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DOJ V. SHERIFF JOE

On a mission to quash illegal immigration, a mercurial Arizona sheriff tangles with the Feds

By Julius (Jay) Wachtel. “Today, the Department of Justice did something it has done only once before in the 18-year history of our civil police reform work; we filed a contested lawsuit to stop discriminatory and unconstitutional law enforcement practices.” That’s how Assistant Attorney General Thomas Perez [prefaced the announcement](#) that placed Phoenix Sheriff Joe Arpaio’s preoccupation with illegal immigrants under the Federal microscope.

In a detailed 32-page [civil complaint](#) filed Wednesday, the Feds charged Maricopa County, its Sheriff’s Office and Sheriff Joe Arpaio with violating the [1964 Civil Rights Act](#) by engaging in law enforcement and correctional practices that discriminate against Latino residents and against Latino inmates, and for retaliating against their critics.

Graphic depictions of abuse begin on the second page:

MCSO jail employees frequently refer to Latinos as “wetbacks,” “Mexican bitches,” and “stupid Mexicans.” MCSO supervisors involved in immigration enforcement have expressed anti-Latino bias...distributing an email that included a photograph of a Chihuahua dog dressed in swimming gear with the caption “A Rare Photo of a Mexican Navy Seal.”

According to the complaint, deputies targeted Latinos, using pretexts to stop vehicles and search their occupants:

...officers stopped and detained a Latino driver and Latino passengers for a human smuggling investigation because they “appeared to be laying or leaning on top of each other” and “appeared, disheveled, dirty, or stained clothing [sic].” However, MCSO pictures taken at the scene show neatly dressed passengers sitting comfortably in the rear of the vehicle.

...officers stopped a car carrying four Latino men, although the car was not violating any traffic laws. The MCSO officers ordered the men out of the car, zip-tied them, and made them sit on the curb for an hour before releasing all of them. The only reason given for the stop was that the men’s car “was a little low,” which is not a criminal or traffic violation.

Females weren’t immune. One Latina motorist, a U.S. citizen and five months pregnant, was allegedly roughed up then left to swelter in a non-air conditioned police car for a half hour. Her crime? No proof of insurance, a charge that was dismissed when she brought her insurance card to court. Another Latina, also a U.S. citizen, got into a tussle with deputies who followed her home for a “nonfunctioning license plate light.” That ticket was also dismissed.

Deputies raided homes and businesses looking for illegals. But how is it that local cops wound up doing so? In 2007 the Feds contracted with selected police agencies across the U.S., including the MCSO, to enforce immigration laws on the street and in detention facilities. But two years later when its contract came up for renewal Maricopa County [was stripped of its powers](#) to do anything beyond check the immigration status of inmates (it was the only agency so snubbed.)

Despite the setback Sheriff Joe kept sweeping up illegal aliens, using authority he claimed under Federal and state laws. In April 2010 his legal standing got a boost when [Arizona passed its own immigration laws](#), which among other things authorized police to detain persons whom they reasonably suspected were illegally in the U.S. However, a [Federal district judge soon enjoined this](#) and other key provisions of the law. [Her decision](#) was promptly affirmed by the Ninth Circuit.

Arizona appealed and the Supreme Court granted certiorari. [Oral arguments were heard April 25](#). Analyzing the situation for the SCOTUS blog, Lyle Denniston reported that the Supremes are likely to grant police considerable leeway in dealing with possible illegal aliens, including temporarily detaining them for investigation. But creating parallel state offenses that punish illegal status, as Arizona has done, will probably not be allowed.

In December 2011 Arpaio's difficulties with DOJ [led to the revocation of his jailers' authority](#) to check immigration databases. That's now become the purview of ICE agents assigned to the jails.

No matter how the Supreme Court rules, the limits imposed on the MCSO will likely hold until the lawsuit is resolved. Sheriff Joe must still respond to claims that "inadequate policies, ineffective training, virtually non-existent accountability measures, poor supervision, scant data collection mechanisms, distorted enforcement prioritization, an ineffective complaint and disciplinary system, and dramatic departures from standard law enforcement practices" created a culture of bias and indifference towards Latinos.

But Maricopa County's chief law enforcement officer isn't one to give up easily. Only one day before DOJ dropped the hammer Sheriff Joe released a [17-page pamphlet](#). It features a list of improvements in management, training, supervision and discipline that would ostensibly prevent abuses, enhance accountability and improve community relations. Here are a few:

- Establish and maintain specific bias-free law enforcement and detention services/policies
- Standardize a method of reporting policy deficiencies including opportunities for public input
- Provide mandatory stand-alone training for all employees relating to bias-free law enforcement and detention services
- Develop and implement policies specific to bias-free law enforcement and detention services
- Enhance and mandate training focused on bias-free practices
- ...enhance communication overall and build language competencies for effective communication with those of limited English proficiency...
- Provide and maintain training on decision-making, conflict resolution, and use of force options consistent with best industry standards
- Standardize procedures for receiving, investigating, tracking, and reporting complaints of excessive use of force

- Seek citizen feedback and evaluation through surveys or other similar methods to assess Sheriff's Office performance
- Implement an early intervention/recognition system to minimize the potential for escalation of employee behavior into incidents involving serious misconduct and promote employee development
- Implement training on the rights and actions of members of our community who witness, observe, record and/or comment on law enforcement actions, including stops, detentions, searches, arrests, or uses of force that are in accordance with the United States and Arizona Constitutions and the laws
- Review and revise, as needed, policies and procedures for receiving and investigating complaints to ensure fair and appropriate responses
- Maintain clear prohibitions against and severe consequences for retaliation
- Provide easy access for public complaint, comment and commendation about Sheriff's Office personnel
- Develop a system to track comments and complaints, analyze and report results, issues or trends

DOJ's Thomas Perez [quickly rejected Sheriff Joe's proffer](#). "This too-little, too-late document, cobbled together at beyond the eleventh hour, is no substitute for meaningful reform." One suspects that Perez wasn't referring to the brochure's content, which is a fairly comprehensive summary of best practices in police management. What must really miff DOJ is that Sheriff Joe refuses to accede to the usual remedy – a consent decree and a court-supervised outside monitor. Instead he continues to insist that he's the sheriff and that any and all outside inquisitors must [report directly to him](#). And what does he offer as a peace token? A pamphlet!

One thing's for sure. If deputy behavior was indeed scandalous – and it seems clear that Sheriff Joe's obsession with immigration enforcement led him and his staff seriously astray – it will take a lot more than rewriting the rule book and increasing the sergeant-deputy ratio to fix things. True reform requires an unwavering commitment from the top. But Sheriff Joe's dismissive attitude and combative style send out all the wrong signals. It will be difficult – likely, impossible – to implement true change with him in place, and that's all the more so should the Supreme Court rule in Arizona's favor.

DOJ obviously realizes that having Sheriff Joe as the go-to guy for his agency's transformation is like letting the fox guard the chicken coop. That's why they finally, and most reluctantly, sued.

We're eager for round two.