CHINGA LA POLIMIGRA

Phoenix Police Department’s Violations of Operations Order 4.48

A Puente Human Rights Movement Report

January 2021
ACKNOWLEDGEMENTS

This report is dedicated to the families and community who continue to fight SB1070 and Police & ICE collaboration. May we continue to do what it takes to bring dignity and justice.

Special thanks to the 4.48 research team: Chris Bedolla, Victoria Favella, Margaret Kearney, Laura Quinn & Sandra Castro Solis.

This report was authored by Sandra Castro Solis & Whitney Meilan Yang, and designed by Orlando Arenas & Whitney Meilan Yang.

ABOUT PUENTE

Puente Human Rights Movement was founded in Arizona in 2007 in response to abuses of power by local law enforcement officials and anti-migratory attacks initiated through state laws and policies. For over 10 years, Puente has led the fight against local and federal anti-immigrant policies while building a political home for Arizona’s most marginalized communities. Our membership and leadership have always been made up of those who are most impacted by adverse policies, laws, and police/ICE joint tactics. Our membership consists of undocumented people, mixed-status families, youth, people directly affected by the criminal justice system, and people of color affected by rampant racial profiling. Since its founding, Puente has transitioned into a broad multi-generational movement for human rights.

For more information on how to get involved with us, please visit our website: www.puenteaz.org.
DEAR READER,

Ten years ago Puente began the fight against Senate Bill 1070, which was at the time the most egregious anti-immigrant law in the country. Ten years later, we stand on organized power against a racist law that criminalizes our existence and places us a target of both police and ICE. SB1070 was neither the beginning nor the end of Arizona’s love for racial profiling.

This report demonstrates that Arizona’s crimmigration enforcement has not stopped. Despite community efforts and victories over the years, including a major revision to SB1070 enforcement policy Operations Order 4.48, the Phoenix Police Department continues to work closely with ICE in a resource-draining effort to criminalize our people.

Puente collected and analyzed Phoenix Police Department data from 2017 - 2019 in an effort to track the department’s compliance with Operations Order 4.48. The findings are striking, but unsurprising. We found that out of over 6,000 police calls to ICE over this period, only 5% of individuals who were the subject of these calls were found to be undocumented. We found that specific police officers and supervisors form a network of crimmigration enforcement within the PPD -- they are repeat offenders who repeatedly and consistently make contact with ICE.

What is as damning as the data itself, is the data that is missing. Revisions to Operations Order 4.48 in 2017 required all immigration-related activity to be documented, including the reason for all stops, the ethnicity of all individuals stopped, and the outcome of all stops. This data is missing. PPD officers have failed in their mandate to record this data and have so far escaped accountability for this gross and purposeful omission. Given the PPD’s historical record, we can only assume that this lack of record-keeping in the face of policy requirements is part of the department’s ongoing practices of covert, illegal racial profiling.

Puente is committed to ending Operations Order 4.48. We have launched the Chinga la Polimigra Campaign to expose the blatant disregard for 4.48 policy mandates and to call for an end to the policy and to PPD and ICE collaboration. Ending Operations Order 4.48 will be one important step in the direction towards repealing SB1070 and ending statewide racial profiling practices by police.

Thank you for standing with us in this fight.

Jovana Renteria, Co-director
Puente Human Rights Movement
OPERATIONS ORDER 4.48 BACKGROUND

In October of 2010, Phoenix Police Department drafted and enforced Operations Order 4.48 which guides the Phoenix Police Department’s procedures on enforcing and complying with criminal and civil immigration violations. 4.48 serves as the implementation policy for SB 1070, otherwise known as the “show me your papers” law. The Phoenix Police Department implemented this policy without community insight or town halls.

Puente Human Rights Movement launched its first campaign against Operations Order 4.48 policy in 2010 in an effort to expose the racial profiling inherent to both 4.48 and SB 1070 policies. In 2017, Puente and other community partners successfully advocated for changes to Operations Order 4.48 that were aimed at limiting racial profiling and required tracking all Phoenix Police Department (PPD) contact with Immigration and Customs Enforcement (ICE).

