



# Agenda

CITY CLERK'S OFFICE

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## Immigration Committee

April 3, 2012 – 4:00 p.m.  
City Council Chambers  
City Hall, 1<sup>st</sup> floor  
200 Lincoln Avenue

- I. Roll Call
- II. Approval of Agenda
- III. Approval of Minutes
  - a. March 13, 2011
- IV. Announcements
- V. Community Comments
- VI. Old Business
  - a. Southside update / business meetings / schools and immigrants
  - b. SFPD policies regarding ICE update
- VII. New Business
  - a. Discussion on public safety with Immigration & Customs Enforcement and Santa Fe County
  - b. U.S. Citizenship and Immigration Services presentation from Field Office Director Patti Reynolds
  - c. Resolution to address "institutional racism" regarding non-profits receiving city funding – Miguel Angel Acosta
- VIII. Communications from Staff
- IX. Communications from Committee
- X. Adjourn

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**INDEX SUMMARY OF MINUTES  
IMMIGRATION COMMITTEE  
April 3, 2012**

<u>INDEX</u>	<u>ACTION TAKEN</u>	<u>PAGE(S)</u>
<b>Cover Page</b>		1
<b>Call to Order</b>	<b>Call to Order by Chair, Maria Cristina Lopez at 4:00 pm in the City Council Chambers, City Hall.</b>	2
<b>Roll Call</b>	<b>A quorum was declared.</b>	2
<b>Review and Approval of Agenda</b>	<b><u>Postpone:</u> VI-B and VII- c in the absence of Miguel Angel Acosta until the next meeting.</b>  Ms. Shinas moved to approve the agenda as amended, second by Ms. Seluja, motion carried by unanimous voice vote.	2
<b>Approval of Minutes</b>  Page 3: IV-Announcements, 2 <sup>nd</sup> paragraph: <del>Alejandra</del> should be: Amparo	Ms. Hemmer moved to approve the minutes of March 13, 2011 as amended, second by Mr. Cabeza de Vaca, motion carried by unanimous voice vote.	2-3
<b>Announcements</b>		
<b>Community Comments</b>		
<b>Old Business</b>  a. <u>Southside Update/business meetings/schools and immigrants</u>  b. <u>SFPD Policies regarding ICE update (deferred, no representation for SFPD)</u>	<i>VI-A – Postponed to next month meeting.</i>	4
<b>New Business</b>  a. Discussion on public safety with Immigration & Customs Enforcement and Santa Fe County.  b. US Citizenship and Immigration	VII-C Postponed to next month meeting  A & B – Guest Presenters	4-12

**INDEX SUMMARY OF MINUTES  
IMMIGRATION COMMITTEE  
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Services presentation from Field Office Director Patti Reynolds		
c. Resolution to address “institutional racism” regarding non-profits receiving city funding.		
<b>Communications from Staff</b>	<i>None</i>	12
<b>Communications from Committee</b>	<i>Informational</i>	12
<b>Adjournment</b>	The Chair adjourned at 6:00 pm	12-13
<b>Thank you to all guests and presenters at tonight’s meeting.</b>		
<b>Signature Page</b>		

# ***Immigration Committee***

## ***Meeting Minutes***

April 3, 2012

### **I. Call to order**

**Maria Cristina Lopez, Chair** called to order the regular meeting of the Immigration Committee to order at **4:00 pm** on April 3, 2012 in the City Council Chambers, Santa Fe, New Mexico.

### **II. Roll call**

Fran Lucero, Secretary conducted a roll call. The following persons were present:

#### In attendance:

Maria Cristina Lopez, Chair  
Betty Shinas  
Elizabeth Hemmer  
Amparo Guerrero  
Alejandra Seluja  
Jewel Cabeza de Vaca

#### Excused:

Miguel Angel Acosta  
Marcela Diaz  
Rev Chester Topple

#### Others Present:

Fran Lucero, Stenographer  
Carla Lopez, Staff Liaison  
The Honorable David Coss, Mayor, City of Santa Fe  
Chief Raymond Rael, Santa Fe City Police

Mr. Pablo Sedillo, III, Santa Fe County Public Safety Director  
Jacque Crouse, Community Relations Officer, US Citizenship and Immigration Services  
Patti JMK Reynolds, Field Office Director, US Citizenship and Immigration Services  
Adrian P. Macias, Field Office Director, Enforcement & Removal Operations, US Immigration and Customs Enforcement  
Alfred Campos, Deputy Field Officer Director, US Citizenship and Immigration Services  
Alfred Fierro, Assistant Field Office Director, US Immigration Services

### **III. Approval of Agenda**

**Postpone:** VI-B and VII-c in the absence of Miguel Angel Acosta until the next meeting.

Ms. Shinas moved to approve the agenda as amended, second by Ms. Seluja, motion carried by unanimous voice vote.

