank-sharry/where-the-public-really-s_b_1449837.html

Overall, I determine in Arizona, the federal government retains most of the responsibility for the anti-immigration campaign that resulted to SB 1070. Thus far, the federal government's policies have failed to appropriately identify the driving factors behind unauthorized immigration. Currently, immigration is at its lowest level since 1971, but the decline corresponds with the onset of the U.S. recession in 2007/2008. In the future, unauthorized immigration will continue and most likely, increase as the economy recovers. It is not a hopeless situation because the federal government has the ability to permanently fix the broke immigration system. Congress must pass comprehensive immigration reform that includes a broad spectrum of policies, some of which will be unpopular with select cohorts of constituents. I believe to truly resolve this issue, Congress needs to create legislation that contains: temporary work visas (to meet the actual needs of the U.S. economy), greater employer sanctions and penalties (by implementing E-Verify nationally), maintaining border security (in a humane manner) and establish a pathway to citizenship for unauthorized immigrants (through paying back taxes, learning English, and submitting to a criminal background check).

Unlike the current federal immigration system, this proscription would reduce the pull factors behind unauthorized immigration. Offering temporary work visas meanwhile minimizing legitimate options for unauthorized work would disincentives future immigration without visas. Polls demonstrate that if this approached was taken by the federal government, radical state-sponsored bills, such as SB 1070, would never pass. Anti-immigrant critics would still exist, but they would not retain enough influence to mandate their extreme political objectives.

The Role of Demographics

The basis for Arizona's state-sponsored immigration policies may be a result of the federal government but I believed there were more factors behind its origin. In the state, anger

over the ineffective immigration system has been directed primarily at unauthorized immigrants. Therefore, unauthorized immigrants have become demonized in the discourse as criminals who intend on hurting the general welfare of the United States. Moreover, the simultaneous expansion in the Latino-American demographic convoluted Arizonan-Caucasians ability to tell who was actually an unauthorized immigrant. This linkage thereby projected the anti-immigrant rhetoric onto U.S. citizens and legal residents of Latino heritage.

The byproduct of this animosity has caused to a surge in anti-Latino hate-crimes. According to the *Federal Bureau of Investigation (FBI)*, in the last decade, anti-Latino hate-crimes have intensified dramatically. In 2010, 67% of the country's ethnically motivated hate-crimes were targeted at Latinos.³²⁶ Due to the divisive discourse in Arizona, the state has been at the center of tragic phenomenon. The most horrific hate-crime in the state was the massacre of a third generation Mexican-American family in Arivaca, Arizona.³²⁷ After the passage of SB 1070, the violence perpetuated by the discourse only amplified. Two weeks after SB 1070 was signed into law, Phoenix resident, Gary Kelly, shot his neighbor Juan Varela while screaming "go back to Mexico or die." Mr. Varela, killed in front of his mother and brother, was a fifth generation Mexican-American. Supposedly he angered his neighbor, Mr. Kelly, by attending a protest against the new law.³²⁸

In Arizona, the general antipathy for Latinos has developed into more than criminal acts but an overall disposition within society. According to the Tucson Police Chief, who himself is a

³²⁶ Latino Justice PRLDEF , (2012). *U.s. senate subcommittee on the constitution, civil rights and human rights subcommittee hearing:hate crimes and the threat of domestic extremism*. Retrieved from website:

http://latinojustice.org/briefing_room/press_releases/LatinoJustice_PRLDEF_Statement_Against_Hatecrimes.pdf

³²⁷ Neiwert, D. (2012, July 23). How the brutal murder of a little girl and her father doomed the xenophobic minutemen movement. *Investigative Fund at the Nation Institute* , Retrieved from

http://www.alternet.org/story/156128/how_the_brutal_murders_of_a_little_girl_and_her_fater_doomed_the_Xenophobic_minute_man_movement?page=entire

³²⁸ Costantini, C. (2011, October 17). Anti-latino hate crimes rise as immigration debate intensifies. *Huffington Post*. Retrieved from http://www.huffingtonpost.com/2011/10/17/anti-latino-hate-crimes-rise-immigration_n_1015668.html

Latino, “as a lifelong resident of Tucson, Arizona, I haven’t seen such anti-Latino sentiment as I have the last couple years.”³²⁹ In order to determine the causality of SB 1070, I could not avoid analyzing the demographic shifts between Caucasian and Latino Arizonans. First, I intended to determine if the growth in Latino demographic contributed to the anti-immigrant campaign? If so, why and what role did individual or group identities contribute to the overall anti-Latino demeanor?

