

AGENDA ITEM SUMMARY

REGULAR MEETING DATE: April 26, 2017

AGENDA ITEM TITLE: A Resolution Affirming that Pitkin County is a Welcoming Community for Immigrants

STAFF RESPONSIBLE: Ron Ryan, Undersheriff and Jon Peacock, County Manager

ISSUE STATEMENT:

Shall Pitkin County adopt a resolution prohibiting and/or substantially restricting the involvement of county departments in enforcing federal immigration law? There are no changes from first reading.

BACKGROUND:

Immigrants have always been a vital part of Pitkin County's civic, economic and social life. Pitkin County has supported comprehensive immigration reform to provide a clear path to citizenship for immigrants that work and contribute to our community. Most recently in 2013 the Board adopted a resolution recognizing the important contributions of our immigrant community and supporting proposed legislation to comprehensively reform federal immigration law. The proposed immigration reform did not pass. Today, our community faces a different question regarding federal immigration law. On January 25 the President issued an executive order titled *Enhancing Public Safety in the Interior of the United States*. The executive order calls for increased enforcement of existing immigration laws with no promise of comprehensive immigration reform. The executive order, combined with statements from the Department of Justice, calls on state and local governments to participate in enforcement of federal immigration laws through cooperation with Immigration and Customs Enforcement (ICE) and Customs and Border Patrol (CBP). These efforts include threatening removal of federal funding to local jurisdictions that refuse to cooperate with ICE and CBP requests. Numerous local jurisdictions and states have raised concern about these efforts for three primary reasons:

1. Participating in enforcement of federal immigration laws hurts public safety by eroding trust in local governments.
2. Cooperation between local law enforcement agencies and ICE and CBP may violate the Fourth Amendment to the United States Constitution protecting persons against unreasonable searches and seizures.

3. Efforts by the federal executive branch to force state and local governments to enforce federal immigration laws by withholding federal funding violates Article 10 of the United States Constitution.

State and local jurisdictions across the country have recognized that by protecting the rights and well-being of immigrant families they build trust in law enforcement and other public agencies, ensuring public safety and wellbeing for all. The Sheriff's Office has long practiced limited cooperation in enforcement of federal immigration laws. Based on discussions with the Sheriff's Office, and other county departments, staff is recommending formalizing the County's position by adopting the attached resolution affirming Pitkin County as a welcoming community for immigrants and prohibiting and/or substantially restricting the involvement of county departments with federal immigration enforcement. The attached resolution is a way to promote public safety and wellbeing for everyone who lives, works and visits Pitkin County while also protecting the constitutional rights of vulnerable communities regardless of immigration status.

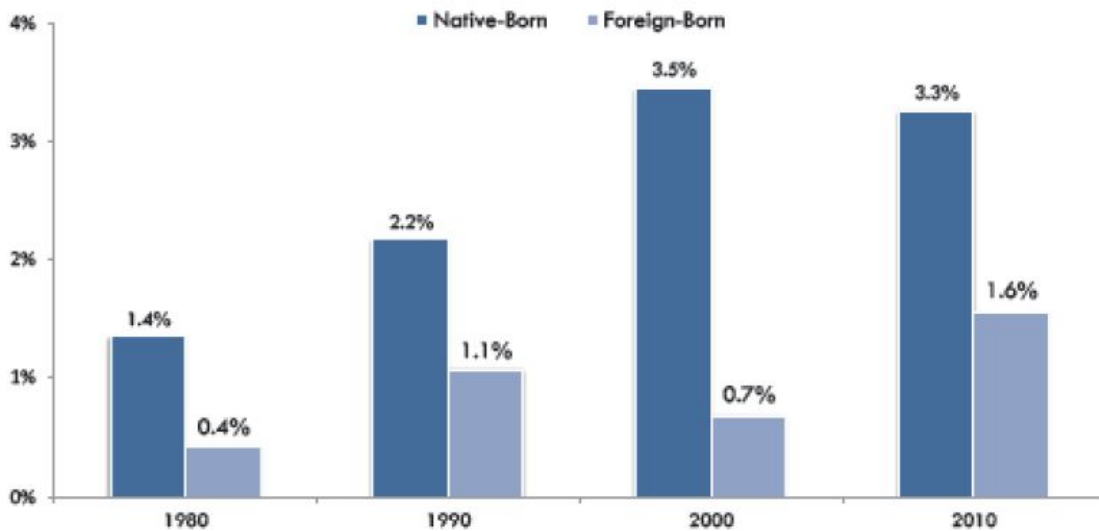
Public Safety and Trust in Local Government:

The public safety concern for maintaining trust between Pitkin County and the valley's immigrant community is that justice cannot be served when a victim of domestic violence or a witness to a crime does not call law enforcement because she fears that doing so will attract the attention of officials who wish to deport her and/or her family members. Likewise, public health and well being are not served when immigrants are afraid to work with other County departments for the same fear. Unfortunately, though Pitkin County has a long history of welcoming practices towards immigrants, there are many examples of victims of crimes, including violent crimes, sexual assaults, etc. failing to report these instances in a timely manner or ever for fear of drawing attention of immigration officials. The Sheriff will be at today's meeting to share his concerns. The current national dialogue and efforts at more robust enforcement of immigration laws threatens to erode trust of County employee's among the valley's immigrant community. The attached resolution is aimed at providing a clear statement of the limits of Pitkin County's cooperation in enforcing federal immigration laws, and inviting continued trust and participation of the valley's immigrant community in protecting the safety and wellbeing of everyone in Pitkin County.

A significant justification for the administration's January 25, executive order involves claims that undocumented immigrants are a special public safety threat. The administration cites individual incidents and then extrapolates these to the larger population of immigrants. While individual criminal events are unfortunate, and in some cases tragic, extrapolation of these individual examples to how the larger community of immigrants and their children act is unwarranted. Numerous studies show that in the United States criminal activities among immigrants and their children are lower than the native born population (see graph below). As

will be discussed in the next section of this memo, public safety can be promoted in a manner that also respects the constitutional rights of individuals and protects local agencies from potential legal liability.

Figure 5: U.S. Incarceration Rates of Men Age 18-39, by Nativity, 1980-2010



Source: Kristin F. Butcher and Anne Morrison Piehl, *Why are Immigrants' Incarceration Rates so Low?* (Cambridge, MA: National Bureau of Economic Research, July 2007), Table 2; 2010 ACS.

Fourth Amendment to the United States Constitution:

The Fourth Amendment to the United States Constitution reads: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.” All federal, state and local law enforcement agencies must comply with the Fourth Amendment. ICE and CBP issue detainer requests to local jurisdictions to hold an individual for up to 48 hours beyond their normal detention. If a local jurisdiction chooses to honor an ICE or CBP request to hold a person beyond his or her normal release date these actions constitute a new seizure that must comply with the Fourth Amendment. Compliance with the Fourth Amendment is generally met when there is a warrant issued by a court or there is probable cause for law enforcement to believe an individual committed a crime. Being in the country without proper documentation is not a criminal offense and does not by itself justify detention by our Sheriff’s Office. The attached resolution protects public safety and constitutional rights by clarifying that the Sheriff’s Office will only honor requests from ICE and CBP to detain an

individual when they are accompanied by a judicial warrant or the local agency has probable cause to believe that the individual has committed a crime.

Executive Order: *Enhancing Public Safety in the Interior of the United States* and Article 10 of the United States Constitution:

On January 25 of this year the President issued an executive order titled “Enhancing Public Safety in the Interior of the United States” (attached). The executive order has two provisions of particular interest to local governments: First, that the federal government shall have the ability to grant to state and local officials the ability to perform the duties of a federal immigration officers; and second, that state and local jurisdictions that do not cooperate in enforcement of immigration laws may have federal funds withheld.

One of the major innovations of the United States Constitution is Federalism where sovereign power is separated between the federal government and state governments (and by extension local governments). This concept is embodied in Article 10 of the United States Constitution which states that “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.” Through several decisions, the Supreme Court has held that the Tenth Amendment's reservation of power to the states prohibits the federal government from “compelling the states to enact or administer a federal regulatory program” (*Printz v. United States*). The most recent Supreme Court case on this matter was the *National Federation of Independent Business (NFIB) v. Sibelius* where the Court, in an opinion authored by late Justice Scalia, found unconstitutionally coercive the Affordable Care Act’s requirement that states provide expanded Medicaid as a condition of receiving Medicaid funds because all of a State's existing federal Medicaid funds were potentially at risk for non-compliance. It would be a paradigm shift for the Supreme Court to uphold the Federal government withholding all federal funds from state or local government who chooses not to assist enforcing federal immigration laws. There is, however, president for the federal government withholding funds in limited circumstances to encourage state and local activity.

In *South Dakota v. Dole* (1987), the Supreme Court allowed the federal government to condition a small portion of federal transportation funds on states adopting a drinking age of 21. The Court found withholding these transportation funds constitutional because there was a clear relationship between the requirement and the purpose of the funds. By this standard, federal funds given to Pitkin County for law enforcement or the jail could potentially be conditioned on the County cooperating with enforcement of federal immigration laws. Over the past five years the County has received \$79,861 in federal SCAAP grants that fall into this category. In 2016 we received \$6,885. As you can see in the following table the county’s likely exposure to

federal withholding of funds for law enforcement and detention is relatively small on an annual basis:

	2011 Actual	2012 Actual	2013 Actual	2014 Actual	2015 Actual	2016 Actual
SCAAP Federal Grants	21,739	26,959	22,912	6,480	16,625	6,885

Under Article 10 of the Constitution state and local governments may choose to cooperate with the federal government in enforcement of federal immigration laws, however the federal government may not coerce state and local governments into doing so. The Sheriff and staff recommend adoption of the attached resolution as being in the best interest of the safety and wellbeing of everyone in Pitkin County, with minimal risk to County revenues.

