

# High court review of immigration enforcement a tale of opposing views

By Bill Mears, CNN Supreme Court Producer

Hereford, Arizona (CNN) -- No better symbol of the deep political and social divide over illegal immigration exists than here on the Mexico-U.S. border, along Glenn Spencer's rural desert property. And no better symbol exists of the contradictions and conundrums from an unresolved government enforcement policy.

Halfway down the 104-acre ranch is the state-of-the-art border fence: 18-foot-high steel beams, buried 6 to 8 feet deep to discourage tunneling. Imposing and discouraging. But then the tall ribbon stops, replaced by easily breached, angled beams, no more than 3 feet high. And farther down, no fence at all where it crosses the heavily tree-lined San Pedro River.

As dusk approaches, two U.S. Border Patrol pickup trucks amble separately along Spencer's backyard in search of illegal crossings, which have been slowed but not stopped by these human barriers. The abundant mesquite bushes with their inch-long thorns might prove a more effective screen.

The story of the wall -- looking in or looking out, depending on your point of view -- is also the story of two opposing views, embodied by Spencer's border monitoring group and by Phoenix Police Officer David Salgado. Both have invested their time and reputations in a legal fight now before the U.S. Supreme Court: whether Arizona's crackdown on illegal immigration unconstitutionally intrudes on the Obama administration's authority.

The state law SB 1070 has become a flashpoint for a decades-long national debate over controlling the borders. What the justices decide in coming weeks will have broad implications in this election-year issue, but could also set new legal markers in the equally strident debate over state versus federal power.

David Salgado: "It's a racist law"

For more than two decades, Salgado has been a self-described beat cop in the historic Garfield neighborhood, one of the oldest in Arizona's capital. As he walked the streets of the mostly Hispanic community with CNN, almost everyone greeted him by name. He said that rapport has helped build trust, and helped solve crimes. But the officer worries the new act may destroy all that.

"After the law went up, many didn't want to look at us anymore," he told CNN. "They were just afraid, and that brought division between the police and the Hispanic community."

Salgado was one of the first to sue the state in federal court, trying to block SB 1070 from taking effect. He said he would be forced to detain and question people based on their ethnicity,

exposing him to civil lawsuits, something the legislation allows. "I can be sued if I act; I can be sued if I don't act."

"It's a racist law because it basically picks and chooses certain people, and I think that's wrong," he said on a recent morning. "I took an oath 20 years ago that said I'm going to enforce all laws and treat everyone equal. ... But I can't treat Hispanics equally because I'm going to have to profile them."

State officials strongly assert racial profiling would not be tolerated, and a state board has been created to set uniform enforcement standards. The law's backers say police officers are professionals and stopping crime is based on conduct, not skin color or ethnic background.

Other groups filing suit include clergy members, concerned their desert border rescues of illegal crossers, and even neighborhood day care transportation of young Hispanic-Americans, would leave them susceptible to random police suspicion and detention.

Salgado's attorney, Stephen Montoya of Phoenix, says some state officials, including Gov. Jan Brewer, are exaggerating the immigration "crisis."

"The whole rhetoric that Arizona is some kind of war zone isn't borne out," he said. "I don't have any problem with state law enforcement officers enforcing federal immigration law if they do so in accordance with federal immigration law, if they get the certification and training required from (U.S. Immigration and Customs Enforcement), if they get the supervision required by federal law from ICE. But unilaterally doing that without any federal involvement? That is a recipe for destruction, and the state has already seen that."

Salgado, who was born in Texas but has lived in Phoenix since age 5, admits his opposition to the law has also divided law enforcement, creating stress with some fellow officers questioning his motives.

The city's union for police officers as well as Maricopa County Sheriff Joe Arpaio aggressively lobbied for SB 1070. Recently retired Phoenix Police Chief Jack Harris is among law enforcement leaders who remain critics.

"The federal government is not doing its job" stemming illegal immigration, Salgado said. "But when they (state officials) want us to do their job, and where kids are being separated from their parents (in police sweeps), it's horrible. And that just bothers me as a human being."

He cites as another example his 78-year-old mother, a U.S. citizen like him. "If she gets nervous, that's all she'll do, she'll speak Spanish. So if she's driving a car and an officer stops her, that's all she's gonna speak, Spanish. And if she hands over her Arizona driver's license, and our computers are down, well, they can't verify it. So that officer has a right, under that law, to take my mother from the car to the station to fingerprint her to find out if she's legal or not.

