

Challenge in Connecticut Over Immigrants' Arrest

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Nine day laborers are expected to file a federal lawsuit today challenging the legality of a sting operation in Danbury, Conn., last year that led to their arrest on immigration charges.

Those plaintiffs, and a tenth man whose traffic stop for a noisy muffler resulted in his deportation to Ecuador, contend that their arrests were illegal and part of a campaign based on racial profiling. They also say that the city of Danbury, its mayor, Mark D. Boughton, and its police chief acted to enforce federal immigration law without authority.

At a time when towns across the country are wrestling with how to deal with illegal immigrant residents, and when day laborers are often a flash point of conflict, the lawsuit is the latest in a series of legal challenges to local crackdowns.

According to the complaint, on Sept. 19, 2006, a Danbury police officer posing as a contractor drove an unmarked van belonging to the federal Immigration and Customs Enforcement agency to a park in downtown Danbury where day laborers, many from Ecuador, gather. Pretending to offer \$11 an hour to demolish a fence, the officer transported 11 would-be workers to a fenced-in lot where they were arrested, handed over to federal immigration agents and eventually placed in deportation proceedings.

Mr. Boughton said yesterday that the local police had only provided "logistical support" to federal immigration agents during the operation. Calling the lawsuit, filed on behalf of the plaintiffs by the Yale law clinic, "a fishing expedition," he said the police would provide similar support at the request of any federal law enforcement agency.

In 2005, Mr. Boughton had pushed Connecticut to have State Police officers deputized as federal immigration agents. But Gov. M. Jodi Rell refused to pursue that proposal.

The complaint, expected to be filed today in United States District Court in New Haven, contends that Mr. Boughton encouraged the Danbury police to try to enforce civil immigration law anyway, either unilaterally or by conspiring with federal agents.

"In their frustration with the arrival of new immigrants to Danbury, Mayor Boughton and the Police Department have taken the law into their own hands," the complaint charges.

Along with Mr. Boughton and the Danbury police chief, Alan D. Baker, nine agents of Immigration and Customs Enforcement are named as defendants in the court papers.

The plaintiffs charge that they were arrested without probable cause, in violation of the Fourth Amendment. The suit also contends that the arrests violated the First Amendment because they were calculated to silence the laborers' expression of their availability for work in a traditional public forum, and to chill the speech of other day laborers who now avoid the park for fear of arrest.

"Looking at a group of day laborers and assuming that they are undocumented is a form of racial profiling," said Geri Greenspan, one of the law students working on the case with Michael Wishnie, a Yale law professor.

Robert Myles, a Danbury police captain and spokesman for the chief, said disagreement over local immigration enforcement was not unique to Danbury. "It's happening across the country," he said. "It's just going to play out till the courts make a decision one way or another."

Nine jurisdictions around the country, including Massachusetts and Arizona, have deputized local or state law enforcement officers as federal immigration agents under a federal program known as 287G. At least 30 other jurisdictions have applications pending. In a speech in May, President Bush encouraged such federal and local partnerships as a way to increase enforcement, and vowed to seek a 10-fold increase in the program's \$5 million budget.

At the same time, many police departments have opposed joining the program, saying it will hurt criminal law enforcement efforts by making immigrants more fearful of dealing with the police to report crime.

Students at the Yale law clinic have been litigating for months under freedom of information laws to obtain government documents relating to the Danbury arrests, Ms. Greenspan said. Federal immigration agents have maintained that the arrests were initiated by the Danbury police, she said, while Danbury officials insist that it was a federal operation.

None of the day laborers arrested had an outstanding order of deportation, the lawsuit says, and immigration officers involved in the operation were not looking for a fugitive at the Danbury park, which might have provided a rationale for a federal immigration operation.

According to the police incident reports filed at the time, the day laborers were arrested by the police at 7 a.m. on a charge of entering the country illegally, a federal misdemeanor. Connecticut law does not authorize local Danbury police to make warrantless arrests for federal misdemeanors, Ms. Greenspan said, and the officers had no evidence of illegal entry into the country.

In the case of the 10th plaintiff, Danilo Brito Vargas, the lawsuit charges that his arrest in February was part of a pattern of police stopping Hispanic drivers on the pretext of minor traffic infractions, then investigating the immigration status of the drivers through the

National Crime Information Center database, and arresting them for civil immigration violations.

“Nothing we do is pretextual,” countered Captain Myles. “We see a violation, we’ll stop it and take it from there. If the computer comes up with a hit that someone’s illegal, we’ll respond to that hit, and we’ll check with the agency it came from, whether it be federal or state.”

Michael Gilhooly, a spokesman for the federal immigration agency, said the agency had not seen the complaint. But he added: “Immigration Customs Enforcement conducts all of our operations lawfully and in full accordance with ICE policies and procedures.”