IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Lawrence O Anderson, Magistrate Judge

Civil Action No. 2:12-CV-00981-LOA

United States of America, Plaintiff, vs.
Maricopa County, Arizona; Maricopa County Sheriff's Office; and Joseph M. Arpaio, in his official capacity as Sheriff of Maricopa County, Arizona, Defendants

MOTION FOR LEAVE TO FILE AS INTERVEN0R AS OF RIGHT, OR IN THE ALTERNATIVE PERMISSIVELY INTERVENE, OR ALTERNATIVELY FOR LEAVE TO FILE AMICI's CURIAE BRIEF

The Movants Dialogue-Producing Consortium (" Dialoguemakers.org") a non-party hereby moves this Court for leave to file a Motion to Intervene in this action as of right, pursuant to Federal Rule of Civil Procedure 24(a)(2) or, alternatively, in permissive intervention pursuant to Federal Rule of Civil Procedure 24(b), or for leave to file the Amici Curiae Brief[1]. As grounds there for, the Movants urge as follows:

1. **Movants' Motion for Leave to File to Intervene is timely as litigation of the instant case will not delay the proceedings. Defendants' responses are not yet filed and plaintiff's Motion to Intervene is pending and no oral briefings have been ordered. Movants' intervention will create no delay. Rather it will address the National outcry regards injured children and national agendas, i.e., the 6-15-12 White House/DOHS Memorandum regards "the dreams and best interests of under 30 aged youth," and an open exchange of ideas, fundamental to American democracy. *Osorio v Mayorkas*, _ F3d __ (9th Cir. No. 09-56786 9-26-12), *Osorio v. Holder*, _ F3d_ (9th Cir). So intervention by Movants behalf Child Status Protection Act interests at this juncture will not prejudice the parties, as we aver a need exists to halt deportations of criminals to foreign countries, having little or no means to rehab, educate or coach them to be entrepreneurs nor prevent terrorism thereby.**
2. **Movants have substantial psychological and legal ethics interest in fleshing out traceable injuries this Court may use to usher in meaningful Maricopa County uses of the 19 year old community policing**

[1] **The Amici Curiae Brief provides the Trial Court valuable family case law and research results showing high dollar injury to children of incarcerated parents. It exceeds LCRiv 7.2(i) length, but falls in a category with PN-AZ-0002-0002, a 127-page USDOJ report of 12-15-11.**

scheme Congress set forth in the 1994 Violent Crime Control and Law Enforcement Act, 42 U.S.C. § 14141; Title VI of the Civil 11 Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7; Title VI implementing regulations issued by the Department of Justice, 28 C.F.R. §§ 42.101 to 42.112; and Title VI contractual assurances. (See Complaint Counts 1-192) as well as A.R.S. §41-1823.B, A.R.S. §8-533(B), A.R.S. §8-823,, A.R.S. §8-802/neglect and A.R.S. §13-3620/ abuse [which should aid hurting indigenous and Latino children] at the first point of contact with their parent, the booking thereof and/or show cause hearing. Latino children get no attorney *ad Litems* to protect their legal rights or to set up alternative child care on pars equivalent to white child(ren). Though Maricopa County Children's Justice Project - A.R.S. § 8-817 B&C [Created July 1995, Revised 1999, 2003, 2004 and August 2008] took calls for child abuse and neglect allegations, Movants aver the Defendant officers who arrest Latino immigrants parents of children under the pretense of being foreign born, compared to parents of white children. Latinos get attorney *ad Litems* comparatively less to protect the dependents' legal rights between time of Defendant officers' contact with, booking parents and parents' show-cause hearing than do white-skinned dwellers/citizens. Violating the equal protection clause mandated by Arizona A.R.S. §8-802/neglect and A.R.S. §13-3620/ abuse and National (P.L. 107-133; P.L. 106-314; P.L. 106-177; P.L. 105-89; & P.L. 103-66) laws on Neglect and Abuse is unconstitutional. Plus the 6-15-12 DOHS call for Prosecutorial Discretion, Officers' acts shatter families and traumatize children's lives. All validate the called for need for an intervenor.

3. **Disposition of the instant case with Movants' intervention aids a claim as to "an injury in fact that is fairly traceable to … redressable by a favorable judicial ruling..." *Bennett v. Spear*, 520 U.S. 154, 167 (1997). Defendants may stall Plaintiffs enforcement of regulatory interests. Whereas a public outcry on regards millions of immigrant children rights, Movants aver it is time that an intervenor put an emphasis on family rights as found in our Curiae Brief. *Gardner* (1989), *Maynard* (1889), Jefferson's 237 year demand, the outcome of this case implicates stare decisis precedences that get addressed by interventionists.**

4. **Movants' interests are not set forth as "claims/counts to be litigated" by the existing parties to be**

heard. The Movants represent an unexpressed prong of public interest touched on 6-15-12 by DOHS Secretary Napolitano not represented in the Original Complaint by plaintiffs', except in Count 67.

