
TRAVEL ALERT



ACLU Travel Alert for
STATE OF ARIZONA

June 30, 2010

The ACLU of Washington alerts Washington residents to potential threats to the constitutional rights and civil liberties of individuals planning to travel or stay in Arizona.

On April 23, 2010, Arizona enacted a state racial profiling law, SB 1070, that has generated fear and confusion among the public about the treatment and rights of Americans in the State of Arizona. The law is not scheduled to go into effect until July 29, 2010, and multiple lawsuits have already been filed to prevent it from taking effect at all. However, a history of rampant racial profiling by law enforcement officials in Maricopa County, Arizona (which includes the cities of Phoenix, Glendale, Mesa, and Scottsdale) and a stated policy of “attrition through enforcement” adopted by lawmakers in the state give credible reason to be concerned even before the date SB 1070 is supposed to go into effect.

The law will require police officers to demand papers proving U.S. citizenship or immigration status from any individual whom they stop, detain, or arrest, based on an undefined “reasonable suspicion” that the individual is in the country unlawfully. It invites discrimination against and pretextual stops and arrests of Latinos, other racial minorities, and individuals believed to look or sound “foreign,” based on their race, ethnicity, or national origin. The law expressly provides that even suspected infractions of city or town ordinances – such as jaywalking, excessive noise, or having an overgrown or untidy lawn – can and should lead to immigration questioning. If individuals are unable to prove to the police officer that they are permitted to be in the United States, they may be subject to warrantless arrest without any probable cause that they have committed a crime.

Since 2007, the Maricopa County Sheriff’s Office (MCSO) has systematically engaged in selective enforcement of minor traffic laws to target Latino motorists for stops and investigation of their U.S. citizenship or immigration status. The U.S. Department of Justice has initiated an investigation into the practices of the sheriff’s office, and there are at least two pending civil rights lawsuits challenging this activity in the federal courts.

The increased risk that individuals and motorists will be stopped, questioned, detained, and arrested because of their race, ethnicity, or national origin makes it important that Washington residents understand their rights when encountering law enforcement authorities in Arizona.

The ACLU has prepared an informational card for the public entitled, “What to Do if You’re Stopped by Police, Immigration Agents or the FBI.” The card provides information that applies throughout the United States in any encounter with law enforcement officials, and Washington residents are advised to download and read this card before traveling to Arizona. A copy is available at www.aclu-wa.org.

Key information that applies to all Washington residents considering travel through Arizona includes the following:

- If you travel through the state of Arizona and encounter law enforcement officers, remember that **all persons within the boundaries of the United States, regardless of immigration status, are protected by the U.S. Constitution.**
- **Racial and ethnic profiling is illegal.** An officer cannot stop you because of physical features or English ability. The officer must be able to articulate a reason for a “lawful stop or detention.”
- **If you are stopped for questioning:**

Stay calm. Don’t run. Don’t argue, resist or obstruct the police, even if you are innocent or police are violating your rights. Keep your hands where police can see them. If you are driving a car, stop the car in a safe place as quickly as possible. Turn off the car, turn on the internal light, open the window part way and place your hands on the wheel.

Ask if you are free to leave. If the officer says yes, you have the right to calmly and silently walk away. If the officer says you are not under arrest, but you are not free to go, then you are being detained. Being detained is not the same as being arrested, though an arrest could follow. If you are under arrest, you have a right to know why.

You have the right to remain silent. If you wish to remain silent, tell the officer out loud. However, under state law in Arizona, you must give your name if asked to identify yourself. You don’t have to answer a police officer’s questions, but you must show your driver’s license and registration when stopped in a car. In most other situations, Washington law does not make it a crime to refuse to identify yourself to a police officer. If you are the driver of a vehicle, upon request, show police your driver’s license, registration, and proof of insurance. Both drivers *and* passengers have the right to remain silent. If you are a passenger, you can ask if you are free to leave. If the officer says yes, sit silently in the car or calmly leave. Even if the officer says no, you have the right to remain silent.

You do not have to consent to a search of yourself or your belongings, but police may “pat down” your clothing if they suspect a weapon. You should not physically resist, but you have the right to refuse consent for any further search. If you *do* consent, it can affect your rights later in court. If you are the driver of a vehicle and an officer or immigration agent asks to look inside your car, you can refuse to consent to the search. But if police believe your car contains evidence of a crime, your car can be searched without your consent.

- **If you are questioned about your immigration status:**

You have the right to remain silent and do not have to discuss your immigration or citizenship status with police, immigration agents or any other officials. You do not have to answer questions about where you were born, whether you are a U.S. citizen, or how you entered the country.

(Separate rules apply at international borders and airports, and for individuals on certain nonimmigrant visas, including tourists and business travelers.)

If you are not a U.S. citizen and an immigration agent requests your immigration papers, you must show them if you have them with you. If you are over 18, carry your immigration documents with you at all times. If you do not have immigration papers, say you want to remain silent.

RESIDENTS OF WASHINGTON should be aware that, because their state driver's license does not require proof of legal residence for issuance, it may not satisfy Arizona criteria for identification under the new Arizona racial profiling law. If traveling to Arizona, you may want to take a passport with you, if you have one.

If you are Native American, carry your tribal identification card with you. Although this may not suffice as proof of residence or citizenship. Report any incidents of racial profiling to your tribal council and talk with a lawyer.

Do not lie about your citizenship status or provide fake documents.

- **If you feel your rights have been violated**, write down everything you can remember, including officers' badge and patrol car numbers, which agency the officers were from, and any other details. Get contact information for witnesses.

Washington residents who are subjected to racial or ethnic profiling or other rights violations are encouraged to report these concerns to:

ACLU of Washington
206-624-2180
www.aclu-wa.org