According to the U.S. Census in 2000, roughly 25% of Arizona was Latino while 64% was Caucasian. Within a decade, the Latino demographic developed to 30% of the state’s population as Caucasian decreased to 58%.³³⁰ Although the overall shift was only 5%, it was pronounced across the age spectrums. Through a closer examination of the 2010 Census, the state population under the age of 18 became predominately Latino. Currently, the Arizona population under 18-years old comprises of 43.2% Latino and 41.6% Caucasian.³³¹ Due to the rate of growth and current trends, Arizona will increasingly become more Latino and less Caucasian.

At least from my encounter with members of the Arizona Legislature, the shift in the state’s demographics did heighten the demand for more abrasive immigration policies. Although, I did not solicit any response on the growth of Latino demographic, the answers from both Democrats and Republicans indicated that the ethnic composition in the district did alter the public perception on anti-immigration policies. Democrat Senator Ken Cheavrant’s comments about Phoenix are a perfect example of how the rapid transitioning fostered open resentment.

³²⁹ Villasenor, R. (2012, July 12). Interview by R Murphy [Personal Interview]. Tucson police chief , via telephone

³³⁰ United States Census, (2012). *State and county quickfacts: Arizona*. Retrieved from Federal Government website: <http://quickfacts.census.gov/qfd/states/04000.html>

³³¹ Zepeda, A. (2011, March 10). State’s hispanic population makes big gains in 2010 census. *Cronkite News*. Retrieved from <http://cronkitenewsonline.com/2011/03/hispanics-post-big-gains-in-arizonas-2010-census-figures/>

Across the political aisle, Republicans indirectly made remarks about the demographic changes as well. Russell Pearce's senatorial emails not only express anti-immigrant beliefs but a xenophobic ideology.³³² Additionally, Senator Jake Harper's misinterpretation of the difference between unauthorized immigrant and Latino-American students, demonstrates how within the state, the two groups became interchangeable.³³³

I believe some politicians, and Arizonan citizens urged for excessive immigration enforcement, partially out of their fear of the growing Latino population. This assessment is frightening because the ethnic tension in the state are bound to get worse. The Latino population will continue to grow in Arizona, as it has for decades. In 1996, the U.S. Census predicted that the Latino population would grow to 32.2% by 2025, yet the state was nearly at this percentage in 2010.³³⁴ Over the next generation or two, it is highly likely Caucasians will become the minority in the state. This would transform the local identity in many Arizonan communities and potential shift the power-dynamic from Caucasians to Latinos. There has been positive movement away from anti-immigrant policies the last two-years but I précised; the identity complex may perpetuate anti-Latino sentiment from some Arizona groups in the future.

Identity Theories

In the absence of a solution from Washington D.C., the border vigilante groups and zealous politicians in Arizona were seen as offering the only solution to the increasing problem of unauthorized immigration. While in the state, I revealed most Arizonans did not share the same outrage as Russell Pearce or members of the border vigilante movement. Nevertheless,

³³² Beard-Rau, A. (2012, July 19). *Aclu: Pearce emails prove sb 1070 was racially motivated*. The Arizona Republic. Retrieved from <http://www.azcentral.com/arizonarepublic/news/articles/2012/07/19/20120719sb-1070-pearce-aclu-emails.html>

³³³ Harper, J. (2012, June 6). Interview by R Murphy [Personal Interview]. Republican senator perspective on sb 1070., via internet.

³³⁴ *State of latino arizona*. (2009). Informally published manuscript, Arizona State University: Latino Studies , Retrieved from http://www.asu.edu/vppa/asuforaz/downloads/state_of_latino_arizona_report.pdf

these few individuals were able to shape the discourse on unauthorized immigration. Preceding my research, I hypothesized the abrasive rhetoric was productive in appealing to Arizona-Caucasians identity needs, thus it promoted support for anti-immigrant policies.

My theoretical framework evaluated the discourse to determine the aspects that invoked individual and group identities of Arizona-Caucasians. Ethnic and national identity in many communities, came to represent Caucasian, English speaking, cultural similar society that shared the same territory and collective principles. The rapid influx of Latinos that spoke Spanish, held different cultural traditions and had a darker skin complexion, altered the perception of the national (shared) identity and thus incited a societal backlash. In the literature review, I introduced Anthony Smith theory on nationalism to evaluate the influence of national identity had within Arizonan communities. Smith conjectured there are four sacred truths of nationalism, they are: *ethnic election*, *sacred territory*, *ethnic history* and *national sacrifice*. To assess national identity, I analyze the data I collected in the state, to deduct if these sacred truths were embedded within the discourse and/or chain of event leading up to SB 1070.

