

Testimony of Larry Sandigo
Former Chairman of the *Melendres v. Arpaio* Community Advisory Board

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Committee on Transportation and Infrastructure
Subcommittee on Highways and Transit
“Examining Equity in Transportation Safety Enforcement”

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Chair Norton, Ranking Member Davis, Members of the Committee, thank you for giving me the opportunity to testify today. My name is Larry Sandigo and I am here in my capacity as former chairman of the Community Advisory Board for *Melendres v. Arpaio*, a federal constitutional case arising out of Maricopa County, Arizona. I am here to bear witness to the impact racially discriminatory traffic enforcement can have on communities of color.

I am a proud first-generation American whose parents fled Central America to start a new life in the United States. Before I was even born, the system had already marked my life. When my older brother was still a baby, both of my parents became ensnared in the immigration system. My mother spent a month detained, separated from my brother.

We were not unique. For immigrant families across Maricopa County, a traffic stop was not just a traffic stop. A broken taillight could lead to detention or deportation. The truth was, though, that you didn't need a broken taillight to be pulled over because Latino families in Maricopa County lived under a regime where race, and not criminality, was the basis of traffic enforcement.

Case Background and Context

Long before there was a federal trial or statistical data attesting to these facts, Latino families knew the Maricopa County Sheriff's Office (MCSO) under Sheriff Joe Arpaio engaged in racially discriminatory traffic enforcement. We knew that if we were pulled over, we would be treated differently because we were Latino. Under the guise of transportation safety, the Sheriff was doing what he really wanted to do, which was immigration enforcement.¹

The authority to conduct traffic enforcement gave MCSO officers wide latitude to pull over vehicles to investigate the immigration status of the driver and any passengers. Because MCSO first needed a basis in state law to actually stop and detain persons, it began using the traffic safety context as a pretext to investigate Latinos.² It did not matter that the considerable majority of Latinos living in Maricopa County are in fact American citizens or are here lawfully.³ If you were a Latino driver in Maricopa County, you were four to nine times more likely to be pulled

¹ See *Melendres v. Arpaio*, 989 F. Supp. 2d 822 (D. Ariz. 2013).

² See *id.* at 860.

³ See *id.* at 828.

over by the Sheriff's deputies.⁴ These targeted traffic stops were scaled and were part of a systematic and specialized attempt to enforce federal immigration law.

Saturation Patrols

MCSO began conducting large-scale traffic operations, known as "saturation patrols," in Latino neighborhoods or places where Latinos congregated. MCSO even established a hotline so that people could report suspected undocumented immigrants and/or Latino workers to MCSO.⁵ The distinction between Latino and undocumented immigrant seemed to vanish, and all of us became fair game.

In the type of saturation patrol that targeted day laborers, undercover MCSO officers would station themselves at locations where Latino day laborers gathered and identify vehicles that would pick up the workers.⁶ To be clear, it is not illegal to be a day laborer.⁷ Once a vehicle was identified, the undercover officers notified traffic patrol units that were waiting in the area.⁸ The traffic patrol units located the vehicle, followed it, and then established probable cause for a traffic stop.⁹ By and large, Latino drivers and passengers were questioned; white drivers and passengers were not.¹⁰ These were not split-second safety decisions that the officers were making – these were sustained and systematic policies. Transportation safety had been effectively co-opted for race-based enforcement.

Saturation patrols created a climate of fear in Latino neighborhoods and the pretense of transportation safety was used to cover all types of illegal enforcement. In one instance, MCSO received a tip on its hotline that a church was providing assistance to Latino workers.¹¹ MCSO sent Latino undercover officers to investigate; they signed up for work and verified that Latino workers were gathering inside the church parking lot.¹² There was no evidence of forced labor or human smuggling, and no evidence of any traffic safety concerns.¹³ A few days later, MCSO officers descended upon the church and began arresting people. MCSO claimed in a press release that these workers were causing transportation safety issues along the road.¹⁴ This was demonstrably not true, as the undercover officers' reports detailed that people were gathering inside the church parking lot, not along the road, and no arrests or citations were made on the basis of traffic safety issues.¹⁵

Community Impact

⁴ <https://www.justice.gov/opa/pr/department-justice-files-lawsuit-arizona-against-maricopa-county-maricopa-county-sheriff-s>

⁵ See *Melendres v. Arpaio*, 989 F. Supp. 2d 822, 850 (D. Ariz. 2013).

⁶ See *id.* at 831.

⁷ See *id.* at 850.

⁸ See *id.* at 831.

⁹ See *id.*

¹⁰ See *id.* at 851.

¹¹ See *id.* at 852.

¹² See *id.*

¹³ See *id.*

¹⁴ See *id.*

¹⁵ See *id.*

Imagine the terror in a community when you are hunted at a house of worship. Consider what happens when simply seeking work becomes dangerous. Each of these people had a name and a story, and a family. Each person who ended up detained or deported left a wake of devastation behind them – individual harm compounded into a family harm compounded into a community one. The loss of a parent ended in deep psychological damage, and the simultaneous loss of a breadwinner resulted in financial ruin for many families. Ten-year-old Heidi’s mother was taken by MCSO and she suddenly had to grow up. She now had to get her little brother Miguel ready for kindergarten in the mornings, and she had to teach her baby brother how to drink milk, for he had been breastfeeding. In another case, Katherine was nine years old, when while playing a game, her dad suddenly appeared on live television, in handcuffs. Her mother was close behind him, also arrested in an MCSO raid. Those images sear into a young child’s mind, and that kind of pain doesn’t just go away. And for those Latinos who were American citizens or here lawfully, where being stopped didn’t lead to immigration consequences, what remained was the humiliation and degradation, the knowledge that your skin color had determined your treatment.

