

**IMMIGRATION RIGHTS IN NEW MEXICO
A STATEWIDE ASSESSMENT OF LOCAL GOVERNMENT
POLICIES & PROCEDURES**

REPORT OF FINDINGS

**PREPARED FOR THE ACLU-NEW MEXICO
BY: SANTA FE CHAPTER**

**AUTHOR & PROJECT DIRECTOR: RACHEL L. FELDMAN
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ACKNOWLEDGEMENTS

The assessment described in this report was initiated by the Santa Fe Chapter of the American Civil Liberties Union New Mexico Affiliate with participation of Chapter Board members and volunteers. Rachel Feldman functioned as the project director. Marty Gerber coordinated volunteers and supported the project. Volunteers contacted counties for interviews and submitted requests for public documents. Janet Rasmussen, Cynthia Weehler, Nancy Murphy, Bette Evans, Teddy Green, and Trish Steindler all helped gather information from counties. Marcela Diaz, Executive Director of Somos un Pueblo Unido, provided valuable information and insights based on her agency's work in the counties in which they are most active. Peter Simonson, Executive Director of the ACLU-NM, and Marcela Diaz reviewed interview and data collection protocols and provided advice on the design of the study. Peter Simonson provided comments on an earlier draft.

DISCLAIMER & LIMITATIONS

Neither the author/project director, nor any of the volunteers are experts in immigration law, and no technical legal analysis is involved in this report. The project team made numerous efforts to interview county leaders, but many were unwilling to be interviewed, and many did not return phone calls. With the level of non-response to requests for interviews, we switched to submitting written requests for public documents under New Mexico's *Inspection of Public Records Act*. Interactions with local officials related to questions about the IPRA requests revealed that some public officials designated as custodians of public records did not take responsibility for a substantive evaluation of whether requested documents exist and simply forwarded the request to departments, accepting any response or lack of response from those departments as satisfying the request.

We directed our request to focus on documents under the jurisdiction of County Boards of Commissioners/County Managers, City Councils/Managers, Sheriff's or Police Departments, and any detention facilities or jails. Therefore, we cannot be certain that the responses received represent the full spectrum of written policy and procedure that may, in fact, exist. We did not inquire regarding school district policy/procedure or that of other governmental bodies not subject to county boards of commissioners, city councils or law enforcement. We attempted to follow-up on all requests that did not result in a response, and all requests were eventually acknowledged, though a few jurisdictions did not provide documents that are known to exist from their own evaluations or other sources.

Because this study focuses on local government which has legal relationships and obligations to state and US federal law, we did not attempt to obtain information from the Tribes and Pueblos in New Mexico or the Bureau of Indian Affairs, all of which operate governmental functions similar to those of counties and cities in overlapping jurisdictions. The Tribes and Pueblos operate their own governmental functions as sovereign nations with complex relationships to federal law, but functions that are legally independent of city and county policy unless explicitly specified in intergovernmental agreements.

SUPPLEMENTARY MATERIALS

A library of documents received in response to the IPRA requests has been provided in electronic form to the ACLU-NM organized by county and major city. A *Table of Documents* Provides an annotated description of all the materials contained in the library. All documents were reviewed by the Author/Project Director and the annotation provides a very brief description of the document in relation to the study questions, and the date, if available. A database of all contacts, interactions, and responses to interviews was provided to the ACLU-NM.

ATTACHMENTS

- A. Example of IPRA request letter
- B. Doña Ana County Manager Translation of Governing Body Policy Intent (“Immigrant Friendly” policy) for subsidiary county agencies.
- C. Bernalillo County Resolution Declaring Bernalillo County to be “Immigrant Friendly” March 2017
- D. Bernalillo County Sheriff’s Department Policy on Arrests 2018
Albuquerque City Police Procedure 2018
- E. McKinley County Detention Center Policy 2018
- F. Table of Documents

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EXECUTIVE SUMMARY

This study was undertaken because generally available information about local government policy regarding inquiry about immigration status, use of this information, and interaction with federal immigration authorities was limited to a few New Mexico jurisdictions and was not up-to-date or complete. The study identifies the variation and reasons for variation in these policies across the state, including the lack of any formal policy, and the function of informal policy. The study introduces the term “policy infrastructure” to refer to the function of written policy, procedure, monitoring and enforcement systems in directing local government employees and contractors, regarding their obligations to use public resources as directed by any policy that exists¹. A study assumption is that where no formal policy exists and where policy infrastructure is incomplete, public employees and contractors may use public resources at their discretion, regardless of consequences for affected persons. The problem motivating the study is the apparent situation in which residents and visitors to New Mexico experience different practices regarding the identification of and treatment related to their immigration status across the state, including within overlapping jurisdictions (e.g., city and county). Such variation in treatment raises questions regarding the extent to which immigrant rights (legal and undocumented) are respected across the state. It raises the question as to whether such variation is consistent with the intent of state and federal civil and human rights.

The study was conducted between September and December in 2018, and inquiries were made by phone and formal requests for public records to all 33 counties and the 10 largest cities in the state. Contacts focused on county and city managers, sheriff and police departments and detention facilities operated by local governments. Some level of information was provided by all 33 counties and all cities contacted. A summary of results is shown in Table 1. Analysis of all documents and interview notes is provided below as study findings.

Study Findings

A majority of NM counties and larger cities have no written policy at the governing body level providing guidance to sub-units of local government regarding use of public resources for the identification of immigration status, use of that information, or interaction with federal immigration authorities.

¹Examples of policy infrastructure are provided in Attachments to the complete report. These illustrate the level of detail and delegation of authority necessary to implement a policy.

Findings

Absence of policy at the governing body level exposes the county or city to:

- *a variety of fiscal control issues when public resources are used for federal immigration law enforcement,*
- *potential for inconsistent policy across units of local government,*
- *unequal treatment of persons within the jurisdiction, and*
- *potential for litigation and associated cost.*

Even where governing body policy exists, policy at subsidiary units of government (e.g., sheriff/police, detention center) is sometimes inconsistent. Without governing body policy, inconsistency across units of local government is more likely.

Findings

Inconsistency and lack of policy can be seen in sheriff's and police departments and detention centers:

- *Sheriff and police department policies include separate written policies on un-biased policing (aligned with state law on prohibition of profiling), arrests, and handling of foreign nationals and consular notification. These policies are sometimes not consistent with each other, or with governing body policy.*
- *Sheriff and police department policy may rely on informal oral instruction conveyed through the chain of command, rather than written procedure.*
- *Detention center policy may not align with sheriff or police department policy.*
- *In some cases, no translation is made of governing body policy for units of local government. Policy infrastructure is inadequate to instruct employees and contractors.*

Within a single county jurisdiction, individuals may be subject to inconsistent and conflicting policies with no clear basis to resolve conflicts.

Findings

City and County policies can be different and in conflict across units of local government:

- *Individuals interacting with law enforcement can have very different experiences depending on which side of a jurisdictional boundary they have an encounter.*
- *These experiences can inadvertently lead to exposure to immigration authorities and adverse consequences related to suspected or real immigration status which would not occur if consistent policy had been in place.*

Only a few local governments in NM have implementing procedures, and most have no monitoring systems to evaluate compliance with policies related to immigration status. Public authorities generally were not able to discuss the scope of policy infrastructure

needed to ensure accountability for their policies. Examples of appropriate implementing procedures are included in the Attachments to this report.

Findings

With few notable exceptions where procedure is detailed, very little policy infrastructure exists related to identification of immigration status, use of the information or interaction with immigration authorities.

- *There is no monitoring of cost identified by any of the documents supplied by counties or cities with the sole exception of Federal grants that compensate local governments for specific cooperative activities.*
- *There is no monitoring of practices for policy failures identified by any of the documents supplied by counties or cities—only law enforcement complaints internally managed, or litigation, would alert authorities that practices are not compliant.*
- *Without detailed written procedure, any consequence for violating policy is limited.*
- *Most important, local government authorities do not know if their policies are being followed until an infraction hits the media or litigation is initiated.*

Informal policy is most evident in law enforcement. Sheriffs and police command personnel assert leadership through the command structure.

Findings are limited and only available through interviews.

Economic incentives influence law enforcement and detention center policy.

Findings

Local government resources are generally constrained, and leaders in law enforcement and detention centers are challenged to perform all required functions within their budgets. These constraints lead to different policies regarding handling immigration status:

- *Sheriffs in many NM counties patrol some very large geographic areas with limited manpower. These constraints sometimes lead to informal command priorities. One of the priorities we heard about is not to focus on immigration status and federal immigration enforcement, because doing so distracts from local public safety priorities. Sheriffs also recognize that interventions that traumatize communities where immigrants reside will make their job more difficult.*
- *Detention centers across the state rely upon US Marshall's contracts to fill beds and produce per diem revenues. US Marshall personnel have been reported to inform some detention centers that they will limit referrals if the detention center does not honor ICE detainers. This can create competition between detention centers across counties. These dynamics are largely informal. Moving Marshall referrals from one detention center to another can financially jeopardize the detention center losing referrals.*

- *Detention centers are major sources of employment in rural parts of the state. Threats to census in detention centers can threaten local employment.*

It became clear from the difficulty most counties and cities had in identifying their own policies related to immigration status, that they would not be familiar with the policies of other overlapping jurisdictions.

Findings

Even for the few jurisdictions that have well defined policy regarding identification of immigration status, use of that information, and use of public resources for federal immigration law enforcement, most local government authorities are not familiar with the form these policies take in other jurisdictions:

- *Informal statements about state policy and practice that cooperated with federal law enforcement through 2018 were made. It was unclear what happens when law enforcement authorities from different jurisdictions are involved.*
- *Law enforcement leaders informally interviewed were not aware of policy outside their own departments, including where their jurisdictions overlap. No coordination was evident in responses to questions.*

Conclusions

State and local governments reserve the rights under the US constitution to use their public funds for their own purposes. With increased media coverage of federal attention to enforcement of immigration law, tensions can arise as federal immigration enforcement authorities seek assistance from units of local government. Local governments have the option to set their own policy consistent with federal law and constitutional provisions to protect public resources as well as the public safety and well-being of residents and guests within their jurisdictions. As a border state, New Mexico has a significant population of immigrants and flow of visitors, legal and undocumented alike. This assessment of statewide policy regarding the policies of government entities to identify immigration status, use that information, and cooperate with federal immigration authorities, shows that there is no common agreement on the experience residents and travelers should have as they move around the state and interact with local government. Several major urban centers in the state provide a generally “immigrant friendly” policy environment whose focus is public safety and public service regardless of a person’s immigration status². However, around the edges of these urban centers, and through most of the rural counties and small towns in the state, the picture is less clear, less consistent, and uncertain for residents and travelers.

Variation across the state outside these urban centers results in many counties not knowing that public funds may be used for federal immigration enforcement purposes, when those governments may have higher priorities for scarce resources. People may be harmed by

² See Attachments for examples.

inadvertent or deliberate actions of uninformed public employees acting upon their own or others' prejudices, fears, and suspicions. Such harm can expose local governments to liability and the cost of litigation. Immigration enforcement can also negatively impact public safety, creating fear and avoidance of local law enforcement.

