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**Raising Arizona:
How 9/11 Gave Rise to a "Police State" Climate in Arizona**

Lenine B. Umali

INTRODUCTION: RAISING ARIZONA

“I’m glad I’ve already seen the Grand Canyon,” wrote *New York Times* reporter Linda Greenhouse, “Because I’m not going back to Arizona as long as it remains a police state.” The *Huffington Post*’s Deepak Bhargava expressed similar concerns: “So we find ourselves on the verge of converting Arizona, which has one of the largest Latino populations in America, into a police state.” All you have to do is ring up the words “Arizona police state” on Google to see the slew of allegations being hurled against the state ever since it began actively passing some of the nation’s most stringent and overtly anti-immigrant legislation. It may be that the claims are made by people with the sincere belief that there is an Arizona police state, but the accusation is an extreme one. Greenhouse herself invokes (somewhat exaggeratedly) images of Soviet Russia and apartheid South Africa in her outrage over the state of life in Arizona.¹

Yet the same Google search reveals that the amount of people alleging that Arizona has become a police state only came in droves after the world got wind of Arizona’s recent attempt to give local and state police officers the power to arrest and detain any person suspected of being undocumented. What is less obvious is that the same allegations decrying the stringent, anti-immigrant measures being passed in the Arizona legislature have been made *before*—and not by *New York Times* reporters or contributors to *The Huffington Post*. Journalist Anmol Chaddha, during a visit to the Arizona-Mexico border in 2003, noted this sentiment in Arizona citizens: “While Border Patrol SUVs seem to pass by every 10 minutes, one longtime resident added that ‘half of the regular cars you see are unmarked Border Patrol, too. It’s basically become a police state.’”² Many were outraged at the possibility of racially-motivated witch hunt being waged against Latinos. In a state with an undocumented population estimated at 375,000—about 6% of the total population—and a Hispanic population of close to 30%, it was becoming increasingly more relevant to bring attention to Arizona’s border policy.³

But what exactly is a “police state”? The term has several implications depending on its usage, but Brian Chapman, author of *Police State*, argues that the term itself is merely a literal translation of the German word *Polizeistaat*.⁴ The *Polizeistaat* was one of three forms of state government that reigned in Germany during the 1930s, the others being *Rechsstaat* and *Justizstaat*; it was characterized by the use of administrative bureaucracies (as opposed to courts or arbitration) to handle the grievances of the public, as well as substantial administrative discretion over all state. Only after the emergence of Nazi Germany, whose government style was a perversion of the *Polizeistaat*, did the term “police state” begin to take on a negative connotation.

The original term “police state,” in fact, did not imply tyrannical institutions or the absence of constitutionally-granted freedoms as it does now in modern political conversation. However, there is also no definite meaning given to the term “police state.” It is often used vaguely and loosely, pertaining to all governments resembling Nazi Germany. In light of this, I opted instead to focus my research on what causes people to call Arizona a “police state” in order to determine what is meant by the term and why Arizona is exemplary of “police state” characteristics. My research uncovered five patterns that emerged in Arizona after 9/11 coinciding with the surge of “police state” accusations: the rise in immigrant polices forces, “crimmigration” policies, immigrant prisons, influential anti-immigrant entities, and undocumented migrant deaths at the border. I argue that while these five findings do not make Arizona a full-fledged “police state” comparable to Nazi Germany, they do directly contribute to a “police state” climate—that is, a socio-political climate that resembles a “police state” in several troubling ways. In the end, the project became an effort to collect scattered pieces of evidence in order to reveal a story still unfolding in Arizona regarding immigration, rendered understandable within a specific context. This thesis aims not to prove that there is an Arizonan “police state,” but to expose significant aspects of the state’s border policy and their repercussions on those living in Arizona’s jurisdiction, in hopes of creating a better understanding of what patterns are appearing, how they are connected, and, ultimately, how they have contributed to the rise of a “police state” climate.

¹ Greenhouse, Linda. “Breathing While Undocumented.” Opinionator: Exclusive Online Commentary from The Times. 26 April 2010.

² Chaddha, Anmol. “Borderland Security.” *ColorLines* 6.4 (2003): 30.

³ Pew Hispanic Center. “Illegal Immigration in the US: State-by-State Totals - Graphic - Pew Hispanic Center.” 21 November 2010; “Demographic Profile of Hispanics in Arizona, 2008.” 20 November 2010.

⁴ Chapman, Brian. *Police State (Key Concepts in Political Science)*. London: Macmillian (1971), 428.

THEORETICAL AND HISTORICAL FOUNDATIONS

This project depends on several different, interrelated studies on trends that have developed or are currently developing in immigration policy. The literature will be described according to the five findings in order to effectively showcase previous studies that have been done on the subject of immigration law, enforcement, and the role of 9/11.

Localizing Immigration Enforcement

Much of this project relies on previous explications of the nature of immigration enforcement since two major immigration acts passed in 1996: the Antiterrorism and Effective Death Penalty Act (AEDPA), and the following Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA). Jennifer Chacón's article, *A Diversion of Attention?: Immigration Courts and the Adjudication of Fourth and Fifth Amendment Rights*, was particularly helpful in understanding the complicated shifts in jurisdiction over immigration. In the article, she describes the shift in immigration enforcement from the federal government to state and local law enforcement due to allowances granted in IIRIRA.⁵ Chacón also notes the escalation of state and local police involvement in immigration enforcement after 9/11, attributing the focus on policing the border to a simultaneous shift in immigration policies made by then-Attorney General John Ashcroft (who stated in an infamous memo that non-federal police had the "inherent authority" to enforce immigration policy).⁶

The work of Greg K. Venbrux also provided significant background information on the role of local law enforcement in immigration following the 1996 reforms. In his article, *Devolution or Evolution: the Increasing Role of the State in Immigration Law Enforcement*, Venbrux provides the post-9/11 developments in the role of local actors in immigration policy.⁷ He explains the establishment of the federal government's plenary power over immigration law through a discussion of Supreme Court decisions, all of which led up to the Tenth Circuit's decision in *United States v. Vasquez-Alvarez*, where the Supreme Court failed to distinguish between civil and criminal law⁸, allowing for the legal developments in 1996. Venbrux analyzes the narrow limitations placed on state and local involvement to enforce some criminal provisions in the Immigration and Nationality Act (INA) and the contributions of 9/11 to subsequent changes that originated from the Department of Justice's decision to "equate immigration enforcement with national security."⁹

These developments analyzed by Chacón and Venbrux explore the nature of immigration policy shifts at both the federal and state level; however, they only do so in terms of policy and tendency. My research employs their analyses of immigration enforcement policy as a backdrop for understanding the steady rise of police presence in Arizona.

"Crimmigration"

The term "crimmigration," coined by Juliet P. Stumpf in her 2006 article, *The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power*, describes the phenomenon of criminal and immigration law convergence.¹⁰ She proposes that "membership theory, which limits individual rights and privileges to the members of a social contract between the government and the people, is at work in the convergence of criminal and immigration law."¹¹ Stumpf notes the involvement of anti-immigrant attitudes that intensified after 9/11 shifted the direction of immigration law towards criminalization through the linking of immigration issues with issues of national security.¹²

⁵ Chacón, Jennifer M. "A Diversion of Attention? Immigration Courts and the Adjudication of Fourth and Fifth Amendment Rights." *Duke Law Journal* 59 (2006): 1580.

⁶ *Ibid*, 1581.

⁷ Venbrux, Greg K. "Devolution or Evolution? The Increasing Role of the State in Immigration Law Enforcement." *UCLA Journal of International Law and Foreign Affairs* 11 (2006): 333-347.

⁸ *Ibid*, 311-314.

⁹ *Ibid*, 317.

¹⁰ Stumpf, Juliet. "The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power." *American University Law Review* 56.2 (2006): 367-419.

¹¹ *Ibid*, 377.

¹² *Ibid*, 385-386.

Chacón's work in another article, *Managing Migration Through Crime*, provides yet more analyses on three specific trends unfolding in the immigration debate among legal scholars: "the increasingly harsh criminal consequences attached to violations of laws regulating migration, the use of removal as an adjunct to criminal punishment in cases involving noncitizens, and the rising reliance on criminal law enforcement actors and mechanisms in civil immigration proceedings."¹³ She relies on Stumpf's theory on the evolution of "crimmigration" to describe the prosecution of immigration-related offenses, showing how undocumented migrants became increasingly prosecuted in criminal, rather than civil, courts between the 1980s and 2000.¹⁴

Daniel Kanstroom's *Criminalizing the Undocumented: Ironic Boundaries of the Post-September 11th Pale of Law*, provides an analyses of developments in immigration law in the wake of 9/11 under the aegis of Stumpf's "crimmigration" theory. Kanstroom explores the boundaries that existed between the civil immigration law pre-9/11 and the criminalized immigration law of the post-9/11 age, discussing them according to "two major legal dichotomies: the citizen/non-citizen and criminal/civil lines."¹⁵ He notes the development in immigration policy that led to the creation of the citizen and non-citizen line, grouping legal non-citizens in the same group as non-citizens in order to most efficiently separate those with full rights apart from those with little to no rights in the American justice system¹⁶, in addition to noting the blurring of the civil and criminal lines, as addressed by Stumpf and Chacón.

Together, the work of Stumpf, Chacón, and Venbrux help explain the multiple phenomena of anti-immigrant legislation being passed with impunity in the Arizona legislature and through ballot initiatives, as well as the rise in immigration police forces. They help explain how it became legitimate to address immigration issues at the state and local level, although all immigration matters are to be solely under the federal government's jurisdiction.

An American "Gulag"

The "Gulag" is a theoretical framework developed by Mark Dow in his book, *American Gulag: Inside US Immigration Prisons*, which builds upon Aleksandr Solzhenitsyn's idea of the "gulag archipelago" of Soviet labor camps.¹⁷ Dow's use of the Gulag in terms of detention centers and prisons instead of labor or concentration camps explains the trends occurring in Arizona with respect to its prison system.¹⁸ Although primarily a collection of narratives showcasing experiences with detention in the US, Dow's research describes the escalation of the production of detention centers in response to 9/11 and the anti-immigrant policies which followed.¹⁹ Dow also describes how the creation of the Department of Homeland Security and the correlative increase of detainees after 9/11 resulted in the housing of detainees in local prisons and jails.

The recent publication by Mona Lynch, *Sunbelt Justice: Arizona and the Transformation of American Punishment*, shows the growth of prisons in her discussion of the evolution of the Arizonan penal system. She traces the historical role of prisons in Arizona and their rise and transformation following the 1968 establishment of the Arizona Department of Corrections.²⁰ Through her work, it is possible to see the extreme discrepancies between 1968 and the present that occur as Arizona changes its attitude towards incarceration.

Together, these two works provide a theoretical framework and a historical foundation to describe the growth of the prison industry in Arizona and how immigrants factor into that development after 9/11. My research employs Dow's and Lynch's information to show that the growth of prisons and anti-immigration policies are inextricably intertwined in the post-9/11 age, and also that the two interconnected trends contribute to the "police state" climate.