LINK TO STRATEGIC PLAN: Livable and Supportive Communities: A sense of personal and community safety.

KEY DISCUSSION ITEMS: Does the Board support the proposed resolution.

BUDGETARY IMPACT: None at this time. As discussed in the memo a small amount of federal funds for law enforcement may be at risk, in 2016 these revenues amounted to \$6,885.

RECOMMENDED BOCC ACTION: Approve the proposed language on first reading, April 11 and move to second reading, public hearing on April 26.

ATTACHMENTS:

1. RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS (“BOCC”) OF PITKIN COUNTY, COLORADO, AFFIRMING THAT PITKIN COUNTY IS A WELCOMING COMMUNITY FOR IMMIGRANTS
2. RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS (“BOCC”) OF PITKIN COUNTY, COLORADO, AFFIRMING THAT PITKIN COUNTY IS A WELCOMING COMMUNITY FOR IMMIGRANTS (spanish translation)
3. Executive Order: *Enhancing Public Safety in the Interior of the United States*

**RESOLUTION OF THE BOARD OF COUNTY
COMMISSIONERS (“BOCC”) OF PITKIN COUNTY,
COLORADO, AFFIRMING THAT PITKIN COUNTY IS A WELCOMING COMMUNITY FOR
IMMIGRANTS**

RESOLUTION NO. _____, 2017

RECITALS:

1. Pitkin County is committed to ensuring the public safety and wellbeing of all people in Pitkin County by ensuring equal treatment under the law, social justice, freedom from persecution, and protection of human rights regardless of immigration status; and
2. The United States is a nation of immigrants with a long and rich heritage of generous immigration laws; and
3. Immigrants have always been a vital part of the civic, economic and social life of Pitkin County; and
4. Pitkin County supports comprehensive immigration reform that provides a clear path for immigrants to legally live, work and become citizens of the United States; and
5. The federal government, through executive order, and interpretation of existing immigration legislation has put in place more stringent immigration enforcement by U.S. Immigration and Customs Enforcement (ICE) and and U.S. Customs and Border Protection (CBP) with no promise for comprehensive immigration reform; and
6. The federal government has targeted local governments for cooperation with enforcement actions by ICE and CBP; and
7. The mere fact that someone is in the United States without documentation is not a crime nor a threat to public safety; and
8. Article 10 of the United States Constitution’s reservation of power to the states prohibits the federal government from compelling state or local governments to enact or administer a federal regulatory program; and
9. Fear of local government enforcement of federal immigration laws erodes trust of Pitkin County Government employees among the valley’s immigrant community; and
10. Public safety and wellbeing for all people in Pitkin County is not served when immigrants are afraid to report crimes, bear witness, or seek essential services for fear of deportation; and

11. Pitkin County desires to maintain trust with the valley's immigrant community by clearly stating that immigrants are welcome in Pitkin County, and that Pitkin County seeks to limit cooperation with the Federal Government on immigration enforcement; and
12. The Pitkin County Sheriff, who is independently elected, has reviewed and approved this resolution; and
13. The Board of Commissioners finds that the purposes of this Resolution serves the best interests of the citizens of Pitkin County.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Pitkin County, Colorado that it hereby **AFFIRMS THAT PITKIN COUNTY IS A WELCOMING COMMUNITY FOR IMMIGRANTS**. Further, the Board of County Commissioners directs that:

1. Pitkin County departments and personnel shall not perform the functions of a federal immigration officer or otherwise engage in the enforcement of federal immigration law, whether under Section 1357(g) of Title 8 of the United States Code or under any other law, regulation, executive order or policy propagated by the federal government.
2. Pitkin County departments and personnel may not use agency or department monies, facilities, property, equipment, or personnel to investigate, enforce, or assist in the investigation of enforcement of any federal program requiring registration of individuals on the basis of race, gender, sexual orientation, religion, ethnicity, or national origin.
3. The Pitkin County Sheriff's Office shall not stop, question, interrogate, investigate, or arrest an individual based solely on any of the following:
 - a. Actual or suspected immigration or citizenship status; or
 - b. A "civil immigration warrant," administrative warrant, or an immigration detainer in the individual's name, including those identified in the National Crime Information Center (NCIC) database.
4. The Pitkin County Sheriff's Office shall not inquire about the immigration status of an individual, including a crime victim, a witness, or a person who calls or approaches a Pitkin County employee seeking assistance or services, unless necessary to investigate criminal activity by that individual.
5. The Pitkin County Sheriff's Office shall not delay bail and/or release from custody upon posting of bail solely because of (1) an individual's immigration or citizenship status, (2) a civil immigration warrant, or (3) an ICE or CBP request, for the purpose of immigration enforcement, for notification about, transfer of, detention of, or interview or interrogation of that individual.
6. Individuals in the custody of the Sheriff's Office shall be subject of the same booking, processing, release, and transfer procedures, policies and practices of the Sheriff's Office regardless of actual or suspected citizenship of immigration status.