5. **Movants also satisfy the requirements for permissive intervention because our claims against the defendants lay forth questions of law and fact in common with the claims and facts at issue in the Original Complaint, and the action involves the interpretation of statutes that the Attorney General is entrusted by Congress to administer. See Fed. R. Civ. P. 24(b)(2).**

6. **Movants believe each party are intent on consenting to the instant Motion to Intervene. Movants do not yet know the counselors for the Defendants? We are intent on conferring regards Movants' motion to intervene. No response by counsel for plaintiff has been forthcoming from Movants email and phone inquiries.**

7. **As further support for this Motion, the Movants respectfully directs the Court to the following Memorandum of Law, which is incorporated herein below and the Amici Curiae brief attached hereto.**

MEMORANDUM OF LAW IN SUPPORT OF MOVANTs' MOTION TO INTERVENE

INTRODUCTION

Intervention by Amici Dialoguemakers add a significant cache of case law Defendants violate. We document failed community-based policing practices that result in unsafe County communities plus overcrowded prisons where filth produce various infections/sicknesses and oppressive practices that suppress parenting realizations not per *Brown v. Plata*, 563 US _ (2011, affirms Ninth Circuit 3-judge court findings), Child Status Protection Act interests, *Osorio v Mayorkas*, _ F3d __ (9th Cir. No. 09-56786 9-26-12), Matter of Wang, , 25 I. & N. Dec. 28 (BIA 2009) rejected, *In re Kemmler*, 136 U.S. 436, 447 (1890) and *Graves v. Arpaio*, 623 F. 3d 1043 (9th Cir. 2010). As of May 22, 2012, separate investigators Melanie Tom & Laura Jiménez writing for RHRealityCheck say "In Arizona, Detained Parents Are Denied Opportunity to Contact and Make Arrangements for Their Children." Movants opine the 127-page USDOJ instantly-filed report of 12-12-11 generally concur with the Movants' investigations, area activists and those by Ms. Tom & Ms. Jiménez of the *Youth Today News*. Movants is not intent on spelling out these

for litigation.

8. It is both appropriate Movants to intervene and to file its Curiae Brief. The latter give the Court valuable family law opinions raised in the instant complaint. On point is the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, applied per the Children's Bureau and its Office on Child Abuse and Neglect (OCAN). Parent-child relationships posit rights, duties, and obligations of both parent and child. It demands responsible parents to protect their child(ren)'s safety and well-being. Child maltreatment interventions are grounded in the concept of parens patriae. This legal term asserts the government's role in protecting the interests of children. The Attorney General could have backed those interests in the original complaint. See *U.S. v. Shaughnessy*, 353 U.S. 72, at 78 (1957). But, it is the Movants, not the AG, who ask you Honorable Judge to hear the Defendants' injury caused by denying the detainees' children essential elements of due process and equal protection clause rights. Being Arizona has a law--A.R.S. § 8-817. Yes, Defendant Maricopa County and its officers flaunt their Children's Justice Project - for citizens. But we find no special hearings with attorney *ad litems* show up in reports showing that children of arrested Latinos are served by foundation or Federal resources received. This lack of equal protection clause and due process rights, dramatizes the different standards that the USDOJ cites in the 192 counts and 6 claims for relief in the Original Complaint. Unless we miss it, arrest makers fail to call Social Workers who "get possession of the Latino children and work out alternative child care there for. Instead interviews done by Movants tell us, Defendant Officers leave scared youth in unsafe situations and they flea till they find shelter on their own or the children are put in the rear seat and caused to see their parent get taken for booking, with them unattended until almost by happenstance foster care facilities remove them from the prison as if they are a slave's kid." In contrast, the California Research Bureau (2009) proudly cites relief children giggle over result of that State's advocacy. Few, if any, mention is reported on Arizona's Statewide Arrest Protocol Work Group or a Defendant County program allegedly begun in 1995. On regards child care arrangements where Eighth amendment parental rights arise, what is the best interests of the children, whom the Movants intervene behalf

parents amidst arrests? Dissenting in *Brown v. Plata*, 563 US __ (2011) Associate Justice Scalia opines

> The fact finding judges traditionally engage in, involves the determination of past or present facts based (except for a limited set of materials of which courts may take "judicial notice") exclusively upon a closed trial record. That is one reason why a district judge's factual findings are entitled to clear-error review: because having viewed the trial first hand he is in a better position to evaluate the evidence than a judge reviewing a cold record. In a very limited category of cases, judges have also traditionally been called upon to make some predictive judgments: which custody will best serve the interests of the child, for example, or whether a particular one-shot injunction will remedy the plaintiff's grievance.

Justice Scalia's opines the best "interests of the child" falls in the purview of trial Court Judges, and, Movants see on regards citizen- and non-citizen children left alone and uncared for with no government enforced *ad litems*[2] at the time of incarceration, five Justices: Kennedy, Breyer, Ginsburg, Sotomayor and Kagan in *Brown* caution "the courts have a responsibility to remedy the resulting Eighth Amendment violation." Movants aver this is grounds for hearing Intervenors' plea as to the 5-15-12 DoHS's call.

