



July 12, 2017

U.S. Department of Justice  
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Washington, DC 20530-0001

AMERICAN CIVIL  
LIBERTIES UNION  
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Dear Attorney General Sessions:

The ACLU of Nevada welcomes you to the Silver State.<sup>1</sup> As Nevada's guardian of liberty, we are compelled to share our concerns regarding the dangerous immigration enforcement policies you seek to advance at your meeting with Nevada's top law enforcement officials. Your efforts to compel law enforcement agencies to directly support and enforce federal immigration laws are dangerous to the Nevada community. Such policies perpetuate the myth that there are zones free from immigration enforcement, waste valuable law enforcement resources, and violate the Fourth Amendment prohibition against unlawful detentions.

**1. There are no "sanctuary zones" free from immigration enforcement, however, local law enforcement is not required to aid in that enforcement.**

Your visit to Nevada will include a discussion on "sanctuary city" policies, most likely as a follow-up to a letter your assistant Attorney General sent to Clark County officials in April of this year.<sup>2</sup> We want to set the record straight: the assertion that there are "sanctuary" areas of the country free from immigration enforcement is misleading and inaccurate. These states and localities are not limiting the federal government's immigration enforcement authority. States and local law enforcement agencies have no obligation under federal law to participate or aid in that immigration enforcement. It is fully consistent with federal law for state and local law enforcement to avoid engagement in federal immigration enforcement.

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<sup>1</sup> Michael Scott Davidson, *AG Sessions to Talk Sanctuary Cities, Crime in Las Vegas visit*, LAS VEGAS REVIEW JOURNAL, (July 7, 2017), available at <https://www.reviewjournal.com/news/politics-and-government/ag-jeff-sessions-to-talk-sanctuary-cities-crime-in-las-vegas-visit/>.

<sup>2</sup> Michael Scott Davidson, *Clark County Must Prove Compliance with Immigration Laws, Feds Say*, LAS VEGAS REVIEW JOURNAL, (April 22, 2017), <https://www.reviewjournal.com/news/politics-and-government/clark-county/clark-county-must-prove-compliance-with-immigration-laws-feds-say/>.



## 2. Forcing local law enforcement agency involvement with federal immigration enforcement damages community relations and wastes valuable resources.

In an era of increased distrust of law enforcement, municipalities across the country have adopted policies to build trust, combat crime and increase public safety. To effectively protect public safety, local law enforcement needs cooperation from local communities. But fear of deportation discourages undocumented victims of crime and their families from reporting criminal acts or otherwise cooperating with the police.

And, Immigration enforcement is expensive.<sup>3</sup> The federal government should not force Nevadans to utilize our scarce resources on immigration enforcement practices that have caused countless unconstitutional detentions<sup>4</sup>, invited racial profiling<sup>5</sup>, torn apart families, and deterred immigrants from calling the police when they witness or are victimized by crime.<sup>6</sup>

## 3. DHS detainer requests pose significant Fourth Amendment concerns.

The Fourth Amendment applies to every person in the United States, regardless of citizenship. As we are sure you are aware, when an ICE detainer request is granted, an individual can be held in custody for up to an additional 48 hours after they would otherwise be released. This extended detention is often issued without a warrant or probable cause, thus failing to meet the requirements of the Fourth Amendment's bar

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<sup>3</sup> Edward F. Ramos, FISCAL IMPACT ANALYSIS OF MIAMI-DADE'S POLICY ON "IMMIGRATION DETAINERS" (2014) ("[T]he annual fiscal impact of honoring immigration detainers in Miami-Dade County is estimated to be approximately \$12.5 million."), <https://immigrantjustice.org/sites/immigrantjustice.org/files/Miami%20Dade%20Detainers--Fiscal%20Impact%20Analysis%20with%20Exhibits.pdf>.

<sup>4</sup> Julia Preston, *Immigration Crackdown Also Snares Americans*, N.Y. TIMES (Dec. 13, 2011), available at [http://www.nytimes.com/2011/12/14/us/measures-to-capture-illegal-aliens-nab-citizens.html?\\_r=1](http://www.nytimes.com/2011/12/14/us/measures-to-capture-illegal-aliens-nab-citizens.html?_r=1).

<sup>5</sup> Aarti Kohli, Peter L. Markowitz, And Lisa Chavez, THE CHIEF JUSTICE EARL WARREN INSTITUTE ON RACE, ETHNICITY & DIVERSITY, *SECURE COMMUNITIES BY THE NUMBERS: AN ANALYSIS OF DEMOGRAPHICS AND DUE PROCESS* (Oct. 2011), available at [https://www.law.berkeley.edu/files/Secure\\_Communities\\_by\\_the\\_Numbers.pdf](https://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf).

<sup>6</sup> James Queally, *Latinos are Reporting Fewer Sexual Assaults Amid a Climate of Fear in Immigrant Communities, LAPD Says*, LA TIMES, (March 2017), available at <http://www.latimes.com/local/lanow/la-me-ln-immigrant-crime-reporting-drops-20170321-story.html>.

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against unlawful detentions. You seek to force a policy upon Nevadans that has caused widespread wrongful detentions, including detentions of U.S. Citizens.<sup>7</sup>

Please note, Attorney General Sessions; The Tenth Amendment of the Constitution protects law enforcement from being compelled to perform the functions of the federal government.

Since 1966, the ACLU of Nevada has worked with law enforcement to promote policies and practices that protect all Nevadans, including our large and vibrant immigrant population. We urge the U.S. Department of Justice to change course on this issue. We assure you that our state will not quietly accept policies that undermine people's liberties—whether they be threats to our immigrant community, the decriminalization of marijuana, or our efforts to protect the vote by ensuring access to the ballot box.

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Sincerely,

A handwritten signature in blue ink that reads "Tod Story".

Tod Story  
Executive Director

A handwritten signature in blue ink that reads "Amy Rose".

Amy Rose  
Legal Director

A handwritten signature in blue ink that reads "Holly Wellborn".

Holly Wellborn  
Policy Director

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<sup>7</sup> See, e.g., *Galarza v. Szalczyk*, 2012 WL 1080020 (E.D. Pa. 2012), *rev'd on other grounds*, *Galarza v. Szalczyk*, 745 F.3d 634 (3d Cir. 2014), *available at* [https://www.aclu.org/sites/default/files/field\\_document/123991p.pdf](https://www.aclu.org/sites/default/files/field_document/123991p.pdf); *and, Morales v. Chadbourne*, 996 F. Supp. 2d 19 (D.R.I. 2014), *affirmed, Morales v. Chadbourne*, 793 F.3d 208 (1st Cir. 2015), *available at* [https://www.aclu.org/sites/default/files/field\\_document/morales.pdf](https://www.aclu.org/sites/default/files/field_document/morales.pdf).