I surmise all four were present and influential in contributing to the anti-immigration policies in the state, including SB 1070. The first pillar of *ethnic election*, Smith described as the idea that a land was chosen for a specific ethnic group or composition of ethnic groups.³³⁵ Most Arizonans would not say they are not anti-Latino but as the population became less Caucasians, the anti-immigration discourse included more racist ideologies. It begs the question, if the public support for anti-immigration laws was in part, a process to preserve the ethnic identity of the state? Conservative Republicans enthusiasm for the fact 200,000 unauthorized immigrants left the state, is concerning when assessing the question of ethnic election. Especially because my

³³⁵ Smith, A. (2000). *The Sacred Dimensions of Nationalism*. Sage Publishing. Retrieved from website: <http://mil.sagepub.com/content/29/3/791.citation>

interviews with Republican and Democrats, as well as non-partisan groups, demonstrated it is common knowledge, the law forced mix status families, legal residents and Latino citizens to leave the state. SB 1070 was successful in achieving its objective of reducing the unauthorized immigrant population but it also impacted the overall Latino population. No matter if it was intended or unintended; SB 1070 did protect the ethnic election of Arizona by minimizing the future growth in the Latino demographic.

The next sacred truth of nationalism is the concept of *sacred territory*. Under this premise, the territory holds an existential value beyond ordinary land.³³⁶ According to the view of Russell Pearce and the border vigilante groups, the sovereignty of the State of Arizona, gave the territory a divine importance. Ergo, the territorial boundaries surrounding this sacred territory must be protected, in order to preserve its sacredness. If and when the territorial boundaries are violated by unauthorized immigration, it would be considered a sacrilege against Arizonan sovereignty. This mentality, explains why unauthorized immigration was so offensive to many Arizonans. In fact, in my interviews, the preservation of sovereignty was one of the most common justifications mentioned to support SB 1070.

The third truth is *ethno-history*, which is a shared narrative of the land. These are stories to form a communal memory of unity and solidarity.³³⁷ The discourse on unauthorized immigration perpetuated the criminality of immigrants because Arizona-Caucasians are supposedly descendants of the golden age, when immigrants came legally to the United States. Historically, immigrant communities came to this country for the same economic or political reasons as today's immigrants. The detachment from factual history and the belief in this embellished narrative disseminated an unrealistic expectation for new immigrant communities. I

³³⁶ Ibid

³³⁷ Ibid (p. 807)

began my thesis introduction by acknowledging the fact that Irish-Catholic, along with a multitude of ethnic, religious and culture groups, have always faced discrimination when they first came the shores of the United States. This component of nationalism has and will continue to inhibit the inclusion of new comers to this country.

The final sacred truth of nationalism is the glorification of *national sacrifice*.³³⁸ In Arizona, vigilante groups felt their time spent defending the border was a sacrifice for the betterment of their country and/or state. This national sacrifice was inflated by the term *illegal alien* because border vigilante members felt they were risking their personal safety to protect against a dangerous, non-relatable being. The initial call to action by the border vigilante movement relied on the need for others to exhibit their commitment to national sacrifice. Out of this shared duty, thousands of Americans flock to the Arizona desert and offer up their time to secure the sacred boundaries of the United States. Although the majority of Arizonans did not partake in the border vigilante movement, their presences and actions in the state substantially altered the discourse on unauthorized immigration.

In the conclusion of Anthony Smiths article, *Sacred Dimensions of Nationalism*, Smith quoted Clifford Geertz to describe nationalism. Mr. Geertz characterized nationalism as “a form of sub-national primordial attachments which responded to identity needs and whose unfettered ethnic expression could threaten civil order.”³³⁹ Mr. Geertz statement sums up the dynamics of identity conflict in Arizona during the campaign of anti-immigration laws implemented from 2004 to 2010. I ascertained nationalism, which is the manifestation of national identity, became more prevalent in Arizona as the state’s demographics became more Latino.

³³⁸ Ibid

³³⁹ Ibid (p. 792)

To determine the extent of the struggle between national and ethnic identity, I depended on Rodolfo Stavenhagan's theoretical framework. Stavenhagan proposed both national and ethnic identity are determined by the same characteristics, such as: *language, religion, territory, social organization* and *culture*. In Arizona, the growing Latino population (citizens, legal residents and unauthorized immigrants) inadvertently challenged the conception of the national (communal) identity. As the population of Caucasians shrank in comparison to Latinos, the national identity in Arizona was challenged according to Stavenhagan theory.