7. No Pitkin County department including the Sheriff's Office shall provide to ICE or CBP non-public information about an individual - including but not limited to non-public information about an individual's release date from detention, home address, or work address unless the request is accompanied by a judicial warrant.
 - a. Nothing in this resolution prohibits any county department from:
 - i. Sending to or receiving from any local, state or federal agency as per 8 U.S.C. Section 1373: information regarding an individual's country of citizenship or a statement of the individual's immigration status; or
 - ii. Disclosing information about an individual's criminal arrests or convictions, where disclosure of such information about the individual is otherwise permitted by state law or required pursuant to subpoena or court order.
8. The Sheriff's Office shall not provide ICE or CBP with access to an individual in their custody, nor will any Pitkin County department provide access to an individual or allow the use of department facilities to question or interview such individual if ICE or CBP's sole purpose is enforcement of federal immigration law.
9. Pitkin County departments shall limit the information collected from individuals concerning immigration or citizenship status to that necessary to perform department duties and shall prohibit the use or disclosure of such information in any manner that violates federal, state, or local law.
10. Pitkin County departments shall not inquire about or request proof of immigration status or citizenship when providing services or benefits, except where the receipt of such services or benefits are contingent upon one's immigration or citizenship status or where inquiries are otherwise lawfully required by federal, state, or local laws.
11. Pitkin County supports comprehensive reform of federal immigration laws to achieve the following:
 - a. Update the legal immigration system so the future flow of legal guest workers more realistically matches our nation's labor needs and is structured to protect the employment, wages, and working conditions of U.S. and lawful immigrant workers.
 - b. Provide portable visas so that workers can change jobs under prescribed circumstances.
 - c. Provide the ability for workers to petition for permanent residency, and provides a path to citizenship.
 - d. Reduce the long wait times and overly complex rules that keep families separated from their loved ones.

INTRODUCED AND FIRST READ ON THE _____ DAY OF _____, 2017 AND SET FOR SECOND READING AND PUBLIC HEARING ON THE _____ DAY OF _____ 2017.

NOTICE OF PUBLIC HEARING AND TITLE AND SHORT SUMMARY OF THE RESOLUTION PUBLISHED IN THE ASPEN TIMES WEEKLY ON THE _____ DAY OF _____, 2017.

NOTICE OF PUBLIC HEARING AND THE FULL TEXT OF THE RESOLUTION POSTED ON THE OFFICIAL PITKIN COUNTY WEBSITE (www.pitkincounty.com) ON THE _____ DAY OF _____ 2017.

ADOPTED AFTER FINAL READING AND PUBLIC HEARING ON THE _____ DAY OF _____ 2017.

PUBLISHED BY TITLE AND SHORT SUMMARY, AFTER ADOPTION, IN THE ASPEN TIMES WEEKLY ON THE _____ DAY OF _____, 2017.

POSTED BY TITLE AND SHORT SUMMARY ON THE OFFICIAL PITKIN COUNTY WEBSITE (www.pitkincounty.com) ON THE _____ DAY OF _____ 2017.

ATTEST:

BOARD OF COUNTY COMMISSIONERS

By _____
Jeanette Jones
Deputy County Clerk
Date: _____

By: _____
George Newman, Chair

APPROVED AS TO FORM:

MANAGER APPROVAL

John Ely, County Attorney

Jon Peacock, County Manager

RESOLUCIÓN DE LA JUNTA DE COMISIONADOS DEL CONDADO (“BOCC”) DE PITKIN COUNTY, COLORADO, AFIRMANDO QUE PITKIN COUNTY ES UNA COMUNIDAD QUE ACOGE A LOS INMIGRANTES

RESOLUCIÓN NO. _____, 2017

DECRETOS:

1. Pitkin County está comprometido a garantizar la seguridad pública y el bienestar de todas las personas en Pitkin County, asegurando la igualdad de trato ante la ley, justicia social, ausencia de persecución, y protección de los derechos humanos, independientemente del estatus migratorio; y
2. Estados Unidos es una nación de inmigrantes con una larga y rica tradición de leyes de inmigración generosas; y
3. Los inmigrantes han sido siempre una parte vital de la vida cívica, económica y social de Pitkin County; y
4. Pitkin County apoya una reforma de inmigración integral que proporcione un camino claro para que los inmigrantes vivan y trabajen legalmente, y se conviertan en ciudadanos de los Estados Unidos; y
5. El gobierno federal, mediante orden ejecutiva y la interpretación de la legislación migratoria vigente, ha puesto en vigor un control de inmigración más estricto por parte de la “U.S. Immigration and Customs Enforcement” (“ICE”) y el “U.S. Customs and Border Protection” (“CBP”), sin promesa alguna de reforma completa de inmigración; y
6. El gobierno federal se ha dirigido a los gobiernos locales para la cooperación con acciones policiales de la “ICE” y el “CBP”; y
7. El mero hecho de que alguien esté en los Estados Unidos sin documentación no es un crimen ni una amenaza para la seguridad pública; y
8. La reserva de poder para los estados del artículo 10 de la Constitución de los Estados Unidos, prohíbe al gobierno federal obligar a los gobiernos estatales o locales a promulgar o administrar un programa regulatorio federal; y
9. El temor de que el gobierno local aplique las leyes federales de inmigración, erosiona la confianza hacia los empleados de Pitkin County Government por parte de la comunidad de inmigrantes del valle; y
10. La seguridad pública y el bienestar de todas las personas en Pitkin County no son servidas cuando los inmigrantes tienen miedo de denunciar delitos, testificar o buscar servicios esenciales por miedo a la deportación; y

11. Pitkin County desea mantener la confianza establecida con la comunidad de inmigrantes del valle, afirmando claramente que los inmigrantes son bienvenidos en Pitkin County y que Pitkin County pretende limitar la cooperación con el gobierno federal en materia de inmigración; y
12. El Sheriff de Pitkin County, que es elegido de manera independiente, ha revisado y aprobado esta resolución; y
13. La Junta de Comisionados considera que los objetivos de la presente Resolución redundan en el mayor beneficio de los ciudadanos de Pitkin County.

POR LO TANTO, SE RESUELVE, por la Junta de Comisionados de Pitkin County, Colorado, que por la presente **AFIRMA QUE PITKIN COUNTY ES UNA COMUNIDAD QUE ACOGE A LOS INMIGRANTES**. Además, la Junta de Comisionados del Condado ordena que:

1. Los departamentos y el personal de Pitkin County no desempeñarán las funciones de un oficial federal de inmigración ni participarán de otra forma en la aplicación de la ley federal de inmigración, ya sea bajo la Sección 1357 (g) del Título 8 del Código de los Estados Unidos o bajo cualquier otra ley, regulación, orden ejecutiva o norma generada por el gobierno federal.
2. Los departamentos y personal de Pitkin County no podrán usar fondos, instalaciones, propiedad, equipo o personal de la agencia o departamento para investigar, hacer cumplir o ayudar en la investigación de la aplicación de cualquier programa federal que requiera el registro de individuos por raza, género, orientación sexual, religión, origen étnico u origen nacional.
3. La Oficina del Sheriff de Pitkin County no detendrá, interrogará, investigará ni arrestará a un individuo basándose únicamente en cualquiera de los siguientes:
 - a. Estatus migratorio o de nacionalidad real o sospechado; o
 - b. Una “orden de arresto de inmigración civil”, una orden administrativa, o una orden de retención de inmigración en nombre del individuo, incluidos los identificados en la base de datos del “National Crime Information Center” (“NCIC”).
4. La Oficina del Sheriff de Pitkin County, no indagará sobre el estado migratorio de un individuo, ya sea la víctima de un crimen, un testigo, o una persona que llama o se acerca a un empleado de Pitkin County en busca de ayuda o servicios, salvo que sea necesario para investigar las actividades criminales de ese individuo.
5. La Oficina del Sheriff de Pitkin County no retrasará la libertad bajo fianza y / o la puesta en libertad tras el pago de la fianza debido únicamente a (1) el estatus migratorio o nacionalidad de un individuo, (2) una orden de arresto de inmigración civil, o (3) una solicitud de la “ICE” o el “CBP”, con fines de aplicación de la ley de inmigración, notificación, transferencia, detención, entrevista o interrogatorio de ese individuo.