SB1070 BACKGROUND

On April 23rd 2010, Arizona governor Jan Brewer signed into law the Support Our Law Enforcement and Safe Neighborhoods Act (better known as SB1070). Republican Senator Russel Pearce introduced SB1070 to the Arizona state legislature with the intention of streamlining statewide police state practices, whereby local law enforcement would be allowed the discretion to ask any person to disclose their immigration status based on reasonable suspicion. SB1070 served as the nation’s catalyst law to enforce a statewide attrition through enforcement strategy. This meant passing a law so flagrant that it would restrict the rights and liberties of migrants, forcing them to self-deport or end up in the crimmigration pipeline.

SB1070 was one of the most adverse immigration laws the United States had seen at the time; it would become the blueprint model for other anti-migrant states to follow. Our community refused to accept the passage and implementation of the law -- we fought back. Puente and countless other organizations and communities came together to create a unique model on how to fight back against 1070 and police/ICE collaboration. One of the ways Puente fought back against racial profiling and criminalization of immigration was to advocate for policy changes to Operations Order 4.48, which served as the enforcement arm of SB1070 for the Phoenix Police Department.

2017 POLICY CHANGES

Community advocacy against Operations Order 4.48 led to the policy that is currently in use today. Major changes to the original policy that are reflected in today’s policy include:

Limiting racial profiling practices and other human rights abuses. The updated policy removed all language referring to the use of the term “border-related,” removed instructions for police officers to stop, question and scrutinize people picking up passengers in their motor vehicles for day-work and those passengers, and removed racist language describing what types of
signifiers should warrant an officer’s “reasonable suspicion” that a person is in the country unlawfully. Some of those signifiers listed in the first policy version were “dress,” “unusual or unexplained nervousness,” “significant difficulty speaking English,” and “vehicle is overcrowded or rides heavily.” The updated policy also added language that emphasized the “sanctity of life” and encouraged officers to respect all people.

Limiting the ability of police officers to question people regarding their immigration status. The updated policy included and emphasized the mandate that police officers must not be held longer than the intended stop in order to verify a person’s immigration status, and that officers do not ask immigration questions to drivers or passengers during traffic stop unless required by law. The policy update additionally added important victim witness language mandating officers not to ask victims of crimes or witnesses to crimes about their immigration status. It also removed language from the first policy version that encouraged officers to try to determine a person’s immigration status, and removed instructions for police officers to ask all people who are arrested questions including “What country are you a citizen of?” and “What is your place of birth?”

Limiting the ability of police officers to make contact with or transport people to ICE. The updated policy required that any person who is found to have a civil immigration violation must provide consent in order for a police officer to transport them to ICE custody. It also included language that a person may only be transported to ICE custody if ICE verifies that the person is wanted for a criminal immigration violation, and added a mandate that School Resource Officers must not contact ICE for any purposes while a student is on school grounds.

Requiring higher levels of authorization to approve police officer contact with ICE and requiring transparency and documentation in regards to all immigration-related contact. The updated policy shifted responsibility for immigration documentation from police officers to their sergeants, and took away the ability for officers to verify the immigration status of a person themselves. The new policy required all police officer contact with ICE be approved by a Violent Crimes Bureau desk sergeant or a supervisor if a VCB sergeant is unavailable, and required that a Violent Crimes Bureau desk sergeant must document all immigration-related data and grant authority to contact ICE.

2020 DATA COLLECTION AND ANALYSIS

In 2020, Puente Human Rights Movement and the Advancement Project obtained data via a public records request on PPD contact with ICE between 2017 and 2019. The data has shown that PPD is in violation of their own Operations Order 4.48 policy as per 2017 policy revisions.

Phoenix Police Department regularly collaborated with ICE and MCSO in a manner that is inconsistent with the mandate of
Operations Order 4.48. Our data analysis found that the majority of stops and investigations were of people with no criminal immigration violations, that PPD officers contacted ICE without the consent of residents against the mandate of Operations Order 4.48, and that PPD officers prolonged stop times to determine legal status of residents. PPD officers contacted ICE 6,169 times during routine stops between 2017 - 2019 with an average of 7 calls to ICE each day. Of the 6,169 calls PPD officers made to ICE during this period, only 62 individuals had criminal immigration violations.