In Arizona prior to SB 1070, the most obvious identity conflict was language. As the Latino population grew in the state, Spanish was spoken more in the public forum, on the radio, on the television and in government. Stavenhagan, explained "When a dominant language (spoken by dominate ethnic group) displaces other tongues, then the ethnic identity of the subordinate group changes."³⁴⁰ Preserving English as the official language hypothetically would reduce the threat to the national identity and ensures the power structure is not altered. I mentioned this characteristic of identity because Proposition 103 in 2006 attempted to resolve this identity crisis by mandating that English will remain the official language of the state.³⁴¹

Conjointly, the demographic changes theoretically jeopardized the national identity of culture. Glen Spencer's *American Border Patrol (ABP)*, the last reminisce of the border vigilante movement, openly promotes a philosophy that Mexicans immigrants are part of a *Reconquista* of the Southwest. They claim, a *cultural cancer* (i.e. Mexicans) are attempting to reoccupy the territory lost in the Mexican/American War, in order to re-establish their dominance in the

³⁴⁰ Stavenhagen, R. (1996) *Ethnic conflicts and the nation-state*. (p. 25-32). Macmillan

³⁴¹ Campbell, K. (2011). The road to s.b. 1070: How arizona became ground zero for the immigrant's rights movement and the continuing struggle for latino civil right in america. *Harvard Latino Law Review*,14 (Spring), 6-7.

area.³⁴² This xenophobic ideology is on the fringe elements of the anti-immigrant movement but the ABP and Mr. Spencer has influenced decision makers in Arizona. Even if the super majority Arizonans do not subscribe to this extreme theory of a Reconquista, Mr. Spencer does perpetuate a fear of a growing Latino population.

After applying Anthony Smith and Rodolfo Stavenhagan's identity theories to Arizona, it is evident how group identity had been exploited by anti-immigrant radicals in the state. I also suggest in my hypothesis that individual identity needs contributed to the outcome of SB 1070. In order to assess this aspect of personal identity, I refer to Vern Neufeld Redekop's theory on *Human Identity Need*. Redekop postulated everybody has identity needs, similar to their physical needs. These identity needs he defined as a person's: *meaning, connectedness, security, recognition* and *action*.³⁴³ If a person feels a need in general (physical or identity) is not met, they will desire to remedy it as soon as possible.

To some degree, I ascertain that every one of these identity needs was exploited by the discourse on unauthorized immigration. The layers of group and individual identity are not independent of one another but intertwined in our conceptualization of whom and what we are. For example, the identity need of *recognition*, validates Blau's theory on the competition between ethnic groups. Lower-economic Caucasians are some of the strongest proponents of SB 1070 because they already lack the recognition they desire in their communities. If the unauthorized immigrant population is perceived as growing, lower-economic Caucasians could assume they would have even less recognition in the economy and by the government.³⁴⁴

³⁴² Southern Poverty Law Center, (2012). *Intelligence files: American border patrol/american patrol* . Retrieved from website: <http://www.splcenter.org/get-informed/intelligence-files/groups/american-border-patrol/american-patrol>

³⁴³ Redekop, V. (2002) *From violence to blessing* (p. 31-60). Ottawa, Novalis: Saint Paul University.

³⁴⁴ *Ibid* (p. 31-60)

Across the country, proponents of strong immigration enforcement often refer to national security as a reason to address unauthorized immigration. As I detail in the presentation of my data, unauthorized immigration are assumed to be people who intend on harming the United States. Thus, the public demand for greater *security* inevitably correlated with the intensification of anti-immigration policies.

The growing anger over unauthorized immigration provided a way for Arizonans to vent their societal frustration onto a supposed culprit. Redekop labeled this phenomenon as the *Scapegoat Function*. Mimicking the religious principle of a sacrificial animal, a scapegoat signifies an individual that embodies the evil in society that must be eliminated to restore a sense of justice.³⁴⁵ Redekop clarified that a scapegoat must be seen as powerful enough to cause the problems in society, yet unable to fight back when they are labeled as illegitimate.³⁴⁶ I believe that SB 1070 qualifies as a prime example of scapegoat function. Unauthorized immigrants, size made their demographics a perceptible cause for societal ailments. Their lack of political rights (i.e. the right to vote) meant they have little recourse to oppose the creation of legislation that demonizes them. Moreover, the structure of unauthorized immigration, force these people to live, work and operate in the shadows of society. The segregation of society, allowed for the corrupted discourse on unauthorized immigration to go unchecked for most Arizonan-Caucasians. Since the majority of Arizonan-Caucasians had no personal interaction with unauthorized immigrants, the illusion of criminality and morally deficient group was accepted as true.

