

Stories from the
Alabama hotline

Racial Profiling After HB 56



National Immigration Law Center
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FOUNDED IN 1979, THE NATIONAL IMMIGRATION LAW CENTER IS THE ONLY national legal advocacy organization in the United States dedicated exclusively to defending and advancing the rights of low-income immigrants and their families. We envision a U.S. society in which all people—regardless of their race, gender, immigration or economic status—are treated equally, fairly, and humanely, have equal access to justice, education, government resources and economic opportunities, and are able to achieve their full potential as human beings. Policymakers, community organizers, legal advocates, and the media recognize National Immigration Law Center staff as experts on a wide range of issues that affect the lives of immigrants in the U.S., and frequently call upon us to explain the real-life impact of immigration-related laws and policies.

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The day after HB 56, Alabama’s anti-immigrant state law, went into effect, the coalition of organizations that sued in federal court to stop the law from being implemented, which includes the National Immigration Law Center, established a statewide hotline that people living in Alabama could call to report any civil rights violations resulting from enforcement of the law. The hotline, operated by the Southern Poverty Law Center, is staffed jointly by the coalition. To date, the hotline has received over 6,000 calls.

Incidents reported by callers reveal three dangerous trends: first, that the enactment and implementation of HB 56 has created a damaging and unconstitutional environment of racial profiling by law enforcement officials; second, that the law’s provisions—which, to a great extent, were conceived by the same anti-immigrant activists who wrote Arizona’s SB 1070, and thus patterned after that state law—constitute state-sanctioned discrimination that, in turn, encourages private citizens to discriminate against and abuse people they suspect may be “foreign”; and, third, that the provision requiring Alabama school officials to determine the immigration status of enrolled students (or that of their parents) has discouraged children of color from attending school and encouraged discrimination in the schools based on students’ appearance and perceived ethnicity.

Alabama’s governor signed HB 56—considered to be the most draconian anti-immigrant law enacted in recent history—into law on June 9, 2011, a little over a year after SB 1070 was enacted (April 23, 2010), about ten months after a federal district court in Arizona enjoined some of the most potentially harmful provisions of SB 1070 (July 28, 2010), and only two months after the Ninth Circuit Court of Appeals affirmed the district court’s injunction against the SB 1070 provisions. Because the federal district court in Alabama declined to enjoin provisions in HB 56 that are similar to the “show-me-your-papers” provision of SB 1070 that the U.S. Supreme Court declined to strike down in its June 25, 2012 decision,¹ what began to happen in Alabama last fall provides a clear and deeply troubling preview of what we’re likely to see soon in Arizona, as well as in any other states that enact or enforce SB 1070 or HB 56 copycats.

¹ The U.S. District Court for the Northern District of Alabama issued its ruling, allowing most of HB 56’s provisions to take effect, on Sept. 28, 2011. More information about litigation related to state immigration enforcement laws enacted since SB 1070 is available from www.nilc.org/litigationie.html.

Racial profiling of Latinos and others who appear or sound “foreign”

In its decision issued on September 28, 2011, the federal district court in Alabama declined to block major provisions of HB 56, despite the fact that they were likely to result in racial profiling. These include a provision mandating that state and local law enforcement officers investigate the immigration status of anyone they stop who they have “reasonable suspicion” to believe is in the county without lawful status, a provision that allows private citizens to sue law enforcement officers and entities if the latter fail to enforce HB 56 to the fullest extent allowed by law, and a provision that requires law enforcement officials to investigate the immigration status of and detain individuals arrested for driving without a license. This provision also requires that the arrestees be transported to the nearest magistrate and that they be detained until they are prosecuted or turned over to federal immigration authorities. As it became known that these provisions were now enforceable, reports of racial profiling poured into the civil rights coalition hotline.

Scores of Latinos called to report that they suspected they had been stopped by police, after the HB 56 provisions became enforceable, mainly because they look Latino—so that officers could question them about their immigration status. These callers reported that either they had been stopped for a bogus reason (e.g., the officer claimed they’d been speeding when they hadn’t been, or the officer said their windows were inappropriately tinted), or they were approached for questioning when they were sitting in their parked cars on private property.

Numerous callers reported that law enforcement officers had stopped them or their loved ones on the pretext that they may have been driving without a license, an offense that cannot be observed or, in the vast majority of cases, reasonably suspected before a stop is made. In each such case, the caller reported that he or she believed that the sole basis for the stop was his or her Latino appearance.

