

Anarchy is legalized racial profiling Immigration • A critical restraint on government is protection from unreasonable searches and seizures.

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Body

I represent many Latino clients before courts in the St. Louis area, including Circuit Courts in Tad Armstrong's back yard in neighboring Illinois. Mr. Armstrong's op-ed commentary on June 2 in the Post-Dispatch, "Anarchy has arrived," is correct that anarchy has arrived regarding our country's immigration policy, but it did so quite some time ago. Laws such as Arizona's Senate Bill 1070 only will make this state of anarchy exponentially worse.

One of my clients, Juan, is a Mexican immigrant who did everything those in Arizona calling for "stricter immigration enforcement" say he should have done. He waited 10 long years to legally immigrate to the United States to live near to his father, a U.S. citizen. He was admitted lawfully into the United States and has been a lawful permanent resident in the United States for more than three years.

This spring, Juan was accused by the state of Illinois of minor possession of a controlled substance. After discovering the charge, he hired my office to proactively answer the charge in court.

Juan, expecting that due process was something to which he was entitled as a lawful permanent resident, did not wait to be arrested. We appeared voluntarily in court and entered the appropriate "not guilty" plea, and Juan posted his bond. All that remained was to voluntarily present himself to the county jail to be formally booked, where he was fingerprinted and photographed and his background was checked. Juan presented his "green card" and approval notice previously issued by the immigration service (which preceded the "green card"). The booking took 20 minutes.

The supervisor on duty, not satisfied with Juan's documents, insisted that U.S. Immigration and Customs Enforcement be contacted and Juan's identity checked. ICE spoke with Juan by phone at the jail and, of course, advised that they had no interest in him since, after all, Juan was legally present in the United States.

Still not satisfied, the supervisor insisted Juan be further detained while she continued urging ICE to personally interview Juan in jail. Of course, ICE did not come since they knew Juan was legally present in the United States. Apparently frustrated, the jail supervisor caused Juan to be detained for nearly two hours after he had fulfilled all his duties to the state of Illinois and after ICE confirmed he was lawfully present.

Mr. Armstrong's readers can rest assured that this would never have happened had Juan been named John, been white or spoke better English. Rest assured that this occurrence is neither unusual nor exceptional. It has become status quo in many law enforcement "contacts" (as referenced in Arizona SB 1070).

We all know that, absent extenuating circumstances (such as an accident), most police officers allow five or eight miles over the speed limit on the roads and don't generally stop a driver who fails to signal a lane change. However,

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I have countless Latino clients who have been stopped and the sole "lawful reasonable suspicion" of a crime committed, supposedly justifying the stop, was driving five or eight miles over the limit, no signal for a lane change or a burned-out license plate light (these are real cases!). In 27 years of driving as a white male, I have never been stopped on any such grounds.

And that's the rub. At the founding of our nation, one of the most critical restraints on government was protection from unreasonable searches and seizures. Our Constitution explicitly guarantees due process and equal protection under the law to persons in the United States.

Discretion is vested in our law enforcement officers to decide how to adhere to these constitutional protections from government action and how strictly to enforce the law. When that discretion is exercised without regard to race or other suspect classification, we call that "good police work." However, when that discretion is exercised based on apparent immigrant origin, there are different words for it: "racial profiling."

Unfortunately, Mr. Armstrong's anarchy came to roost on this country's doorstep a long time back when racial profiling of immigrants in our communities became an apparently acceptable practice by some officials in exercising their discretion, even without explicit legal sanction.

Rest assured, laws like Arizona's SB 1070 will do nothing to ameliorate this anarchy. They will make it exponentially worse by providing this sort of racial profiling with a newly acquired legal sanction.

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