Nativism on the Border

¹³ Chacón, Jennifer M. "Managing Migration Through Crime." *Columbia Law Review Sidebar* 109 (2009): 135-148.

¹⁴ Kanstroom, Daniel. "Criminalizing the Undocumented: Ironic Boundaries of the Post-September 11th Pale of Law." *North Carolina Journal of International Law and Commercial Regulation* 29 (2004): 639-670.

¹⁵ *Ibid*, 640.

¹⁶ *Ibid*, 642-649.

¹⁷ Dow, Mark. *American Gulag: Inside US Immigration Prisons*. Berkeley: University of California Press, 2004.

¹⁸ *Ibid*, 12.

¹⁹ *Ibid*, 9-10.

²⁰ Lynch, Mona. *Sunbelt Justice: Arizona and the Transformation of American Punishment*. Stanford: Stanford University Press, 2010: 60.

Roxanne Lynn Doty's *The Law into Their Own Hands: Immigration and the Politics of Exceptionalism* served as an integral source of information regarding the phenomenon of civilian border patrol groups and anti-immigration groups that came to prominence in the post-9/11 age. Inspired by the rise of the Minutemen in 2005, Doty's research is an expansive account of prominent anti-immigrant actors that have played a significant role in the framing of the contemporary immigration debate, showcasing the growing interrelatedness of a previously-fragmented anti-immigrant movement, the centrality of the Minutemen, and—most importantly—the rise of Arizona as the “epicenter of anti-immigrantism.”²¹

James Duff Lyall in his article, *Vigilante State: Reframing the Minuteman Project in American Politics and Culture*, uses the Minutemen in order to expand on the notion of white supremacist nativism and its deep connections to the anti-immigrant movement, especially the Minutemen. Lyall recites the rooted history of anti-immigrantism, especially at the US-Mexico border, as well as reviews landmark anti-immigrant laws and Supreme Court decisions.²² He uses the backdrop of “border militarization” to explain the legitimization of civilian border patrol movements, like the Minutemen, in the present day.²³ With regard to the Minutemen, Lyall exposes the group's solid connections with white supremacist and hate groups, and notes that the success of the Minutemen movement in “appropriating America's noblest ideals ... attracting curiosity and even respect, rather than widespread condemnation or dismissal” is “alarming” due to such controversial connections.²⁴

What Doty and Lyall contribute is an explanation of the rise of these groups and how they differ from past movements. My research aims to depict their rise specifically in Arizona and how their growth contributes overall to a “police state” climate for citizens and non-citizens alike residing in the state.

Migrant Deaths

“*Migrant deaths*” refers to the deaths of migrants attempting to cross *la linea*, or the US-Mexico border. Maria Jimenez's report (commissioned by the American Civil Liberties Union and Mexico's National Commission of Human Rights), *Humanitarian Crisis: Migrant Deaths at the US-Mexico Border*, serves as a collection of national statistics on deaths at the border using a human rights framework. Jimenez traces migrant deaths since 1994 across the US-Mexico border and provides human rights analyses for the causes of death, advancing the argument that the major causes of the rise in migrant deaths at the border comes from faulty border security measures such as Operation Gatekeeper.²⁵ In addition, Jimenez also collects information on countermeasures to stem migrant deaths that have developed in response to the failure of either the Mexican or American governments to deal with the realities on the border.²⁶

Two separate studies on migrant deaths by Karl Eschbach *et al* and Sanjeeb Sapkota *et al* provide the necessary statistical proof of the sharp increase in migrant deaths after certain points in time. Eschbach *et al*'s research provides statistical information on migrant deaths predating 9/11, namely producing numbers of migrant deaths between 1993 and 1997²⁷, while Sapkota *et al*'s research provides statistical information for the year between 2002 and 2003.²⁸ They serve as important markers in the timeline of the rise and fall of migrant deaths pre-9/11 and post-9/11, and highlight the sharp and steady increase in migrant deaths—especially in post-9/11 Arizona.

Both reports find that the most direct, key element of the increase in migrant deaths lies in the establishment of border security measures that have pushed migrants into dangerous Arizona terrain, such as

²¹ Doty, Roxanne Lynn. *The Law into Their Own Hands: Immigration and the Politics of Exceptionalism*. Tuscon: University of Arizona Press, 2009: 43; 86.

²² Lyall, James Duff. “Vigilante State: Reframing the Minuteman Project in American Politics and Culture.” *Georgetown Immigration Law Journal* 23 (2009): 262-269.

²³ *Ibid*, 270-275.

²⁴ *Ibid*, 279.

²⁵ Jimenez, Maria. “Humanitarian Crisis: Migrant Deaths at the US-Mexico Border.” *American Civil Liberties Union of San Diego and Imperial Counties and Mexico's National Commission of Human Rights* (2009): 7-10.

²⁶ *Ibid*, 36-43.

²⁷ Eschbach, Karl, Jacqueline Hagan, Nestor Rodriguez, Rubén Hernández-Léon, and Stanley Bailey. “Death at the Border.” *International Migration Review* 33.2 (1999): 430.

²⁸ Sapkota, Sanjeeb, Harold W. Kohl III, Julie Gilchrist, Jay McAuliffe, Bruce Parks, Bob England, Tim Flood, Mack Sewell, Dennis Perrotta, Miguel Escobedo, Corrine E. Stern, David Zane, and Kurt B. Nolte. “Unauthorized Border Crossings and Migrant Deaths: Arizona, New Mexico, and El Paso, Texas, 2002–2003.” *American Journal of Public Health* 96.7 (2006): 1282.

the Sonoran and Chihuahuan Deserts. What my research aims to show is that there was a significant rise in migrant deaths only after 9/11, and that these increases are reflective of extremely separatist police state border security methods aimed at preventing entry into Arizona at any cost.

OBJECTIVES AND METHODS

My research is essentially a collection of interrelated phenomena which have contributed significantly to the rise of a “police state” climate in Arizona. This project involves several findings, which I have arranged according to their immediate relevance to the existence of said “police state” climate. Based largely on statistical information done through comparing primary source calculations and existing data, my key research findings revolve around the “rise” in actual numbers of immigration police, “crimmigration” policies, detention centers/prisons and detainees, anti-immigrant and civilian border patrol groups, and migrant deaths solely in the state of Arizona.

Section 1 deals directly with proving the incredible presence of police in the state of Arizona, which is a primary reason that some have alleged that Arizona has become a “police state.” Using numbers provided by the Department of Homeland Security on the growth of the Border Patrol and Immigration and Customs Enforcement within Arizona, I show the steady rise of federal immigration police presence. Similarly, using numbers provided by the Arizona Department of Public Safety in their annual Crime Reports, I show the rise of local and state police, who—by certain developments in immigration enforcement policy after 9/11—have become effective immigration agents under the aegis of the Department of Homeland Security’s immigration enforcement arms.

Section 2 addresses the developments in immigration policy at the state level, reviewing legislation targeted at controlling non-citizens within Arizona, so as to highlight the ways in which the state has attempted to take control of immigration policy for the purpose of allowing state and local actors to arrest and detain undocumented migrants—thus legally establishing a “police state” climate for all *suspected* of undocumented status. In order to do so, I reviewed and analyzed the Arizona Legislature’s session laws from 2001 until 2010 that targeted immigrants or undocumented migrants. I also reviewed and analyzed Arizona ballot initiatives from 2001 until 2010 to show corresponding public, anti-immigrant initiatives that have since become law.

Section 3 reveals the rise and expansion of detention centers specifically in Arizona since 9/11, to which increased policing has directly contributed. I arrived at the numbers of detainees through calculation of statistical information provided by Immigration and Customs Enforcement, known as the Average Daily Population of Detainees, from 2006 to May 2010; the information was subsequently used to name the facilities in which detainees were kept, which differed greatly from 2006 to 2010. I also calculated numbers provided by the Bureau of Justice Statistics from 2002 to 2008 to help estimate the growth of detainees in Arizona.

Section 4 examines the growth of popular nativist, anti-immigrant groups in Arizona. This particular section relies on the information provided by Roxanne Lynn Doty’s research on civilian border patrol groups, as well as statistics provided by the Border Action Network, the Anti-Defamation League, and the Southern Poverty Law Center. In order to estimate the growth of anti-immigrant groups, I used the above sources and information gathered from OpenSecrets.org regarding political action committees in support of anti-immigrant groups.

Section 5 attempts to place the phenomena of heightened migrant deaths on the Arizona-Mexico border in the context of the burgeoning Arizona “police state,” in that the deaths reflect a police state method of extreme border security aimed at preventing any possible entry into state territory at even the cost of hundreds of human lives.

THE RISE OF IMMIGRATION POLICE FORCES

Perhaps the most tangible and visible additions to Arizona’s landscape, especially at the US-Mexico border, are the ever-increasing numbers of Border Patrol and Immigration and Customs Enforcement agents. “It’s basically become a police state,” remarked a long-time resident of Douglas, Arizona, referring to the

“[beefed] up presence of agents.”²⁹ The resident’s observations are not without merit. A close look at the presence of immigrant law enforcement agents in Arizona—federal, local and state, and even civilians—reveals an alarmingly extensive police force dedicated to the sole pursuit of arresting, detaining, and deporting non-citizens, documented or not.

Border Patrol

The newly-established US Customs and Border Protection Agency is the nation’s largest employer of federal law enforcement officers. It is the agency that oversees the Border Patrol, which are immigration law enforcement officers whose “priority mission” since 2001 is to prevent “terrorists and terrorists’ weapons, including weapons of mass destruction, from entering the United States.”³⁰ However, the Border Patrol simultaneously serves its original purpose to “detect and prevent the illegal entry of aliens into the United States.”³¹ Initially, the Border Patrol was under the control of the Immigration and Naturalization Service (INS); it was only in 2003 that oversight was transferred to the Department of Homeland Security (DHS). They are the main on-the-ground law enforcement that the federal government relies on to implement immigration policy on the border.