"And that becomes personal to me," Salgado said, getting emotional. "Because there are many citizens here, especially in Phoenix, Arizona, where they don't speak English. But they are citizens, and that's going to violate their rights as an American."

Glenn Spencer: "You had better protect the people"

Some 220 miles south of the capital, the high desert views are spectacular. Isolated orange-colored mountains, saguaro cactus, and javelinas -- pig-like native hoofed mammals -- brighten the arid landscape.

Glenn Spencer's laptop helps provide panoramic vistas, thanks to several cameras mounted on a 46-foot pole next to his ranch house. It is part of a high-tech monitoring system he set up as founder of the privately run American Border Patrol. He says its members are watching because the federal government has not been doing its job.

Volunteers, some hundreds of miles away, can use Spencer's website to spot illegal immigrants and smugglers along a 20-mile stretch, reporting what they see to border protection officials.

Spencer -- a retired systems engineer and businessman -- claims that not only the 18-foot wall, but also the smaller barriers abutting his property were put up a couple of years ago by the federal government, after the ABP exposed what were nightly border crossings numbering sometimes in the hundreds.

"It used to be the Wild West, and now it's gated community here, so I look at that wall and I feel somewhat safe," which he says is not true of other border regions. Spencer firmly believes his group and the state can and should be assisting the federal government in what he labels a local and national problem.

"I think the Supreme Court has to stand up and say (to Washington): 'You had better protect the people, and they're going to protect themselves if you're not doing your job,'" he told CNN. "And we're going to make sure the federal government gets all the help it needs to do the job. You've got to do better but you haven't done it. We're going to let the states help you out."

ABP engineer Mike King showed off the group's latest technological advance: what it calls the Sonic Barrier, which can detect humans, vehicles, even aircraft moving within 300 feet of the Mexican border.

"It's a seismic line that we lay out, and it can be stretched out for an infinite number of miles, and it will detect every single thing that crosses it," King said. "It is user-friendly, it doesn't require a ton of manpower to be watching this, because the sensors do the job for you."

Using solar panels, batteries and digital converters that could someday be linked along 5-mile increments, continually streaming images are sent to a central monitoring site. The cameras are also thermal and can be operated in the dark.

King demonstrated by having local Arizona residents walk along the border as test subjects. As they approached the metal fence, a red light and loud siren went off on King's computer in the ranch offices, alerting the intruders' presence.

Spencer has testified before state committees, trying to get officials to adopt the technology, which he claims would be much cheaper than "virtual fence" systems being developed by the feds.

Spotter planes -- including an unmanned "Border Hawk" equipped with cameras providing 360-degree digital cameras views -- are also used by ABP, a nonprofit funded mostly by small individual contributions.

The group's work has been criticized by those claiming Spencer and his associates are self-appointed vigilantes, with a virulent anti-immigrant and anti-federal bias. But he broadly pronounces that American civilization is at risk, from security and economic standpoints, because of illegal immigration.

"I have nothing against Mexico or Mexicans, but when you import poverty on a massive scale, and you have a population of people who are far below the standard base of income of Americans, you can only expect to run into serious problems," he said.

"I think it is necessary for the state to assist our (federal) government to enforce our law. We are a nation of laws, and I think the state of Arizona wants to make sure it remains that way."

A point of agreement: The issues are complex

Both Spencer and Salgado agree the federal government is not doing enough to stem illegal immigration. They also recognize the complexity of the issues, and neither claims to have all the answers. But they disagree on what "help" is needed.

Groups and individuals filing legal briefs to the Supreme Court -- both for and against the law -- number in the hundreds: lawmakers, religious leaders, cities, and issue advocates. SB 1070's opponents use words like hate, fear, and extremism to describe its effects. Supporters call it patriotic, reasonable, and necessary.

Each side brings a unique perspective that must now be sorted out by the high court. What the justices say will be the final word of sorts, but for a border activist and Phoenix cop, the stakes are personal, and will be felt firsthand for years.

"This is the community I was brought up in," Salgado said of Phoenix. "This is where I belong."

CNN correspondent Kate Bolduan contributed to this report.

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