> To incarcerate, society takes from prisoners the means to provide for their own needs. Prisoners are dependent on the State for food, clothing, and necessary medical care. A prison's failure to provide sustenance for inmates "may actually produce physical 'torture or a lingering death.' " *Estelle v. Gamble*, 429 U. S. 97, 103 (1976) (quoting *In re Kemmler*, 136 U. S. 436, 447 (1890)); see generally A. Elsner, Gates of Injustice: The Crisis in America's Prisons (2004). Just as a prisoner may starve if not fed, he or she may suffer or die if not provided adequate medical care. A prison that deprives prisoners of basic sustenance, including adequate medical care, is incompatible with the concept of human dignity and has no place in civilized society. If government fails to fulfill this obligation, the courts have a responsibility to remedy the resulting Eighth Amendment violation. See *Hutto v. Finney*, 437 U. S. 678, 687, n. 9 (1978). Courts must be sensitive to the State's interest in punishment, deterrence, and rehabilitation, as well as the need for deference to experienced and expert prison administrators faced with the difficult and dangerous task of housing large numbers of convicted criminals.

In the election dialogue pursuant the DoHS Memorandum "Exercising Prosecutorial Discretion with respect to individuals who came to the US as children" 6-15-12 and *Osorio* 9-26-12 regards CSPA, de facto family splittings and rights of immigrant parents children, Movants submit that the Defendants' haphazard regard for children described directly (Count 67, age 12) and indirectly (Count 1-192) in Plaintiffs' Complaint are genuinely before this Court, and that Justice Scalia's opinion *(Brown* 2011) in regards "custody,,, interests of the children,,," is squarely before this Trial Court. This issue reaches keenly beyond all that Defendants' hold they may have a responsibility to perform as "force multipliers." Below par police work as it relates to humanity and ethics does not satisfy either Arizona

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[2] *In the instant case Movants hold thousands of victimized incarcerated immigrant parents merit an Attorney like that granted in USA v. University Hospital, Parents of Baby Doe,* 729 F.2d 144 (1984). An attorney ... unrelated to the child and her family, commenced a proceeding in New York State Supreme Court seeking appointment of a guardian ad litem for the child and an order directing University Hospital to perform the corrective surgery,,,." Do Ambassadors of 17 Nations want similar interventions? Yes!

or Federal officer standards law.

Though Defendant officers, grant managers and the Sheriff entered into contractual agreements, they uphold peace officer standards & training requirements A.R.S §41-1823.B, by having frisked 31-35 percent[3] of the "432,218" brown-skinned dwellers via practices, raids and/or arrests of brown-skinned adults, from whom Movants opine up to 401,088 children who are injured by horrendous acts[4]. For these youth, defendants' Maricopa County Children's Justice Project - A.R.S. § 8-817 B&C few, if any, gained benefit of Federal and foundation funds put behind the program. This shattered the children's families. It forced the children to end up in alternate child-rearing settings or they got placed children in out-of-home care, with no attorney *ad Litem* assigned to protect their A.R.S. §8-533(B) rights. Movants hold, immigration youth did not receive due process or equal protection under the law. In Movants' proposed Amici Brief in support of the Court, the writers aver case law regards the injury to shattered families and innocent children. As an intervenor, we aver eight (8) Federal and four (4) State laws protect maltreated children are served differently as a class, from children of citizens as a class. Those defendants have jointly and severally exceeded, ascribed roles set forth for ICE 287g force multiplier agreements.[5] Defendants collaterally injured and traumatized highly vulnerable detainee children. That went down contrary to the Federal Public Laws below and State laws, some listed below:

- **Promoting Safe and Stable Families Program Reauthorization of 2002 (P.L. 107-133) But no Defendants got detainee children in mentoring program for those with incarcerated parents.**
- **Strengthening Abuse and Neglect Courts Act of 2000 (P.L. 106-314) But defendants did the bullying, harassing of the children and failed to prevent child neglect. The Statewide Arrest Protocol Work Group set up 2008 by the AG's Office. Comparatively, Defendants essentially did little to keep indigenous and Latino *Children* safe when their p*arents* were being a*rrested.***

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[3] **Some 40% of arrestees come from outside Maricopa County and another 22-29 % being other than immigrants.**
[4] **Wording a proposed claim "alleg(ing) an injury in fact that is fairly traceable to … (a calculated) Opinion and redressable by a favorable judicial ruling..." *Bennett v. Spear*, 520 U.S. 154, 167 (1997). *Bennett* set a unanimous high court constitutional precedent.**
[5] **The USA dissolved Arizona 287g agreements in December 2011 based on FBI non-compliance findings.**