The Border Patrol’s numbers remained relatively stable from 2001 through 2005, going from 9,096 agents to 10,819. But after President George W. Bush signed the Intelligence Reform and Terrorism Prevention Act of 2004, the Border Patrol gained the capacity to hire an additional 10,000 agents in order to quell the populace’s anti-immigrant fears about insecure borders. They then experienced a 65% increase in the number of agents between 2005 and 2008, and many of those added agents were sent to the US-Mexico border.³² According to a study by the Migration Policy Institute, 89% of Border Patrol agents are stationed at the US-Mexico border.³³

Arizona, because of its location on the border, experienced the brunt of this increase in Border Patrol agents. Given its 2,000-mile shared border with Mexico’s Sonora State, Arizona is seen as a prime point of entry for undocumented migrants (California has been strongly fortified since 1996’s Operation Gatekeeper and most of the Texas border is naturally closed off by the Rio Grande River).³⁴ As early as 2003, there have been reports of massive Border Patrol presence in the Southwest Border, resulting in approximately 17,000 Border Patrol agents from San Diego, California, to El Paso, Texas—ten for every mile on the boundary of Mexico’s Sonora State.³⁵ In the Tucson Sector alone (the Border Patrol separates its jurisdictions into 20 sectors), which includes nearly the entirety of the state of Arizona, 3,600 agents are present.³⁶ This is because between 2003 and 2010, Arizona received 2,000 additional Border Patrol agents—a 125% increase in only seven years. Current DHS Secretary Janet Napolitano has stated that she is seeking to add yet another 1,000 Border Patrol agents in 2011, 500 of whom would be sent to patrol the Arizona border due to the state’s constant efforts to control immigration without federal approval.^{37,38}

Immigration and Customs Enforcement

Immigration and Customs Enforcement (ICE) is the “principal investigative arm of the DHS and is responsible for eliminating vulnerabilities in the nation’s border, and with economic, transportation and infrastructure security.”³⁹ ICE divides itself into six specializations: Secure Communities *or* Comprehensive Identification and Removal of Criminal Aliens (SC/CIRCA), Investigations, Detention and Removal,

²⁹ Chaddha, Anmol. “Borderland Security.” *ColorLines* 6.4 (2003): 30.

³⁰ United States. Dept. of Homeland Security. Customs and Border Protection. US Customs and Border Protection. 1 December 2010.

³¹ *Ibid.*

³² United States. Dept. of Homeland Security. *Budget in Brief: Fiscal Year 2008*. Washington: GPO, 2005.

³³ Gladstein, Hannah, Annie Lai, Jennifer Wagner, Michael Wishnie. “Blurring the Lines: A Profile of State and Local Police Enforcement of Immigration Law Using the National Crime Information Center Databased, 2002-2004.” *Migration Policy Institute*. December 2005.

³⁴ MSNBC.com News Services. “Obama orders 1,200 Guard troops to border.” *MSNBC Website*. 25 May 2010.

³⁵ Wagner, Dennis. “Troops set for August 1 arrival on Arizona border.” *The Arizona Republic* 19 July 2010.

³⁶ Kelly, Erin. “Southwest to get 1,000 more Border Patrol agents.” *Republic Washington Bureau* 23 June 2010.

³⁷ Wagner, Dennis. “Troops set for August 1 arrival on Arizona border.” *The Arizona Republic* 19 July 2010.

³⁸ MSNBC.com News Services. “Obama orders 1,200 Guard troops to border.” *MSNBC Website*. 25 May 2010.

³⁹ United States. Dept. of Homeland Security. Immigration and Customs Enforcement. *ICE Overview*. 1 December 2010.

International Affairs, Intelligence, and the Principal Legal Advisor.⁴⁰ ICE's main law enforcement arm is its Investigations unit, and its responsibility is to investigate "a range of domestic and international activities arising from the movement of people and goods that violate immigration and customs laws and threaten national security such as illegal arms exports, financial and smuggling violations, immigration and customs fraud, human trafficking, identity and benefit fraud, child pornography, and sex tourism."⁴¹

ICE experienced substantial growth from 2005-2010—a 35% increase in employees from 2005-2010.⁴² DHS Secretary Napolitano plans to add another 100 ICE agents to assist in Arizona operations. The federal government established five ICE Special Agent-in-Charge offices (which control all immigration law enforcement associated with ICE) in Arizona, four of which are staffed by high-ranking ICE agents: one Deputy Special Agent-in-Charge (DSAC) office, one Assistant Special Agent-in-Charge (ASAC) office, three Resident Agent-in-Charge offices, and one Resident Agent office. It has one Field Office in Phoenix. Arizona also houses four ICE processing centers, also known as ICE detention facilities: Eloy Detention Center, Florence Correctional Center, Florence SPC, and Pinal County Adult Detention Center.⁴³ All were established in Arizona after the creation of the DHS with the purpose of securing the border due to Arizona being favored as an entry point for drug and human smugglers in the Southwest Border.⁴⁴

Local & State Police as Immigration Law Enforcers

By no means is the practice of deportation unusual to the federal government—non-citizens without documentation who committed serious crimes or violated significant provisions of immigration law have routinely been deported throughout American history. This is because in the history of immigration law specifically, the federal government of the US has consistently been held as having "an exclusive, plenary power" over matters of "naturalization, admission, and removal of non-citizens"—that is to say, the admission and deportation ("removal") of non-citizens.⁴⁵ However, several policy changes directly related to immigration, fueled by the anti-terrorism fervor generated by 9/11, changed the exclusively-federal nature of immigration law over the past decade.

In 1996, the passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) marked a new era in the enforcement of immigration law, in that it made unlawful presence in the US a deportable offense. Through IIRIRA, and an accompanying statute known as the Antiterrorism and Effective Death Penalty Act (AEDPA), state and local law enforcement officers were given powers to enforce certain *criminal* provisions of the Immigration and Naturalization Act (INA). In addition to allowing local and state police to partake in the enforcement of immigration law, IIRIRA also added the infamous Section 287(g) to the INA. Section 287(g) authorized the US Attorney General to "delegate immigration enforcement authority to state and local police pursuant to a formal agreement between the state or local agency and the Department of Justice, provided the state or local officers have undergone adequate training to enforce the immigration laws."⁴⁶ However, as made clear in a memorandum issued by the Department of Justice (DOJ) (which held authority over immigration at the time), although they had the power to enforce limited aspects of *criminal* immigration laws, "state and local officials did not have the authority to enforce civil immigration laws."⁴⁷

However, 9/11 did much to dissolve this understanding, especially within the Executive Branch. After Homeland Security Act (HSA) was passed and the DHS was established, jurisdiction over immigration was transferred from the DOJ to the DHS—and that included the Attorney General's power to enter into 287(g) agreements. This power was transferred to the DHS Secretary. Not only that, Attorney General John Ashcroft revised the memorandum issued by the DOJ in 1996 to state that local and state police officers had the

⁴⁰ United States. Dept. of Homeland Security. *Budget in Brief: Fiscal Year 2010*. Washington: GPO, 2009: 64.

⁴¹ *Ibid*, 63.

⁴² United States. Dept. of Homeland Security. *Budget in Brief: Fiscal Year 2005-2010*. Washington: GPO, 2005-2009.

⁴³ United States. Dept. of Homeland Security. Immigration and Customs Enforcement. *Detention Facilities*. 1 December 2010.

⁴⁴ Gamboa, Suzanne. "Guard Troops to Head to Border States Aug. 1." *The Arizona Daily Star* 19 July 2010.

⁴⁵ Venbrux, Greg K. "Devolution or Evolution? The Increasing Role of the State in Immigration Law Enforcement." *UCLA Journal of International Law and Foreign Affairs* 11 (2006): 311-312.

⁴⁶ Chacón, Jennifer M. "A Diversion of Attention? Immigration Courts and the Adjudication of Fourth and Fifth Amendment Rights." *Duke Law Journal* 59 (2006): 1580.

⁴⁷ *Ibid*, 1579-1580.

“inherent authority” to enforce immigration law.⁴⁸ This meant that local and state police gained the power delegated to specialized immigration enforcement officers such as the Border Patrol and ICE immigration agents—to arrest and detain upon suspicion of an immigration law violation. However, local and state police were uninterested in participating in matters of immigration, for fear of scaring immigrant communities into not cooperating or withholding information, spreading their officers too thin, not having enough money to fund the necessary training, among other reasons; in fact, it took six years for a state to enter a 287(g) agreement.⁴⁹ After 9/11, the federal government found itself armed with not enough immigration enforcement officers, turning to the recruitment of local and state police officers to help enforce immigration law, especially at the border.⁵⁰

Arizona entered into a Memorandum of Agreement (MOA) with ICE, under the supervision of DHS Secretary, to enforce immigration law within the state in 2009. Between 2005 and 2008, Arizona police experienced a 13% growth.^{51,52} Nonetheless, the MOA authorized the approximately 13,000 Arizona police officers with the power to enforce immigration law, substantially increasing the amount of immigration law enforcement within the state.

By calculating hiring patterns from 2005 until today, it is clear that the amount of police in Arizona has steadily increased. The Border Patrol presence in Arizona shot up 125% between 2003 and 2010, and the added presence of five ICE offices after the 2003 establishment of the DHS in the state have noticeably changed the amount of police patrolling towns and cities along the border. The concentrated increase of police specifically along the Arizona border is perhaps why many have felt that Arizona was turning into a “police state” of sorts—after all, there is no “police state” without an extraordinarily strong police apparatus. As will be discussed in later sections, the police play a significant executive role in the rise of the Arizona “police state.”

THE RISE OF “CRIMMIGRATION” POLICIES

Immigration law has historically been considered to be the law that “facilitates the surveillance, interrogation, arrest, and detention of non-citizens.”⁵³ Without a doubt, 9/11 changed the way in which the people of the US viewed immigration. Before 9/11, Congress through IIRIRA granted states and localities limited jurisdiction over matters of immigration enforcement by way of the 287(g) agreements—but states were, for the most part, unwilling to spare law enforcement officers to enforce immigration law, which was seen as the federal government’s responsibility at the time (see *The Rise of Immigration Police Forces*). However, after 9/11 the perceived need for border security resulted in state-based initiatives to take control of immigration policy, a trend currently in full swing in Arizona. In this section, I offer a chronological explication of immigration policymaking at work at the state level.

Recent legislation passed in Arizona has strong support among the state’s population, but it has also resulted in the labeling of Arizona as a police state both by its own residents and some of the US populace. A review of both Congressional legislation and ballot initiatives reveals a clear, consistent “crimmigration” agenda targeted at punishing undocumented migrants for unlawful presence in the US. Juliet Stumpf coined the term “crimmigration” in 2006 in order to describe the “convergence” between the civil immigration law and criminal law. According to Stumpf, this convergence has three recognizable attributes: the attachment of criminal consequences to migration-related offenses, the use of deportation as an additional punishment to a criminal offense for noncitizens, and the use of criminal law enforcement and criminal procedures in what is normally the realm of civil law.⁵⁴

⁴⁸ Ibid, 1581; Venbrux, Greg K. “Devolution or Evolution? The Increasing Role of the State in Immigration Law Enforcement.” *UCLA Journal of International Law and Foreign Affairs* 11 (2006): 319.

⁴⁹ Ibid (Venbrux), 316.

⁵⁰ US Congressional Research Service. *Enforcing Immigration Law: The Role of State and Local Law Enforcement* (RL32270; 13 October 2005), by Lisa M. Seghetti, Stephen R. Viña, and Karma Ester: 1.

⁵¹ Coincidentally, after the state entered the MOA with ICE, the number of sworn law enforcement dropped slightly by .02%

⁵² Arizona. Dept. of Public Safety. Access Integrity Unit. *Crime in Arizona 2005-2009*. Phoenix: AZ Dept. of Public Safety, 2006-2010.