It may be possible to improve the consistency of policy and protect local government resources through changes in state law that provide guidance and some requirements to local governments. It may also be possible for local governments interested in creating clear policies to benefit from the work done in those cities and counties that have invested in developing policies that protect their public resources and support public safety and services for all residents and travelers, regardless of their immigration status. Table 1 provides an overview of the policy and lack of policy across the state. Examples of all findings are provided in the body of the report.

The research underlying this report was conducted by Board members of the Santa Fe Chapter of the ACLU-NM and its volunteers. The report is authored by Rachel Feldman, a Chapter Board Member and experienced policy researcher. The data on contacts, requests for public documents, submissions and interview notes were documented in a database provided to the ACLU-NM. A library of all documents received as a result of inspection of public records act requests is organized by county and city, and an annotated *Table of Documents* was provided to the ACLU-NM and is included as an Attachment to the full report. While a number of people have provided review and comment to this report, the analysis and conclusions are the independent and sole responsibility of its author.

Table 1. Overview of Written Policy for Counties & Cities Surveyed		
County/City Level Policy	Counties	Cities
No written policy	Catron, Chaves, Cibola, Colfax, Curry, DeBaca, Eddy, Grant, Guadalupe, Harding, Hidalgo, Lea, Lincoln, Los Alamos, Luna, Mora, Otero, Quay, Roosevelt, Rio Arriba, Sandoval, Sierra, Socorro, Torrance, Union, Valencia	Alamogordo, Clovis, Farmington, Gallup, Hobbs, Rio Rancho, Roswell
“Immigrant Friendly” Resolution(s) – No county or city resources for federal immigration law enforcement	Bernalillo, Doña Ana, San Miguel, Santa Fe, Taos	Albuquerque, Santa Fe*, Las Cruces*
Sheriff/Police Policy		
No written policy that addresses immigration status	Catron, Chaves, Cibola, Colfax, Curry, DeBaca, Eddy, Grant, Guadalupe, Harding, Lea, Lincoln, Mora, Otero, Quay, Roosevelt, Rio Arriba, Sandoval, Santa Fe, Sierra, Socorro, Taos, Union, Valencia	Alamagordo, Clovis, Gallup, Roswell,
No inquiry about immigration status explicit in un-biased policing policy	Doña Ana, Luna, McKinley, Torrance	Albuquerque, Farmington, Hobbs, Las Cruces, Santa Fe
Circumstances to convey information to federal immigration authorities in “arrest” or “foreign nationals/consular contact” policy limited	Bernalillo, Doña Ana, Los Alamos, Luna, McKinley, San Miguel	Albuquerque, Farmington, Hobbs, Las Cruces, Santa Fe
May cooperate with federal immigration authorities	San Juan, Hidalgo	Rio Rancho
Detention Center Policy		
Does not honor ICE detainees	Bernalillo, DeBaca, Doña Ana, Los Alamos, McKinley, Rio Arriba, Roosevelt, San Juan, San Miguel, Santa Fe, Taos	
Will honor ICE detainees	Catron, Chaves, Sierra, Socorro, Valencia, Grant, Hidalgo	
Written policy detailing circumstances for interaction with federal immigration authorities—limited to criminal investigation & warrant.	Bernalillo, Doña Ana, Los Alamos, Rio Arriba, Santa Fe, Taos	
No written policy	Cibola, Colfax, Curry, DeBaca, Eddy, Grant, Guadalupe, Harding, Lea, Lincoln, Luna, Mora, Otero, Quay, Sandoval, Torrance, Union,	

*IPRA requests did not yield Resolutions by Cities that were documented in other sources in past years. There is no reason to think these resolutions are no longer in force.

Note in NM that the CBP and ICE have different jurisdictions for some activities. Policies may or may not make a distinction.

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INTRODUCTION

During the spring of 2018, the author conducted a series of interviews of candidates for Sheriff in Santa Fe County prior to the primary election. The focus of the interviews was each candidate's (and the current Sheriff's) knowledge of and positions on how local law enforcement interacts with immigrants, whether law enforcement should inquire about a person's immigration status, and how county law enforcement officers interact with law enforcement authorities in other jurisdictions. These interviews revealed an interesting set of issues that demonstrated different and often inconsistent approaches to the identification of immigration status, use of that information, and interaction with federal immigration authorities within a single county.

The results of this inquiry raised a series of questions about the scope of local government policy and procedure across the state, and the extent to which variation in policy, and absence of policy, may result in different treatment for individuals and differential protection of their rights throughout New Mexico. These findings were shared with the ACLU's Santa Fe Chapter Board and triggered a proposal to the ACLU-NM to conduct an independent state-wide assessment of local governmental policy and procedure related to immigrant rights. Inquiry regarding the availability of this information revealed that the ACLU-NM and local immigration advocates had only partial information for a few jurisdictions. Because the time required to collect this information for the entire state would make doing so prohibitive for either the ACLU-NM or immigration advocacy organizations, the Santa Fe Chapter undertook to recruit volunteers, and to conduct the study on behalf of the ACLU-NM.

The focus of the state-wide assessment was on identification and analysis of any formal and informal policy and procedure that would serve the following governmental functions:

- Provide guidance/instruction for public employees and contractors regarding their authority to:
 - inquire into an individual's immigration status,
 - document immigration status and related information (place of birth, citizenship) so that others would have access to that information,
 - communicate or release that information for uses other than the use for which the information was collected, and
 - interact formally or informally with federal immigration authorities about any individual's immigration status.

- Contracts or agreements between local governments and the US Department of Homeland Security or its subsidiary agencies (e.g., Immigration & Customs Enforcement—ICE, Customs and Border Protection—CBP).

Inspection of Public Records Act (IPRA) requests and other contacts (email and phone) were made to all 33 counties and the 10 largest cities in New Mexico. An example of a written request submitted to a county is included as Attachment A. Requests asked for specific types of contracts or written agreements. In directing local governmental custodians of public records to find the requested documents, we asked that they provide us with any county or city resolutions or ordinances of a county board or city council as well as any implementing documents or correspondence, policies and procedures for any law enforcement organizations including the Sheriff’s Department, Police Department, and any detention centers or jails. We also asked for related documents such as training materials, booking sheets, and other forms of documentation and correspondence.

Volunteers were recruited and trained in August, and data collection and interviewing continued from September through December. All participants used standardized protocols and documented all contacts and information in a uniform database using standard forms to report information to the project director. The database was compiled and audited by the project director, and follow-up contacts were made to fill in missing information. The information reported here should be current through the end of 2018. A draft report was reviewed by the NM-ACLU early in 2019.

CRITICAL ASSUMPTIONS

Any research is based on a set of assumptions which may or may not be explicit, and interpretation of data must be made taking these assumptions into consideration. The assumptions that guide this research are stated below.

- Public policy directs the behavior that is acceptable for employees and contractors, and failure to follow policy may result in a range of consequences.
- Policy may be formal and written, or it may be informal and conveyed orally through a chain of command. Informal policy is more difficult to enforce.
- Policy is often framed in aspirational terms, stating principles and intent, but not always specifying detail that will guide implementation. Procedures and other forms of instruction are often required for policy to be translated into the specific behaviors intended by the policy.
- Full implementation and enforcement of policy relies upon the delegation of responsibility/authority from the policy making body (e.g., a county board of commissioners or city council) to the organizational authorities charged with implementation. Implementation cannot be evaluated without monitoring systems. We refer to the procedures, enforcement protocols, and monitoring systems as “**policy infrastructure**”. Without adequate policy infrastructure, a good deal of law either

cannot be implemented as intended or can only partially be implemented with variation in outcomes.

- Absence of policy at the county or city level means that subdivisions of government may or may not develop their own policies and implementing procedures.
 - City and county policies may be different and inconsistent with each other.
 - Policies for different units of the same government may be different and inconsistent with each other (e.g., sheriff and detention center).
- Absence of policy at any level means that behavior is discretionary for employees and contractors: an employee may, given the policy studied here, contact ICE or CBP³, based on personal opinion, triggering federal inquiry and intervention that may result in harm. Such action may result in no consequences, and may escape knowledge of the employer or contracting agency.

PROBLEM IDENTIFIED BY THIS STUDY

We are all residents of or visitors to overlapping jurisdictions: state, county, city, reservation/pueblo. When these overlapping jurisdictions do not coordinate or have opposing policies, individuals with the same situation may have vastly different experiences. In New Mexico, police and sheriff informants note that the State Police, State Corrections, and State Prisons have generally cooperated with federal immigration authorities, thereby using state resources in the support of federal immigration law enforcement. This may change with a new governor in 2019.

County and city policies vary widely as shown in Table 1. Many jurisdictions in New Mexico have no formal policy regarding employee/contractor authority to inquire about a person's immigration status, to document or share that information, or to contact federal immigration authorities. In some counties, such as San Juan, some county and City of Farmington agencies have conflicting policies⁴. People traveling from one jurisdiction to another are often subject to different and potentially conflicting policies. Inmates transferred from one detention center to another or sent to detention centers outside their county of residence may find themselves subject to procedures that differ from those of the jurisdiction in which they were arrested.

These variations result in the potential for disruption in the lives of citizens, legal residents, and undocumented individuals and families. Where no policy exists, the prejudices or suspicions of an individual public employee or contracted agent may trigger raids, visits to homes, and other

³ CBP is active only in the southern part of the state. Some counties may interact with or need policy guidance for dealing with both CBP and ICE.

⁴ San Juan County Detention Center settled litigation over identification and use of information about immigration status and interactions with Federal authorities. Settlement terms resulted in policy to not honor ICE detainees, and related practices for detention center staff. This policy, however, did not apply to other county agencies, and the San Juan County Sheriff does cooperate with federal immigration authorities. At the same time, the City of Farmington Police Department has detailed policies prohibiting identification and use of immigration status information and use of local resources for immigration law enforcement. The county has no unifying overarching policy to ensure consistency across units of government.

interventions that can disrupt lives, result in job loss, separate families, result in temporary or long-term incarceration, and cause people to incur otherwise unnecessary burdensome legal expenses. Interventions by immigration authorities, justified or not, can result in terrifying communities, causing people to avoid law enforcement when they are victims or witnesses to crimes, result in children missing school and other consequences that are not in the public interest. With these public interests in mind, several local governments have developed resolutions at the county and city level, as well as implementing procedures and policy infrastructure to protect the rights of all persons--resident or visiting the jurisdiction--with the goal of minimizing the negative impacts of aggressive immigration enforcement. See Attachments to this report for examples. These approaches recognize that federal agencies cannot require that local resources be applied to federal functions.

This study also illustrates that the introduction of policy to protect immigrant rights is not always accompanied by implementing procedure and adequate policy infrastructure to ensure its consistent application. The questions raised by this study ask whether the use of local government resources to facilitate federal immigration law enforcement should be so different within and across jurisdictions, and whether the people in New Mexico have the right to know which policies and procedures apply to them.

METHODOLOGY

The original approach to the statewide assessment was to have structured interviews with county managers, Sheriffs, and detention center administrators/wardens, or their delegated senior staff. A set of structured protocols was developed for use by volunteers who were assigned counties. Each volunteer was asked to contact each of the three positions in their assigned counties and request an interview. A structured format for documenting interview results was provided in both Excel and WORD formats. Volunteers were trained in conducting the interviews and producing the documentation. A standard IPRA request letter was also made available to send to each county's designated custodian of public records.

