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Arizona County Uses New Law to Look for Illegal Immigrants

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Deputy Michael Danner searches near Gila Bend for illegal immigrants.

By RANDAL C. ARCHIBOLD
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PHOENIX, May 9 — To people who say round up more illegal immigrants, Sheriff Joe Arpaio of Maricopa County here has an answer: send out the posse.

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On Wednesday, the posse, a civilian force of 300 volunteers, many of them retired deputies, are to fan out over desert backcountry, watching for smugglers and the people they guide into these parts.

Already, a small team of deputies roams the human-trafficking routes to enforce a nine-month-old state law that makes smuggling people a felony and effectively authorizes local police forces to enforce [immigration](#) law.

Not only do deputies charge the smugglers, but many of their customers have also been



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Rick Scibelli Jr. for The New York Times
Sheriff Joe Arpaio of Maricopa County said 146 people have been arrested in the eight weeks since a team of deputies was formed to search for smugglers.



Rick Scibelli Jr. for The New York Times
Deputy Chris Scott checks a suspected hideout.

jailed. That has drawn criticism from several quarters, even the politician who sponsored the law and has generally supported Sheriff Arpaio's position.

"That was not our intent," said the sponsor, State Representative Jonathan Paton, a Republican, who added that he would prefer to detain smuggled immigrants under trespassing laws, a move lawmakers are considering under a package of bills intended to crack down on illegal immigration.

Take a border state wrestling with the effects of a surge of illegal immigrants. Add Sheriff Arpaio and his unorthodox, well-chronicled brand of law enforcement — he forces male and female inmates to wear pink underwear, among other often-questioned tactics. And watch the sparks fly.

"I have compassion for the Mexican people, but if you come here illegally you are going to jail," said Sheriff Arpaio, an elected Republican, whose county is the fourth most populous in the country and among the fastest growing.

To avoid suggestions that deputies practice racial profiling, the sheriff has ordered them to find probable cause, usually a minor traffic infraction, before pulling over suspect vehicles.

Lawyers and advocates for the jailed immigrants, several of whom are challenging their arrests, take a different view.

"It's really an attempt to intimidate immigrants by threatening and imposing incarceration," said Victoria Lopez, executive director of the Florence Immigrant and Refugee Rights Project.

Peter Schey, a lawyer from Los Angeles hired by the Mexican consulate here to represent some of the detainees, said, "This sheriff is not the director of homeland security, but that is how he is acting."

Sheriff Arpaio sought and received an interpretation of the statute by County Attorney Andrew P. Thomas, who said the illegal immigrants could face charges that they conspired with smugglers.

Mr. Thomas, also a Republican, sent a letter on Tuesday to the State Department protesting what he considered Mexico's intrusion into [Arizona](#) affairs by retaining Mr. Schey and trying to challenge the law.

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Representative Paton said he believed that Maricopa was the sole jurisdiction enforcing the law, with other law enforcement authorities telling him that they lacked the manpower to do so or questioned whether such actions would hold up in court.

Smuggling illegal immigrants is a federal crime. Arizona adopted its law last year out of frustration that Washington had not done enough to control illegal crossings. In recent years, central Arizona has emerged as a prime crossing point.

A majority of illegal immigrants caught by the Border Patrol are returned to their home countries — in the case of Mexicans, almost immediately — without charges.

In the eight weeks since the team of deputies formed, 146 people have been arrested, Sheriff Arpaio said, with 12 suspected of being smugglers. Four have pleaded guilty and under a deal with prosecutors received three years' probation. They will be referred to federal authorities for deportation.

Cases are pending against the remainder, with 48 seeking dismissal of the charges. A conviction under the state law could mean a two-and-a-half-year prison term.

Mr. Schey, executive director of the Center for Human Rights and Constitutional Law, an advocacy group, said nothing in the law authorized charging illegal immigrants with smuggling. In court papers, he suggested that the entire law was invalid because it "pre-empts" federal authority to regulate and enforce immigration law.

The deputies, meanwhile, continue their patrols. Normally, Deputy Chris Scott spends his days kicking in doors and barreling through houses, serving search warrants and performing the other high-energy tasks of a special weapons and tactics officer. But before dawn one morning this week, on "illegal immigrant interdiction" patrol, Deputy Scott saw a pickup with a broken tail light drift over the center line of a desolate road near Gila Bend. He flicked on the emergency lights of his unmarked sport utility vehicle and pulled over the pickup.

Barely mentioning the reason for the stop — state law prohibits driving over the center line or with a broken light — he peppered the driver and five passengers with questions: "Licencias?" "You have identification?" "These guys work with you very long?"

After several backup deputies arrived, they determined that the men were not being smuggled, although some appeared to be here illegally and were turned over to the Border Patrol.

"I think word is getting out, and they are skirting around us," Deputy Scott said later as he cruised without finding much suspicious activity.

The Border Patrol has not taken a position on the state law or the efforts to enforce it, a spokesman, Jesus Rodriguez, said.

It may be easy to dismiss the sheriff as grandstanding, and he promises a television-friendly event on Wednesday to begin expanded posse patrols, but last November he won a fourth term. An editorial in The Arizona Republic that criticized the patrol as "knee jerk" also credited him with an "unerring ability to gauge public opinion."

A statewide poll of 380 voters from April 20 to 23 by Arizona State University and KAET-TV in Tempe showed broad support for more stringent border security, with 57 percent favoring building a fence there.

Opinion split over making it a serious crime to be here illegally, with 51 percent opposed to such a move and 48 percent opposed to making it a felony to help illegal immigrants. The poll has a margin of sampling error of plus or minus five percentage points.

Sheriff Arpaio's cellphone ringtone plays "My Way" by [Frank Sinatra](#). "I have enough confidence with the Maricopa community," he said in his 19th-floor office here, the walls decorated with clippings of news coverage. "If not, that's the way the ball bounces."

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