### **IV. Approval of Minutes**

Page 3: IV-Announcements, 2<sup>nd</sup> paragraph: ~~Alejandra~~ should be: Amparo

Ms. Hemmer moved to approve the minutes of March 13, 2011 as amended, second by Mr. Cabeza de Vaca, motion carried by unanimous voice vote.

### **V. Announcements**

### **VI. Community Comments**

### **VII. Old Business**

- a. **Southside Update/house meetings/schools and immigrants – Miguel Angel Acosta – Postponed to next meeting**
- b. **SFPD policies regarding ICE update**

All changes have been made and are now policies within the Santa Fe Police Department. Training has been

SFPD will not ask for immigration status unless the person is arrested for a felony charge and no immigration authority will be notified unless it complies with the guidelines which are serious felonies, domestic violence or convictions.

- c. **Welcome to Mayor Coss**

Welcome to the members from Santa Fe County and our visitors from US Immigration and Citizenship. We are happy to have Chief Rael with us and pleased that the policy is now in effect. Our police department is a leader in the state in this area. The work that this Committee has done since 1999 has made Santa Fe proud and helped the State of NM. In the State of NM we are known as a leader nationally; we have the Dream Act for our young students to graduate and go on to college. Santa Fe has set a standard through the Immigration Committee to work with law enforcement. The work of this committee is notable and the Mayor is thankful for the hard work that continues to be done. Many have worked hard to protect the driver's licenses, thank you.

## VIII. New Business

### a. Discussion on public safety with Immigration & Customs Enforcement and Santa Fe County

#### Pablo Sedillo, Director of Public Safety for Santa Fe County

Mr. Sedillo mentioned that at the last meeting he had said that he wanted to invite the ICE officials to educate and take some questions and answers in regards to what their role is in regards to Public Safety in Santa Fe County. Mr. Sedillo said that he was happy to report that he has been in discussion with the SFPD Chief and the SF County Sheriff and they are all on the same page in regards to Public Safety and that is assuring that the community and citizens around Santa Fe County are safe. The institution of this most important policy within the Santa Fe Police Department is a great step and very important, thank you for this implementation. Mr. Sedillo said that in the Santa Fe County Detention Center there are 40% undocumented individuals and it can go up by 6% at any time. This is a small number in regards to the inmates in our facility.

Mr. Adrian Paul Macias, ICE Field Director for El Paso

Mr. Alfredo Campos, Field Director NM

Mr. Alfred Fierro, Albuquerque

Mr. Adrian Paul Macias: I want to open up by saying Thank You.

I looked forward to coming out here because we have not been engaged with the community. I have been in El Paso for about one year and a half and I have a vested interest in this community through my family ties.

I wanted to be here to talk about Secured Communities and the recent changes in enforcement activities. In fact today there was an announcement that the department did an operation cross check nationwide that resulted in 3100 arrests and 2590 were criminal related. People hear about these things and I think of it as a void. I want to help to demystify that void by pledging to be open and to listen to the needs of the community here in Santa Fe. That being said, I also want you to know you have my pledge that if anyone would like to discuss immigration matters with me from the city, county or state, I am ready to have an open discussion. I am working with the Advocacy Groups and local NGO's where we have not done as good in the past. We have done a good job in Albuquerque but may not have done as good a job here in Santa Fe. Many are stipend by having discussions with ICE because of their fear.

I want to talk about the Prioritization Memo that John Morton the Director ICE released in 2010 and the subsequent memo release. The primary focus of the Prioritization Memo was to take existing finite resources that ICE has and to focus those resources on prioritizing criminal aliens or those people who pose a great risk to our communities. I think that is something that we can work on to safeguard our communities. The Prioritization Memo has three priority levels; 1) Aliens that pose a danger to national security or risk to public safety. That is aimed at convicted criminal aliens, people engaged in terrorism, people engaged in gang activities. Even among those levels among the criminal aliens of those convicted it was broken down even further between level 1, 2 and 3 tiers. Level 1 offenders – aliens convicted of aggravated felonies or 2 or more crimes each punishable by more than one year. Level 2 offenders, aliens convicted of any felony or three or more crimes each punishable for less than one year more commonly referred to as misdemeanors. Level 3 offenders, aliens convicted of crimes and punishable for less than 1 year. Those three tiers are in priority 1. Priority 2 focuses on recent illegal entrance to the US. That is an attempt to bring back integrity to the immigration laws of the country. As a nation of laws we must have integrity in those laws and enforcement of those laws. Priority 3, Aliens who are fugitives. These are fugitives from immigration proceedings such as immigration judicial removal orders. (Copies of the memo will be sent to the City). These three major categories were basically to send a message that with limited resources ICE is focused on criminal aliens.