6. Los individuos bajo custodia de la Oficina del Sheriff, serán sujeto de los mismos procedimientos, políticas y prácticas de fichaje, procesamiento, liberación y transferencia de la Oficina del Sheriff, independientemente de la nacionalidad o estatus migratorio real o sospechado.
7. Ningún departamento de Pitkin County, incluyendo la Oficina del Sheriff, proporcionará a “ICE” o el “CBP” información no pública sobre un individuo, incluyendo, pero no limitada a, información no pública sobre la fecha de liberación de un individuo de la detención, domicilio o dirección de trabajo, a menos que la solicitud sea acompañada de una orden judicial.
 - a. Nada en esta resolución prohíbe a ningún departamento del condado a:
 - i. Enviar o recibir de cualquier agencia local, estatal o federal, según 8 U.S.C. Sección 1373: información sobre el país de ciudadanía de una persona o una declaración de su estatus migratorio; o
 - ii. Divulgar información sobre las detenciones o condenas penales de un individuo, cuando la divulgación de tal información sobre el individuo está permitida por la ley del estado o requerida en virtud de una citación u orden judicial.
8. La Oficina del Sheriff no proporcionará a “ICE” o el “CBP” acceso a un individuo bajo su custodia, como tampoco ningún departamento de Pitkin County dará acceso a un individuo o permitirá el uso de instalaciones del departamento para interrogar o entrevistar a dicho individuo si el único propósito de “ICE” o el “CBP” es la aplicación de la ley federal de inmigración.
9. Los departamentos de Pitkin County limitarán la información recolectada de los particulares relativa al estatus migratorio o de ciudadanía a la que sea necesaria para desempeñar las funciones del departamento y prohibirán el uso o divulgación de dicha información en cualquier forma que infrinja las leyes federales, estatales o locales.
10. Los departamentos de Pitkin County no indagarán o solicitarán prueba del estatus migratorio o nacionalidad al proveer servicios o beneficios, salvo en el caso de que la recepción de tales servicios o beneficios dependan del estatus migratorio o nacionalidad o cuando las indagaciones sean de otro modo legítimamente requeridas según leyes federales, estatales o locales.
11. Pitkin County apoya una reforma completa de las leyes de inmigración federales para conseguir lo siguiente:
 - a. Actualizar el sistema de inmigración legal para que el flujo futuro de trabajadores legales temporales coincida de una manera más realista con las necesidades laborales de nuestra nación y sea estructurado para proteger el empleo, salarios y condiciones de trabajo de los trabajadores estadounidenses e inmigrantes legales.
 - b. Proporcionar visas transferibles para que los trabajadores puedan cambiar de empleo bajo determinadas circunstancias.
 - c. Proporcionar a los trabajadores la capacidad de solicitar residencia permanente, y proveer una ruta a la ciudadanía.
 - d. Reducir los tiempos de espera prolongados y reglas excesivamente complejas que mantienen a las familias separadas de sus seres queridos.

PRESENTADA Y LEÍDA POR PRIMERA VEZ EL DÍA _____ DE _____, 2017
Y SEGUNDA LECTURA Y AUDIENCIA PÚBLICA FIJADA PARA EL DÍA _____ DE
_____, 2017.

AVISO DE AUDIENCIA PÚBLICA Y TÍTULO Y BREVE RESUMEN DE LA
RESOLUCIÓN PUBLICADA EN EL ASPEN TIMES WEEKLY EL DÍA _____ DE
_____, 2017.

AVISO DE AUDIENCIA PÚBLICA Y EL TEXTO COMPLETO DE LA RESOLUCIÓN
PUBLICADA EN EL SITIO WEB OFICIAL DE PITKIN COUNTY (www.pitkincounty.com)
EL DÍA _____ DE _____, 2017.

APROBADA DESPUÉS DE LA ÚLTIMA LECTURA Y AUDIENCIA PÚBLICA EL DÍA
_____ DE _____, 2017.

PUBLICADA POR TÍTULO Y RESUMEN BREVE, DESPUÉS DE APROBADA, EN EL “
ASPEN TIMES WEEKLY” EL DÍA _____ DE _____, 2017.

PUBLICADA POR TÍTULO Y BREVE RESUMEN EN EL SITIO WEB OFICIAL DE PITKIN
COUNTY (www.pitkincounty.com) EL DÍA _____ DE _____, 2017.

DAN FE:

JUNTA DE COMISIONADOS DEL CONDADO

Jeanette Jones
Secretaria Adjunta del Condado”
Fecha: _____

George Newman, Presidente de la Junta

APROBADA EN FORMA:

APROBADA POR LA GERENCIA

John Ely, Abogado del Condado”

Jon Peacock, Administrador del Condado

the WHITE HOUSE



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The White House

Office of the Press Secretary

For Immediate Release

January 25, 2017

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Executive Order: Enhancing Public Safety in the Interior of the United States

EXECUTIVE ORDER

ENHANCING PUBLIC SAFETY IN THE INTERIOR OF THE UNITED STATES

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Immigration and Nationality Act (INA) (8 U.S.C. 1101 et seq.), and in order to ensure the public safety of the American people in communities across the United States as well as to ensure that our Nation's immigration laws are faithfully executed, I hereby declare the policy of the executive branch to be, and order, as follows:

Section 1. Purpose. Interior enforcement of our Nation's immigration laws is critically important to the national security and public safety of the United States. Many aliens who illegally enter the United States and those who overstay or otherwise violate the terms of their visas present a significant threat to national security and public safety. This is particularly so for aliens who engage in criminal conduct in the United States.