Callers to the hotline are a mix of U.S. citizens, immigrants in lawful immigration status, and immigrants without authorization to be in the U.S. The two characteristics they tend to have in common are their ethnic appearance and presence in Alabama. The stories they’ve told show how the implementation of HB 56 in Alabama has opened the door to racial profiling by law enforcement.² If the show-me-your-

² In this report, names of callers to the hotline have been changed to protect their identities, though all individuals whose stories are told here expressed a willingness to share them with the public.

papers provision in Arizona’s SB 1070 ultimately is allowed to take effect,³ or if copycat laws are enacted and enforced in other states, Arizonans and residents of other states—potentially all of us—would see a dramatic rise in racial profiling and a troubling erosion of our civil rights.

Roberto | Stopped and questioned, no reason provided

Roberto called to report an encounter he had with police while walking home from work with two colleagues. All three of the men are Latino. The police stopped all three and asked them for their immigration “papers,” giving no other reason for the stop. Roberto told the police that they were simply walking from work and offered to have the officers call their work manager to verify this fact. When one of the stopped individuals produced a North Carolina driver’s license, the officers indicated they thought it was fraudulent. According to Roberto, the police said that the next time they saw this person they would arrest him and “send him back to Mexico.”

Ana | Stopped on weak pretexts multiple times, endured prolonged roadside detentions

Ana described being repeatedly stopped by law enforcement after HB 56 took effect. A longtime Alabama resident, she is originally from Honduras and has temporary protected status (TPS), which the U.S. government grants to persons from certain countries where the conditions are especially bad, e.g. due to civil war or natural disaster.⁴ So her immigration status, though temporary, is completely lawful. She also has a valid out-of-state driver’s license. Nevertheless, after HB 56 became enforceable, police stopped her multiple times while she was driving, asked about her immigration status, and subjected her to prolonged roadside detentions.

Once while Ana was driving after dark, a police car followed her for a mile or so. When the officer eventually pulled her over, the officer asked why she was “hurrying.” The only justification the officer gave for having stopped Ana was that she had her high beams on, which the officer did not claim was a violation of any law. The

³ The decision of the Supreme Court in *Arizona v. United States* did not lift the court order blocking implementation of section 2(B), the “show me your papers” provision of SB 1070. Rather, the Court remanded the case to the lower courts for further proceedings, and to date section 2(B) remains enjoined. Moreover, in *Valle del Sol, et al. v. Whiting*, the lawsuit brought by a broad coalition of civil rights organizations against SB 1070, the plaintiffs have filed a motion asking the federal district court to block section 2(B) on other constitutional grounds.

⁴ The secretary of Homeland Security may designate a particular country as being one whose citizens or residents (people who “last habitually resided” in that country) currently in the U.S. may apply for temporary protected status. More information about TPS is available on U.S. Citizenship & Immigration Services’ website, at <http://tinyurl.com/ycoxymq>.

officer then began asking Ana questions clearly intended to illicit information about her immigration status, including how long she had been living “here.” When Ana said she did not understand the question, the officer became angry and said, in a loud voice, “You *do* understand.” Ana felt intimidated. She said she felt that the only reason the officer had stopped her was that, because of her Latina appearance, the officer suspected that she was in the country unlawfully.

Alvaro | Followed by police out of parking lot, stopped on a weak pretext

Alvaro reported that on December 7, just outside of Decatur, Alabama, he stayed parked in his car with one of his children while his wife entered a Wal-Mart with their other child. Because it was very cold, when his wife was about to leave the store she phoned Alvaro to pick them up near the store’s entrance. To do this, Alvaro momentarily parked in the store’s fire access lane.

When Alvaro drove out of the store parking lot with his family, an officer in a police car that had been in the parking lot followed them onto the street, eventually pulling Alvaro over after about a half mile. The officer asked for Alvaro’s license and proof of insurance. Alvaro handed both documents to the officer, who took them, verified the information on them via his computer, and returned them to Alvaro.

The officer said that he had observed Alvaro stopped in the no-parking zone in front of the Wal-Mart. Alvaro explained that he had been there for only a minute to pick up his wife and child. When he asked the police officer why the officer hadn’t stopped him in the Wal-Mart parking lot rather than following him out onto the street, the officer asked whether Alvaro wanted a ticket. When Alvaro asked what he had done to merit a ticket, the officer said that the real reason he’d pulled Alvaro over was that he’d failed to signal when he made a turn.