There is not one right way to respond to this kind of trauma. Some families moved away. Others tried to stay under the radar whenever possible. Children wrote to the president, asking him to have mercy on their broken families. Others rose up and faced the bully directly.

Victory at Trial

The Latino community began organizing itself and fighting back. Experienced civil rights leaders teamed up with young people to start collecting stories that would later serve as evidence. People started filming the interactions. It required considerable courage for these community members to go up against a machine that was intent on taking them out. The fear of retaliation was real, but the strength of character to say “*basta*”, or “no more,” was even greater. Because Sheriff was an elected position, people and community organizations also began organizing politically.¹⁶ Eventually, a class action lawsuit was filed in federal court, with the judge ruling that MCSO had violated the constitutional rights of Latinos in Maricopa County by, among other things, institutionalizing the illegal systematic consideration of race in making traffic enforcement decisions.¹⁷ This was a community victory. The judge ordered sweeping reforms, including the creation of the Community Advisory Board (CAB).

The Community Advisory Board

The Community Advisory Board serves to facilitate dialogue between the community and the MCSO, to provide recommendations for specific reforms that will increase community trust and ensure that reforms are being implemented. The task is herculean. One key factor about the five-member CAB is independence – the CAB reports to the Court Monitor and to the judge. Simply telling community members that the CAB does not work for the MCSO removes barriers of trust. Another element is that all CAB members must be from the affected community, elevating the role of lived experience. Two members are appointed by the ACLU, two members appointed by the Sheriff, and one member is a joint selection.

¹⁶ Sheriff Joe Arpaio was voted out of office in 2016. The case continues under his successor.

¹⁷ *Melendres v. Arpaio*, 989 F. Supp. 2d 822, 898 (D. Ariz. 2013).

During my tenure as Chair, we held numerous community meetings, in English and Spanish, to hear directly from those most affected. Almost inherently, law enforcement and the community have different outlooks and perspectives. We grappled with the dissonance, we dialogued, we learned, we pushed MCSO to be better. We also witnessed the generational impact created by racially based enforcement. At one community meeting, community members reported that just blocks from where we had gathered, officers had boarded a school bus and threatened to deport parents if the children didn't behave. This scared the children so much that some of them wet themselves. That kind of pain and humiliation doesn't just go away. We fiercely believe, then and now, that our constitutional rights as Latinos are not to be sacrificed in the name of safety. Although the CAB members did not agree on everything, there are a couple of reforms that particularly resonated with us and the community at large, including the proper use of data and body-worn cameras.

The Power of Data

The power of data – its collection, analysis, and publication – became apparent and the community wanted more of it. If you don't know what's happening, then it can be easy to pretend that all is well. If you do know what's happening, then it allows you to pinpoint additional areas for reform. The court ordered the collection and analysis of data to analyze racial disparities in traffic stops, including stop length, search rates, citation rates, arrest rates, and seizure rates. The judge's order also required deputies to document the reasons for stopping drivers.

One key element in data transparency is making it “community friendly” – data is more useful if it is easily understood by those feeling the impact of policies and practices on the ground. We had numerous ongoing conversations with MCSO to make the data more accessible – this ranged from where it was placed on the website to using more charts and graphics to using plain language to describe the data. Once the data become more community friendly, the community could ask harder questions, could compare the data to their experiences, and engage at a higher level.

But not everything will be easily measured by data. Harm isn't just data, and neither is dignity or respect. Behind every data point that shows a “disparate outcome” in a traffic stop is a real person, a person who is a member of a family and community. As each of those disparate data points becomes a graph and a chart, in the community it manifests itself as mistrust and fear. It is hard to measure humiliation and it takes an investment to attempt to understand whether trust has been rebuilt. Anecdotal evidence, such as community stories, continue to be important.

Because data cannot accurately measure community or generational harm, or is limited in its scope of collection and analysis, law enforcement and institutions should continue listening to community experiences and believing what they hear. Community members should not have to “prove” something for law enforcement or institutions to take their concerns seriously. Those affected will many times not have the right language or terminology, or they will frame interactions in terms of their feelings and sentiments. The more I learned about how MCSO operated, the more I was able to “translate” community experiences into terms the agency

understood. Often times it took a series of conversations to build the sufficient trust for a community member to open up.

As data continues to be compiled and analyzed, the community will continue monitoring the reforms and responding to long-standing issues as well as ones that newly arise. My hope is that the data will be compiled and disseminated at a more frequent rate and that decisions will continue to be made on the basis of that data.

Body-Worn Cameras

Another key reform was the use of body-worn cameras. The community easily understood the concept, and benefit, of them. With multiple national examples of misconduct coming to light via camera recordings, the community asked for specific updates on body-worn cameras – how many deputies had them, when did they have to use them, what did they actually look like, etc. And with that understanding came progressively sophisticated questions, for example, inquiries about when a deputy was allowed to mute their camera, or when they were allowed to turn it off. Body-worn cameras also helped supervisors check the data and validate it. If the data was showing an outlier for one or more measurements, then the body camera footage could be reviewed. If there was a misconduct complaint, then the footage was helpful to the investigation.

Conclusion

The story of Maricopa County has not ended. Until the MCSO reaches a sustained level of compliance, the CAB will continue to exist and provide recommendations toward rebuilding community trust and ensuring compliance with the court's orders. My hope and expectation is that the Latino community will continue to demand equal protection under the law, and that compliance, reform, and a new way of doing transportation safety will emerge.

Thank you for your time and I welcome your questions.