Initially, the hope was that respondents to interviews would identify both formal and informal policies and provide documents. In practice, volunteers found many officials reticent about scheduling interviews. While quite a few interviews were conducted, it was not possible to perform interviews consistently across most counties or agencies. Many county staff refused interviews, failed to call back, or required an IPRA request be submitted before agreeing to participate in the study. Quite a few interviews were conducted in relation to the IPRA request. In many counties, those requests are handled by county attorneys, and interviews sometimes occurred when a county attorney responded to the IPRA request.

To explore the differences between county and municipal approaches to the policy questions, IPRA requests were submitted to the 10 largest cities in the state (based on recent population data). Interviews were not attempted at the city level, though some did occur in relation to IPRA responses.

When volunteers found repeat contacts for interviews were failing to generate interviews, the Project Director decided to send out IPRA letters (see Attachment A for example) to all counties

in the state. Most of these were sent out in early October. Most counties and cities complied with the state law and provided receipts confirming the request within the statutory time requirements. A few jurisdictions delayed response, and several indicated the request was burdensome. Email and phone interactions with the project director and volunteers clarified the scope of the request and addressed questions by custodians of public records or attorneys representing counties or cities. The most common clarification related to scope over time: the request asked for policies currently in force (fall, 2018), but some policies tracked back more than 10 years and had not necessarily been updated. In a couple of cases, attorneys representing local governments were not able to find documents and contracts they believed to exist and to be in force despite making significant efforts to contact current and prior county officials. These interactions resulted in all but a few jurisdictions being able to respond to the request within 2-4 weeks of receiving the request, most within the statutory 15 day requirement. We appreciated the diligence and helpfulness of many public employees and contracted attorneys charged with responding to these requests. In several counties, public records staff went out of their way to ensure complete responses, in several cases, sending multiple responses when ongoing inquiry surfaced documents that were not found in earlier searches.

However, during these interactions, it became clear in quite a few instances, that records searches for non-existent records or regarding subject matter unfamiliar to the person charged with the search could result in incomplete results. In some cases, records custodians denied responsibility for anything beyond sending the request to departments of the government and forwarding whatever they received. While some follow-up was done to ensure an adequate and complete response to IPRA requests, the project director found some evidence that documents exist that are responsive to the requests, but were not produced. This report does not represent the content of these missing documents.

Wherever possible, documents were transmitted electronically. In a few instances, counties required copying fees be paid, and paper documents were mailed to the project director. All documents received were logged into the electronic project library arranged by county and city. All documentation of interviews and contact information including dates of contacts and IPRA request results was copied into the project database that is retained by the ACLU-NM. The database was audited for completeness and gaps in basic information were filled, even when no successful contact occurred. All documents received were read by the project director and annotated into a *Table of Documents* (Attachment F) which is linked to the electronic project library retained by the ACLU-NM.

The analysis of results across jurisdictions in NM tracks themes across documents, interview results and information from county and city websites and archives of public meeting agendas, minutes, and documents on-line. While the same information is not available across jurisdictions in the state, this report represents the most comprehensive search for formal and informal policy and implementing policy infrastructure available on approaches by local government in NM to address immigrant rights.

ANALYSIS

Looking across all the data collected, a series of themes surface. Each of these themes is discussed below with examples. An overview showing the distribution of policy at county and city levels, by sheriff's and police departments, and for detention centers is presented in general categories in Table 1. Themes found in the study include:

- Absence of policy at the governing body level of the jurisdiction (County and City)
- Inconsistency of policy across units of government (e.g., sheriff/police, detention center), even with policy at governing body level.
- Inconsistency of policy or implementing procedure within a single jurisdiction.
- Lack of implementing policy infrastructure, where written policy exists.
- The role and limitations of informal policy.
- Economic incentives affecting policy in law enforcement: sheriff/police, and detention centers.
- Lack of coordination and/or knowledge about policies across overlapping jurisdictions.

Throughout the discussion of these themes, references will be made to examples in some jurisdictions that demonstrate how a problem discussed has been handled. Some of these examples are documented in attachments to this report.

Table 1. Overview of Written Policy for Counties & Cities Surveyed		
County/City Level Policy	Counties	Cities
No written policy	Catron, Chaves, Cibola, Colfax, Curry, DeBaca, Eddy, Grant, Guadalupe, Harding, Hidalgo, Lea, Lincoln, Los Alamos, Luna, Mora, Otero, Quay, Roosevelt, Rio Arriba, Sandoval, Sierra, Socorro, Torrance, Union, Valencia	Alamogordo, Clovis, Farmington, Gallup, Hobbs, Rio Rancho, Roswell
“Immigrant Friendly” Resolution(s) –No county or city resources for federal immigration law enforcement	Bernalillo, Doña Ana, San Miguel, Santa Fe, Taos	Albuquerque, Santa Fe*, Las Cruces*
Sheriff/Police Policy		
No written policy that addresses immigration status	Catron, Chaves, Cibola, Colfax, Curry, DeBaca, Eddy, Grant, Guadalupe, Harding, Lea, Lincoln, Mora, Otero, Quay, Roosevelt, Rio Arriba, Sandoval, Santa Fe, Sierra, Socorro, Taos, Union, Valencia	Alamogordo, Clovis, Gallup, Roswell,
No inquiry about immigration status explicit in un-biased policing policy	Doña Ana, Luna, McKinley, Torrance	Albuquerque, Farmington, Hobbs, Las Cruces, Santa Fe
Circumstances to convey information to federal immigration authorities in “arrest” or “foreign nationals/consular contact” policy limited	Bernalillo, Doña Ana, Los Alamos, Luna, McKinley, San Miguel	Albuquerque, Farmington, Hobbs, Las Cruces, Santa Fe
May cooperate with federal immigration authorities	San Juan, Hidalgo	Rio Rancho
Detention Center Policy		
Does not honor ICE detainees	Bernalillo, DeBaca, Doña Ana, Los Alamos, McKinley, Rio Arriba, Roosevelt, San Juan, San Miguel, Santa Fe, Taos	
Will honor ICE detainees	Catron, Chaves, Hidalgo, Sierra, Socorro, Valencia, Grant	
Written policy detailing circumstances for interaction with federal immigration authorities— limited to criminal investigation & warrant.	Bernalillo, Doña Ana, Los Alamos, Rio Arriba, Santa Fe, Taos	
No written policy	Cibola, Colfax, Curry, DeBaca, Eddy, Grant, Guadalupe, Harding, Hidalgo, Lea, Lincoln, Luna, Mora, Otero, Quay, Sandoval, Torrance, Union,	

*IPRA requests did not yield Resolutions by Cities that were documented in other sources in past years. There is no reason to think these resolutions are no longer in force.

Note: New Mexico counties may interact with both CBP and ICE and policy references are not always clear.

A majority of NM counties and larger cities have no written policy at the governing body level providing guidance to sub-units of local government regarding identification of immigration status, use of that information, or authorizing use of public resources to interact with federal immigration authorities.

Findings

Absence of policy at the governing body level exposes the county or city to:

- *a variety of fiscal control issues when public resources are used for federal immigration law enforcement,*
- *potential for inconsistent policy across units of local government,*
- *unequal treatment of persons within the jurisdiction, and*
- *potential for litigation and associated cost.*

The dominant situation across the state, particularly in less densely populated counties and most cities, is the absence of policy by a county board of commissioners or a city council (See Table 1). Interview respondents sometimes said that the need for policy on immigration status never surfaced in their meetings. Immigration issues are widely viewed as within the purview of the federal government, and while some pressures from the Department of Homeland Security (particularly memos to law enforcement) and negotiations around use of detention centers, triggered specific policy development for Sheriff's and police departments and for detention centers, governing bodies generally have not taken a position that the county or city should have policy that applies across all units of local government.

Exceptions to the absence of governing body policy include Bernalillo, Doña Ana, San Miguel, Santa Fe, and Taos counties, and the cities of Albuquerque, Las Cruces, and Santa Fe. These governing bodies have developed policy that, more or less explicitly, prohibit use of local public resources for engagement with federal immigration authorities, including prohibiting identification of immigration status and use of that information for law enforcement purposes. No information was identified that suggested that any governing body at county or city level has instructed its units of government to affirmatively use public resources in support of enforcement of federal immigration law.

The use of local resources (employee/contractor time, facilities, equipment) related to federal immigration matters is generally not measured or tracked, and can represent a loss of control over financial resources. With the exception of complaints to sheriffs' and police departments and internal reports required by procedures that are handled internally, there is generally no monitoring and reporting regarding compliance with these policies to the governing body. In some cases, governing authorities will only become aware of a breakdown in their policy infrastructure when advocates intervene on behalf of someone harmed by non-compliance, an issue gets to the media, or when litigation is initiated. In the situation where litigation is initiated, local governments are exposed to the cost of such litigation.

Where no governing body policy exists, policy making devolves to the subsidiary units of local government, where agency leaders may or may not see the need to provide direction to their employees and contractors, or to coordinate any such direction with each other. Conversations

with local leaders revealed a limited awareness about exposure to risk for litigation or potential costs associated with lack of policy regarding immigration status, use of information, or interactions with federal immigration authorities.

Some local governing bodies did enter into agreements with the Department of Homeland Security regarding payment of overtime for law enforcement requested to assist with a variety of investigations, including security of the border. Some local governing bodies were also aware of the economic challenges involved in management of the finances of county detention facilities as related to the housing of those charged with immigration violations. Many county detention facilities rely upon per diem payments determined by contract with the US Marshall service, and county resolutions do authorize negotiation of these contracts. While these contracts do not explicitly address the significant population of immigrant detainees handled by the US Marshall's service, their volume and the flow of revenue associated with these detainees have an impact on the financial viability of some detention facilities, and county budgets. While Federal grants are available to cover costs of state and local law enforcement personnel in patrolling the border, only one county sheriff (Hidalgo) provided documentation of having entered into contracts to provide these services (Operation Stonegarden).

Even where governing body policy exists, policy at subsidiary units of government (e.g., sheriff/police, detention center) are sometimes inconsistent. Without governing body policy, inconsistency across units of local government is more likely.

Findings

Inconsistency and lack of policy can be seen in sheriff's and police departments and detention centers:

- *Sheriff and police department policies include separate written policies on un-biased policing (aligned with state law on prohibition of profiling), arrests, and handling of foreign nationals and consular notification. These policies are sometimes not consistent with each other, or with governing body policy⁵.*
- *Sheriff and police department policy may rely on informal oral instruction conveyed through the chain of command, rather than written procedure.*
- *Detention center policy may not align with sheriff or police department policy.*
- *In some cases, no translation is made of governing body policy for units of local government, and policy may not be detailed enough to guide employee or contractor behavior.*

In those jurisdictions that have policy at the governing body level (Bernalillo, Doña Ana, San Miguel, Santa Fe, and Taos Counties, and Cities of Albuquerque, Las Cruces, and Santa Fe), law enforcement agencies and detention centers may or may not have internal policies, procedures, monitoring, and enforcement systems that align with the intent of governing body policy.

⁵ The term foreign national is used sometimes to refer to both "immigrants" and others who are not citizens of the US. Terminology is often not consistent or defined (for exceptions see Attachments D and E).