Over the last decade, the discourse on unauthorized immigration in Arizona incorporated multiple facts that were at best questionable, if not a flat out lie. Although, the hardline critics

³⁴⁵ Ibid

³⁴⁶ Ibid (p. 92)

will never concede on these issues, my analysis in the last chapter debunks many of the false allegations made against unauthorized immigrations. I firmly believe the skewed facts and statistics embedded in the discourse on unauthorized immigration, perpetuated the illusion that unauthorized immigrants were responsible for crime, poor education, inflated cost of social services and a lack of jobs. Thus, unauthorized immigrants, and Latinos who are misidentified as part of this community, became a societal scapegoat to restore justice in Arizona.

What is the Future of SB 1070

Two years after SB 1070 passed, Arizona has come a long way from the height of its anti-immigration campaign in 2010. The metaphoric pendulum of public opinion is now swinging in the opposite direction. The national boycott that resulted from SB 1070 devastated the tourist and convention industry in Arizona. It also lowered the tax base collected by the state. Financially, SB 1070 cost Arizona more than it suggested it would save in government services. When the business community came out against the law, it convinced 6 Republican Senators to break with their party and vote with Democrats, which prevented all 5 immigration bills from passing in 2011.

In addition to the contribution of the business community, civil society in Arizona is currently reforming the state's discourse on unauthorized immigration. Over the last decade, as a reaction to the growing hostility in the state, pro-immigrant organizations have developed strong networks to resist anti-immigrant laws. After SB 1070, this pro-immigrant movement successfully recalled Russell Pearce and has influenced the Arizona Legislature to move away from its anti-immigrant legacy. In the absence of the border vigilante movement that propagated the negative discourse on unauthorized immigration, the state has embarked on a new conceptualization of the issue. As professor Joe Heymen and George Lakoff laid out in their academic work, the framing

of a political narrative can have positive or negative consequences. I found that the destructive framing in the discourse on unauthorized immigration contributed to SB 1070. The example of Saul Solsis' Arizona Accord is a perfect case of how the pro-immigrant civil society is utilizing the same tactics to retake the State of Arizona from racial bigotry.

SB 1070 was designed to target unauthorized immigrants, but civil rights organizations are quick to point out that the law also persecutes Latino citizens and legal residents. Significant percentage of the Arizonan Latino population (citizens, legal residents and unauthorized immigrants) has left the state as a result of the law. To comprehend this political objective of the Arizona government, I refer to Carl Schmitt's theory on the preservation of sovereignty. Schmitt acknowledged that "the rule of law means nothing else than the legitimatization of a specific status quo, the preservation of which interest particularly those whose political power or economic advantage would stabilize itself in this law."³⁴⁷ Thereby, if the law caused the Latino population to decrease, it appeared to preserve the status quo of those in political power or who retain economic advantage.

Actually, I found Carl Schmitt's theory backfired in Arizona. The targeting and removing a *political enemy* did not work completely. Despite SB 1070 and the anti-Latino sentiment, the state will continue to become more Latino. The Republican Party that created, endorsed and promoted these anti-immigrant policies will not be forgotten. Generally, Latinos do not vote in high numbers but now their support for Democrats is widening in the state and across the country because of SB 1070. As the fastest growing ethnic group in Arizona as well as the United States, the Democrats are likely to win more elections. In the recent Presidential Election, 71% of

³⁴⁷ Schmitt, Carl (1996) *The concept of the political* (p. 66). Chicago: The University of Chicago.

Latinos supported President Obama and the Democrat Party. In fact, many political scientist are projecting that Arizona will be a swing state in 2016, and Democratic thereafter.³⁴⁸

In conclusion, SB 1070 was the direct consequence of multiple factors. This thesis attempts to identify the theoretical explanations for the creation of the anti-immigration campaign that led to SB 1070. My hope was to expose the impact a divisive discourse can contribute to an antagonistic policy that represses a select group of people. The case study of SB 1070, in my opinion, discredits the concept of state-sponsor immigration policies. Therefore, I am coming away from this project with a strong conviction that the only way to resolve the situation in Arizona, is for Congress to pass comprehensive immigration reform as soon as possible.

³⁴⁸ Davis, S. (2012, November 02). Hispanic vote may nudge arizona toward sing in 2016. USA Today. Retrieved from <http://www.usatoday.com/story/news/politics/2012/11/01/arizona-hispanic-impact/1675003/>

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