



Arizona Peace Officer Standards and Training Board

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April 8, 2011

Governor Janice K. Brewer
1700 W. Washington, 9th Floor
Phoenix, AZ 85007

RE: Veto Request SB 1288 - religion; free exercise; professionals; appointments

Madam Governor:

There is a concern that SB 1288 will allow police officers in Arizona to engage in unconstitutional and unprofessional conduct in the name of religion. The specific situation that comes to mind is Colorado City Marshal's Office and the deputies' practices of polygamy and putting the directives of Warren Jeffs above their oath of office.

With apologies for the lateness of this analysis, please consider a veto for this bill as it may have considerable unintended consequences on the ability of the Arizona Peace Officer Standards and Training Board (AzPOST) to oversee Arizona Peace Officers. As an example, polygamy is prohibited by the Arizona Constitution, but it is not criminal conduct in Arizona. There have been three officers revoked by AzPOST for practicing polygamy and having their Utah POST certifications revoked.

If AzPOST is forbidden to find that conduct is unprofessional for a law enforcement officer unless the conduct is criminal, the state will be condoning the very activity that caused POST to revoke the certifications of two other Colorado City Deputies. These officers had corresponded with the fugitive Warren Jeffs, but refused to cooperate by providing information that might have helped to locate him. They claimed that their protection of the fugitive was a religious practice.

The "criminal conduct" exception in SB 1288 is not sufficient as there are many things that peace officers have a duty to do or not do which are not criminal acts. The AzPOST Board found it necessary to put the Colorado City Marshall's office on notice that failure to provide police protection and services to non-FLDS citizens in Colorado City would be deemed unprofessional conduct. Under this law, it could be argued that following the direction of the church, rather than the Constitution and Code of Ethics, is a right and the state may not intervene to protect its citizens from what appeared to be a church controlled police force.

Once again, I apologize for not recognizing the impact of this bill sooner, but I would be willing to work with stakeholders on ways to achieve their goals without these unintended consequences.

Sincerely,

Lyle Mann
Executive Director