⁵³ Kanstroom, Daniel. “Criminalizing the Undocumented: Ironic Boundaries of the Post-September 11th ‘Pale of Law.’” *North Carolina Journal of International Law and Commercial Regulation* 29 (2004): 644.

⁵⁴ Stumpf, Juliet. “The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power.” *American University Law Review* 56.2 (2006): 368.

Late 2001 (post-September 11) marked the nascence of a particularly anti-immigrant atmosphere—not just among Arizona lawmakers, but also among Arizona residents. Although no overtly anti-migrant legislation aimed at criminalizing unlawful presence within the state of Arizona was passed in 2001, as the nation began to create a link between immigration and terrorism, fear of immigrants once again resurfaced—especially along the border and in Arizona. The Arizona legislature and populace alike began to pass legislation targeted specifically at controlling and criminalizing the population of undocumented migrants, which managed to affect not just undocumented migrants, but all persons “suspected” of undocumented status.

One of the earliest and most notable examples of crimmigration was Proposition 200, also known as the Arizona Taxpayer and Citizen Protection Act, which many had criticized as an indirect way of giving government employees the ability to act as immigration officers. The 2004 legislation proposed the following:

Proposition 200 would require that evidence of United States citizenship be presented by every person to register to vote, that proof of identification be presented by every voter at the polling place prior to voting, that state and local governments verify the identity of all applicants for certain public benefits and that government employees report United States immigration law violations by applicants for public benefits.⁵⁵

Proposition 200, in effect, required all government employees to present identification that specifically proved US citizenship, even though some public benefits and services do not require US citizenship to be received. Arguments against the initiative provided in the Arizona ballot marked it as a statute that would “make it harder for citizens to exercise [the] right to vote,” create “another voter-approved cost with no identifiable source of income,” “turns every government employee into a snitch,” among others. To add insult to injury, Arizona law already inherently discriminated against undocumented migrant status in its identity theft law by interpreting identity theft as “the use of an alternate identity whether or not the defendant knows that he is using the identity of a n actual person and whether or not another person with such an identity actually exists.”⁵⁶ Proposition 200 meant to serve as a means to “catch” undocumented migrants so they could be tried under already-existing crimmigration laws. Although Proposition 200 had very limited, reported effects on the surface level—for instance, no undocumented migrants attempted to vote illegally and only two persons were reported to immigration authorities for illegally seeking benefits up to mid-2005⁵⁷, the proposition ultimately resulted in brewing fear of seeking government aid in undocumented migrants and immigrants alike.

Later years would see the Arizona legislature growing bolder and more successful in passing crimmigration laws. 2005 saw a slew of propositions and legislative efforts filled with anti-immigrant rhetoric as well as attempts to hand over control of immigration to state and local entities. Under the aegis of Governor Janet Napolitano, however, only one piece of legislation was signed into law regarding undocumented migrants: Arizona House Bill 2592, which “prevents a city or county from building or maintaining a work center that facilitates the known employment of an alien who is not a lawful resident of the United States.”⁵⁸ The law effectively criminalizes day-labor center employers’ hiring of undocumented migrants.

2006 was an unforgiving year for undocumented migrants. Proposition 300 denied public adult education classes, state residency status for purposes of tuition for state schools, and any financial assistance to people “who do not otherwise possess lawful immigration status in [the US].”⁵⁹ Most notable, however, were three migrant-related house bills and a senate resolution controlling the treatment of undocumented migrants within the Arizona justice system. The first which passed, HB 2580, amended Section 13-2319 of the Arizona Revised Statutes to provide the following:

... additional circumstances under which a person may be excluded from bail and requires law enforcement agencies to determine a person’s country of citizenship once the person has been brought to the agency for

⁵⁵ Arizona Proposition 200. *Arizona Taxpayer and Citizen Protection Act*. 2 November 2004.

⁵⁶ Chacón, Jennifer M. “Managing Migration Through Crime.” *Columbia Law Review Sidebar* 109 (2009): 139.

⁵⁷ Díaz, Elvia and Robbie Sherwood. “Prop. 200’s effect minimal.” *The Arizona Republic* 5 June 2005.

⁵⁸ Arizona House Bill 2592. *Aliens; Work centers; Prohibition*. 2005.

⁵⁹ Arizona Proposition 300. *Public Program Eligibility Act*. 7 November 2006.

incarceration. Once citizenship is determined, HB 2580 requires the agency to notify the person's country of citizenship of the person's detention if the person is not a United States citizen. The bill also makes it a Class 2 felony if a person smuggles a human being under the age of 18 who is not accompanied by a family member over the age of 18...⁶⁰

A later addition in Senate Concurrent Resolution 1001 prohibited "a person in violation of Federal immigration law related to improper entry by an alien from being awarded punitive damages in a court of Arizona."⁶¹ The Arizona legislature later commissioned a similar measure, Proposition 100 (the Bailable Offenses Act) which appeared on the November 2006 ballot and won 77.9% of the popular vote. Proposition 100 amended the Arizona Constitution to

... prohibit bail for any person who is charged with a serious felony offense (as determined by the Legislature) if the person charged entered or remained in the United States illegally and the court finds proof that the person committed the crime is evident or the presumption that the person committed the crime is great.⁶²

Proposition 102, which "would prohibit a person who wins a civil lawsuit from receiving punitive damages if the person is present in this state in violation of federal immigration law related to improper entry," was another proposition on the 2006 ballot related to the regulation of rights of undocumented migrants.

HB 2580, SCR 1001, and Proposition 100 all had the effect of further limiting the rights of undocumented migrants who are charged with crimes, leaving them unable to post bail, whether or not they actually committed a "serious felony." In addition, should they be found to be undocumented migrants in the pretrial process, they are then funneled to the federal immigration justice system, which arrests, detains, and prosecutes according to increasingly criminalized civil procedures. With even less protections provided in the criminal justice system, Proposition 102 also limits the rights of undocumented immigrants in civil courts by not awarding a successful civil suit on the basis of their status as undocumented alone. Under all these laws, non-citizens are totally unable to neither argue against possibly unfair detention nor win damages for time spent in jail, wrongful treatment, nor wrongful arrest solely because of their undocumented status.

One of the Arizona legislature's most infamous pieces of legislation, HB 2779, also known as the Fair and Legal Employment Act (FLEA), was signed into law by Governor Napolitano in 2007. FLEA was labeled "the most sweeping immigration bill" signed that year by Napolitano. The act provided that businesses who knowingly or intentionally hired undocumented migrants would receive harsh penalties, ranging from losing their licenses to losing the right to operate business within Arizona.⁶³ In signing the bill, Napolitano acknowledged that "immigration is a federal responsibility," but felt the need to enact legislation regulating undocumented migrants because she found Congress "incapable of coping with the comprehensive immigration reforms [the US] needs."⁶⁴ One of the main arguments against the bill was the possibility of discrimination against workers of Latino descent, who would receive increased scrutiny in the workplace on the basis of their ethnicity. In fact, Napolitano herself questioned the lack of protections against racial profiling and discrimination that might occur when business owners choose to check the background of new hires.⁶⁵

2008 and 2009 were no less merciful to undocumented migrants. Governor Napolitano and the Arizona legislature approved stricter amendments to FLEA's sanctions through HB 2745. HB 2745 clarifies the language of FLEA and adds more sanctions against employers who knowingly or intentionally "accept" the "identity theft" committed by undocumented migrants or fail to use E-Verify, the system of "background

⁶⁰ Arizona House Bill 2580. *Amending Section 13-2319, Arizona Revised Statutes; Amending Title 13, Chapter 38, Article 7, Arizona Revised Statutes, by adding Section 13-3906; Amending Sections 13-3961 and 13-3967, Arizona Revised Statutes; Relating to Illegal Aliens.* 2006.

⁶¹ Arizona Senate Concurrent Resolution 1001. *Proposing an amendment to the Constitution of Arizona; Amending Article II, Constitution of Arizona, by adding Section 35; Relating to Standing in Civil Actions.* 2006.

⁶² Arizona Proposition 100. *Bailable Offenses Act.* 7 November 2006.

⁶³ Arizona House Bill 2779. *Fair and Legal Employment Act.* 2007.

⁶⁴ Giblin, Paul and Dennis Welch. "Immigration activists march for reform." *The East Valley Tribune* 29 April 2007.

⁶⁵ *Ibid.*

checking” workers' legal status.⁶⁶ The amendments were insurance against any vagueness that might have resulted from FLEA.

Napolitano signed yet another sanction against undocumented migrants in the business world in 2009. HB 2306 amended Section 41-1080 of the Arizona Revised Statutes to clarify several more instances in which individuals must present proof of citizenship or legal status, in effect preventing undocumented migrants from obtaining business licenses.⁶⁷

But the most overtly migrant-criminalizing bill was signed into law in 2010 by Governor Jan Brewer. Senate Bill 1070, also known as the *Support Our Law Enforcement and Safe Neighborhoods Act*, has been criticized due to the following provisions:

- 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 (political subdivision) if reasonable suspicion exists that the person is an alien who is unlawfully present in the US
- Allows a law enforcement officer, without a warrant, to arrest a person if the officer has probable cause to believe that the person has committed any public offense that makes the person removable from the US
- Specifies that, in addition to any violation of federal law, a person is guilty of trespassing if the person is:
 - a) present on any public or private land in the state and
 - b) is not carrying his or her alien registration card or has willfully failed to register.⁶⁸

These provisions (among many) listed in SB 1070 intentionally delegate powers over immigration to state and local agents, especially law enforcement officers, as well as place extremely stringent requirements upon Arizona citizens. SB 1070 essentially allows law enforcement officers to act in the capacity of federal immigration agents by giving them the power to arrest suspected undocumented migrants without warrants—be they actually undocumented, or legal permanent residents, or even US citizens—as well as detain them, if they are unable to provide immediate proof of legal citizenship. Many who have spoken out against SB 1070, and who have consequently claimed that Arizona was turning in a “police state,” have accused the legislature of handing police the power to racially profile by using broad terms such as “reasonable suspicion,” “probable cause,” and “reasonable attempt.” Opponents claim that such terms give police far too much discretion and power to arrest and detain solely in the name of “catching” the undocumented.

On July 28, 2010, Judge Susan R. Bolton of the US District Court of Arizona upheld an injunction on the aforementioned provisions in addition to several others stated in reference to law enforcement's enhanced jurisdiction over immigration that:

... requiring police to check the immigration status of those they arrest or whom they stop and suspect are in the country illegally would overwhelm the federal government's ability to respond, and could mean legal immigrants are wrongly arrested.⁶⁹

Bolton's worries echoed several criticisms against SB 1070, in that the act criminalizes unlawful presence in the United States through state legislation, effectively co-opting the federal government's plenary powers over immigration policy. President Barack Obama himself stated that SB 1070 served “to undermine basic notions of fairness that we cherish as Americans, as well as the trust between police and our communities that is so

⁶⁶ Arizona House Bill 2745. *Legal Arizona Worker's Act*. 2008.

