

**SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS**

ORDINANCE NO. 2026- 08

**AN ORDINANCE LIMITING THE USE OF COUNTY PROPERTY, RESOURCES,
AND RECORDS FOR CIVIL IMMIGRATION ENFORCEMENT**

Introduced by: Commissioner Lisa Cacari Stone

**BE IT ORDAINED BY THE SANTA FE COUNTY BOARD OF COUNTY
COMMISSIONERS:**

SECTION 1. SHORT TITLE.

This Ordinance shall be known as the “County Facilities and Community Trust Ordinance.”

SECTION 2. AUTHORITY.

- A. NMSA 1978, Section 4-37-1 grants counties the same powers that are granted to municipalities, except those powers inconsistent with statutory or constitutional limitations, including the authority to adopt ordinances to provide for the safety, preserve the health, promote the prosperity, and improve the morals, order, comfort and convenience of county inhabitants.
- B. The Board further acts pursuant to its authority over matters of policy and management issues that are of county-wide importance. See Ordinance No. 2022-03, § 24(B).
- C. This Ordinance governs only the conduct of County Personnel and the use of County Property, County resources, and County records. It imposes no obligation, condition, prohibition, or requirement upon any officer or employee of the United States, upon any other unit of government, or upon any private person or entity.

SECTION 3. FINDINGS.

- A. Public Safety and Crime Reporting. The Board finds that the effectiveness of County law enforcement, emergency response, and victim services depends upon the willingness of residents to report crimes, seek emergency assistance, cooperate as witnesses, and appear when required. Residents who fear that contact with County facilities or County personnel will result in consequences unrelated to the delivery of County services are less likely to make that contact, and County operations are less effective as a result.
- B. Access to County Services. The Board finds that the County delivers health, behavioral health, senior, housing, emergency management, and other services that depend upon voluntary participation by residents, and that consistent, predictable rules governing access to non-public areas of County facilities support the delivery of those services.
- C. Continuity of County Operations and Employee Guidance. The Board finds that County employees who encounter outside law enforcement officers at County

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facilities require clear, uniform, written guidance regarding what they are and are not authorized to do on the County's behalf, and that the absence of such guidance exposes employees to inconsistent practice and the County to legal risk.

- D. Allocation of Finite County Resources. The Board finds that County funds, personnel, vehicles, equipment, facilities, and data systems are acquired and maintained with County revenues for County purposes, that those resources are finite, and that decisions regarding their allocation are committed to the Board and to County management. In the exercise of its ultimate authority to decide the allocation of County resources, the Board has determined not to obligate County Personnel, County Property, or County resources to the enforcement of federal civil immigration law. It does not seek to regulate, obstruct, or restrict the exercise of lawful authority by any officer or employee of the United States.
- E. Custodial Liability. The Board finds that the continued detention of a person after the person is otherwise entitled to release may constitute a new seizure for purposes of the Fourth Amendment to the United States Constitution and Article II, Section 10 of the Constitution of the State of New Mexico, and that detention on the basis of an executive-branch request that is not supported by Judicial Process exposes the County to potential liability.
- F. Records. The Board finds that the County holds records that are confidential or exempt from public disclosure under state and federal law, including records relating to health care, behavioral health, and individuals in County custody, and that uniform standards governing the disclosure of those records are necessary to protect the County and the persons to whom the records pertain.
- G. Neutral Application. The Board finds that the requirements of this Ordinance are directed to a category of activity rather than to any particular agency or level of government, and that they apply equally to every law enforcement agency and officer, whether federal, state, local, or tribal, that performs or supports that activity.

SECTION 4. DEFINITIONS.

As used in this Ordinance, the following terms have the following meanings:

- A. "Board" means the Board of County Commissioners of Santa Fe County.
- B. "Civil Immigration Enforcement" means the investigation, interrogation, apprehension, arrest, detention, transport, or removal of a person for a civil violation of federal immigration law, performed or supported by any law enforcement agency or officer, whether federal, state, local, or tribal, or by any person acting at the direction of such an agency or officer. The term does not include the investigation or prosecution of a criminal offense.
- C. "Confidential Record" means a record in the custody of the County that is excepted from inspection under the Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 to -12, or that is otherwise protected from disclosure by state or federal law, including patient records, medical and behavioral health records, and student records.

- D. "County" means Santa Fe County.
- E. "County Personnel" means any officer, employee, agent, or contractor of the County acting within the scope of County duties.
- F. "County Property" means real property owned, leased, or operated by the County, and improvements on that property. "County Property" includes: County administrative offices; the Santa Fe County Adult Detention Facility; County fire stations and emergency operations facilities; County health and behavioral health clinics; County senior centers; County libraries; County community centers; the Santa Fe County Fairgrounds; County Extension offices; and the offices of the County Assessor, County Clerk, County Treasurer, and other elected County officials.
- G. "Immigration Detainer" means a request issued under 8 C.F.R. Section 287.7, or any successor provision, that a law enforcement agency maintain custody of a person or provide notice of a person's release.
- H. "Judicial Process" means a warrant, subpoena, or order issued and signed by a judge or magistrate of a court of the United States or of the State of New Mexico. An administrative warrant, administrative subpoena, Immigration Detainer, or other instrument issued by an officer or employee of an executive branch agency is not Judicial Process for purposes of this Ordinance.
- I. "Non-Public Area" means an area of County Property that members of the general public are not ordinarily free to enter without permission, invitation, appointment, credential, or other authorization. The term includes employee work areas, secure areas of the Santa Fe County Adult Detention Facility, records storage areas, evidence areas, dispatch and operations areas, and areas marked by signage or physical barrier as restricted. The term does not include lobbies that are unlocked and open to the public, public service counters, public meeting rooms, public parking areas, parks, open space, trails, sidewalks, or County rights of way.

