

ImmigrationProf Blog

## A Member of the Law Professor Blogs Network

Sponsored by Wolters Kluwer

Monday, October 7, 2013

### Has Sheriff Joe Arpaio Moved to Montana? Montana Immigrant Justice Alliance Files Class Action Lawsuit Against Montana Highway Patrol

By Immigration Prof

On October 7, 2013, the **Montana Immigrant Justice Alliance** ("MIJA") and four representative plaintiffs filed a lawsuit in the U.S. District Court for the District of Montana against Colonel Tom Butler, sued in his official capacity as acting Chief Administrator of the Montana Highway Patrol, and Attorney General Tim Fox, sued in his official capacity as head of the Montana Department of Justice. Click to download the complaint and its supporting exhibits. The lawsuit alleges that Montana Highway Patrol has a policy and practice of seizing Latino drivers or passengers that a patrol officer may believe to be in the country without authorization for a prolonged period of time, often between forty minutes to two hours. The sole basis for detaining these individuals is to make contact with the Department of Homeland Security ("DHS") to ascertain their immigration status and determine if an immigration enforcement officer wishes to assume custody of them.

Shahid Haque-Hausrath is President of MIJA and the lead attorney handling the case. "For years, Montana Highway Patrol officers have been acting like de facto immigration enforcement agents. They have been pulling Latino residents and visitors over for routine traffic infractions, and detaining them without probable cause just to check on their immigration status," Mr. Haque-Hausrath said.

"This policy is discriminatory because patrol officers are using race and ethnicity as a basis for these arrests, and Latino residents and visitors are being unlawfully harassed. The law is clear that Montana Highway Patrol can only arrest people for crimes, and can't arrest or detain people just to check if they have valid immigration status."

As alleged in the complaint, at least two former Montana Highway Patrol Chiefs have endorsed this policy. Colonel Michael Tooley defended the legality of this discriminatory behavior, and Colonel Kenton Hickethier actively instructed patrol officers to use pretextual reasons to arrest people if they think they are in the country illegally.

The lawsuit does not seek money damages, but asks the court to declare that this policy is unconstitutional, to enjoin the Montana Highway Patrol from further constitutional violations, and to put safeguards into place to ensure that this discrimination is stopped.

The case sounds frighteningly similar to the one successfully brought ([Melendres v. Arpaio](#)) against Maricopa County (Arizona) Sheriff **Joe Arpaio** and the Maricopa County Sheriff's Office.

KJ

#### Related articles



Lawsuit alleges

MHP officers  
profiled minority  
drivers

<http://lawprofessors.typepad.com/immigration/2013/10/has-shefiff-joe-arpaiο-moved-to-montana-.html>

© Copyright 2004-2013 by Law Professor Blogs, LLC. All rights reserved.