⁶⁷ Arizona House Bill 2306. *An act amending Section 41-1080, Arizona Revised Statutes; Relating to Licensing*. 2009.

⁶⁸ Arizona Senate Bill 1070. *Support Our Law Enforcement and Safe Neighborhoods Act*. 2010.

⁶⁹ Dinan, Stephen. “Feds win round 1 against Arizona.” *The Washington Times* 28 July 2010.

crucial to keeping us safe.”⁷⁰ A frequently-mentioned argument against SB 1070 is that it essentially allows law enforcement to racially profile those of Hispanic descent, because their power to arrest and detain without a warrant stems solely from their “reasonable suspicion” of an individual’s undocumented status under the vaguely-defined situation called “legitimate contact.”⁷¹

From Proposition 200 to SB 1070, the state of Arizona has consistently supported the criminalization of the undocumented migrant both directly and indirectly, through the state’s powers over its criminal justice system and intrastate business. The unabashed passage of crimmigration policies targeting the undocumented seek to strip the estimated 375,000 undocumented migrants residing within Arizona of any legal, economic, or public recourse—severed from systems of support, relying only on extralegal and perhaps more illegal means of endurance—but the policies have the added insult of instituting fear into all non-citizens of being profiled, arrested, and detained due to the color of their skin. Combined with an alarming rise of immigration police to enforce these crimmigration laws, it is no small wonder why allegations that Arizona has turned into a “police state” are on the rise. Unfortunately for many within the state, especially the undocumented, these findings are only part of the sinister tale.

THE RISE OF THE “GULAG”

The story unfolding Arizona, for the most part, is borne out of numbers: of police, of the undocumented, of anti-immigrant legislation. But lesser-known to those residing outside of the state is another, more menacing tale of numbers—this time, of prisons, of private companies, and of detainees. An incredible network of control has emerged due to the changing landscape of immigration, one that has diverted the previously-parallel federal, state, and local systems into “an archipelago of islands” with “millions of ‘natives,’” “some as tiny as a detention cell in a railway station and others as vast as a large Western European country within another country”—in other words, a gulag.⁷² The existence of this “gulag” is evidenced by the grand network of penal institutions in Arizona, interconnected by their shared governance of the ever-growing non-citizen detainee population. It is increasingly important to note these changes that occurred in the Arizona prison system after 2001 because of its direct relationship to the detention of non-citizens. After 9/11 changed the immigration issue to one of national security, the Arizona gulag came into being. Private prison companies saw the potential revenue that would undoubtedly come streaming in should they buy into the business of detaining, knowing fully that the country’s response would be to find ways to detain more “possible” terrorists⁷³, and they began to bargain with Arizona for control over the state’s prisons. The following section shows how Arizona’s response played predictably into the private prison companies’ forecast, evidenced by the growth of the network of detention centers and detainee populations within the state.

The Rise of the Detainee Prison Complex

According to Mona Lynch, until the establishment of the Arizona Department of Corrections in 1968, “only one adult prison was functioning at any given time in Arizona: first the Yuma Territorial Prison, which opened in 1876 and closed in 1909, and then the state prison built in Florence in 1908 to replace the Yuma prison.”⁷⁴ The Florence State Prison remained the only adult prison facility for 70 years, until a “medium-security facility” for males, the Alpine Conservation Center, was built in Tucson in 1979.⁷⁵ Currently, Arizona operates thirteen state prison complexes (ASPC Douglas, Eyman, Florence, Kingman, Lewis, Perryville, Phoenix, Safford, Tucson, Winslow, Yuma, Florence-West, Phoenix-West, and Marana). Of these, two have been built or were renovated after 2000—Tucson and Kingman.⁷⁶

⁷⁰ Archibold, Randal C. “Arizona Enacts Stringent Law on Immigration.” *The New York Times* 23 April 2010, New York edition: A1.

⁷¹ Arizona Senate Bill 1070. *Support Our Law Enforcement and Safe Neighborhoods Act*. 2010.

⁷² Dow, Mark. *American Gulag: Inside US Immigration Prisons*. Berkeley: University of California Press (2004), 12.

⁷³ *Ibid*, 10.

⁷⁴ Lynch, Mona. *Sunbelt Justice: Arizona and the Transformation of American Punishment*. Stanford: Stanford University Press (2010), 21.

⁷⁵ *Ibid*, 62; 33.

⁷⁶ O’Rourke, SheilaVennell. “New and Expanded Federal and State Prisons since 2000.” *Prisoners of the Census* 19 March 2010.

Arizona also contracts out to private prison corporations, such as the Corrections Corporation of America (CCA), the GEO Group (formerly the Wackenhut Corporation), Management and Training Corporation (MTC). The GEO Group and MTC operate five of the thirteen state prisons: Florence (GEO), Kingman (MTC), Florence-West (GEO), Phoenix-West (GEO), and Marana (MTC). Since 2000, CCA has built four private prisons to house inmates for Arizona: Florence, La Palma, Red Rock, and Saguarro Correctional Centers, all located in the cities of Florence and Eloy.

Mark Dow has noted a trend occurring within the federal government and states themselves concerning how to house detainees:

Today the [INS] holds some 23,000 people in detention on a given day and detains about 200,000 annually. The prisoners are held in the INS's service processing centers; in local jails; in facilities owned and operated by private prison companies ... In 2003 approximately 60 percent of INS detainees were in local prisons and jails and in private contract facilities.⁷⁷

Although there is no longer an INS, its responsibilities were turned over to ICE. Currently, there are officially four non-citizen detention centers, as listed by ICE: Eloy Detention Center, Florence Correctional Center, Florence Service Processing Center, and the Pinal County Adult Detention Center. CCA, which holds the federal contract to house detainees in Arizona⁷⁸, operates the Central Arizona Detention Center, as well as ICE's Eloy Detention Center and Florence Correctional Center.⁷⁹

An overview of Arizona facilities that actually housed detainees on any given day—federal contract or not—shows that in addition to the five official detention centers listed by both ICE and CCA, state prisons and county jails are also housing detainees. Between 2006 and 2008 (presumably after the Open Government Act of 2007 was passed by President George Bush), the following eight Arizona penal institutions were found to have housed detainees in some capacity: Maricopa County Jail, Pima County Jail, Pinal County Jail, Yavapai County Jail, Yavapai County Detention Center, Yuma County Jail, Central Arizona Detention Center, and Florence Correctional Center. Of these eight, ICE and CCA list only Central Arizona Detention Center and Florence Correctional Center as official detention centers. In 2009, the list grew to include even more facilities—not just jails, but medical centers, hospitals, and other private institutions.^{80,81}

The Rise of Detainee Populations

The sheer growth of prisons in Arizona is due in large part to steady increases in Arizona's incarcerated population (43% between 2001 and 2008), but the actual number of its incarcerated population appears to grow even more when the other prison population—detained non-citizens—are added to the total. The growth of the detainee population in the US went from 19,533 to 34,161 between 2001 and 2008—a nearly 75% increase. Such dramatic changes can especially be seen in the growth of the detainee population in Arizona. Out of the top five states holding the most detainees (Texas, California, Arizona, Florida, and Georgia, respectively), Arizona currently incurs the highest percentage (.00045%) when comparing detainee population to total state population.^{82,83} Between 2001 and 2007, the detainee population of Arizona rose a steady average

⁷⁷ Dow, Mark. *American Gulag: Inside US Immigration Prisons*. Berkeley: University of California Press (2004), 10.

⁷⁸ Rachel Maddow. "Incarceration." *The Rachel Maddow Show*. MSNBC. 14 October 2010.

⁷⁹ Corrections Corporation of America. *CCA Home Page*. Accessed 1 December 2010.

⁸⁰ The institutions in Arizona holding detainees, according to the 2009 ICE ADP report, include the following: Apache County Jail, ASPC Tuscon, Casa Grande Regional Medical Center, Catholic Social Services RFC, Coconino County Detention Facility, Devereaux Araiona, Eloy Federal Contract Facility, Florence Staging Facility, Gila County Juvenile Detention Center, La Paz County Adult Detention Center, Mohave County Correctional Center, Maricopa Medical Center, Navajo County Sheriff's Office, Nogales Processing Center, Phoenix District Office, San Luis Regional Detention Center, Southwest Key Juvenile Shelter, Southwest Key—Glendale, St. Joseph's Hospital, Tumbleweed Shelter, Tuscon INS Hold Room, Yuma Border Patrol Station, and Yuma Hold Room.

⁸¹ United States. Dept. of Homeland Security. Immigration and Customs Enforcement. "Average Daily Population of Detainees 2009." Washington: GPO, 2010.

⁸² United States. Dept. of Justice. Bureau of Justice Statistics. "Prisoners in 2008." by William J. Sabol, Heather C. West, and Matthew Cooper. Washington: GPO, 2009.

⁸³ *American FactFinder*. US Census Bureau. Accessed 1 December 2010.

of 8.3% a year; in 2008, the number of detainees in Arizona's facilities was at 2,975—putting Arizona in third place for states holding the largest number of federal detainees.⁸⁴

Yet though reports have shown that Arizona has been increasing its detainee populations steadily over the years, an overview of ICE's Average Daily Population (ADP) Reports shows a strange number discrepancy in the reported detainee populations in Arizona detention facilities and the total detainee population numbers being reported (3,000/day). In 2006, the sum of the ADPs for seven detention facilities in Arizona was 298.5; however, the Bureau of Justice Statistics (BJS)' 2006 report on US prisoners notes that Arizona's detainee population grew 31% from 2005—2006.⁸⁵ 2008 showed a much slower growth rate of 1.1% with a reported ADP total of 811 detainees.⁸⁶

There seems to be, of course, a significant “missing piece” of the puzzle that prevents total numbers of detainees from being reported in these statistical efforts: these ADP reports do not include numbers of detainees housed in “facilities which were not utilized by ICE” or facilities with Inter-Governmental Service Agreements (IGSA), i.e. locally-operated jails or private facilities that failed to report numbers.⁸⁷ Coincidentally, a majority of the detainee population has been regularly housed in IGSA facilities rather than strictly ICE-operated ones. By averaging detainee populations in privately-contracted and IGSA detention facilities between 2001 and 2006, we find that an average 14,351 detainees out of an average 21,617 total US detainee population are held in private and IGSA detention centers—that is, 66% of detainees.