SECTION 5. USE OF COUNTY PROPERTY AND COUNTY RESOURCES.

- A. **Areas Open to the Public.** Areas of County Property that are open to the general public shall remain open on the same terms to all persons, including officers of any law enforcement agency. Nothing in this Ordinance authorizes County Personnel to exclude any person from an area of County Property that is open to the general public, or to condition entry into such an area upon the identity of the person seeking entry or upon the governmental function that person performs.
- B. **Non-Public Areas.** No County Personnel shall grant consent for any law enforcement agency or officer engaged in or supporting Civil Immigration Enforcement to enter a Non-Public Area, absent Judicial Process. This Subsection does not apply:
 - (1) where entry is necessary to address an imminent threat of death or serious bodily harm, or where an officer is in immediate pursuit of a person who has fled into a Non-Public Area;

(2) where entry is required or authorized by state or federal law independent of consent; or

(3) where the United States is entitled to enter or use the property under a contract, lease, grant assurance, instrument of conveyance, or other agreement to which the County is a party.

- C. Staging, Processing, and Operations. The County shall not approve any permit, lease, license, contract, or other agreement authorizing the use of County Property or County resources as a staging area, processing location, or operations base for Civil Immigration Enforcement. This Subsection does not apply to any use to which the United States or any other party is entitled under an existing contract, lease, grant assurance, instrument of conveyance, or other agreement to which the County is a party.
- D. County Resources. No County Personnel shall knowingly expend County funds or use County personnel time, vehicles, equipment, data systems, or facilities to perform, assist in, or directly support Civil Immigration Enforcement, except as required by Judicial Process or by state or federal law.
- E. Leases. All leases of County Property entered into after the effective date of this Ordinance shall contain a provision requiring the Lessee to comply with this Section.

SECTION 6. COUNTY RECORDS.

- A. No County Personnel shall provide access to, review of, or copies of any Confidential Record to a law enforcement agency or officer engaged in or supporting Civil Immigration Enforcement, absent Judicial Process or the written authorization of the person to whom the record pertains. If there is a question regarding whether a county record is a Confidential Record, the question should be directed to the County Attorney before the record is made available for inspection.
- B. Nothing in this Section restricts the inspection of any record subject to disclosure, with redactions, under the Inspection of Public Records Act, NMSA 1978, Sections 14-2-1 to -12, by any person, including any officer or employee of the United States, and nothing in this Ordinance shall be construed to create an exception to that Act.
- C. No department, agency, commission, officer or employee of Santa Fe County under the management and supervision of the County manager shall use any County funds or resources to independently gather the immigration status of individuals in Santa Fe County unless expressly required to do so by law.

SECTION 7. CUSTODY, IMMIGRATION DETAINERS, AND ADMINISTRATIVE WARRANTS.

- A. No County Personnel shall detain any person, delay the release of any person, or transfer custody of any person to another agency, on the basis of an Immigration Detainer, administrative warrant, or other executive-branch request, absent Judicial Process.

- B. No County Personnel shall use County resources to transport any person for the purpose of Civil Immigration Enforcement, absent Judicial Process.
- C. Nothing in this Section limits the authority of County Personnel to detain a person, to conduct a brief investigative stop, or to make an arrest, on the basis of a violation of state or federal criminal law.
- D. Nothing in this Section restricts the disclosure of information as provided in 8 U.S.C. Sections 1373 and 1644.
- E. The County Manager shall adopt written policies implementing this Section as to the operations within their respective authority.

SECTION 8. IMPLEMENTATION; COUNTY MANAGER DUTIES.

Within ninety (90) days of the effective date of this Ordinance, the County Manager shall develop and implement written policies providing for:

- A. training of County Personnel on the requirements of this Ordinance, on the distinction between Judicial Process and instruments issued by an executive branch agency, and on the conduct expected of County Personnel when an outside law enforcement officer seeks entry to a Non-Public Area or access to a Confidential Record;
- B. the posting of clear signage marking Non-Public Areas within County buildings and County-operated facilities;
- C. a single point of contact within County government to whom County Personnel shall promptly refer any request described in Sections 5, 6, or 7, and prompt notification of the County Attorney upon any such request;
- D. documentation by County Personnel of any request described in Sections 5, 6, or 7 and of the County's response; and
- E. an annual report to the Board summarizing implementation of this Ordinance, including the number and nature of requests documented under Subsection D.

SECTION 9. CONSTRUCTION; SAVINGS PROVISIONS.

- A. Federal Officers. This Ordinance imposes no obligation, condition, prohibition, or requirement upon any officer or employee of the United States and shall not be construed to do so.
- B. Judicial Process. Nothing in this Ordinance prohibits, restricts, delays, or conditions compliance with Judicial Process.
- C. Federal and State Law. Nothing in this Ordinance shall be construed to require any act or omission that violates state or federal law.
- D. No Private Obligations. This Ordinance imposes no duty upon, and creates no prohibition applicable to, any private person or entity, including any owner or operator of private property and any employer.
- F. No Private Right of Action. This Ordinance does not create any right or remedy in favor of any person, and no violation of this Ordinance shall give rise to any claim

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