Ultimately, the officer let Alvaro and his family go without issuing a ticket. Alvaro, a lawful permanent resident who is in the process of applying for U.S. citizenship, called the hotline because he was upset, believing that the police officer’s behavior amounted to harassment based on Alvaro’s Latino appearance.

Fear of reporting crimes to police, based on racial profiling

A foreseeable result of the racial profiling precipitated by Alabama’s HB 56 is that people of color, and particularly Latinos who live in Alabama, are and will continue to be afraid to interact with law enforcement. One example of many: An interpreter called the hotline on behalf of a couple who own a tire and auto mechanic sales business. The couple, who are lawful permanent residents, had wanted to tell the police about a bullet hole they had spotted in the window of the office building

they rent, so their landlord would not blame them for the damage. But when the police arrived—and before they began investigating the bullet hole—they began inquiring into the business owner’s immigration status. As a result of the bad taste this left, when later these same business owners were victims of a theft, they decided not to report it to the police.

State-sanctioned discrimination invites discrimination by private citizens

One of the most disturbing trends identified by calls to the hotline was a surge, after provisions of HB 56 took effect, in overt racial discrimination against and verbal abuse of Latinos by fellow “civilians.” Scores of Latino callers reported being taunted in public and questioned about whether they have the right to be in the state or in the country. Taunts generally took the form of people telling Latinos to “go back to Mexico” or threatening to report them or their family members to immigration authorities. Callers reported being taunted based on their ethnic appearance while they walked through public spaces, attempted to cash paychecks at check-cashing stores, tried to purchase goods at stores, or attempted to get medical services.

Hostility and harassment in public

One caller to the hotline who has lived in Alabama for 13 years reported that after HB 56 took effect he went to a local Dollar Store and was taunted by white women in the store who told him, “You Mexicans are going to have to leave for Mexico soon, and you won’t have a job.” This caller reported that he had experienced similar taunts in other places and that he no longer thought that he could “be at peace” in Alabama after the implementation of HB 56. He also reported that, since the law took effect, he’s been afraid to take his children to school out of fear that he will be arrested while driving them there.

Another caller reported that, since HB 56 was enacted, his coworkers have threatened to report him to immigration authorities if he doesn’t loan them money, his cell phone, or his car. One man, a Latino, called the hotline to report that he’d been in a local Wal-Mart with his three-year-old daughter when white customers approached to ask his daughter where she was born. The caller said that the question was put in a harsh way and that the implication was that his daughter did not belong in Alabama. Yet another Latino reported to the hotline that, after HB 56 was enacted, he and another Latino man accompanying him in his car were waiting at a traf-

fic light in Trussville, Alabama, when four white men in a passing truck yelled “*Illegals!*” and other insults at them. Finally, hotline staffers themselves have received calls from people who taunted them using racial slurs and insults, including, “Tell beaners to go back to Mexico!” or questioning why the organizations that staff the hotline are helping “Mexicans” and “*illegal aliens.*”

Withholding pay for work performed

Several callers to the hotline—workers—reported that people for whom they’d done work after HB 56 was enacted were withholding the wages they were owed. One caller reported that an individual for whom he’d done home improvement work not only refused to pay him for work he’d already completed, the employer threatened to report him to immigration authorities if he didn’t continue working—for free. Another caller, whose boss had withheld agreed-upon wages from two coworkers, reported that when he asked the boss about the wages owed to his coworkers, the boss replied that Alabama law does not protect him (the worker who called the hotline), because he is undocumented.

Still another caller reported perhaps the most deeply troubling incident of all those reported to the hotline after HB 56 took effect: When she and her coworkers asked their boss for their paychecks—for work they’d already performed—the boss threatened them with a gun.⁵

Other callers reported that after the federal district court allowed provisions of HB 56 to take effect, employers for whom they’d worked a long time began demanding extra work from them, because the employers presumed the workers to be unauthorized. They demanded, for example, that the workers work longer hours. And several callers to the hotline reported being questioned about their immigration status at work, even though they had held the same positions for months or even years before HB 56 went into effect.