- **Child Abuse Prevention and Enforcement Act of 2000 (P.L. 106-177). Defendants defy its goal to provide timely, accurate criminal-record information – i.e., child protection, and enhancing prevention and law enforcement.**
- **The Adoption and Safe Families Act (ASFA) of 1997 (P.L. 105-89) promotes the safety, permanency, and well-being of maltreated children and making reasonable efforts to preserve and reunify families. It'd team with safe communities goal of 42 U.S.C. § 14141.**
- **Family Preservation and Support Services Program of 1993 (P.L. 103-66) provides funding for prevention and support services for families at risk of maltreatment and family preservation services for families experiencing crises that might lead to out-of-home placement.**
- **The Child Abuse Prevention and Treatment Act (CAPTA) of 1974 (P.L. 93-247) amended in 1996 (P.L. 104-235) provides standards for defining and reports of child maltreatment.**
- **The Adoption Assistance and Child Welfare Act of 1980 (P.L. 96-272) requires States to establish programs and implement procedures to support maltreated children and their families, in their own homes, and facilitate family reunification following out-of-home child rearing, including that forced on the children by Defendants brutal to their parents.**

As a result of its 19 year refusal to adopt a community policing violence crime control and law enforcement premise like 42 USC § 14141, Maricopa County remains in violation of Violent Crime Control and Law Enforcement Act of 1994 and their implementing regulations. It's highly

important, §1373(c) was enacted in 1996, see §642(c), 110 Stat. 3009–707, and thus says nothing about Congress' intent when it enacted IRCA's saving clause a decade earlier. See Jones v. United States, 526 U.S. 227, 238 (1999)."

Congress provides a clear and comprehensive mandate for the elimination of discrimination against individuals. Title VI Implementing regs issued by the Dept of Justice, 28 C.F.R. §§42.101- 42.112. In society findings and purposes of law enforcement, historically tend to be isolated and segregate individuals, and, despite some improvements, discrimination against individuals, "... continue to be a

serious and pervasive social problem." 42 U.S.C. §§ 42.101- 42.112. For these reasons, Congress prohibited discrimination against individuals. As per Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7, and Title VI implementing regulations issued by the Department of Justice, 28 C.F.R. §§ 42.101 to 42.112 Congress sought "clear, strong, consistent, enforceable standards addressing discrimination against individuals and explicitly stated that one of the purposes of its laws was to prevent harms to children.

No motion to dismiss and/or motion for summary judgment have been filed by the Defendants nor is pending. No discovery and expert witness disclosure deadlines. No party has filed a motion to combine Plaintiffs prior case 2:10-cv-01878-GMS (D. Ariz.) 08/09/2011 with the instant case, nor called for discovery deadlines. Accordingly, very little discovery has occurred to date, and the proceedings are at an early stage.

ARGUMENT

A. The Movants Satisfy the Requirements for Intervention of Right

The US' Investigation of Maricopa County Sheriff's Office PN-AZ-0002-0002 12-15-11 & 127 page report accompany the extremely potent original complaint. Yet, the filings of the instant case fail to detail the major errors related to Federal Family Law committed by the Defendants, i.e., inconclusive and fail to answer the demands of the June 15, 2012 White House concern for the Children of Immigrants having essentially an exorbitant unknown total nation-wide cost.

The Amici Curiae Brief attached to the Movants' motion for intervenor places particular emphasis on family splitting, fear and traumatizing vulnerable children, i.e., putting one or both parents in jail per criminal not civil charges, raising the probability high bonds are set; resulting in many months in jail. This forces some one other than the parents to do alternative child rearing. [See injury cost derived by the Amici in the Friend of Court Brief, to be filed if the trial Court so orders it.] Movants hold Defendant negligence caused one billion dollars injury and trauma to youth of Latino held apart month after months from detainees held by Maricopa County. Frisking, counselor fees, bonds, alternate child rearing of

detainee off spring and daily stays in jail, on average cost for five months is no less than $1.2848256 to detainee families. Plus Defendant MCSO daily $185 per bed charges means taxpayers has spun out of societal control. Calculations follow 2011 Arizona Criminal Justice Commission results reported in Children of Incarcerated Parents: Measuring the Scope of the Problem, US Census Data, USDOJ and FBI 12-12-11 findings, and population growth data for 1993-2012. Movants call on principled respect for precedents established by prior decisions and in two centuries legislative regard for the best interests of an children during the life of Defendant Arpaio's time in office[6]. However, Federal Rule of Civil Procedure Rule 24(a) provides that upon timely application, anyone shall be permitted to intervene in an action:

> When the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

Fed. R. Civ. P. 24(a)(2). Fed. R. Civ. P. 24(a)(2) *Arakaki v. Cayetano*, 324 F.3d 1078, 1086 (9th Cir. 2003) ("The most important factor in determining the adequacy of representation is how the interest compares with the interests of *existing parties.")Fox v. Tyson Foods, Inc.*, 519 F.3d 1298, 1302-03 (11th Cir. 2008) (quoting *Chiles v. Thornburgh*, 865 F.2d 1197, 1213 (11th Cir. 1989)); see also *Stone v. First Union Corp.*, 371 F. 3d 1305, 1308-09 (11th Cir. 2004). Here, the Movants' request for intervention adds a prong to a claim as to "an injury in fact that is fairly traceable to … redressable by a favorable judicial ruling..." *Bennett* and thereby satisfies the requirements of Rule 24(a)(2) for intervention as of right. The Movants' billion dollar cost claim is a substantial legal interest in the subject matter of the instant case. It implicates the USA' responsibility for enforcing P.L. 107-133; P.L. 106-314; P.L. 106-177; P.L. 105-89; P.L. 103-66; right along with 42 U.S.C. § 14141, Title VI of the Civil 11 Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7, Title VI, 28 C.F.R. §§ 42.101 to 42.112; and Title VI contractual assurances. The Movants are timely seeking to intervene in this action, as the case is still in its infancy, and its intervention will not

[6] Hundreds of thousands children injuries caused by Defendants' intrusions, frisking and detaining parents are not tried in Trial Courts. Few adjudications, demand in-depth APA scientific research methods, to answer cries of youth facing hopeless predicaments split immigrant families amidst deportations undergo contrary to the 1818 Slave Act.

disrupt the proceedings or prejudice either party. The US Department of Justice—as the agency with primary regulatory and enforcement responsibilities for those statutes set forth in the Original Complaint and moreover the US Congress from 1974 to 2002 spells out agencies with mandates to protect children being harmed within its borders, as has occurred in the instant case. Movants raise critical incident billion dollar best interests of children that must not be adjudicated by this Trial Court. The Movants' Motion to intervene is timely; and, Movants anticipate the USDOJ might ask to exercise the responsibility for at least part of said litigation, fully addressing the June 15, 2012 White House Rose Garden plea behalf immigrant children in the USA. The Ninth Circuit recognizes four factors identified relative to determining whether a request for intervention is timely:

> (1) the length of time during which the proposed intervenor knew or reasonably should have known of the interest in the case before moving to intervene; (2) the extent of prejudice to the existing parties as a result of the proposed intervenor's failure to move for intervention as soon as it knew or reasonably should have known of its interest; (3) the extent of prejudice to the proposed intervenor if the motion is denied; and (4) the existence of unusual circumstances militating either for or against a determination that their motion was timely.

Georgia v. U.S. Army Corps of Engineers, 302 F.3d 1242, 1259 (11th Cir. 2002) (quoting *Chiles, 865 F.2d at 1213).* This Circuit has also recognized that the requirement of timeliness "must have accommodating flexibility toward both the court and the litigants if it is to be successfully employed to regulate intervention in the interest of justice." The Supreme Court has emphasized that "[t]imeliness is to be determined from all the circumstances." *NAACP v. New York, 413 U.S. 345, 366 (1973). Scotts Valley Band of Pomo Indians of the Sugar Bowl Rancharia v. US,* 921 F.2d 924, 926-27 (9th Cir. 1990) (recognizing that city government's interest could not be adequately represented by another entity). *U.S. Army Corps of Engineers,* 302 F.3d at 1259 (citing *McDonald v. E.J. Lavino Co.,* 430 F.2d 1065, 1074 (5th Cir. 1970). In *Chiles v. Thornburgh,* a motion to intervene was held to be timely where the motion "was filed only seven months after [the plaintiff] filed his original complaint, three months after the government filed its motion to dismiss, and before any discovery had begun." *Chiles,* 865 F.2d at 1213; see also *Diaz v. Southern Drilling Corp.,* 427 F.2d 1118, 1125-26 (5th Cir. 1970) (motion to intervene more than a year after the action was commenced was timely when there had been no legally significant proceedings other than the completion of discovery and intervention would not cause any delay in the process of the overall

litigation). Applying the *Georgia* factors to the instant case, the Movants' application for intervention is timely. Since the filing of the original complaint, the parties have yet to make responses. This litigation remains at an early stage and the Movants' intervention will not prejudice either party. A large open window exists in *Davis v. Southern Bell Tel. & Tel. Co.*, 149 F.R.D. 666, 670 (S.D. Fla. 1993) (allowing intervention "[a]lthough the case has been pending for more than two years, discovery on the merits has not been completed and dispositive motions have not been filed. As a consequence, there is no indication that this litigation is close to conclusion.").