In 2007, the way the BJS characterized detainee populations changed significantly. Prior to 2007, the BJS used the following categories in their detainee population count: total, in ICE-operated facilities, in private facilities under exclusive contract to ICE, in facilities of the Federal Bureau of Prisons, in Other federal facilities, and in IGSA facilities (state prisons, local jails, other). Now, they are separated only into two categories: those in IGSA facilities *and* facilities of the Federal Bureau of Prisons, and those in ICE-owned and contracted facilities.⁸⁸

The altered categories makes it significantly more difficult—nearly impossible—to count exactly how many detainees are in facilities not counted in ADP reports produced by ICE. Looking at the ADP annual report for 2009, this difficulty may not be obvious since a significantly higher number of privately-contracted and IGSA detention facilities successfully reported their numbers, resulting in an ADP total of 3,212—extremely close to the estimated ADP of 3,000 in Arizona detention centers, prisons, and jails.⁸⁹ However, the trouble arises in the monthly ADP reports, which are necessary for studying correlations between policy changes and effects on detainee populations. Monthly ADP reports produced by ICE from January to May 2010 show ADPs for only three detention facility numbers: Central Arizona Detention Center (73), Eloy Federal Contract Facility (1,474), and Florence Correctional Center (214), for a total five-month ADP sum of 1,752 detainees in the state of Arizona—only slightly more than half of the estimated ADP of detainees present in Arizona.

The tale of the Arizona gulag, however jig sawed when pieced together, depicts a place where a detained non-citizen—a person whose custody has historically belonged to that of the federal government—can be found in the large, sprawling prison complexes of the state to small and federally far-removed local jails and shelters. This picture, however, manages to also reveal the tremendous system of control over the non-citizen, in some cases nearly identical to that of the actual prisoner⁹⁰, spurred policy changes after 9/11 that—fortunately for the private prison companies—only serve to cultivate the growth of detainee numbers and of the gulag. With the constant threat of detention looming over the undocumented and immigrants alike, the fear inspired by the term “police state” has definitely settled in along with the ominous and massive physical presence of immigrant prisons.

⁸⁴ Ibid (“Prisoners in 2008”).

⁸⁵ United States. Dept. of Justice. Bureau of Justice Statistics. “Prisoners in 2006.” by William J. Sabol, Heather Couture, and Paige M. Harrison. Washington: GPO, 2007.

⁸⁶ United States. Dept. of Justice. Bureau of Justice Statistics. “Prisoners in 2008.” by William J. Sabol, Heather C. West, and Matthew Cooper. Washington: GPO, 2009.

⁸⁷ United States. Dept. of Homeland Security. Immigration and Customs Enforcement. “Average Daily Population of Detainees 2006-2008.” Washington: GPO, 2009.

⁸⁸ United States. Dept. of Justice. Bureau of Justice Statistics. “Prisoners in 2002.” by Paige M. Harrison and Allen J. Beck. Washington: GPO, 2003; “Prisoners in 2008.” by William J. Sabol, Heather C. West, and Matthew Cooper. Washington: GPO, 2009.

⁸⁹ *About the Florence Project*. The Florence Immigrant and Refugee Rights Project Website. Accessed 19 November 2010.

⁹⁰ Dow, Mark. *American Gulag: Inside US Immigration Prisons*. Berkeley: University of California Press (2004), 94.

THE RISE OF POPULAR NATIVISM

Anti-immigrant extremism is not foreign to the US, much less to the US-Mexico border. According to James Duff Lyall, “between 1848 and 1928 alone, mobs lynched at least 597 Mexicans, and countless others were whipped, branded, beaten, and murdered by landowners and prospectors.”⁹¹ This record of anti-immigrant extremism has not been lost in Arizona, which shares a border with Mexico’s Sonora State, and in fact has been steadily producing more nativist groups in the last decade, in large part due to 9/11. The anti-immigration movement consists of two arms: civilian border patrol groups (or “vigilantes,” as President Bush called them in 2005) and political anti-immigration groups, both of which were empowered by the developments after 9/11.

The Rise of Anti-Immigration Groups’ Political Influence

Although several anti-immigration groups existed before 9/11—as they have historically due to constant tensions at the US-Mexico border—the event catalyzed the coalescing of a previously-patchwork quilt of anti-immigration groups into an interconnected network consisting of an eerie blend of nativist and racist elements.

According to Roxanne Lynn Doty’s study on anti-immigrant groups, *The Law Into Their Own Hands*, for the most part the anti-immigration movement had consisted of small, independently-run groups with differing agendas. However, there exists a particularly influential anti-immigration organization known as the Federation for American Immigration Reform (FAIR)—the “closest thing to an overarching organization found in the anti-immigrant movement.”⁹² Although founded long before 9/11 in 1979 by John Tanton, whom the Southern Poverty Law Center (SLPC) describes as “the racist architect of the modern anti-immigrant movement,”⁹³ FAIR has had a consistent history of anti-immigrant activities ranging from the United to Secure America anti-immigration media campaign after 9/11, to the creation of an African-American and Hispanic anti-immigration group known as Choose Black America (CBA) and You Don’t Speak For Me (YDSFM), respectively, in 2006.⁹⁴ With respect to Arizona, FAIR played a significant role in the passage of Proposition 200 in 2004, and YDSFM’s Arizona point of contact, as well as several of its members in the state, all have ties with Arizona’s own Minutemen.⁹⁵

In 2004, Proposition 200, or Protect Arizona Now (PAN), was written and pushed for by a group of Arizona citizens. PAN was monetarily supported by both FAIR and the anti-immigrant American Immigration Control Foundation (AICF)—which has also been labeled by SLPC as a hate group—to the tune of \$305,500. The group drew controversy due to its relationship with white supremacy leaders Virginia Deane Abernathy (ex-chair of PAN’s national advisory board⁹⁶) and John Vinson (head of AICF), both advisors to a well-known white supremacist organization known as the Council of Conservative Citizens (CCC).⁹⁷ PAN successfully passed Proposition 200, winning 56% of the popular vote.

In 2006, Michelle Dallacroce formed the group Mothers Against Illegal Aliens (MAIA) in Phoenix, Arizona.⁹⁸ The group espouses an ideology alleging that undocumented migrants are harming Arizona’s education system and, therefore, the safety of children in the state. The Anti-Defamation League’s report on anti-immigrant groups stipulates that Dallacroce has voiced MAIA’s views very openly, even stating in a 2006 *Nancy Grace* interview that “My children, as well as my grandchildren and everyone’s legal citizen children in

⁹¹ Lyall, James Duff. “Vigilante State: Reframing the Minuteman Project in American Politics and Culture.” *Georgetown Immigration Law Journal* 23 (2009): 274.

⁹² Doty, Roxanne Lynn. *The Law into Their Own Hands: Immigration and the Politics of Exceptionalism*. Tuscon: University of Arizona Press (2009), 44.

⁹³ John Tanton. Southern Poverty Law Center Website. Accessed 21 November 2010.

⁹⁴ Anti-Defamation League. “Immigrants Targeted: Extremist Rhetoric Moves into the Mainstream.” 2008.

⁹⁵ Ibid; Doty, Roxanne Lynn. *The Law into Their Own Hands: Immigration and the Politics of Exceptionalism*. Tuscon: University of Arizona Press (2009), 46.

⁹⁶ Ibid (Doty).

⁹⁷ *Statement of Principles*. Council of Conservative Citizens Website. Accessed 21 November 2010.

⁹⁸ Doty, Roxanne Lynn. *The Law into Their Own Hands: Immigration and the Politics of Exceptionalism*. Tuscon: University of Arizona Press (2009), 38.

our schools, are being affected, dumbed down.” MAIA also alleges that undocumented migrants from Mexico “import diseases into the United States.”⁹⁹ Dallacrose also has ties to white supremacist J.T. Ready, a regular attendee of events sponsored by the Ku Klux Klan and the neo-Nazi National Socialist Movement. MAIA—and, more importantly, MAIA’s views on the immigration issue—have had high-profile coverage from *The Los Angeles Times*, *The Washington Post*, *The Orlando Sentinel*, and *Fox News*.¹⁰⁰

Several out-of-state and federal-level political action committees (PACs) have also contributed, both directly and indirectly, to the anti-immigrant movement in Arizona. The Americans Against Illegal Immigration PAC, which according to OpenSecrets.org has fundraised more than it has spent, financially supported only two Congress members in 2006: Republicans Raymond Meier of New York and Randy Graf of Arizona, both of whom happen to be anti-amnesty and pro-border security.^{101,102} The anti-immigrant, North Carolina-based Americans for Legal Immigration PAC also contributed a whopping \$2,000 to “immigration hawk” and former Congressman J. D. Hayworth’s 2010 senatorial campaign.¹⁰³ A recently-founded, anti-immigrant 527 group named Americans Against Immigration Amnesty received \$1,112 from a group named Texans For Arizona’s New Immigration Law and \$190 from another group named Texans In Support of Arizona’s New Immigration Law.¹⁰⁴ Another group known as the Coalition for an Illegal Free America established itself to raise money in support of Arizona’s SB 1070.¹⁰⁵

The Rise of the Civilian Border Patrols

Prior to 9/11, extremist reactions to migrants crossing the border were primarily from local ranchers who owned property in border cities and towns. Stories of ranchers patrolling the border and putting migrants under citizen’s arrest were not uncommon. In 1976, three brothers held three Mexican migrants hostage after they crossed the Hanigan family’s land.¹⁰⁶ In 1999, Roger Barnett and his brother “detained seven immigrants at gunpoint” and “drove them to a Border Patrol agent.” Barnett—still a highly-influential and active participant in the anti-immigrant movement—claims that he and his brother have put more than 12,000 undocumented migrants under citizen’s arrest since 1996.¹⁰⁷ This led to the formation of the Cochise County Concerned Citizens, a group of approximately 30 ranchers who sought to take the law into their own hands by arresting and detaining suspected undocumented migrants who trespassed on their properties.¹⁰⁸ After 9/11, Barnett and other private citizens escalated their anti-immigrant activities. In 2003, Steve Nelson blocked off a road in Arizona and held drivers at gunpoint whom he suspected were undocumented migrants; in 2004, Barnett was charged with harassing and threatening twenty migrants.¹⁰⁹

Civilians, however, no longer need to be self-sufficient in their vigilante, patrolling activities in Arizona; instead, they can choose to join a growing network of civilian border patrol groups. Before 9/11, there was one well-documented civilian border patrol that formed in Arlington, Texas, known as Ranch Rescue, which conducted its first missions in Arizona.¹¹⁰ Its creator, Jack Foote, was inspired to create the group after hearing stories of Barnett’s vigilante efforts. After the 9/11 attacks, Glenn Spencer moved his anti-immigrant border patrol group known as the American Border Patrol, American Patrol, or Voices of Citizens Together, from Sherman Oaks, California, to Sierra Vista, Arizona.¹¹¹ But it was in 2005, with the creation of the

⁹⁹ Anti-Defamation League. “Immigrants Targeted: Extremist Rhetoric Moves into the Mainstream.” 2008: 12.

¹⁰⁰ *Ibid.*, 14.

¹⁰¹ Weisman, Jonathan. “In Porous Border, GOP Sees An Opening.” *The Washington Post* 21 August 2006.

¹⁰² *OpenSecrets.org: Money in Politics – See Who’s Giving & Who’s Getting*. The Center for Responsive Politics Website. Accessed 13 November 2010.