Landlords refusing to rent to individuals or attempting to rescind rental agreements

Several callers to the hotline reported that after the federal district court allowed provisions of HB 56 to be enforced, landlords either refused to rent them apartments or threatened to rescind their rental agreements. This despite the fact that the district court had enjoined the provision of HB 56 that bars Alabama landlords from renting to undocumented immigrants.

⁵ Originally reported in *Alabama's Shame: HB 56 and the War on Immigrants* (Southern Poverty Law Center, 2012), www.splcenter.org/alabamas-shame-hb56-and-the-war-on-immigrants.

One caller reported that the owner of the trailer park where she lives sent all the trailer park's residents a notice printed on orange paper saying that in order to rent in the park one has to be a U.S. citizen. This caller is currently in the process of having a qualifying family member petition for her to become a lawful permanent resident (or "green card"—holder). When she called the hotline, this person also reported that, since the time that provisions of HB 56 had taken effect, she had left her house only twice, because she was scared.

Another caller to the hotline, a lawful permanent resident, reported that her longtime landlord was using HB 56 as an excuse to try to rescind her rental agreement.

One caller to the hotline reported that he and other residents of an apartment complex damaged when a spate of devastating tornadoes hit parts of Alabama in April 2011 had been asked to move out while the complex was undergoing repairs. The complex's manager had told the caller that he would be informed when the repairs were completed and he could move back in. The caller said that he never was contacted, however, and that when he realized, in November 2011 (about two months after the federal district court in Alabama issued its decision), that other tenants were moving back into the complex, he contacted the manager, asking if he could move back, too. The manager replied that he wouldn't be allowed to return unless he could prove that he is in the U.S. lawfully.

A woman who had applied to move to a larger apartment in the complex where she'd lived for four years called the hotline to report that the landlord had demanded, as a condition of her changing apartments, that she provide a Social Security number—which, the landlord said, was a requirement under HB 56. Throughout the four years that the caller had rented from the landlord, however, she had always accepted the caller's paycheck stub and foreign passport as sufficient proof of her tenant's identification.

Denial of medical services

Several callers to the hotline reported being turned away from medical services after the federal district court in Alabama allowed provisions of HB 56 to be enforced. A handful of callers reported that health centers where they'd gone to seek care would no longer provide care to them, even though the same facilities had provided services to people regardless of their immigration status before HB 56 took effect. And multiple callers reported that local Wal-Marts would not fill prescriptions after HB 56 took effect if the individual could not provide an Alabama-issued ID, which to obtain requires that the person present proof of lawful immigration status.

Some customers who were turned away by Wal-Mart staff were told they could not fill their prescriptions there because they did not speak English. Most troubling, one caller reported that she was denied radiation treatment for cancer despite having been receiving care prior to HB 56.

Refusal to pay on a contract

Some callers to the hotline have reported that, since HB 56 took effect, people with whom they had entered into contracts have refused to fulfill their contractual obligations, citing HB 56 as their excuse. One example: The individual with whom a caller had a contract to buy the caller's trailer refused to make any further payments after HB 56 took effect. The caller reported that when she asked the buyer why she was refusing to keep her end of the bargain, the buyer said that the trailer was legally hers and that HB 56 specifically means that she doesn't have to continue making the agreed-upon payments to the seller. Furthermore, the buyer threatened to report the seller to the police and to immigration authorities should she continue to try to collect the money owed her under their signed contract.

The spillover effect

Reports to the hotline make it clear, therefore, that many Alabamians have, in effect, felt emboldened enough to deputize themselves to enforce HB 56 and now feel free to ask or demand that people they suspect, based usually on appearance, of being undocumented provide proof of their immigration status—wherever they encounter such people.

When a man sought to leave his dog at an animal shelter, for example, the shelter's staff asked him for proof of lawful immigration status and summoned the police. He told hotline staff that when the police arrived, they asked for his visa. When he explained to them that, although he has lawful immigration status, he has no visa because he entered the U.S. from Cuba, the police persisted in questioning him about his immigration status.

Callers to the hotline also have reported being asked for proof of immigration status in places such as movie theaters and gas stations—by salespeople and cashiers. Bank staff who, after provisions of HB 56 took effect, closed the account of a couple who'd had it for a long time told the couple that the account was closed because they didn't have a Social Security number, according to a caller. Another caller, the owner of a small business, reported that a Wal-Mart cashier refused to cash his check because he didn't have an Alabama-issued ID. Before HB 56, this person regularly cashed checks at the same Wal-Mart by presenting his Honduran passport as proof

of identity. His wife ended up having to drive from Florida to cash the check so they could pay their employees.