Doña Ana County may have the most concise and complete translation of governing body policy intent for local units of government (See Attachment B—County Manager’s Administrative Directive No. 2014-01). In this two-page administrative order, Ms. Brown clearly and briefly states:

- the purpose of the county’s resolution,
- a general rule that collection and use of immigration status information is prohibited unless required by law,
- direction to all county agencies to implement the general rule and give the order to all employees,
- provision that the rule will hold even if part of it is invalidated by change in law or court decision, and
- instruction that violation of the rule will be treated as “misconduct” under human resources policies of the county.

This 2015 policy is in force until it is changed. While policies for subsidiary units of the county are generally detailed, we still find that county detention center monthly reports identify the citizenship of named individual detainees in a public document. While most detainees will have been released by the report publication date, this practice still violates the intent of the county’s policy, and potentially exposes some individuals to scrutiny by outside interests based on their citizenship. It is also never clear what forms the basis for reporting citizenship, given other county policies to not explore immigration status.

In Santa Fe County, while the detention center has detailed written policies that align with the county resolution, the Sheriff’s Department operates informally by instructing its employees in the spirit of the resolution, not to identify immigration status or interact differently with anyone based on their immigration status. However, no written policies are in place to ensure either training or enforcement of behavior. With staff turnover and differing policies from state police and those from overlapping jurisdictions, it could be difficult for sheriff’s personnel to act consistently with the intent of the county policy, and the only way departmental management would know of infractions would be if a complaint is filed and investigated.

In Taos and San Miguel counties, we were not provided with complete written policies that implement the intent of county board policy. Bernalillo policies are separately quite detailed and provide specific instruction to employees for each agency (see Attachments).

Where no governing body policy is in place, we see that most counties do not have detailed policies that instruct employees and contractors regarding the identification of immigration status, use of that information, or interactions with federal immigration authorities. Luna, McKinley and Torrance County Sheriff’s policies and Police policies for cities of Albuquerque, Farmington, Hobbs, Las Cruces, and Santa Fe, all address immigration status in their un-biased policing policies. There are some apparent inconsistencies in other sheriff and police policies between the unbiased police policy and arrest or foreign national procedures.

Within a single county jurisdiction, individuals may be subject to inconsistent and conflicting policies with no clear basis to resolve conflicts.

Findings

City and County policies can be different and in conflict across units of local government:

- *Individuals interacting with law enforcement can have very different experiences depending on which side of a jurisdictional boundary they have an encounter.*
- *These experiences can inadvertently lead to exposure to immigration authorities and adverse consequences related to suspected or real immigration status which would not occur if consistent policy had been in place.*

While it isn't clear how often this occurs, a person may find him/herself stopped by city police, sheriff's deputy, state police or tribal/pueblo/Bureau of Indian Affairs police within a single county. Each of these organizations may be subject to different policies regarding identification of immigration status, which may result in different treatment. San Juan County offers an example of different city and county law enforcement approaches. The City has clear written policies not to use resources for identification of immigration status and instructs its officers not to trigger interventions by ICE outside of criminal investigations. The Sheriff, on the other hand, while stating in interviews that its deputies are not interested in immigration status, has written policies that permit interaction with ICE and inquiry about immigration status in some cases where identification information may be suspect. The detention center was forced to reverse its policies as the result of litigation and currently does not honor ICE detainers and has changed many of its internal policies. So city and county law enforcement have conflicting policies and within the county the sheriff's department and county detention center have different policies.

Some interviews with sheriffs indicate that their informal policy is to not use resources to identify immigration status because it may tie up resources needed for primary law enforcement responsibilities in the county. However, at the point of arrest or hand off to a detention facility, this informal policy may be superseded by detention center policy or practice not subject to any policy. Often the identification of immigration status, is informal when a person is asked about place of birth or citizenship. Documents may not be used to confirm immigration status, but information is collected in the name of "verifying identity" and may then be retained in records that may be released informally or formally with or without clear intent to expose an individual to immigration authorities.

Only a few local governments in NM have implementing procedures, and most have no monitoring systems to evaluate compliance with policies related to immigration status. Public authorities generally were not able to discuss the scope of policy infrastructure needed to ensure accountability for their policies.

Findings

With few notable exceptions where procedure is detailed (see Attachments), very little policy infrastructure exists related to identification of immigration status, use of the information or interaction with immigration authorities.

- *There is no monitoring of cost identified by any of the documents supplied by counties or cities.*

- *There is no monitoring of practices for policy failures identified by any of the documents supplied by counties or cities—only law enforcement complaints and reports internally managed, or litigation, would alert authorities that practices are not compliant.*
- *Without detailed written procedure, any consequences for violating policy is limited.*
- *Most important, most local government authorities do not know if their policies are being followed until an infraction hits the media or litigation is threatened or initiated.*

In a few cases, the resolutions passed by county boards include enough specificity to be prescriptive to subsidiary units of government. See Attachment C. In a few other cases, local law enforcement policies have accompanying detailed procedures that spell out the exact actions an officer should take in an arrest, in notifying immigration authorities for criminal matters, or in making consular notifications. See Attachments D and E. In a few detention centers procedures are specific and detailed. See Attachment E. However, in most local units of government, procedure may be partial if it exists at all. We have seen no evidence in any of the materials provided in response to our requests that any jurisdiction monitors compliance when it has explicit policies, or that it has provision for enforcement of consistent behavior (exception being Doña Ana where the County Manager links Human Resource policy to infractions of County Board Policy.)

With no monitoring or tracking the consequences of public employee actions, the effects of policy on various behaviors cannot be known. For example, informal calls to federal immigration authorities may result in raids, home visits, or other interventions in which people are detained, separated from families, communities frightened, children left separated from parents, jobs lost, and other traumatic events. Units of government will not know the basis for public employee actions that trigger such events. However, local governments may have liability in some cases.

Broader consequences may be distrust of law enforcement in communities where immigrants reside, failure to report crime and unwillingness to serve as witnesses or to provide information to law enforcement. Frightened children may not attend school or may have trouble learning based on fear that family members may be arrested. The local governing bodies and authorities in some units of government that have established policy to limit identification of immigration status and interaction with federal immigration authorities are often explicit that their objective is, at least in part, to prevent these sorts of occurrences. But only a few policy or procedural documents provide for any monitoring of compliance.

Informal policy is most evident in law enforcement. Sheriffs and police command personnel assert leadership through the command structure.

Findings are limited and only available through interviews.

Several conversations with sheriff and police department leaders suggest that officers are instructed that the un-biased policing policies required by state law prohibiting profiling, mean that they should not inquire about immigration status, or factors that are not directly relevant to

the reason for interaction. Some law enforcement leaders think the prohibition on profiling is adequate to guide police behavior, and that there is no reason to focus on immigration status.

However, the same and other conversations can get into a gray area when the issue is the need to identify a person, and a police officer suspects or receives information that a person's identification is inaccurate. The task of identification becomes the motive for some officers to inquire further into a person's identity and status, when that information may not be necessitated by the interaction itself. For those detained, the process of verifying identity can provide further motive to inquire about place of birth, citizenship, and legal status.

Informal policy may convey the intent of the leadership of a unit of government to not expend resources on matters related to a person's immigration status, but it does not necessarily provide the detailed procedures to guide personnel in their actions. Written procedure, accompanied by regular training that translates procedure into the typical situations officers find themselves in, provides a stronger foundation for consistent behavior and compliance with the intent of policy. (See Attachments for examples.)

Economic incentives influence law enforcement and detention center policy.

Findings

Local government resources are generally constrained, and leaders in law enforcement and detention centers are challenged to perform all required functions within their budgets. These constraints lead to different policies regarding handling immigration status:

- *Sheriffs in many NM counties patrol some very large geographic areas with limited manpower. These constraints sometimes lead to informal command priorities. One of the priorities we heard about is not to focus on immigration status and federal immigration enforcement, because doing so distracts from local public safety priorities. Sheriffs also recognize that interventions that traumatize communities where immigrants reside will make their job more difficult.*
- *Detention centers across the state rely upon US Marshall's contracts to fill beds and produce per diem revenues. US Marshall personnel have been reported to inform some detention centers that they will limit referrals if the detention center does not honor ICE detainees. This can create competition between detention centers across counties. These dynamics are largely informal. Moving Marshall referrals from one detention center to another can financially jeopardize the detention center losing referrals.*
- *Detention centers are major sources of employment in rural parts of the state. Threats to census in detention centers can threaten local employment.*

Many counties provided copies of US Marshall contracts in response to IPRA requests. These contracts generally specify per-diem rates along with the terms of services to be provided for US Marshall inmates. There is no detail in these contracts addressing the immigration status of inmates, or any terms requiring detention center involvement in immigration enforcement. The role these contracts play was revealed more through informal conversations and email correspondence. Informants indicate that inmates charged with immigration violations managed

by the US Marshall may be as high as 40%. While US Marshall inmates face criminal charges and are not subject to ICE detainers, and the issues are un-related, federal authorities may use coercive strategies informally to pressure county facilities, recognizing their financial dependence on federal inmate revenue. We understood from informal interviews that the US Marshall Service had used contract provisions in some states to require cooperation with ICE, however, we did not receive any such contract language from NM counties.

Counties that do not honor ICE holds (“detainers”) include: Bernalillo, DeBaca, Doña Ana, Los Alamos, McKinley, Rio Arriba, San Miguel, Roosevelt, Santa Fe, and Taos. Counties that do honor ICE holds include: Catron, Chaves, Sierra, Socorro, and Valencia. Other counties provide no written policy regarding their willingness to honor requests from ICE. We cannot tell whether interactions in these other counties are entirely discretionary for detention center staff, or with sheriff department staff, where the sheriff’s department operates a county jail. No information is available for those detention centers operated by private prison companies under county contract. Counties did not provide contracts in response to IPRA requests revealing any terms for private prison operations related to immigration status or use of resources to facilitate federal immigration enforcement.

Some county detention centers accept inmates from other cities and counties, with payment based on per-diems, but little evidence of contracts covering these arrangements were provided, as any such contracts apparently were not considered responsive to the IPRA requests, not specifying terms related to inmate immigration status.

While detention centers in some of the larger counties provided detailed policies and procedures, county attorneys, and others attempting response to IPRA requests indicated very limited documentation. One county reported that ICE “hold” paperwork was placed in individual inmate folders and was therefore not accessible—not knowing how it was handled. Another county could not find any current or recent US Marshall contracts though it believed they existed because it receives US Marshall inmates and payments. It isn’t clear that there are any particular standards for documentation that apply across the state. We received some booking sheets that displayed considerable variation: some asking for place of birth and citizenship, others reporting very limited information. A couple of counties indicated that they asked for information on booking sheets, but did not use it (unclear what that means).

Economic forces can create tensions between policy intent and operational decisions. This played out in a series of email correspondence for Doña Ana County where ICE detainers are not honored, but where US Marshall threats to move inmate volume to other counties created real concerns about financial stress. Given clear and comprehensive policy, county manager leadership and fully informed authorities in units of government, these tensions surfaced in a manner that permitted information exchange and decision making consistent with the county’s overall intent. In settings without formal policy infrastructure, it is easy to imagine, particularly based on examples provided in informal interviews, how decisions could be made informally and, how they might vary at the discretion of an individual public employee/contractor. Actual decision making could vary over time, and may never be documented, or known by authorities.

It became clear from the difficulty most counties and cities had in identifying their own policies related to immigration status, that they would not be familiar with the policies of other overlapping jurisdictions.