Sanctuary jurisdictions across the United States willfully violate Federal law in an attempt to shield aliens from removal from the United States. These jurisdictions have caused immeasurable harm to the American people and to the very fabric of our Republic.

Tens of thousands of removable aliens have been released into communities across the country, solely because their home countries refuse to accept their repatriation. Many of these aliens are criminals who have served time in our Federal, State, and local jails. The presence of such individuals in the United States, and the practices of foreign nations that refuse the repatriation of their nationals, are contrary to the national interest.

Although Federal immigration law provides a framework for Federal-State partnerships in enforcing our immigration laws to ensure the removal of aliens who have no right to be in the United States, the Federal Government has failed to discharge this basic sovereign responsibility. We cannot faithfully execute the immigration laws of the United States if we exempt classes or categories of removable aliens from potential enforcement. The purpose of this order is to direct executive departments and agencies (agencies) to employ all lawful means to enforce the immigration laws of the United States.

Sec. 2. Policy. It is the policy of the executive branch to:

- (a) Ensure the faithful execution of the immigration laws of the United States, including the INA, against all removable aliens, consistent with Article II, Section 3 of the United States Constitution and section 3331 of title 5, United States Code;
- (b) Make use of all available systems and resources to ensure the efficient and faithful execution of the immigration laws of the United States;
- (c) Ensure that jurisdictions that fail to comply with applicable Federal law do not receive Federal funds, except as mandated by law;
- (d) Ensure that aliens ordered removed from the United States are promptly removed; and
- (e) Support victims, and the families of victims, of crimes committed by removable aliens.

Sec. 3. Definitions. The terms of this order, where applicable, shall have the meaning provided by section 1101 of title 8, United States Code.

Sec. 4. Enforcement of the Immigration Laws in the Interior of the United States. In furtherance of the policy described in section 2 of this order, I hereby direct agencies to employ all lawful means to ensure the faithful execution of the immigration laws of the United States against all removable aliens.

Sec. 5. Enforcement Priorities. In executing faithfully the immigration laws of the United States, the Secretary of Homeland Security (Secretary) shall prioritize for removal those aliens described by the Congress in sections 212(a)(2), (a)(3), and (a)(6)(C), 235, and 237(a)(2) and (4) of the INA (8 U.S.C. 1182(a)(2), (a)(3), and (a)(6)(C), 1225, and 1227(a)(2) and (4)), as well as removable aliens who:

- (a) Have been convicted of any criminal offense;
- (b) Have been charged with any criminal offense, where such charge has not been resolved;
- (c) Have committed acts that constitute a chargeable criminal offense;
- (d) Have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency;
- (e) Have abused any program related to receipt of public benefits;
- (f) Are subject to a final order of removal, but who have not complied with their legal obligation to depart the United States; or
- (g) In the judgment of an immigration officer, otherwise pose a risk to public safety or national security.

Sec. 6. Civil Fines and Penalties. As soon as practicable, and by no later than one year after the date of this order, the Secretary shall issue guidance and promulgate regulations, where required by law, to ensure the assessment and collection of all fines and penalties that the Secretary is authorized under the law to assess and collect from aliens unlawfully present in the United States and from those who facilitate their presence in the United States.

Sec. 7. Additional Enforcement and Removal Officers. The Secretary, through the Director of U.S. Immigration and Customs Enforcement, shall, to the extent permitted by law and subject to the availability of appropriations, take all appropriate action to hire 10,000 additional immigration officers, who shall complete relevant training and be authorized to perform the law enforcement functions described in section 287 of the INA (8 U.S.C. 1357).

Sec. 8. Federal-State Agreements. It is the policy of the executive branch to empower State and local law enforcement agencies across the country to perform the functions of an immigration officer in the interior of the United States to the maximum extent permitted by law.

(a) In furtherance of this policy, the Secretary shall immediately take appropriate action to engage with the Governors of the States, as well as local officials, for the purpose of preparing to enter into agreements under section 287(g) of the INA (8 U.S.C. 1357(g)).