The existing parties to the litigation will not be prejudiced by the Movants' intervention. The Movants will be prejudiced if its request for intervention is denied. The Department of Justice's extensive experience with the statutes at issue will benefit the existing parties in presenting facts and arguments that will help frame the issues. By avoiding multiple lawsuits and coordinating discovery, intervention will lend efficiency to the proceedings. We shed light for halting law officers' acts, abuse, bullying, trashing good will, name calling, making racists slurs and bewildering up to 601,088 US- and foreign-born youth. Other defendants collateral acts denied children parental care, warmth, sustenance, nurture and stable homes sought after humbly by bold individuals risking their lives, willing to come into Maricopa County. Movants hold harsh treatments are highly related to war times, its 1000 wars since 1776 and the Nation's 2008 bottoming out of its financial system and the after affects of that slump on local economies across the US. Movants call for the public good, not ill-fated policing (under presumed federal powers) terrorizing local US neighborhoods or growing of hate crimes. The Court in *US v. Curtiss-Wright Export Corp.*, 299 U. S. 304, 318 (1936) opines the doctrine President Roosevelt invoked applies to federal powers: "[S]ince the states severally never possessed international powers, such powers could not have been carved from the mass of state powers but obviously were transmitted to the USA from some other source. During the Colonial period, those powers were possessed exclusively by and were entirely under the control of the Crown. By the Declaration of Independence, 'the Representatives of the United States of America' declared the United (not the several) Colonies to be free and independent states, and as such to have 'full

Power to levy War, conclude Peace, contract Alliances, establish Commerce and to do all other Acts and Things which Independent States may of right do.'" We aver the "Show your papers," quote when used with the intent to terrorize foreign nationals so they "leave by attrition" flies in the face of exercising international power Maricopa County does not possess. Plus, on Defendants' state grounds, we must get ride of criminals, this further amounts to forcing foreign countries to take back persons trained in and by the Defendant Maricopa County, which failed to rehabilitate them using methods the world's richest Nation has means to solve. Rather the defendants frisk and identify adults with histories they feel must be exported to countries that are ill prepared to deal with alleged Maricopa County criminals.

2. The Movants have a Substantial Legal Interest in this Litigation

For an applicant's interest in the subject matter of the litigation to be cognizable under Rule 24(a)(2), it must be "direct, substantial and legally protectable." *U.S. Army Corps of Engineers*, 302 F.3d at 1249. See also Chiles, 865 F.2d at 1212-13 (noting that the focus of a Rule 24 inquiry is "whether the intervenor has a legally protectable interest in the litigation.") The inquiry on this issue "is 'a flexible one, which focuses on the particular facts and circumstances surrounding each [motion for intervention].'" *Chiles*, 865 F.2d at 1214 (quoting *US v. Perry County Bd. of Educ.*, 567 F.2d 277, 279 (5th Cir. 1978)). The USA has a legally protectable interest in this litigation. Executive Order 12250, "Leadership and Coordination of Nondiscrimination Laws," Nov. 2, 1980; 28 C.F.R. Pt. 41, App. A. The central issues of this case are critical to the Department of Justice's efforts to advance national goals of community integration and bring order behalf unsafe communities. Thus, the Movants' interest in the pending litigation merits intervention as of right.

3. The Disposition of the Instant Litigation May Impair the Movants' Ability to Protect Its Interest

The Movants' ability to protect its substantial legal interest would be impaired absent intervention. Because the 1994 Violent Crime Control and Law Enforcement Act, 42 U.S.C. § 14141, federal decisions interpreting and applying the provisions of the Act are an important enforcement tool. The Plaintiff may

use its constitutional plenary power over immigration matters, Congress allows "sweeping ... delegations of authority over immigration matters to the Attorney General. Where Congress fails to provide specific standards, the Attorney General may rely on any reasonable factors." *U.S. v. Shaughnessy*, 353 U.S. 72, at 78 (1957). But case law that over reaches an entity's fundamental resistance to local views on immigration reform, an unfavorable disposition of the case may, as a practical matter, impair chances to reach workable solutions for eliminating unnecessary future racial disputes, diligence and long-term perseverance are needed. The outcome of this case, including the potential for appeals by existing parties, implicates stare decisis concerns that warrant trustworthy intervention. See Stone, 371 F. 3d at 1309-10 (recognizing that potential for a negative stare decisis effect "may supply that practical disadvantage which warrants intervention of right.") (citing *Chiles*, 865 F.2d at 1214); see also *US v. City of Los Angeles*, Cal., 288 F.3d 391, 400 (9th Cir. 2002) (holding that amicus curiae status may be insufficient to protect the rights of an applicant for intervention "because such status does not allow [the applicant] to raise issues or arguments formally and gives it no right of appeal").

4. The Existing Parties Do Not Adequately Represent the Movants' Interests

The fourth and final element to justify intervention of right is inadequate representation of the proposed intervenor's interest by existing parties to the litigation. This element is satisfied if the proposed intervenor "shows that representation of his interest 'may be' inadequate." *Chiles*, 865 F.2d at 1214 (citing *Trbovich v. United Mine Workers of America*, 404 U.S. 528, 538 n. 10 (1972)). The burden on the proposed intervenor to show that existing parties cannot adequately represent its interest is "minimal." *Stone*, 371 F.3d 1311; *U.S. Army Corps of Engineers*, 302 F.3d at 1259 (citing *Trbovich*, 404 U.S. at 538 n. 10). Any doubt concerning the propriety of allowing intervention should be resolved in favor of the proposed intervenors because it allows the court to resolve all related disputes in a single action. *Lloyd v. Alabama Dep't of Corrections*, 176 F.3d 1336, 1341 (11th Cir. 1999); *Federal Sav. and Loan Ins. Corp. v. Falls Chase Special Taxing Dist.*, 983 F.2d 211, 216 (11th Cir. 1993).