Findings

Even for the few jurisdictions that have well defined policy regarding identification of immigration status, use of that information, and use of public resources for federal immigration law enforcement, most local government authorities are not familiar with the form these policies take in other jurisdictions:

- *Informal statements about state policy and practice that cooperates with federal law enforcement were made. It was unclear what happens when law enforcement authorities from different jurisdictions are involved.*
- *Law enforcement leaders informally interviewed were not aware of policy outside their own departments, including where their jurisdictions overlap. No coordination was evident in responses to questions.*

The lack of any state law providing guidance to local governments means that coordination of policy and practice appears to be generally up to those involved on the front lines. Handling of interactions can depend on individual judgment and prejudice rather than policy and training. Those that reside in or travel through New Mexico cannot know what to expect if they interact with law enforcement and are asked for identifying information that could potentially reveal their immigration status and increase their risk for interaction with federal immigration authorities. The sense of risk, and uncertainty regarding individual rights when asked questions by law enforcement agents, may apply regardless of actual immigration status in the current highly charged political environment when anti-immigrant sentiments may result in pointing fingers at anyone “looking foreign” or speaking another language.

Conclusions

State and local governments reserve the rights under the US constitution to use their own public funds for their own purposes. With increased media focus on the federal attention to enforcement of immigration law, tensions can arise as federal immigration enforcement authorities seek assistance from units of local government. Local governments have the option to set their own policy consistent with federal law and constitutional provisions to protect public resources as well as the public safety and well-being of residents and guests within their jurisdictions.

As a border state, New Mexico has a significant population of immigrants and flow of visitors, legal and undocumented alike. This assessment of statewide policy regarding the policies of government entities to identify immigration status, use that information, and cooperate with federal immigration authorities, shows that there is no common agreement on the experience residents and travelers should have as they move around the state and interact with local government. Some urban centers in the state provide a generally “immigrant friendly” policy

environment whose focus is public safety and public service regardless of a person's immigration status. However, around the edges of these urban centers, and through most of the rural counties and small towns in the state, the picture is less clear, less consistent, and uncertain for residents and travelers.

Variation across the state outside these urban centers results in many county authorities not making an explicit choice to use public funds for federal immigration enforcement purposes, when those governments may have higher priorities for scarce resources. People may be harmed by inadvertent or deliberate actions of uninformed public employees/contractors acting upon their own or others' prejudices, fears, and suspicions. Such harm can expose local governments to liability and the cost of litigation. Immigration enforcement can also negatively impact public safety, creating fear and avoidance of local law enforcement.

It may be possible to improve the consistency of policy and protect local government resources through state law that provides guidance and some requirements to local governments. It may also be possible for local governments interested in creating clear policies to benefit from the work done in those cities and counties that have invested in developing policies that protect their public resources and support public safety and services for all residents and travelers, regardless of their immigration status. However, currently NM residents and visitors, citizen, legal and undocumented alike, do not receive equal treatment under local law, nor is this law transparent to the public.

ATTACHMENTS

ATTACHMENT A
IPRA Request Letter—Example

Request for Public Records

Date of request: October 12, 2018

To: E Duran, Chief Deputy Clerk

Via email: *EDuran@countyofmora.com*

Requestor:

*Name: Rachel Feldman
ACLU Volunteer*

Phone number:

Email address:

Pursuant to the New Mexico Inspections of Public Records Act (NMSA §§14-2-1 et seq.), I request copies of the following documents in your custody:

- 1) All documents setting forth, embodying, or reflecting any agreement, including any intergovernmental service agreement (IGSA) or memorandum of agreement under 8 U.S. Code §1357 (g), between Mora County (the county) or any of its departments, bureaus, agencies, or components and the federal Department of Homeland Security or any of its bureaus, agencies, or components (DHS), which requires, requests, authorizes, or permits law-enforcement officers, court officers, or corrections officers of the county to arrest, detain, or maintain custody of persons who are being processed or investigated by DHS for possible deportation or removal from the United States.*
- 2) All documents setting forth, embodying, or reflecting any directive, instruction, or request from DHS to the county, including any immigration detainer (I-247, I-247A, I-247D, -I247N or I-247X), warrant (I-200 or I-205), or order to detain (I-203), which requires, requests, authorizes, or permits any law-enforcement officer, court officer, or corrections officer of the county to arrest, detain, or maintain custody of any person who is being processed or investigated by DHS for possible deportation or removal from the U.S.*
- 3) All documents setting forth, embodying or reflecting any ordinance, resolution, or other official action by the governing body or any board, committee, or agency of the county which authorizes or refers to any of the agreements described in Paragraph 1 above, any of the directives, instructions, or requests referred to in Paragraph 2 above, or any response by the county to any such directives, instructions, or requests.*

- 4) *All documents setting forth, embodying, or reflecting any rule, regulation, policy, or directive of the county concerning the county's compliance with or response to any of the directives, instructions, or requests referred to in Paragraph 1 above.*
- 5) *All documents setting forth, embodying, or reflecting any rule, regulation, policy, or directive of the county concerning the county's compliance with or response to any of the directives, instructions or requests referred to in Paragraph 2 above.*

In clarification of items 1-5 above, we are asking for any written materials that state as a matter of county policy or procedure, instructions or advice to county employees or contractors regarding:

- 6) Effort to identify and/or document a person's immigration status, including place of birth, national origin or other information used for such purpose. This shall include information implementing the state law prohibiting profiling by law enforcement.
- 7) Whether and any circumstances under which, county employees or contractors may interact in any way with federal immigration authorities regarding any person in the county.

Such materials shall include such items as county resolutions, departmental policies and procedures in manual or other form, instructions to employees, terms of contracts, training materials, forms such as booking sheets that record information relevant to the above, complaints (redacted for personal identification information), and any agreements containing information relevant to the above. We are looking specifically for any documents that apply to the Sheriff and any that apply to detention or correctional facilities as well as any county resolutions. Information not directly relevant to this request is not included under this request. If written information does not exist for any of the requested items above, please confirm this in writing.

Please provide electronic copies of these documents where these are available and send to ___email address___. Please let me know if there is any charge for providing these materials, if materials need to be provided by hard copy and mail, and the associated cost. I agree to pay the applicable fees for copying and transmitting the records. I understand that I may be asked to pay the fees in advance. Please provide a receipt indicating the charges for each document. Please redact any protected personal identifier information that may appear in these documents. Thank you for your prompt attention to this matter. I look forward to your response.

Sincerely, Rachel Feldman

ATTACHMENT B

Doña Ana County Manager Translation of Governing Body Policy Intent
("Immigrant Friendly" policy) for subsidiary county agencies.

County Manager's Administrative Directive No. 2014-01

TITLE: PROHIBITION AGAINST REQUESTING, USING, OR DISTRIBUTING AN INDIVIDUAL'S IMMIGRATION OR CITIZENSHIP STATUS EXCEPT AS REQUIRED BY FEDERAL OR STATE LAW

I. PURPOSE

- A. Pursuant to Doña Ana County Resolution #2014-91, this policy establishes the procedures by which Doña Ana County employees interact with residents of the County to insure those residents live in "Safe Communities," (for our purposes, a Safe Community is defined as a place where residents may go about their daily activities without fear or undue risk of harm or injury). This policy is intended to promote a cohesive, vibrant and participatory community which will contribute to fewer incidents of injury and crime as well as eliminate instances where County employees inappropriately consider the immigration status or citizenship of residents.
- B. This policy is not intended to create any new rights for which the County may be liable in money damages to any person who claims injury due to a breach of such rights. This subsection shall not be construed to limit or proscribe any other existing rights or remedies possessed by such persons.

II. GENERAL RULE

All employees of Doña Ana County shall act toward all residents in a manner that is respectful of human rights, promotes the conditions necessary to create Safe Communities, and allows all residents to pursue a healthy, productive life free of fear.

III. IMMIGRATION STATUS; USE OF COUNTY FUNDS FOR PROCESSING INFORMATION, APPLICATIONS FOR SERVICES OR EMPLOYMENT AND COOPERATION WITH ENFORCEMENT OF CIVIL PROVISIONS OF IMMIGRATION LAWS

- A. Unless required by federal or state law, no department, agency commission, officer or employee of Doña Ana County shall use any County funds or resources to assist in the enforcement of federal immigration law or to gather, transmit, or disseminate information regarding the immigration status of individuals in Doña Ana County. This prohibition shall include, but is not limited to:

1. Requesting, transmitting, or disseminating information regarding the immigration status of any individual or conditioning the provision of services or benefits by Doña Ana County upon immigration status, except as required by federal or state law.
2. Including on any applications, questionnaire, or interview form used in relation to benefits, services, or opportunities provided by Doña Ana county any question regarding immigration status other than those required by federal or state law. Any such questions existing or being used by the County as of September 9, 2014, not otherwise required by law shall be deleted within sixty days thereafter.
3. Assisting or cooperating, in one's official capacity, with any Immigration and Customs Enforcement (ICE) or Customs and Border Protection (CBP) investigation, detention or arrest procedures, public or clandestine, relating to alleged violations of the civil provisions of the federal immigration law.

IV. SEVERABILITY

If any part of this directive, or the application thereof, is held to be invalid, the remainder of this directive shall not be affected thereby, and this directive shall otherwise continue in full force and effect. To this end, the provisions of this directive, and each of them, are severable.

V. DISTRIBUTION AND IMPLEMENTATION

Each department director shall provide their respective employees with a copy of this directive.

VI. VIOLATIONS

Violations of the provisions of this policy shall be enforced in accordance with the provisions for misconduct under Doña Ana County's Human Resources Policies and Procedures.

THIS DIRECTIVE IS EFFECTIVE THROUGH: INDEFINITE

Approved:

Signed by
Julia T. Brown Esq.
County Manager

Date January 28, 2015

ATTACHMENT C

Bernalillo County Resolution Declaring Bernalillo County to be “Immigrant Friendly” March 2017

BERNALILLO COUNTY

BOARD OF COMMISSIONERS

ADMINISTRATIVE RESOLUTION NO. AR 2017-22

DECLARING BERNALILLO COUNTY AS AN IMMIGRANT-FRIENDLY COUNTY, AND TO SAFEGUARD THE CIVIL RIGHTS, SAFETY AND DIGNITY OF ALL OUR RESIDENTS, WHETHER THEY BE IMMIGRANTS, WAR REFUGEES, PEOPLE OF COLOR, MUSLIMS, JEWS, LGBTQ PEOPLE, OR PEOPLE WITH DISABILITIES. ESTABLISHING BERNALILLO COUNTY POLICIES REGARDING IMMIGRANTS AND THEIR FAMILIES, REGARDLESS OF IMMIGRATION STATUS.

