

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF ARIZONA, et al.,

Defendants.

Civil Action No.

DECLARATION OF MARIKO SILVER

Pursuant to 28 U.S.C. § 1746, I, Mariko Silver, declare and state as follows:

1. I am the Deputy Assistant Secretary for International Policy and the current Acting Assistant Secretary for International Affairs at the United States Department of Homeland Security (DHS or the Department). I make this declaration based on my personal knowledge and from information provided to me by personnel with relevant knowledge.

2. I have served as the Deputy Assistant Secretary for International Policy for 16 months (February 2009 – June 2010). Prior to joining DHS, I served as Policy Advisor for innovation, higher education, and economic development in the office of Arizona Governor Janet Napolitano. I have also held positions at Arizona State University and Columbia University. In my capacity as the Acting Assistant Secretary for International Affairs I manage a department-wide approach to DHS's international engagement, advising the Office of the Secretary and senior leadership of the department on international policy and programs.

3. I am aware that the State of Arizona has enacted new immigration legislation, known as Senate Bill 1070 (Arizona SB 1070).

4. The Office of International Affairs in the Department of Homeland Security, Office of Policy, plays a central role in developing the Department's strategy for the Homeland Security mission overseas and actively engages foreign counterparts to improve international cooperation on homeland security issues. The very existence of the Office of International Affairs affirms that immigration policy and enforcement demand, in many instances, cooperation with foreign governments and that American immigration policy is a topic of interest in American diplomatic relationships. The Office of International Affairs provides the Secretary and the Department with policy analysis and management of the international affairs and foreign policies that impact the Department. Among other things, the Office of International Affairs builds support among nations and international organizations for actions against global terrorism; manages international activities within the Department in coordination with other federal officials with responsibility for counter-terrorism matters; assists in the promotion of information and education exchange with nations friendly to the United States in order to promote sharing of best practices and technologies relating to homeland security; builds upon and creates new partnerships to enhance DHS's ability through enforcement of the immigration and customs laws, to investigate and interdict transnational criminals and others who threaten public safety and the security of the United States; and coordinates Department international affairs including reviewing departmental positions on international matters, negotiating agreements, developing policy and programs, and interacting with foreign officials.

5. Arizona's new immigration law, Arizona SB 1070, is affecting DHS's ongoing efforts to secure international cooperation in carrying out its mission to safeguard America's people, borders, and infrastructure. DHS depends upon building international partnerships in order to be able to identify vulnerabilities and to understand, investigate, and interdict threats or

hazards at the earliest possible point, ideally before they manifest, reach our shores, or disrupt the critical networks on which the United States depends. Some of these potential threats involve people looking to enter the United States. These international relationships provide critical assistance towards enforcing the immigration laws to help prevent the arrival of individuals who pose national security or public safety concerns.

6. In the weeks following the passage of Arizona law SB 1070, DHS has seen negative effects on our outreach programs and on DHS's interactions with foreign governments. One specific instance where the bill has had a negative impact is on the implementation of provisions of the Rice-Espinosa agreement, which was designed to increase cooperation with Mexico on emergency management issues. On October 23, 2008, the United States and Mexico signed the Agreement between the Government of the United States and the Government of the United Mexican States on Emergency Management Cooperation in Cases of Natural Disasters and Accidents, which provided for increased cooperation in the event of natural disasters and accidents. DHS is of the view that revisions to this dated agreement with Mexico are necessary to reflect the current and emerging emergency management environment. To date, the Mexican Senate has yet to ratify the agreement. The Mexican Senate was scheduled to consider this revised agreement on April 27, 2010. The agreement was removed from the agenda, however, before it could be considered by the Mexican Senate. Mexican senators cited their anger over the passage of SB 1070 as the reason for postponing consideration of the agreement. *See* Ricardo Gomez Y Elena Michel, Senado congeal acuerdo con EU por Ley Arizona, El Universal (Mexico City), April 27, 2010, *available at* <http://www.eluniversal.com.mx/notas/676153.html>. It is likely that the Senate will not take up consideration of the agreement again until its next

session in September, 2010. Of course, if a natural disaster occurs in the interim, the response will not benefit from the agreement's framework for enhanced cooperation.

7. Fallout related to the passage of the Arizona bill has also impacted DHS's progress with the Merida initiative. When it was launched in 2007, the Merida Initiative, led by the United States Department of State, was a partnership among the governments of the United States, Mexico, and the countries of Central America to confront the violent transnational gangs and organized crime syndicates that plague the entire region. Based in part on this initiative, the United States has forged strong partnerships to enhance citizen safety in affected areas to fight drug trafficking, organized crime, corruption, illicit arms trafficking, money-laundering, and demand for drugs on both sides of the border. DHS is one of the key agencies involved in executing this initiative. Since the Arizona Bill was enacted, DHS representatives in Mexico working on the Merida initiative have reported complications in their efforts in the area of public diplomacy. DHS representatives in Mexico have had to field a barrage of questions relating to the Arizona bill which has delayed discussions regarding DHS cooperation and progress on this initiative.

8. DHS is also concerned about reports from border state officials that as a direct result of the passage of Arizona SB 1070, 5 of 6 Mexican governors will not participate in the Border Governors Conference, scheduled for September 8th through the 10th, if it is held in Arizona as planned. This year's conference is to be chaired by Arizona Governor Brewer. The conference agenda includes worktables on issues such as border security, science and technology, public health, tourism, emergency and civil protection and logistics and international crossings. The conference is normally attended by most of the ten U.S. and Mexican border state governors. DHS and other federal agencies are invited to the conference to provide technical

advice and ensure close state-federal cooperation. A boycott by Mexican officials in protest to Arizona law SB 1070 could hinder progress on issues that are critical to the DHS mission such as cross-border emergency management, trade facilitation, security cooperation, public health, and border crossing infrastructure.

9. DHS is similarly concerned about the damage this bill has caused in the general public perception abroad. Arizona SB 1070 is damaging the public trust that both the United States and Mexico have sought to build for our collaborative work in the fight against drug trafficking organizations. Much of the rhetoric in the Mexican media surrounding the bill demonstrates that the Mexican public views the bill as confirmation of the U.S. public's negative view of immigrants. This rhetoric also places DHS in a negative light. Such damage to the Department's international image is difficult to repair and could potentially have long term effects on future cooperation.

10. The Regional Conference on Migration (RCM), a migration forum with participants from all the Central and North American Countries, met most recently on May 20th and 21st of this year. Many delegations and multiple NGOs, rather than addressing broader migration issues, used their speaking time to criticize Arizona SB 1070 and express their concern about its potential impact on their citizens. Some Central American delegations even sought to include a condemnation of the Arizona law in the final RCM Declaration. Although the US delegation was able to block the inclusion of this specific reference, the Arizona bill was a constant and regular part of the RCM dialogue. The discussions regarding Arizona SB 1070 took time away from other, more critical, migration issues that could have furthered the Department's objectives, such as building partnerships and information sharing agreements which would enhance our ability to make informed decisions regarding applicants for admission

and to facilitate legitimate immigration and the protection of refugees, trafficking victims, and other vulnerable individuals as well as building partnerships which would further the Department's objective of deterring and interdicting illegal migration efforts and ensuring the safe and timely repatriation of illegal migrants.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief. Executed this 24th day of June, 2010, in Washington, D.C.



Mariko Silver