In this case, the Movants' interest demanding the enforcement of A.R.S. §8-533(B), A.R.S. §41-1823.B, and those of P.L. 107-133; P.L. 106-314; P.L. 106-177; P.L. 105-89; and P.L. 103-66 to protect children and advance the public interest in eliminating discrimination in the form of unjust traumatizing of children present when parents are jailed or Defendant officers' unwillingness to help work out or failure to provide adequate home and community-based services. The Movants are not intent on representing Maricopa County views on the proper interpretation and application of afore listed State and Federal statutes, and Counsel for the USA may fail to make arguments the Movants are intent to see made, if ordered to intervene. As the Ninth Circuit recognized in a case allowing parties to intervene alongside government agency defendants, "[t]he interest of government and the private sector may diverge." *Southwest Center for Biological Diversity v. Berg,* 268 F.3d 810, 823-24 (9th Cir. 2001); see also *San Juan County v. U.S.*, 503 F.3d 1163, 1228-29 (10th Cir. 2007); *Scotts Valley Band of Pomo Indians of the Sugar Bowl Rancharia v. US*, 921 F.2d 924, 926-27 (9th Cir. 1990) (recognizing that city government's interest could not be adequately represented by another entity).

B. The Movants Meet the Requirements for Permissive Intervention

Rule 24(b) of the Federal Rules of Civil Procedure provides an alternative basis for the Movants' intervention in this action. Rule 24(b) states, in relevant part:

> **Upon timely application anyone may be permitted to intervene in an action …when an applicant's claim or defense and the main action have a question of law or fact in common. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or state governmental officer or agency or upon any regulation, order, requirement or agreement issued or made pursuant to the statute or executive order, the officer or agency upon timely application may be permitted to intervene in the action. In exercising its discretion the court shall consider whether the intervention will unduly delay or prejudice the adjudication of the rights of the original**

parties.

Fed. R. Civ. P. 24(b). The Circuit Court of Appeals in *Georgia* established a two-part test to guide a Court's discretion as to whether a party may intervene pursuant to Rule 24(b)(2): the applicant must show that "(1) his application to intervene is timely; and (2) his claim or defense and the main action have a question of law or fact in common." *Chiles*, 865 F.2d at 1213 (citing *Sellers v. US*, 709 F.2d 1469, 1471 (11th Cir. 1983)). As discussed above, the Movants' application for intervention in this litigation is timely and the Movants' limited participation would neither unduly delay the proceedings nor prejudice the adjudication of the rights of the original parties. Additionally, the US' claims against the Defendant—namely, that its failure to provide well trained community-based law enforcement services to individuals —share common questions of law and fact with the private plaintiffs' claims. Additionally, Federal Rule of Civil Procedure 24(b)(2) permits intervention by a government agency (and Movant intervenors as per *Southwest Center for Biological Diversity* (9th Cir. 2001); *San Juan County* (10th Cir. 2007); *and Scotts Valley Band of Pomo Indians of the Sugar Bowl Rancharia* (9th Cir. cited above) intervening behalf vulnerable children) when unsettled disputes exist. As the agency tasked with enforcing 1994 Violent Crime Control and Law Enforcement Act, 42 U.S.C. § 14141, the Department of Justice's intervention and conscientious group of advocates intervening behalf vulnerable children[7] falls squarely within the language of Rule 24(b)(2). See *Halderman v. Pennhurst State School & Hosp.*, 612 F.2d 84, 92 (3d Cir. 1979) (rev'd on other grounds) (stating that Rule 24(b)(2) makes "specific provision for intervention by governmental agencies interested in statutes, regulations or agreements relied upon by the parties in the action"); *Disability Advocates, Inc. v. Paterson*, No. 03-3209, 2009 WL 4506301 at *2 (E.D.N.Y. Nov. 23, 2009) (permitting intervention ... under Fed. R. Civ. P. 24(b)(2) in an action based on Title VI contractual assurances integration mandate). Accordingly, the Movants meet the requirements for permissive intervention.

CONCLUSION

[7] USAM, Civil Rights Resource Manual, 8-2.160, Cooperation with Private Litigants – In cases in which the United States is a co-litigant with a private plaintiff, it is appropriate to consult with the co-litigant about evidence the United States expects to submit to the court.

For the foregoing reasons, the Court should grant the Movants' motion for leave file Intervenor's Motion to intervene (i) as a matter of right pursuant to Rule 24(a)(2) of the Federal Rules of Civil Procedure or, in the alternative, (ii) permissively pursuant to Rule 24(b) of the Federal Rules of Civil Procedure and/or for Leave to File Amici Curiae Brief. Finally, your Honor we pray for a brief filing Order as per the LRCiv.