WHEREAS, since the election of new National leadership there has been a sense of uncertainty and fear among many communities in Bernalillo County across our State, and across the Nation; and

WHEREAS, recent Presidential Executive Orders relating to immigration enforcement have done nothing to allay those fears, and in fact contain directives that threaten to lead to family separation, endanger refugees fleeing violence and persecution, strip immigrants of their due process, and discriminate against the Muslim community; and

WHEREAS, the Tenth Amendment of the Constitution of the United States recognizes the sovereign status of the states and their political subdivisions and precludes the federal government from attempting to compel state and local governments, either directly or by their use of threats to withhold federal funding, to assist the federal government in enforcing federal laws, including immigration laws; and

WHEREAS, Bernalillo County should not adopt policies that may violate its residents’ constitutional rights under the Fourth Amendment such as “immigration detainers”, and that exceed the government’s limited warrantless arrest authority under federal law, exposing the County to civil rights violations; and

WHEREAS, the County Commission wishes to assure its vulnerable communities that the County supports them, will do all it can to maintain and improve their quality of life, and does not tolerate acts of hate, discrimination, bullying or harassment; and

WHEREAS, the County Commission wishes to declare that Bernalillo County is a safe place for immigrants from all countries, as well as for war refugees, people of color, Muslims, Jews, LGBTQ people, and people with disabilities;

WHEREAS, thousands of immigrants and their families have lived and worked in the Bernalillo County area for many years; and

WHEREAS, immigrants from throughout the world contribute to Bernalillo County’s cultural richness and economic prosperity, through their labor and initiative, payment of taxes, and other economic and cultural activities; and

WHEREAS, the County Commission believes in the human dignity of all Bernalillo County residents, regardless of immigration status, and recognizes the importance of immigrants’ many contributions to the social, cultural, intellectual, and economic fabric of the County; and

WHEREAS, Bernalillo County is made up of diverse individuals, both native born and immigrants, whose collective cultures, religions, backgrounds, orientations, abilities, and viewpoints join to form a highly pluralistic community which prides itself on being a place which welcomes persons and families of all walks of life; and

WHEREAS, young people in Bernalillo County enrolled in the Deferred Action for Childhood Arrivals (DACA) program deserve an opportunity to have a bright future and to contribute their time and talent to make Bernalillo County a county of innovation and growth; and

WHEREAS, the County Commission believes the County to be a safe and welcoming place for all students and their families, regardless of origin or immigration status and supports the Albuquerque Public Schools policy to create a safe haven for all students regardless of their immigration status; and

WHEREAS, Bernalillo County has a strong tradition and mission of embracing and valuing diversity and the County Commission believes that it is similarly important to support diversity and to provide services to all persons in the County regardless of their race, disability, national origin, gender identity, religion, sex, sexual orientation, ethnicity, economic or immigration status (in addition to any other protected classes under local, state, or federal law); and

WHEREAS, the County Commission is greatly concerned about public safety in Bernalillo County and the mission of the Bernalillo County Sheriff’s Department is to protect the safety of the public against crimes committed by persons whoever they may be; and

WHEREAS, Bernalillo County’s Sheriffs’ Department standard operating procedures are consistent with this resolution and recognize that “enforcement of immigration laws and arrest of undocumented foreign nationals resides exclusively with the federal government”, and that “officers shall not stop, question, detain, or arrest any person solely on the ground that they may be undocumented”, and “shall not inquire about or seek proof of a person’s immigration status” unless it is pertinent to the investigation of an underlying non-immigration criminal violation; and

WHEREAS, the County Commission firmly believes that the involvement of local government in enforcement of federal civil immigration laws undermines a productive and trusting relationship with the immigrant community and hinders local law enforcement and community safety; and

NOW, THEREFORE, be it resolved by the Board of County Commissioners, the governing body of the County of Bernalillo, that

SECTION 1: The Commission declares Bernalillo County to be an “Immigrant-Friendly County”. The Commission welcomes and encourages immigrants to live, work, and study in Bernalillo County and to participate in community affairs, and recognizes immigrants for their important contributions to our culture and economy.

SECTION 2: The Commission establishes the following policies for Bernalillo County:

- A. To the fullest extent allowed by federal and state law, immigrants and their families who live within the county limits of Bernalillo shall have access to all Bernalillo County.
- B. The County encourages all public agencies to facilitate the access of immigrants and their families to basic services, including but not limited to legal driver's licenses, health care, police protection, and education including Central New Mexico (CNM) and the University of New Mexico, to the fullest extent allowable by law.
- C. The County will include in its legislative agendas requests that Congress enact just and humane immigration reforms that provide immigrants and their families with rights in this country that are commensurate with human dignity and their status as taxpayers and contributing members of our community, and the State of New Mexico Legislature revise its laws and policies for health care, education, and driver's licenses to such that immigrants and their families will have fair access to those services and privileges.
- D. The County shall not discriminate on the basis of a person's national origin and will treat all persons with respect and dignity, regardless of immigration status.
- E. No county monies, resources, or personnel shall be used to enforce federal civil immigration laws or to investigate, question, detect, or apprehend persons on the basis of immigration status unless otherwise required by law to do so.

SECTION 3: The County Commission supports the equal treatment of all persons and states that all persons who live within the County shall have full access to all county services with respect and dignity, including public safety services and programs, regardless of their race, disability, national origin, gender identity, relation, sex, sexual orientation, ethnicity, economic or immigration status (in addition to any other protected classes under local, state or federal law).

SECTION 4: That Bernalillo County staff is directed to review current County policies and practices to ensure they are in accordance with this Resolution and propose to the Commission means to address any non-compliance. As part of their analysis, County staff may identify and recommend policies or proposals that would serve to supplement and enhance the County's immigrant friendly status.

DONE this 14th day of March, 2017

County Seal

Board of County Commissioners
Signatures of
Debbie O'Malley, Chair
Steven Michael Quezada, Vice Chair
Maggie Hart Stebbins, Member
Lonnie C. Talbert, Member
Wayne A. Johnson, Member

APPROVED AS TO FORM

Signature W. Ken Martinez, County Attorney

Attest: Linda Stover, County Clerk

ATTACHMENT D
Bernalillo County Sheriff's Department Policy on Arrests 2018
Albuquerque City Police Procedure 2018

Excerpts from Bernalillo County Sheriff's Department Rules and Regulations effective July, 2018

Section 313 ARRESTS

313-4 ARREST OF US POSTAL SERVICE DRIVERS/MILITARY/ILLEGAL ALIENS/ARMORED CCAR DRIVERS/FOREIGN NATIONALS

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- C. Enforcement of immigration laws and arrest of illegal aliens resides exclusively with the U.S. Immigration Service. Deputies shall not stop and question, detain, arrest, or place an "immigration hold" on any persons not suspected of crimes, solely on the grounds that they may be deportable aliens. When arrest is necessary for a non-immigration criminal violation, deputies shall notify the Immigration and Naturalization Services immediately, if it is suspected that the person may be an undocumented alien, so that they may respond appropriately.

313-5 ARREST AND/OR DETENTION OF FOREIGN NATIONALS

Deputies shall follow prescribed procedures when dealing with the arrest and/or detention of Foreign Nationals.

Definitions:

Foreign Nationals

Any person who has a legal standing as a citizen of any country other than the US.

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Immigration Hold

The restriction of an individual's free movement through detention or incarceration strictly for the purposes of relaying the individual to the US Immigration Services for incarceration or deportation.

Non-Immigration Criminal Violation

Any act that constitutes the violation of State laws or County ordinances for which an individual may be legally subjected to prosecution.

....foreign consulate contact information for Mexican Consulate and El Paso Field Office for all other countries.

Rules and Procedures

313-6 DETENTION

Deputies shall not stop and question, detain, arrest or place an "immigration hold" on any persons not suspected of crimes, solely on the grounds that they may be deportable immigrants.

When arrest is necessary for the violation of State law or County ordinance, deputies shall notify their Field Supervisor immediately if it is suspected that the person may be an undocumented immigrant. At that time, the Supervisor will begin the notification process as is outlined in the Arrest section below.

313-7 ARREST

- A. When a Foreign National is arrested he/she will be advised of their right to have their government notified concerning the arrest.
- B. The arresting Deputy will notify his/her supervisor that a Foreign National has been arrested.
- C. That supervisor will notify the Foreign National's consulate that the subject has been arrested.
- D. When the arrested person is of Mexican citizenship, the supervisor will contact the Mexican Consulate. If the arrested person is of any other citizenship, the El Paso Field Office will be notified.contact information.....
- E. The supervisor will contact the appropriate consulate and advise them of the arrested individual's identification information, the charges being brought against the individual and of the individual's location of incarceration.

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313-9 CONFISCATION OF IDENTIFICATION

Current law provides that only Federal Agents are authorized to confiscate a Foreign National's identification documents (i.e., residence cards, work permits, etc.). Unauthorized confiscation of these documents, even if they are suspected forgeries, is a violation of Department Policy and may result in charged violations of the law. Deputies encountering Foreign Nationals with suspicious documentation are directed to report the incident as soon as possible to the Immigration and Naturalization Service at the numbers.....Once contact is made with the Immigration and Naturalization Service, they will be provided with complete information pertaining to the content and nature of the suspicious document and the identification and location of the Foreign National.

313-10 REPORTS

- A. The arresting deputy shall submit an official report detailing the arrest of the Foreign National and identifying the nation in which the Foreign National has citizenship by the end of the deputy's shift.
- B. A copy of that report shall be forwarded to Bernalillo County Sheriff's Department's District Attorney Liaison Office by the end of the Deputy's shift.
- C. The metro liaison division will email the Mexican Consulate notification and arrest report(s) for all felony arrest of Mexican citizens.....

ALBUQUERQUE POLICY DEPARTMENT PROCEDURAL ORDERS SOP-2-80

Effective: 4/26/18, Review Due 4/26/19 Replaces: 01/14/16

Excerpts from: 2-80 ARRESTS, ARREST WARRANTS AND BOOKING PROCEDURES

F. ARREST OF US POSTAL SERVICE DRIVERS/MILITARY/ARMORED CAR DRIVERS/UNDOCUMENTED FOREIGN NATIONALS AND IMMIGRANTS/FOREIGN DIPLOMATES/LEGAL FOREIGN NATIONALS

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3. Undocumented Foreign Nationals (Undocumented Immigrants)

- a. The enforcement of immigration laws and the arrest of undocumented foreign nationals reside exclusively with the federal government.
- b. Officers shall not stop, question, detain or arrest any person solely on the ground that they may be undocumented and deportable foreign nationals.
- c. Officers shall not inquire about or seek proof of a person's immigration status, unless the person is in custody or is a suspect in a criminal investigation for a non-immigration criminal violation and the immigration status of the person or suspect is pertinent to the criminal investigation.
- d. Officers shall not call federal immigration officials to the scene of a stop or investigation, except in the case of suspected human trafficking. The following procedures apply to a case of suspected human trafficking:
 - i. Officers shall obtain supervisor approval before contacting federal immigration officials; and
 - ii. Officers shall document the investigation in an offense/incident report.
- e. Officers do not have the authority to place an "ICE" hold on individuals suspected of having violated federal immigration laws.
- f. Officers shall not request assistance in language translation from any immigration official or agency.
- g. Officers shall accept the Mexican Consular Identification Card (Matricula Consular de Alta Seguridad) as a valid form of identification. The Mexican Consular Identification Card is not an indication of a person's immigration status, nor is it sufficient evidence to establish reasonable suspicion of a person's immigration status. Or pro
- h. All children have the right to attend public schools in the US. Officers shall not, under any circumstances, engage in stopping, questioning, detaining, investigating or arresting minor children (under 18 years old) on any immigration related matter while on or immediately in the vicinity of public school grounds or property. Officers are also prohibited from assisting others,

including school personnel or other law enforcement officers or agencies, in detaining or questioning minor children on any immigration-related matter.