When a Latina tried to buy a mattress at a furniture store in Tuscaloosa after HB 56 took effect, the cashier, rather than first asking how she wanted to pay for the mattress, instead asked immediately for her Social Security card and Alabama driver's license. The woman reported to hotline staff that when she asked the cashier why she needed to present those documents, the cashier replied that it was the store's "policy." As a test, the woman had a non-Latina friend go to the same store to initiate a transaction—and her friend was not asked to present ID before attempting to pay.

Finally, several callers to the hotline reported feeling house-bound since some provisions of HB 56 became enforceable. They said they feared being questioned by police about their status or being harassed, due to their appearance (their apparently nonwhite ethnicity), by private individuals. One single mother of four U.S. citizen children reported to hotline staff that, since HB 56 took effect, she ventures outside of her house only for about 15 minutes a day, only to go to work and then return home.

Bullying of Latino children in schools

Among the most heartrending stories told by callers to the hotline are of Latino children being bullied by their classmates in Alabama's schools. A provision of HB 56—section 28—requires Alabama public school officials to inquire into the immigration status of a foreign-born child and his or her parents at the time the child enrolls in an Alabama public school.⁶ Although Arizona's SB 1070 does not contain a similar provision, what occurred in Alabama after the federal district court declined to enjoin the provision illustrates how laws such as SB 1070 tend to make people of all ages feel empowered to discriminate against and bully others whom they assume, based merely on appearance or other superficial factors, deserve to be singled out or sanctioned under the law.

Inappropriate questioning by teachers

Several callers reported that, after HB 56 took effect, elementary school teachers had questioned Latino pupils about their or their parents' immigration status. One third-grade teacher at Crossville Elementary School asked that all children whose

⁶ The federal district court in Alabama declined to enjoin this provision, but the Eleventh Circuit Court of Appeals enjoined it on Oct. 14, 2011.

parents were born outside the United States raise their hands, according to a caller to the hotline whose 8-year-old niece was present when this occurred. The girl's parents kept her out of school the next day, for fear of what might happen to them.

Bullying and taunts based on students' appearance

Multiple callers reported student-on-student bullying of Latino children that appeared to be directly related to HB 56's implementation. Children reportedly threatened to report Latino classmates and their families to immigration authorities, and asked them why they hadn't gone back to Mexico. A caller to the hotline said that she'd withdrawn her son from school after a classmate called him "frijolito" ("little beaner") a few days after HB 56 took effect. Another reported that fellow students began harassing her 14-year-old cousin after the law took effect. They would point at him and other Latino students and say, "You're Mexican. You can't be here." The situation was "like living in hell," the caller said. A woman living in Tuscaloosa told hotline staff that the week after the federal district court declined to enjoin section 28, children at school were harassing her sixth-grader, calling him an "ugly Mexican" and taunting him to go back to Mexico.

Atmosphere of fear affects U.S. citizen children, too

Several callers to the hotline said that they had held their children out of school for several weeks after HB 56 took effect, out of fear that their families would be reported to federal immigration officials. Many of the children in these families are U.S. citizens.

Conclusion

Stories reported by callers to the hotline that was established immediately after Alabama's HB 56 took effect make clear that the principal effect of attrition-through-enforcement laws such as HB 56 and Arizona's SB 1070 is to engender and incubate an environment of hostility and discrimination sanctioned by the state. HB 56's enactment and implementation ratcheted up racial tensions in Alabama by legitimizing, in the eyes of many law enforcement officers and private citizens (including schoolchildren), an already powerful tendency to view others principally through—and jump to conclusions about them based on—the lens of ethnic and racial appearance.

The result is increased, broadly felt fear and tension in Latino and other communities of color in Alabama. More people are afraid to go about the everyday activities

that are basic to normal life, because they or people about whom they know have been targeted and tracked by police officers intent on being immigration enforcers, and because they've been harassed or subjected to intimidation by cashiers, landlords, clerks, fellow customers, classmates, teachers, and passersby. Ultimately, the result is an increasingly fractured, less safe community in which people mistrust each other and, unfortunately, have better reason than they did before to distrust even the public servants who have sworn to protect and serve them.