(b) To the extent permitted by law and with the consent of State or local officials, as appropriate, the Secretary shall take appropriate action, through agreements under section 287(g) of the INA, or otherwise, to authorize State and local law enforcement officials, as the Secretary determines are qualified and appropriate, to perform the functions of immigration officers in relation to the investigation, apprehension, or detention of aliens in the United States under the direction and the supervision of the Secretary. Such authorization shall be in addition to, rather than in place of, Federal performance of these duties.

(c) To the extent permitted by law, the Secretary may structure each agreement under section 287(g) of the INA in a manner that provides the most effective model for enforcing Federal immigration laws for that jurisdiction.

Sec. 9. Sanctuary Jurisdictions. It is the policy of the executive branch to ensure, to the fullest extent of the law, that a State, or a political subdivision of a State, shall comply with 8 U.S.C. 1373.

(a) In furtherance of this policy, the Attorney General and the Secretary, in their discretion and to the extent consistent with law, shall ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary. The Secretary has the authority to designate, in his discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction. The Attorney General shall take appropriate enforcement action against any entity that violates 8 U.S.C. 1373, or which has in effect a statute, policy, or practice that prevents or hinders the enforcement of Federal law.

(b) To better inform the public regarding the public safety threats associated with sanctuary jurisdictions, the Secretary shall utilize the Declined Detainer Outcome Report or its equivalent and, on a weekly basis, make public a comprehensive list of criminal actions committed by aliens and any jurisdiction that ignored or otherwise failed to honor any detainers with respect to such aliens.

(c) The Director of the Office of Management and Budget is directed to obtain and provide relevant and responsive information on all Federal grant money that currently is received by any sanctuary jurisdiction.

Sec. 10. Review of Previous Immigration Actions and Policies. (a) The Secretary shall immediately take all appropriate action to terminate the Priority Enforcement Program (PEP) described in the memorandum issued by the Secretary on November 20, 2014, and to reinstitute the immigration program known as "Secure Communities" referenced in that memorandum.

(b) The Secretary shall review agency regulations, policies, and procedures for consistency with this order and, if required, publish for notice and comment proposed regulations rescinding or revising any regulations inconsistent with this order and shall consider whether to withdraw or modify any inconsistent policies and procedures, as appropriate and consistent with the law.

(c) To protect our communities and better facilitate the identification, detention, and removal of criminal aliens within constitutional and statutory parameters, the Secretary shall consolidate and revise any applicable forms to more effectively communicate with recipient law enforcement agencies.

Sec. 11. Department of Justice Prosecutions of Immigration Violators. The Attorney General and the Secretary shall work together to develop and implement a program that ensures that adequate resources are devoted to the prosecution of criminal immigration offenses in the United States, and to develop cooperative strategies to reduce violent crime and the reach of transnational criminal organizations into the United States.

Sec. 12. Recalcitrant Countries. The Secretary of Homeland Security and the Secretary of State shall cooperate to effectively implement the sanctions provided by section 243(d) of the INA (8 U.S.C. 1253(d)), as appropriate. The Secretary of State shall, to the maximum extent permitted by law, ensure that diplomatic efforts and negotiations with foreign states include as a condition precedent the acceptance by those foreign states of their nationals who are subject to removal from the United States.

Sec. 13. Office for Victims of Crimes Committed by Removable Aliens. The Secretary shall direct the Director of U.S. Immigration and Customs Enforcement to take all appropriate and lawful action to establish within U.S. Immigration and Customs Enforcement an office to provide proactive, timely, adequate, and professional services to victims of crimes committed by removable aliens and the family members of such victims. This office shall provide quarterly reports studying the effects of the victimization by criminal aliens present in the United States.

Sec. 14. Privacy Act. Agencies shall, to the extent consistent with applicable law, ensure that their privacy policies exclude persons who are not United States citizens or lawful permanent residents from the protections of the Privacy Act regarding personally identifiable information.

Sec. 15. Reporting. Except as otherwise provided in this order, the Secretary and the Attorney General shall each submit to the President a report on the progress of the directives contained in this order within 90 days of the date of this order and again within 180 days of the date of this order.

Sec. 16. Transparency. To promote the transparency and situational awareness of criminal aliens in the United States, the Secretary and the Attorney General are hereby directed to collect relevant data and provide quarterly reports on the following:

(a) the immigration status of all aliens incarcerated under the supervision of the Federal Bureau of Prisons;

(b) the immigration status of all aliens incarcerated as Federal pretrial detainees under the supervision of the United States Marshals Service; and

(c) the immigration status of all convicted aliens incarcerated in State prisons and local detention centers throughout the United States.

Sec. 17. Personnel Actions. The Office of Personnel Management shall take appropriate and lawful action to facilitate hiring personnel to implement this order.

Sec. 18. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,
January 25, 2017.



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