The majority of Phoenix Police Department stops under Operations Order 4.48 were of lawful residents. PPD and ICE have wasted city and federal resources via this policy. 61.47% of the individuals in question were found to be lawfully present in the United States. 5% of the individuals in question were found to be undocumented or without the legal authorization to be in the United States. The status of the remaining 33.52% of people in question were documented as unknown immigration status. 2.6% [158 people] out of the 6,169 calls to ICE lead to the arrest of a person. PPD officers held and transported 17 individuals to ICE between 2017 - 2019.

Phoenix Police Department officers are not complying with the transparency requirement mandated by Operations Order 4.48. There is a pattern of repeated policy offenders within the department who form a network of ICE-friendly officers and supervisors. Our data analysis found that PPD officers were negligent in tracking and documenting the length of stops, gender and ethnicity of the person stopped, reason for contacting ICE, the type of violation, and the outcome of the stop. Phoenix Police Department and ICE detained 570 individuals in
On Wednesday, September 19, 2020 Department of Homeland Security (DHS), Customs and Border Patrol (CBP), Drug Enforcement Administration (DEA), Phoenix Police Department and City of Phoenix Public Transit collaborated together to abduct 65 migrants during an undercover DEA operation in Phoenix. This operation was reported to be a drug investigation where there were also reports of a possible drop house with immigrants. Customs and Border Patrol arrested and detained 65 migrants during this operation; all migrants arrested, including women and unaccompanied minors, were charged with DHS Title 42 Expulsions and expelled the same day.

Federal immigration policies like Title 42 were passed to remove the limited judicial stops where violations and reasons for ICE contact and arrest were unknown.

**There was practice of repeated calls to ICE by PPD officers and supervisors.** Our data analysis found that the same officers repeatedly called supervisors seeking approval to make contact with ICE, and a small number of supervisors were repeatedly contacted by officers to approve contact with ICE. These officers and supervisors form a network of repeat offenders and policy abusers.
Conclusions

The analysis of the data shows that Phoenix Police Department officers are in flagrant violation of Operations Order 4.48. Despite revisions to Operations Order 4.48 in an effort to make the policy humane and fair, the legacy of SB1070 continues to lead to civil rights violations and criminalization of migrants and Arizona residents. Anti-immigrant policies like SB1070 have contributed to the Phoenix Police Department’s internationally notorious reputation as racist, violent, and abusive of people’s rights. There is no accountability and oversight of officers nor PPD leadership to ensure that policy is followed, the public’s rights and dignity are respected, and racial profiling is avoided. Residents of Phoenix remain vulnerable to racial profiling. To this day, there is no safe mechanism for undocumented people to report police abuse of power or racial profiling in the City of Phoenix.

Who holds power in Phoenix?

Section 8 of Operations Order 4.48 leaves the question of power in murky water. Section 8 assigns responsibility to duties typically held by PPD to ICE, such as investigating human smuggling in Phoenix. At the same time, Section 8 holds PPD responsible for “state crimes against the victims,” though it does not make a distinction between when human smuggling would constitute a state crime or a federal immigration issue. The result of such ambiguous and contradictory policy is that the enforcement protocol related to human trafficking is left to the discretion of the PPD and ICE.

According to Operations Order 4.48, Phoenix Police Department is required to investigate drop houses and human trafficking cases. 4.48 policy as it stands leaves too much room for ambiguity on how federal and local police investigations should operate. Under 4.48 policy, victims of trafficking should have had a right to stay while Phoenix Police Department operated its own investigations through the VCB office.

Number of times ICE officers reported to the scene of a PPD investigation between 2017-2019.