- i. Nothing in this SOP shall prevent an officer from investigating any city, state, or federal non-immigration criminal violation or taking any action necessary for officer safety.

4. Arrest of Legal Foreign Nationals (Legal Immigrants)

- a. Whenever a legal foreign national is arrested, officers will:
 - i. Immediately advise the foreign national of his right to have his government notified concerning the arrest and/or detention.
 - ii. The arresting officer will notify the foreign national's consulate of the arrest if the notification is mandated under the US State Department guidelines....(reference)

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Author's Note: These police procedural documents are extremely detailed and elaborate precise procedures, authority, reporting, supervisory responsibility, etc. They provide an excellent example of "policy infrastructure".

ATTACHMENT E.

McKinley County Detention Center Policy 2018 Sheriff's Office Policy on Foreign Nationals & Immigration Laws (undated but in force in 2018)

McKinley County Adult Detention Center Policies & Procedures Policy A23-ICE
Detainers
Effective 2/26/2018
Signed by Chapter 1 Administration & Warden Tony M. Boyd

I. REFERENCES

Third Circuit Court of Appeals opinion in *Galarza v. Szalczyk*, 745 F.3d634 (2014) in which the Court held that 8 C.F.R §287/7, the section of the United States Code of Federal Regulations providing for the issuance of immigration detainers, does not compel state or local law enforcement agencies to detain suspected aliens subject to removal pending release to immigration officials.

II. POLICY

The Gallup-McKinley County Adult Detention Center and its employees should not violate the rights of any individuals in the United States.

III. PURPOSE

To define the procedures for the booking and release of individuals that might be on an Immigration and Customs Enforcement Detainer (ICE detainer or Hold).

IV. PROCEDURE

- A. If the Booking officer determines that the incoming inmate has a court issued criminal warrant from another law enforcement agency, then that determination shall be noted on the Booking Sheet and the Sergeant or Lieutenant in charge of the shift shall be notified. It should be noted that an Immigration Detainer, DHS Form I-247, is not a criminal warrant and provides no constitutional basis for detaining an individual beyond his/her authorized release date. Accordingly, immigration detainers shall be disregarded.
- B. There being no legal authority upon which the United States may compel an expenditure of County resources to enforce its immigration laws, there shall be no expenditure of any County resources or effort by on-duty staff for this purpose. Accordingly, detention personnel shall not expend time responding to ICE inquiries regarding detainees' incarceration status or release dates. If the request for

- information is an Inspections of Public Records request form, then that request shall be answered according to the Inspection of Public Records Act as outlined in the McKinley County Standard Procedure #P-013 Inspections of Public Records.
- C. Gallup McKinley County Adult Detention Center staff shall not allow ICE officials to have access to detainees via telephone or in person for the purpose of investigating immigration violations without a written signed court order.
 - D. Releases shall not be delayed as a result of immigration detainer requests (ICE Holds).
 - E. An ICE Detainer or an administrative “Warrant for Arrest of Alien”, Form I-200 shall not preclude a detainee from posting bond.
 - F. All information and records concerning detainees obtained or generated by the facility shall not be communicated or released to any person outside the facility except:
 - a. In response to a written request in compliance with the Inspection of Public Records Act; or
 - b. To a detainee’s attorney or bondsman; or
 - c. To another law enforcement agency that has issues a written request or a criminal warrant for the detainee. An Immigration Detainer, DHS I-247, or an administrative warrant , Form I 200, shall not be considered written requests for release of information.
 - G. At times the ADC may receive inquiries from local law enforcement regarding ICE Detainers.
 - a. If the facility receives an inquiry from local law enforcement regarding ICE Detainers, the on-duty supervisor shall immediately notify the Lieutenant and/or Deputy Warden or Warden. The on duty supervisor or Booking Officer can only respond if the facility has in its possession, a valid “Warrant for Arrest of Alien” that is signed by a United States District Judge a Magistrate Judge. Most Warrants are placed on NCIC and Metro Dispatch will receive most of these types of inquiries.
 - b. If the facility receives notice that a local law enforcement officer is bringing in a detainee for an ICE Hold or an Immigration Violation, (or, if local law enforcement shows up at the ADC with the same) prior to booking, the on duty supervisor shall immediately notify the Lieutenant and/or Deputy Warden or Warden. The Booking Officer shall require from the arresting officer the following documentation prior to accepting the detainee into the GMADC:
 - i. A valid “Warrant for Arrest of Alien” that is signed by a United States District Judge or Magistrate Judge.
 - ii. Any and all documentation that the arresting agency has that would require them to legally arrest and detain said individual

McKinley County Sheriff's Office Policies & Procedures (undated but in force)

306.03 Foreign Nationals and Immigration Laws

- A. It is the policy of the McKinley County Sheriff's Office to encourage victims and witnesses of crime to come forward and to fully report criminal activity without fear of retribution. Consequently employees shall not inquire into the immigration status of a witness or a victim of crime, including witnesses or victims of domestic violence or witnesses or victims who are being treated by medical personnel.
- B. Employees shall not stop, investigate, detain or question a person solely for the purpose of determining whether such person is in the United States without authorization and proper documentation.
- C. Employees shall not initiate a criminal investigation based solely on information or suspicion that an individual is in the United States without proper authorization. The use of an otherwise valid criminal investigation or arrest as pretext to ascertain information about an individual's immigration status is prohibited.
- D. Employees shall not inquire into a person's immigration status when conducting a criminal investigation of a petty misdemeanor. With regard to investigations involving other suspected crimes, employees may inquire into a person's immigration status only in the following circumstances:
 - 1. When conducting a criminal investigation of a suspect based on reasonable suspicion that the suspect has engaged in criminal activity and the immigration status of the suspect is relevant to the investigation of that criminal activity, provided that the investigation is initiated for a reason or reasons independent of any information or suspicion that an individual is or individuals are in the United States without proper authorization in violation of the civil provisions of federal immigration law.
 - 2. After a suspect has been arrested and placed into custody for a criminal violation pursuant to a valid warrant or established probable cause and the employee has probable cause to believe that the suspect has also engaged in a criminal offense, provided the arrest is initiated for a reason or reasons Independent of any information or suspicion that an individual is or individuals are in the United States without proper authorization in violation of the civil provisions of federal immigration law.
- E. Employees obtaining information voluntarily, inadvertently or through collateral source that calls into question whether a suspect is present in the United States without proper documentation during any other criminal investigation or arrest of a suspect, may contact the appropriate federal law enforcement officials for investigation of that information.
- F. If a suspect or traffic violator is not being arrested, employees shall not detain them for any period of time longer than necessary to complete the investigation or traffic stop and to take appropriate enforcement action.
- G. Employees shall not "hold" an individual for the purpose of having the individual questioned by federal immigration authorities unless an authorized federal agency places a detainer or other legal hold on the individual for violations of law and presents evidence of such detainer or hold to the employee. In such cases, the individudla shall be held only so long as allowed by federal law.

- H. Should an employee arrest an undocumented foreign national, that individual shall be processed in the normal manner for all individuals committing similar offenses, without regard to the individual's immigration status. If the arrested individual is otherwise subject to release, the individual shall be held only if an authorized federal agency provides information that the individual has committed a violation under federal law and the authorized federal agency places a detainer or other legal hold in the individual for violations of law and presents evidence of such detainer or hold. In such cases, the individual shall be held only so long as allowed by federal law.
- I. If a reporting party provides information to an employee concerning the alleged immigration status of another person, but does not otherwise offer any reliable, trustworthy information that the person has committed or is committing any criminal offense, the employee shall not take any further investigative steps. The employee shall refer the reporting party to the United States Border Patrol or the employee may forward the information to the United States Border Patrol.
- J. Traffic stops, saturation patrols, criminal warrant enforcement, "knock and talks" and traffic checkpoints shall be used solely for the purpose of enforcing criminal laws and ordinances. Such enforcement and investigative techniques shall not be used for the purpose of determining any person's immigration status. If, during the course of any such activity, an employee has reason to question a person's immigration status, all subsequent actions by the employee shall be in accordance with this policy.
- K. Since all children residing in the United States have a right to attend churches and public school in the United States regardless of their immigration status, employees shall not engage in stopping, questioning, detaining, investigating or arresting minor children (under the age of 18 years) on any immigration related matter while at, in or on a church, church property or, a public school ground or property including adjacent parking lots or open fields.
- L. Employees shall actively detain persons for investigation of immigration law violations by federal or state of New Mexico authorities (New Mexico Attorney General's Office) in cases of:
1. Human trafficking
 2. Human smuggling.
 3. Hazardous transportation situations.
- M. This policy is not intended to nor does it change the McKinley County Sheriff's Office's cooperation and coordination with federal, state, county and city agencies and departments to enhance border security by increasing law enforcement presence and enforcing criminal laws. The McKinley County Sheriff's Office shall continue to utilize state and federal grants to fund overtime, purchase equipment, conduct training and otherwise provide for increased law enforcement presence and the enforcement of criminal laws in cooperation with other law enforcement agencies and departments in accordance with existing agreements and operational plans and, in compliance with this procedure.

ATTACHMENT F

TABLE OF DOCUMENTS DECEMBER 2018

ACLU-NM STATEWIDE ASSESSMENT OF LOCAL GOVERNMENT POLICY & PROCEDURE AFFECTING IDENTIFICATION OF IMMIGRATION STATUS, USE OF INFORMATION, AND INTERACTIONS WITH FEDERAL IMMIGRATION AUTHORITIES

DOCUMENTS REFERENCED WERE OBTAINED IN RESPONSE TO
IPRA WRITTEN REQUESTS TO COUNTIES AND CITIES IN NM
Or were identified on official government websites

Counties

Bernalillo County

- 2014 policy on ICE detainees at Metropolitan Detention Center
- March 14, 2017 County Resolution Declaring Bernalillo County to be “Immigrant Friendly” with specific directions to all county agencies.
- Sample Booking Sheet
- Denial of Detainer Form for Metropolitan Detention Center
- Board of Commissioners Declaration of Bernalillo County as an Immigrant Friendly County (similar to March 14 resolution above)
- MOU between ICE and Homeland Security Investigations & Sheriff’s Department (seems to contradict terms of county immigrant friendly policies) dated 2016 and executed by person for Sheriff who is no longer employed.
- Sheriff’s Department Unbiased Policing Policy 2014, re-statement of state law with no specific reference to immigration status.
- Sheriff’s Department Policy on Arrests, Updated July 9, 2018 to include specific instructions regarding arrests of immigrants, legal and illegal. Detailed policy describes circumstances for contacting ICE.
- Sheriff’s Department Policy on Sex Offender Tracking, including collection of immigration paperwork as part of process.

Catron County

- Undated Policy to Honor ICE Detainers in county detention centers.

Chaves County

- Contract for ICE Detention Compliance Removals 2014
- Contract for ICE Detention Compliance Removals 2016
- Form—Order to Detain or Release an Alien

Cibola County

- 10/17 agreement between US Marshall's Service and Cibola Detention Center, no specifics related to immigration.

Colfax County

- County Attorney letter stating no documents exist that respond to the request.

Curry County

- No documents responsive to request except a Federal COPS grant application and award which was not available electronically. As it does not represent county policy, it was not obtained.