To squarely address the foregoing Amici request counsel for USDOJ, MALDEF, NILC, ACLU, SPLC and the American Psychological Association (APA) to litigate matters set forth in this Motion for Leave to file an Intervenor Motion and Leave to File our Amicus Curia Brief allied therewith..

Respectfully submitted,

Pursuant to F.R.C.P. 24, F.R.A.P. 29, and pending Movants' Motion for Leave to File this Motion to Intervene as of Right, or in the Alternative Permissively Intervene, or Alternatively for Leave to File as Movants, electronically per LRCiv 5.5 file this Motion and Friend of Court Brief.

Signed: /s/Kenneth Koym Date: December 5, 2012

Kenneth Koym, Movants' Attorney of Fact, Certified Mediator, Psychotherapist, Retired Military Research Scientist & Life Member American Psychological Association. Dialogue-Producing Consortium, 9704 Monarch Lane, Austin TX 78724, koymkg@gmail.com, Cell 512-828-9778.

CERTIFICATE OF SERVICE

Movants' hereby certify 12-5-12, we will electronically file and serve in accord with the Court's Order pursuant to this Motion to firm with an Amici Curiae attached using ECF System for the District of Arizona which sends notification of the filing to the instant counsel of record.

Signed: /s/Kenneth Koym Date: December 5, 2012

DPCFile: MotionIntrevenorUSvMCSOKids+AmicCuriae.pdf and .doc [per Rule 11, LRCiv]

THE WHITE HOUSE

WASHINGTON

October 19, 2012

Mr. Kenneth Koym
9704 Monarch Lane
Austin, Texas 78724

CV-12-00981-PHX-LOA

Dear Kenneth:

Thank you for writing. I have heard from many Americans concerned about immigration, and I appreciate your perspective.

Americans are rightly frustrated with our Nation's broken immigration system, and I share that frustration. We need an immigration system that meets America's 21st-century economic and security needs. We can achieve such a system only by putting aside politics and coming together to develop a comprehensive solution that continues to secure our borders, holds businesses responsible for who they hire, strengthens our economic competitiveness, and requires undocumented immigrants to get right with the law. That is how we can reaffirm our heritage as a Nation of immigrants and a Nation of laws.

My Administration has invested an unprecedented amount of resources, technology, and manpower to secure our borders, and our efforts are producing real results. Today, our Southern border is more secure than ever, with more law enforcement personnel than at any time in American history—and there are fewer illegal crossings now than at any time in the past 40 years. Crime rates along the border are down, and we have seized more illegal guns, cash, and drugs than in years past. In addition to doing what is necessary to secure our borders, my Administration is implementing a smart, effective immigration enforcement policy which includes taking action against employers who knowingly exploit people and break the law, as well as against criminal immigrants who pose a threat to the safety of American communities.

Stopping illegal immigration also depends upon reforming our outdated system of legal immigration. My Administration is working to strengthen and streamline the legal immigration system through administrative reforms, making it easier for employers, immigrants, and families to navigate the system. For example, we have reduced barriers to citizenship by keeping application fees constant and providing and creating tools to help applicants through the naturalization process. Through the innovative "Entrepreneurs in Residence" initiative, we are streamlining existing pathways for foreign-born entrepreneurs to come and create businesses and jobs in our country. Finally, we are working to support families by addressing a serious

barrier in the law which requires Americans to risk years of separation from their loved ones, particularly spouses and children, in order to process a family visa petition. By proposing a waiver before these families separate, we are advancing legal immigration and the reunification of families—both fundamental principles under the law.

I remain deeply committed to working in a bipartisan way to enact immigration reform that restores accountability and responsibility to our broken immigration system. The Federal Government has the responsibility to continue to secure our borders. Those immigrants who are here illegally have a responsibility to pay taxes, pay a fine, learn English, and undergo background checks before they can get on a path to earn legal status. At the same time, we need to provide businesses a legal way to hire the workers they rely on, and a path for those workers to earn legal status.

The law should also stop punishing young people who were brought to this country as children by giving them a chance to stay and earn a legal status if they pursue higher education or serve in our military. In the absence of any action on immigration from Congress, my Administration will continue to focus our enforcement resources on high-priority individuals, including those who present national security or public safety concerns and those who have recently entered our country. As another step in this process, on June 15, 2012, the Department of Homeland Security announced it will allow eligible young people who do not present a risk to our national security or public safety to request temporary relief from deportation proceedings and apply for work authorization. This is not a path to citizenship, and it is not a permanent fix—only Congress can provide that. This is only a temporary measure to allow us to focus our resources wisely while giving a degree of relief and hope to talented, driven, and patriotic young people.

By creating a 21st century immigration system that is true to our principles, our Nation will remain a land of opportunity, prosperity, and freedom for all. To learn more about my Administration's efforts regarding immigration, or to read our Blueprint for Immigration Reform, please visit www.WhiteHouse.gov/Issues/Immigration. For additional information and resources on current immigration and enforcement efforts, I encourage you to visit www.DHS.gov or call 1-800-375-5283.

Thank you, again, for writing.

Sincerely,