264

The analysis of the data shows that Phoenix Police Department officers are in flagrant violation of Operations Order 4.48. Despite revisions to Operations Order 4.48 in an effort to make the policy humane and fair, the legacy of SB1070 continues to lead to civil rights violations and criminalization of migrants and Arizona residents. Anti-immigrant policies like SB1070 have contributed to the Phoenix Police Department’s internationally notorious reputation as racist, violent, and abusive of people’s rights. There is no accountability and oversight of officers nor PPD leadership to ensure that policy is followed, the public’s rights and dignity are respected, and racial profiling is avoided. Residents of Phoenix remain vulnerable to racial profiling. To this day, there is no safe mechanism for undocumented people to report police abuse of power or racial profiling in the City of Phoenix.
**2021 Policy Demands**

It is clear from Puente’s data analysis that Operations Order 4.48 as it stands leaves room for police officers to violate the policy without repercussions. The data also shows that there is a lack of accountability within the Phoenix Police Department in regards to following policy and protocol. Puente is advocating for further changes to the PPD’s policies in regards to Operations Order 4.48 and its implementation, including:

1. Immediately change Operations Order 4.48 policy to require all officers and VCB officials to track start and end time of stop (before ICE is called) and complete all information on stops including date of interaction, location, race, ethnicity, gender, age, and outcome of arrest.

2. Track every single outcome on ICE contacts on Phoenix Police Department website and provide an annual report of Operations Order 4.48 on the website.

3. Provide details on all annual reviews and officer discipline from 2010 - 2020 or 2017 - 2020 should full data not be available from Phoenix Police Department staff.

4. Phoenix Police officers and VCB officers should accurately report all reasons for ICE contact in a timely manner. All unknown reasons for stops should be reviewed and investigated by the VCB and an outside investigating body like OAT.

5. Provide information on how to file a complaint when officers violate 4.48. All individuals, no matter of legal status, have the right to file a complaint. Provide complaint information on all 4.48 related material and on the Phoenix Police Department website.

6. Update policy to enforce cooperation with U Visa investigations in a timely manner. Currently officers fail to complete the U Visa process for victims of crimes and witnesses. On average it is taking 6-8 months for Phoenix PD to complete the reporting process for U Visas.

7. Phoenix Police Department must adopt a fair time duration protocol for routine stops and investigations. PPD is one of the few police departments in the nation that does not have set guidelines for the time spent on stops and investigations. This important policy omission leaves our community vulnerable to racial profiling and abuse of power.

**Chinga la Polimigra Campaign**

Given Puente’s disturbing findings from our data analysis which shows the Phoenix Police Department’s blatant disregard for the policy mandates of Operations Order 4.48 aimed at stopping racial profiling and ensuring that the dignity and human rights of Phoenix residents is respected, Puente has launched the Chinga la Polimigra campaign. The Chinga la Polimigra Campaign is aimed at multiple avenues to advocate for the repeal or drastic change to Operations Order 4.48 in order to ensure fair and non discriminatory practices by the Phoenix Police Department. Join the campaign at [www.puenteaz.org/polimigra](http://www.puenteaz.org/polimigra).

Chinga la Polimigra Campaign demands are as follows:
1. We demand a federal investigation of the Phoenix Police Department and their practices of racial profiling and prolonged stops. Additionally, we demand the Department of Justice investigate PPD’s excessive use of force and violence against black, brown and indigenous peoples.

2. We demand Mayor Kate Gallego and the Phoenix City Council audit police practices under Operations Order 4.48 in both council meetings and subcommittee meetings. The council must hold Phoenix Police Department staff accountable for aiding and abetting racial profiling practices.

3. Stop racial profiling! End Operations Order 4.48! End collaboration between Phoenix Police and ICE!

4. Track and monitor all contacts Phoenix Police Department has with ICE and make this information available to the public.

5. Stop the practice of prolonging stops to verify immigration status and stop holding people for ICE.

6. We demand a thorough investigation into the unknown reasons for stops between 2017 - 2020 and the status of contacts to ICE for civil criminal violations, consensual stops, and other misuse of policy.

7. End the profiling and questioning of status towards victims and witnesses of crime, minors, human trafficking victims, and consensual contacts.

8. Fire Phoenix Police Officers VCB officials and supervising staff who have an outstanding record of repeated contacts to ICE or have multiple misuse of policy.

9. Repeal SB 1070 and end police and ICE collaboration!

info@puenteaz.org

(602) 252-1283