DeBaca County

- No documents responsive to request, but email states that county does not honor ICE detainers.

Dona Ana County

The documents below are contained in the order below in a single scanned document in the IPRA files for the County.

- US Marshall's Dept. of Justice Agreement with Dona Ana County Detention center, not specific to immigration issues
- County Board of Commissioners Resolution 2/2013 supporting immigration reform policies, not directive of specific county policy or behavior.
- County Board of Commissioners Resolution 2/2017 against ICE raids of immigrant communities, not directive of specific county policy or behavior.
- County Board of Commissioners Resolution 4/2014 that local law enforcement not engage in enforcement of federal immigration laws, relatively general language, and continued support for improvement in immigration policy.
- County Board of Commissioners Resolution 5/2010 responsive to the Arizona law that would allow detaining NM residents not treating NM drivers licenses as evidence of legal status, generally asks for federal

legislation to improve immigration policy, not directive of specific county policy or behavior.

- Dona Ana County Detention Center Policies April, 2018, Booking includes place of birth, no other information relevant to immigration status mentioned, no mention of ICE detainees.
- US Marshall's Service print out, difficult to decode, looks like running history of activity.
- County Manager's Administrative Directive Prohibiting identification, use or distribution of individual immigration status, pursuant to 2014 County Resolution noted above regarding law enforcement. This directive specifies all county employees across all agencies. This policy also prohibits cooperation with immigration authorities when any county resources would be involved, unless required by law. Dated 2015, and specifies consequences for employee failure to comply under Human Resources Policies.
- >600 pages of email were provided that contain County Detention Center census by individual (no redaction), with race and citizenship, followed by a series of emails discussing the finances of the Detention Center and their dependence on US Marshall inmates. The current dilemma represented in these emails is that the US Marshall does not want to place inmates in facilities that do not honor immigration detainers, which the County does not honor, because of the cost of moving them. More than a hundred inmates are apparently at risk for alternative placements due to the County's policy with the result of millions in lost revenue.

Eddy County

- Warrant of Removal Deportation
- US Department of Homeland Security: Warrant for Arrest of Alien—form redacted
- Another Warrant for Arrest of Alien redacted dated 8/20/2018
- Detention Center Booking Report
 - These were all sent with note from responding authority that the county detention center does not take action on the Warrants, nor does it use information on citizenship asked for in the Booking form.

Grant County

- Email chain of communications between detention center administrator, ICE and US Marshall's on multiple inmates 2018.
- Email indicating no other written policies.

Guadalupe County

- Letter from county attorney that no documents exist responsive to the request.

Harding County

- County Manager states no documents exist that are responsive to request.

Hidalgo County

- Policies 2015 for Sherrif's Department participation in Operation Stonegarden: a program that provides funds to the department to support cooperation with DHS activities along the border. The policy requires strict adherence to written guidelines with consequences for violation of policies under county disciplinary practices. Operation Stonegarden involves saturation patrols of roads and areas near the border.
- 2018 Operations Report on Stonegarden by DHS. Notes inclusion of Lordsburg and Deming police departments and NM state police. States objectives for program and budgets for all jurisdiction law enforcement agencies under the program for 2018.

Lea County

- No documents. County Attorney unable to find current active contracts pertaining to detention center despite contacts with current and former wardens and county managers.

Lincoln County

- Letter indicates no documents responsive to request.

Los Alamos County

- Email stating that place of birth is obtained for some public records but is not released to law enforcement.
- Email instruction from Detention Supervisor of County Attorney position to not honor ICE holds, but to cooperate and share information with ICE regarding release dates.
- 2018 policy for police on Consular Notification and Access, Foreign Nationals: states no action based solely on immigration status, but may inquire in relation to need to identify individual. Unless involved in criminal investigation, notification of federal immigration authorities is prohibited.

Luna County

- Sheriff's Department Operational Policy regarding inquiry about immigration status, states employees will not inquire about immigration status except in case of criminal investigation or in response to criminal warrant. Persons alleging undocumented status will be referred to CBP, but sheriff will not act upon such allegations. Undated.
- 2013 copy of Luna County contract with US Marshall for detention center.

McKinley County

- Detention Center Policy 2018 provides detail regarding handling of information on immigration status, details that ICE detainers are not honored, and specifies conditions under which federal immigration authorities can be contacted with limits to criminal warrants.
- Sheriff's Department policies prohibit inquiry into immigration status and detail procedures for interaction with federal immigration authorities within "arrest" policies.
- Memoranda of Understanding between DHS and Sheriff regarding payment for overtime when county participates in DHS investigations, and for terms under which Sheriff's Department staff function under DHS authority.
- Memoranda 2014 from DHS to County detailing procedures for handling immigration violations and priorities. This is DHS telling the counties how they want to do things, and there is no documentation that McKinley County follows DHS procedures.

Mora County

- County Attorney stated no documents exist that respond to the request.

Otero County

- No documents. Response indicates that ICE detainers are in individual inmate files and not electronically accessible.

Quay County

- Letter indicating no documents responsive to request.

Rio Arriba County

- Resolution regarding Rio Arriba County Detention Facility indicating no county resources shall be used to interact with federal immigration authorities and that ICE detainees do not qualify as legal warrants. 2014

Roosevelt County

- Detention Center Policies 2018 indicating that ICE detainees are not honored but that otherwise the center will cooperate with federal immigration authorities.

Sandoval County

- Booking Sheet Sample—Citizenship field is on form.
- US Marshall’s Dept. of Justice contract form 2016, not specific to immigration issues.

San Juan County

- Settlement Agreement of Class Action between County & Somos un Pueblo Unido in US District Court August, 2017 that reverses historic policy at detention center to honor ICE detainees. Does not admit guilt, but pays all class action legal fees, and provides funds to lead plaintiff and to other parties in the class. Original filing was 11/2014.
- Sheriff’s Department Manual excerpt on un-biased policing, last reviewed in 2017, references state law, but frames policy around possible reasons to use information about an individual, which could include ethnicity, etc., to advance investigative responsibilities.

San Miguel County

- County Board Resolution April 2018 Supporting Federal Immigration Reform and Congressional Action to Protect DACA recipients. Effect is a statement of value and presence of immigrants in the county, but no direction is provided to county employees or contractors, and no policy is made regarding county cooperation with Federal immigration authorities.
- Detention Center Policies and Procedures last updated 2017, section D indicates no county resources should be used to identify immigration status or interact or cooperate with ICE without a criminal warrant.
- County Board Resolution 2017 explicitly states that no county resources are to be used to identify immigration status, to communicate that information, or to participate in any way with immigration authorities without appropriate criminal warrants.

Santa Fe County

- US Marshall's Agreement for Adult Detention Center
- County Board Resolution 2017 authorizing County Manager to negotiate rates for the Adult Detention Center with US Marshall's Service
- County Board Resolution 2007 objecting to costs associated with immigration procedures and asking for federal immigration reform—no impact on county policy.
- County Board Resolution 2006 stating principles upon which federal immigration reform should be passed—no impact on county policy.
- Adult Detention Center Policies 2014 reference 2010 County Resolution, detail procedures for handling information about immigration status and interactions with ICE, instruct non-compliance with ICE detainers.
- County Board Resolution 2010 stating commitment to civil rights and access to county services regardless of immigration status and no use of county resources to enforce immigration law, makes specific reference to public safety services.
- Adult Detention Center Policies 2014 reference 2010 County Resolution, detail circumstances for interaction with federal immigration authorities under circumstances limited to criminal investigation or warrant.

Sierra County

- Sierra County Sheriff Unbiased Policing Policy, last review 2010, no mention of immigration status, mostly restatement of state law.
- Detention Policy effective 2014 terms for cooperating with ICE.

Socorro County

- Detention Center policy to honor ICE Detainers

Taos County

- Resolution April 2017 by County Board of Commissioners to Protect Civil Rights of Immigrants and Refugees. Very detailed and broad statement of how rights shall be protected. References prior 2014 Board resolution to not enforce ICE Detainers, and discourages entering into any MOUs with Federal immigration authorities that would use county resources of Sheriff.

Torrance County

- County Sheriff's Department Policy on Unbiased Policing, updated January paragraph that employees will not identify immigrants status unless person is under arrest for criminal activity and consular notification is required.

- County Sheriff’s Department Policy on Arrests, no reference to immigration issues.

Union County

- Letter from County Manager in response to IPRA request explaining that no documents exist that respond to request.

Valencia County

- Detention Center Policy to Cooperate with ICE, updated July 2018
Requests for Public Information Sent to 10 Largest Cities

Alamogordo City

- City Police Department Policies implementing State Law Prohibiting Profiling last updated 2014.
- City Police Department Policies on arrests, not dated, references “foreign nationals” without definition, no reference in either policy to information on immigration status.

Albuquerque City

- Police Procedural Manual last updated April 2018, Arrests, Warrants & Booking Procedures on Page 4 explicit instructions regarding prohibition on any effort to identify or use immigration status in police practice.
- Police Department Memo to All Personnel April 2018 regarding City Resolution “Immigrant Friendly City”. Reminds staff of relevant procedures. Very specific.
- Police Department Special Order on Implementation of Immigrant Friendly City policy for staff assigned to Metropolitan Court. July 2018.
- Court House Access Policy states that no federal immigration authorities may operate in Metropolitan Court House. This may be a Bernalillo County policy as well as it operates the court house.
- April 16, 2018 City Ordinance “Immigrant Friendly City”, complete text.
- March, 2017 Memorial Act of City Council to instruct City Departments to implement policies and procedures consistent with Immigrant Friendly City status.
- Original Resolution in 2000 by City to establish “Immigrant Friendly City”

Clovis City

- 2017-2018 JAG grant conditions for receiving federal dollars for local law enforcement, with specific requirements to comply with US 1373 regarding sharing information on immigration status.

Farmington City

- City Police Department Policy clarifying that the State law prohibiting profiling includes prohibiting effort to identify immigration status. 2016
- Arrest of Foreign Nationals Consular Notification Policy, 2018
- Employment Eligibility Verification Form for Department of Homeland Security valid through 8/2019

Gallup City

- No documents that respond to request.

Hobbs City

- Police Department Manual 2013 includes reference to no use of immigration status in un-biased policing policy, and discussion of limitation of action on immigration status information without reliable information of criminal status, warrant or prior deportation for felony.

Las Cruces City

- 2011 Police Department policy regarding foreign nationals, prohibits inquiry into immigration status except in relation to criminal investigation, addresses circumstances under which federal immigration authorities may be contacted, refers complaints regarding immigration violations to federal authorities. Instructions are detailed.
- 2010-2018 Memoranda of Understanding between Las Cruces Police Department, Dona Ana County, and DHS regarding payment for police overtime services in support of investigations.

Rio Rancho City

- Police Department Policy on Diplomatic Immunity & Consular Notification last updated April 2018, indicates that officers should identify citizenship in interactions where suspicion of crime is relevant, excepting routine traffic stops. This includes instruction to contact ICE if individual is identified as potentially an illegal alien.

Roswell City

- No documents identified as responsive to request.

Santa Fe City

- Letter from Mayor Webber to NM Senators voicing complaint regarding I-9 audits and activity in City of Santa Fe that is disrupting small businesses. June 2018.

Note that the City of Santa Fe is known to have resolutions and Police Department policies that are relevant, but they were not provided in response t