¹⁰³ *Ibid.*

¹⁰⁴ *Ibid.*

¹⁰⁵ *Home – CIFA (Coalition for an Illegal Free America)*. Coalition for an Illegal Free America Website. Accessed 21 November 2010.

¹⁰⁶ Border Action Network/Acción Fronteriza. “Anti-Immigrant Violence Escalates as United States Turns a Blind Eye to Border Vigilantism.” Report to the United Nations. 29 March 2010: 1.

¹⁰⁷ Doty, Roxanne Lynn. *The Law into Their Own Hands: Immigration and the Politics of Exceptionalism*. Tuscon: University of Arizona Press (2009), 31.

¹⁰⁸ Anti-Defamation League. “Border Disputes: Armed Vigilantes in Arizona.” 2003.

¹⁰⁹ Border Action Network/Acción Fronteriza. “Anti-Immigrant Violence Escalates as United States Turns a Blind Eye to Border Vigilantism.” Report to the United Nations. 29 March 2010: 2.

¹¹⁰ Doty, Roxanne Lynn. *The Law into Their Own Hands: Immigration and the Politics of Exceptionalism*. Tuscon: University of Arizona Press (2009), 30.

¹¹¹ Anti-Defamation League. “Border Disputes: Armed Vigilantes in Arizona.” 2003.

Minuteman Project, that the civilian border patrol movement truly skyrocketed in terms of numbers. When Chris Simcox lost his livelihood following the 9/11 attacks, he moved to Tombstone, Arizona, camped out in the desert for two and a half months, witnessed a smuggling operation near the Organ Pipe National Monument, and decided to devote his life to combating undocumented migration into Arizona.¹¹² In October 2002, he formed the Tombstone Militia; in 2004, he would change the group's name to Civil Homeland Defense. But it was when Vietnam veteran Jim Gilchrist contacted Simcox that the group solidified its identity in 2005. Renamed the Minuteman Project, Gilchrist's and Simcox's group has since spawned 57 chapters across the country, creating an incredible national following that has garnered national and international coverage.¹¹³ It was "once the largest, richest, and most politically connected border vigilante group;" yet though it is no longer as prominent as it used to be due to string of scandals, the Minutemen still exists as a strong linkage point for the anti-immigrant movement.¹¹⁴ There are currently two groups, one headed by Gilchrist (the Minuteman Project) and one by Simcox (the Minutemen Civil Defense Corps), with ties to high-profile anti-immigrant groups.

In April 2005, a statewide poll by Arizona State University found that 57% of residents supported the Minutemen Project.¹¹⁵ The group has since spawned many smaller, independent civilian border patrol movements such as the Border Guardians of Tucson, Arizona, whose leader, Laine Lawless, regularly held Mexican flag-burning sessions in 2006 with other group members.¹¹⁶ An offshoot of the Minuteman Project known as the Minuteman American Defense began operating in Arizona in 2009.¹¹⁷ Another infamous figure in the civilian border patrol phenomenon is Maricopa County's Sheriff Joe Arpaio. Although he is simultaneously well-known for arresting and detaining suspected undocumented migrants through his 287(g)-sanctioned immigrant enforcement powers (which have been revoked), Arpaio conducted a parallel, privately-led movement through the creation of his border patrol "posses" in 2006.¹¹⁸

The ultimate significance of the growth of the anti-immigrant movement within Arizona is its effect on the non-citizen population of the state. The numerous, documented abuses against migrants and Hispanic citizens alike and the ties to white supremacist groups are glaring warnings about the nature and purpose of the anti-immigrant movement in Arizona—especially since the movement carries such hefty political weight. With such powerful political groups advocating for anti-immigrant measures and popularly-supported anti-immigrant vigilante efforts, both the undocumented and immigrant communities currently face a hostile legal, political, and social environment in the state of Arizona—precisely the type of environment connoted by the term "police state."

THE RISE OF THE MIGRANT WASTELAND

A deeper look into the policing of the Arizona-Mexico border shows a balefully obvious relationship between heightened security and increases in border-crossing migrant deaths. As will be discussed in the section below, the rise of border security forces led migrant border-crossers into the dangerous terrains of Arizona:

Migrants ... find themselves traipsing through the Sonoran and Chihuahuan deserts ... Or they hike steep trails into mountains that soar seven thousand or nine thousand feet into the sky. They swelter in temperatures up to 112 or 115 degrees on the desert floor in summer, and shiver in winter when the mercury drops below freezing.¹¹⁹

¹¹² Doty, Roxanne Lynn. *The Law into Their Own Hands: Immigration and the Politics of Exceptionalism*. Tucson: University of Arizona Press (2009), 32.

¹¹³ *Ibid.*, 36.

¹¹⁴ Bahadur, Gaiutra. "Nativists Get a Tea-Party Makeover." *The Nation* 28 October 2010.

¹¹⁵ Doty, Roxanne Lynn. *The Law into Their Own Hands: Immigration and the Politics of Exceptionalism*. Tucson: University of Arizona Press (2009), 54.

¹¹⁶ *Ibid.*, 37.

¹¹⁷ Beirich, Heidi. "The Year in Nativism." *Southern Poverty Law Center Website*. Accessed 21 November 2010.

¹¹⁸ *Ibid.*, 87.

¹¹⁹ Regan, Margaret. *The Death of Josseline: Immigration Stories from the Arizona-Mexico Borderlands*. Boston: Beacon Press (2010): xvi.

And the result, for Arizona, is the unsavory reputation for massive numbers of migrant deaths across all sectors of the US-Mexico border, turning the border landscape of Arizona into a wasteland of dead migrants in search of opportunity in the north.

The Rise of Migrant Deaths in the Arizonan Deserts

Before 9/11, there were few migrant deaths being reported at the Arizona-Mexico border. According to Eschbach *et al*, in spite of Operation Gatekeeper, the 1994 effort put forth by President Bill Clinton to stem undocumented migration in the San Diego-Mexico border which resulted in an increase in migrant traffic across the Arizona-Mexico border, the deaths that occurred in the area were by far incomparable to the deaths occurring in other sectors.¹²⁰ The study makes the following observation regarding the low levels of migrant deaths reported in Arizona:

... mortality totals are relatively low in part because migrants avoid the harshest terrain and because those who do attempt to cross are more likely to be prepared for its harsh conditions than in places where the terrain is less obviously forbidding. Another factor may be that the Tucson Border Patrol sector for the past several years has closed highway checkpoints during summer heat. This has the effect of reducing the length of the hikes that migrants take to avoid apprehension.¹²¹

Between 1993 and 1997, the estimated total of migrant deaths at the border was approximately 1,600, averaging at 400 deaths annually; another study reports migrant deaths at the border happening at an annual rate of 225 to 370 between 1995 and 2000, many of which did not occur in Arizona.¹²² However, since the 1990s, Arizona's reputation for having relatively low instances of migrant deaths has changed severely. Between 2002 and 2003, Arizona accounted for the most reported migrant deaths in the southwest border.¹²³ A damning 2006 study by the Government Accountability Office found that between 1995 and 2005, the number of border-crossing deaths had more than doubled—and many of those deaths were occurring at the Arizona-Mexico border. In fact, the study concluded that a massive three-fourths of the increase in deaths at the border originated at the Arizona-Mexico border. The GAO also reported the following trends that occurred at the Arizona border: a tenfold increase in the sector's share of southwest border migrant deaths between 1998 and 2005 and a 78% share in the increase of migrant deaths along the southwest border between 1990 and 2003.¹²⁴ A Border Safety Initiative study came out with similar results, attributing 94% of the increase in deaths along the southwest sectors to the Tucson Sector alone.

The numbers worsened in terms of volume as Arizona moved into the mid-to-late 2000s. According to the *Arizona Daily Star's* migrant death database and numbers reported by *Washington Post* reporter Stephen Hsu, the Arizona-Mexico border has accounted for nearly half of total migrant deaths at the border. In 2005, deaths in the Tucson Sector accounted for 57% of total migrant deaths, or 282 out of a total 492. The Pima County Medical Examiner's Office (PCME), which takes in migrant bodies from three counties, counted 68 bodies by July 2005.¹²⁵ 2006 saw Arizona's share of the death toll fall by 10%: 218 out of 454 total deaths, or 48%. In 2007, 243 out of 398, or 81.5%, of migrant deaths occurred in Arizona. Between 2007 and 2008, 187 deaths occurred at the Arizona-Mexico border out of a total 390, accounting for 47.9% of deaths. In 2009, the

¹²⁰ Eschbach, Karl, Jacqueline Hagan, Nestor Rodriguez, Rubén Hernández-Léon, and Stanley Bailey. "Death at the Border." *International Migration Review* 33.2 (1999): 443.

¹²¹ *Ibid.*

¹²² Sapkota, Sanjeeb, Harold W. Kohl III, Julie Gilchrist, Jay McAuliffe, Bruce Parks, Bob England, Tim Flood, Mack Sewell, Dennis Perrotta, Miguel Escobedo, Corrine E. Stern, David Zane, and Kurt B. Nolte. "Unauthorized Border Crossings and Migrant Deaths: Arizona, New Mexico, and El Paso, Texas, 2002–2003." *American Journal of Public Health* 96.7 (2006).

¹²³ *Ibid.*

¹²⁴ United States. Government Accountability Office. "Border-Crossing Deaths Have Doubled Since 1995; Border Patrol's Efforts to Prevent Deaths Have Not Been Fully Evaluated" (GAO-06-770; August 2005), by Laurie E. Eskstrand, William J. Sabol, Samantha Goodman, Benjamin Bolitzer, Chad M. Gorman, David Alexander, Amy Bernstein, Frances Cook, Ignacio Yanes, Jerry Seigler, Christopher Ferencik, and Stephen Rossman. Accessed 27 November 2010.

¹²⁵ Myers, Amanda Lee. "Arizona Immigrant Deaths in Desert Soaring." *The Associated Press*. 25 November 2010.

number hit record highs, with 281 out of 416 deaths belonging to the Arizona-Mexico border—a record 67.5% of the death toll share. The *Arizona Daily Star* reports that between October 1, 2009, and September 30, 2010, a devastating 253 migrants have been found dead at the Arizona border.¹²⁶ As of August 2010, the *Los Angeles Times* reported that 170 migrants had been found by the PCME's Office, 59 of them discovered in July alone.¹²⁷ The findings solidify expectations of new record highs in migrant deaths along the border.

There are several causes responsible for the death of migrants along the border. Chief among those reasons are: gunshot wound, drowning, vehicle-related crash, extreme weather exposure, and other or undetermined causes.^{128,129} As shown in the previous section, many of these deaths occur at the Arizona-Mexico border, and although there are several reasons for these deaths, many have attributed the increase of deaths in Arizona to the increase in border security. The significance of counting deaths due to environmental causes lies in the border security policies that are widely believed to be responsible for the increase of migrant deaths on the border—namely, Operation Gatekeeper and the increase of border police and immigration agents in Arizona post-9/11.

