



As Border Violence Intensifies, Ariz. Gov. Defends New Law

Seven bodies were found October 31 in a mass grave in Nogales, Arizona's largest border city. According to a Fox News report, the city's mayor, José Angel Hernandez, related that officers recovered six bodies and a severed head in a riverbed; a seventh headless body was found nearby.

Though the report did not attribute the deaths to drug-related activity, the bodies were found in an area of the state so well known for border violence that the National Parks have posted signs warning visitors that the area is unsafe.



On November 1, the day after the discovery of the seven bodies, Arizona Governor Jan Brewer appeared in the Ninth U.S. Circuit Court of Appeals in San Francisco to defend the state's new immigration law, S.B. 1070, which addresses the state's growing problems of drug-related crimes and an increase in undocumented alien traffic which have caused border violence to spiral out of control.

Governor Brewer and her lawyers faced a panel of three judges who questioned the way the law was carried out. Justice Department lawyers claim parts of the state law are unconstitutional and would interfere with federal law enforcement.

Though international border issues are the purview of the federal government, Arizona's governor contends that the state's bill is an attempt to protect its citizens where the government has failed signally. The *New York Times* quoted Gov. Brewer, "We would not be here today if the federal government had done their job," she told reporters after the hearing. "We are not their enemy — we are part of the United States of America."

Though critics claim S.B. 1070 is an encroachment on federal duties, the law clearly states that it "requires officials and agencies of the state and political subdivisions to *fully comply with and assist in the enforcement of federal immigration laws.*" (Emphasis added.)

The bill's opponents also contend that it mandates racial profiling; however, S.B. 1070 simply "requires a reasonable attempt to be made to determine the immigration status of a person during any legitimate contact made by an official or agency of the state or a county, city, town or political subdivision if reasonable suspicion exists that the person is an alien who is unlawfully present in the U.S." Federal law already requires that aliens register and carry their documents with them at all times.

Last July the federal government sued Arizona and suspended parts of the bill, ruling that the state couldn't require local law enforcement officers to check the immigration status of people during a lawful stop. (Obama's administration has said that officers' questions about immigration status are unconstitutional.) The judges in the November 1 hearing grappled with whether officers were free to question people about crimes beyond the grounds for the stop. Edwin Kneedler, Deputy Solicitor



Written by [Kelly Holt](#) on November 3, 2010

General representing the Justice Department, was questioned by Judge John T. Noonan, Jr. about why the requirement is unconstitutional. Noonan added that it did not necessarily usurp federal law.

The judges focused on the central question of whether a state could take it upon itself to enforce federal law (here, in relation to illegal immigration). Supporters of the governor agree with her position that if the federal government refuses to protect a state, that state may defend itself — claiming that the Tenth Amendment supersedes federal law and that a state's right is supreme.

Brewer has promised to appeal to the Supreme Court if this appeal is denied.

Kneedler later remarked, "This has to be considered in the light of what would happen if every state in the nation did this [passed a similar law]."

Other states may indeed do this. MMDNewswire reported that [17 states](#) are now considering versions of S.B. 1070, as U.S./Mexican border violence increases, and the flood of illegal immigration continues unabated.

The sheriffs of the three Arizona counties most affected by border issues — Maricopa County's Joe Arpaio, Pinal County's Paul Babeu, and Cochise County's Larry Dever — are hopeful about the Ninth U.S. Circuit Court's ruling, according to AZCentral.com. All have been staunch supporters of S.B. 1070. Interestingly, even though their counties are the ones most affected, they were not invited to speak before the judges' panel in San Francisco. The ACLU has filed a separate lawsuit involving S.B. 1070, naming all three sheriffs as defendants.

The sheriffs clearly see that it's a question of national security. AZCentral noted of Sheriff Babeu:

He had said the most beneficial part of the law to his deputies was the portion that makes it a state crime to be in the country illegally and he was hopeful the court would allow that portion to go into effect.

"I thought the judges were very thoughtful, but I've never had a lot of faith in the 9th Circuit," he said, calling this hearing one of many battles in the war. "And for the sake of public safety and national security, we have to win this."

Sheriff Arpaio sees the Justice Department lawsuit against Arizona as a political move, noting that the federal government doesn't object when local law enforcement works with federal officials on, for instance, bank robberies or gun violations.

Regardless of whether border violence is always drug-related, there are serious questions about the U.S. government's failure to protect its own citizens and border cities, as well as about the usurpation of power in Washington that would turn a government against one of its own states.

Photo of Gov. Jan Brewer: AP Images



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