Ostensibly beginning in 1994, when Operation Gatekeeper was executed by President Clinton, the pattern of migrant crossings shifted from the San Diego-Baja border to the Arizona-Sonora border due to the added presence of Border Patrol agents—and along with them, the deaths:

From 1995 to 2000, an estimated 225 to 370 migrants died annually in the United States ... To escape the heightened surveillance of the US Border Patrol and other authorities that guard the border, these migrants often choose dangerous paths through remote desert and mountainous terrains and sometimes cross hazardous rivers.¹³⁰

And, indeed, Operation Gatekeeper was intended as a “prevention and deterrence” strategy meant to police populated areas in order to force border-crossing migrants into perilous areas such as towards Arizona’s Sonoran Desert and Texas’ Rio Grande River, as such environmental barriers provided forms “deterrence.”¹³¹ However, Eschbach *et al* provided that between 1993 and 1997, in spite of Operation Gatekeeper, relatively few deaths were reported as having come from Arizona, as many migrants still had the option to choose non-dangerous routes of entry.¹³²

9/11, however, changed much of that. “The 9/11 attacks of 2001 made a volatile situation infinitely more complex,” writes Margaret Regan, author of *The Death of Josseline: Immigration Stories from the Arizona-Mexico Borderlands*. “The old Immigration and Naturalization Service was subsumed into the new and ominously named Department of Homeland Security. Now the Border Patrol saw every economic refugee, every campesino and shopkeeper, as a potential terrorist.”¹³³ Post-9/11 numbers of Border Patrol go up, as well as the establishment of ICE offices in Arizona (see *The Rise of Immigration Police Forces*). And coincidentally, Sapkota *et al* found that Arizona became the leader in reported migrant deaths by 2002, and has been leading in those numbers ever since.

In a study done by Eschbach *et al* on migrant deaths at the border between 1993 and 1997, environmental causes (heat, cold, and dehydration) accounted for only 28 deaths, averaging 5.6 deaths annually. The GAO study found a similar trend of low levels of migrant deaths caused by heat exposure between 1985 and 1998.¹³⁴ Only five years later, those numbers skyrocketed, giving Arizona the title of

¹²⁶ *NoMoreDeaths.org*. “Deaths on AZ Border Oct. 2009—Sept. 2010.” Unitarian Universalist Church of Tuscon. 23 November 2010.

¹²⁷ Santa Cruz, Nicole. “Border deaths in Arizona may break record.” *The Los Angeles Times* 24 August 2010.

¹²⁸ Sapkota, Sanjeeb, Harold W. Kohl III, Julie Gilchrist, Jay McAuliffe, Bruce Parks, Bob England, Tim Flood, Mack Sewell, Dennis Perrotta, Miguel Escobedo, Corrine E. Stern, David Zane, and Kurt B. Nolte. “Unauthorized Border Crossings and Migrant Deaths: Arizona, New Mexico, and El Paso, Texas, 2002–2003.” *American Journal of Public Health* 96.7 (2006).

¹²⁹ Jimenez, Maria. “Humanitarian Crisis: Migrant Deaths at the US-Mexico Border.” *American Civil Liberties Union of San Diego and Imperial Counties and Mexico’s National Commission of Human Rights*. 2009.

¹³⁰ *Ibid* (Sapkota *et al*), 1282.

¹³¹ *Ibid* (Jimenez), 7-8.

¹³² Eschbach, Karl, Jacqueline Hagan, Nestor Rodriguez, Rubén Hernández-Léon, and Stanley Bailey. “Death at the Border.” *International Migration Review* 33.2 (1999): 443.

¹³³ Regan, Margaret. *The Death of Josseline: Immigration Stories from the Arizona-Mexico Borderlands*. Boston: Beacon Pres (2010): xxvii.

¹³⁴ United States. Government Accountability Office. “Border-Crossing Deaths Have Doubled Since 1995; Border Patrol’s Efforts to Prevent Deaths Have Not Been Fully Evaluated” (GAO-06-770; August 2005), by Laurie E. Eskstrand, William J. Sabol, Samantha Goodman,

highest migrant body count for environmentally-caused deaths (and deaths in general)—a title it consistently holds to this day. In a study of migrant deaths occurring at the border between 2002 and 2003, Sapkota *et al* found that heat-exposure deaths (including probable heat exposure) accounted for 115 deaths in 2002, and 134 deaths in 2003. By 2005, deaths caused by environmental factors numbered almost 200.¹³⁵ The *Coalición de Derechos Humanos* (CDH), with the help of Arizona officials, compile a list of recovered bodies from the Sonoran Desert; they found that in between 2006 and 2007, approximately 110 deaths were caused by environmental exposure of some kind. Between 2007 and 2008, 69 bodies were recovered by CDH whose deaths were caused by environmental factors—but many bodies listed have undetermined causes or are pending determination, so the number is not conclusive.¹³⁶ Maria Jimenez’s report on migrant deaths at the border up until 2008 found that environmental causes accounted for 30% of all migrant deaths—that is, a majority of the deaths that occur at the Arizona-Mexico border, the others being “other” deaths (18%), undetermined—skeletal remains (16%), water-related deaths (14%), motor-vehicle related deaths (11%), undetermined (7%), deaths due to environmental exposure to the cold (3%), and train-related deaths (1%).¹³⁷

This finding may help explain why many have argued that Arizona is turning into a “police state.” The post-9/11 Arizona-Mexico border, with its record deaths due to the migrant traffic across treacherous Arizona terrain, invokes a dreary image of a wasteland of unidentified bodies which, after they are discovered—if they are discovered at all—sit pending examination in medical examiner offices past their capacity. Reports of increases in migrant deaths have become increasingly common over the past decade. Yet though the correlation between increased border security and migrant deaths has been found to have a direct relationship with each other, at least at the Arizona-Mexico border, the government continues to favor increases in border security without addressing the latter issue of migrant deaths. And what results is the carefully-constructed balance of the relentless increase in migrant deaths and the substantial decrease of crime, violence, and apprehensions on the Arizona-Mexico border. Having essentially closed off the Arizona border by intensifying security, the government has chosen to deal with the undocumented through the police apparatus rather than through establishing some sort of administrative means to address immigration-related issues.

CONCLUSION: RAISING AWARENESS OF ARIZONA’S REALITIES

Although the intricacies of Arizona’s border policy in the post-9/11 age are numerous and complicated—as are a majority of truly important political discussions with palpable consequences—the findings presented in this report paint a very real, very serious, and very ugly picture of life for migrants, undocumented migrants, and immigrants residing within the state. Since 9/11, to live on the Arizona border means to live in a place where hundreds of Border Patrol, ICE agents, and local and state police are patrolling neighborhoods for undocumented migrants; where laws are passed with popular support to increase the powers of police and government agents to arrest, detain, and deport anyone whom they “suspect” to be undocumented; where a skyrocketing number of people—including women and children—are jailed and detained for up to three years, whether they are legal or illegal, in a growing number of private prisons; where an anti-immigrant movement with ties to white supremacist groups and leaders have significant influence on policymaking and extralegal law enforcement; and where policing policy knowingly “funnel” migrant traffic into Arizona’s most treacherous and fatal terrain in the name of “prevention and deterrence,” creating a wasteland of migrant bodies on both sides of *la linea*. Should you happen to be undocumented or even just suspected to be undocumented, you could be arrested, land yourself in detention, and have little to no recourse against the people who put you there.

This is the “police state” that so many have described to have emerged in Arizona. What this research has attempted to show is that the Arizona “police state” does not exist, but political, social, and even physical

Benjamin Bolitzer, Chad M. Gorman, David Alexander, Amy Bernstein, Frances Cook, Ignacio Yanes, Jerry Seigler, Christopher Ferencik, and Stephen Rossman, 58.

¹³⁵ *Ibid*, 59.

¹³⁶ Coalición de Derechos Humanos. “Arizona Recovered Remains.” *Coalición de Derechos Humanos* Website. Accessed 27 November 2010.

¹³⁷ Jimenez, Maria. “Humanitarian Crisis: Migrant Deaths at the US-Mexico Border.” *American Civil Liberties Union of San Diego and Imperial Counties and Mexico’s National Commission of Human Rights* (2009): 24.

atmosphere of the state have culminated in a climate of fear, distrust, and unfairness for many who live in the state—the same climate that is common in police states. This “police state” climate was born in the wake of the attacks on 9/11. The shift in immigration policy from a strictly civil issue to one of national security gave rise to a multitude of factors that give credence *not* to allegations that a “police state” is in place, but credence to the fact that a “police state” climate has indeed developed in Arizona.

The rise of this Arizona “police state” climate is nothing short of calculated. In fact, stated explicitly in the text of SB 1070 and in many interviews given by Governor Brewer, Arizona’s anti-immigrant policies are part of a concentrated, statewide “attrition through enforcement” strategy. The strategy claims to cause the attrition, or the wearing down, of the undocumented population by increasing the capabilities of police to *enforce* immigration policy, as well as increasing the number of police in general. Recent news sources stipulate that the strategy seems to be working as it has possibly caused the flight of 100,000 undocumented migrants from the state.¹³⁸ But the ultimate cost of all these efforts is the added flight of people of Hispanic descent due to the hostile, invasive environment being established by Arizona’s attempts to control immigration—adding to the exodus from the state of approximately 40,000 Hispanics in 2008 alone.¹³⁹ Businesses within and outside of the state—to add insult to injury—have begun boycotts as countermeasures against the cultivation of the “police state” climate. With each anti-immigrant measure it undertakes, Arizona adds to its already-unsavory reputation. The state is being referred to with increasing frequency as the most racist and intolerant state today by many critics of its harsh anti-immigrant laws. Because of all the anti-immigrant efforts being undertaken within the state by its lawmakers, residents, and other “interested” anti-immigrant parties, reputable news sources such as CNN have already begun reporting that businesses in all sectors—especially agriculture, tourism, hospitality, and construction—are desperate for workers who have already left the state due to the anti-immigrant, “police state” climate.¹⁴⁰

It is with sincere and desperate hope for the public to have a better understanding of the situation in Arizona that I undertook this research, because not only are the developments in Arizona troubling, they are also reportedly occurring in other states.¹⁴¹ If we are to ever have a serious discussion about the future of immigration policy in the US, the effects of such trends on undocumented migrants must be taken into account, for they alone bear the hardest burdens of our decisions, even as they lack the legal voice, rights, and protections that are so often taken for granted.

¹³⁸ Gaynor, Tim. “Migrants sell up, flee Arizona ahead of crackdown.” *Reuters* 25 July 2010.

¹³⁹ Haq, Husna. “Hispanics abandon Arizona, fleeing economy, immigration law.” *The Christian Science Monitor* 26 November 2010.

¹⁴⁰ “Arizona’s economy shattered by S.B. 1070 as workers disappear.” *Orange Juice: Orange County’s Top Political Blog* 4 June 2010.

¹⁴¹ Wessler, Seth Reid. “Mapping the Spread of SB 1070.” *Colorlines* 24 June 2010.

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