New Mexico is one of the security communities. Even with security community activated in the last year we recognized there were issues with the jail in Santa Fe. We had an audit done with our office and we realized that from March, 2011 through March, 2012 there were at least 40 individuals who were convicted criminal aliens that were released from the jail without notification to ICE despite the displacement detainer. They ranged from battery against a household member, possession of drug paraphernalia, possession of a controlled substance with the intent to distribute, driving under the influence, and criminal sexual contact with a minor under 13. I am committed to working with this community to assure that the individuals who are assisting the criminal aliens are encountered and dealt with. I think it is an injustice to our community not to address those people who impose such a direct threat. On the other hand that we also recognize that many people could be picked up and drug in to situations and I don't think that is going to be the situation here in Santa Fe. We heard from the Chief today that might not be the case here in Santa Fe.

Quoting: Memo 6/17/11 from Director Morton

*{Read the memo verbally}*

Questions:

Chair: When you talk about criminal aliens and you talk about the three levels and you have those that are misdemeanors, how do you handle those?

Mr. Macias: Those are level II, Priority I.

Chair: Those that are DWI.

Mr. Macias: Those are level II. They are a serious threat to the community. These people are on our road and we see the damage.

Chair: That is a new one for me and I think of immigrants in our community just like regular people. DWI's are a problem for all of us, but when an immigrant is stopped and accused of DWI and they are put in the county detention center, he should have the right to be prosecuted and serve their time like everyone else.

Mr. Macias: It is a violation of law. I don't make that decision, an Immigration Judge would review the case and make those decisions. Last year there was a fourth time offender that was released.

Chair: doesn't agree. I can see aggravated assault or those that have found guilty. I have problems when we don't wait until their found guilty.

Ms. Seluja: How do you determine the ICE detainers?

Mr. Macias: When an individual is arrested by a local municipality, their finger prints are taken, with secured community, when those finger prints go through the FBI NCIC check, those are automatically shared with the Department of Justice and Homeland Security. They check for criminal history. If there is positive criminal history ICE is notified whether the local police department notifies us or not. The finger print check goes back to INS history and includes the most up to date information. They look at that information in Vermont and they see if he is a lawful resident and if there is information that is pertinent they send it back to the office.

Ms. Seluja: This is the 48-hours, is this renewable?

Mr. Macias: The detainer is 48-hours. Release, you are not under obligation to hold.

Chair: There are counties that do renew after the 48-hours.

Ms. Seluja: We had a case where a minor was on hold and she asked to speak to her mom, and she was placed on an ICE hold.

Mr. Macias: Mr. Fierro will check on this case.

Ms. Hemmer: We know you have a lot of discretion, who makes the decision whether the person should be held or not.

Mr. Macias: For example, in NM, Mr. Fierro has had that authority to make those decisions but ultimately Mr. Macias makes those decisions.



Ms. Hemmer: Are your decisions ever over turned?

Mr. Macias: No. An individual can solicit from ICE and the administrative law judge a bond. At the same time ICE may not approve the request and the judge may issue. ICE can overturn the Judge's decision.

Ms. Cabeza de Vaca: When a person posts bail, how long between their trial comes up? When do they get picked up?

Mr. Macias: If we are not notified that the person is being released and we are not on the detainer and the person gets out. If he has a criminal history we can go pick him up on a fugitive warrant. When they are released and put in our custody then another determination is made. For example, if this is a misdemeanor case. He is out on bond and I take him for the administrative case, do I have to take him to El Paso and put him in the detention center, no. He may have equities here, he may have family here. Length of time on the El Paso docket is 2 years on a non-detainer.

Immigration reform is only going to come by people voting. We are dealing with those who have an attorney of record.

Ms. Cabeza de Vaca: Let's say their legal action has not been decided, what is the expectation after everything has taken in to consideration.

Mr. Macias: It all depends on the case and criminality. Are they a threat to the community? Aggravated felons can be kept for a very long time if they are a threat to the community. But there is very clear paper work that specifies the actions. The Supreme Court says if we don't get them out on 90 days we need to look at releasing them and we can renew that 90 days.

Chair: Do you know how many ICE holds there are in NM day/year? How many of those who have put on ICE holds, how many have been detained for removal proceedings? What percentage of those being detained are US citizens?

Mr. Macias and Mr. Fierro will provide this information. There are times when people claim to be US Citizens to avoid justice.

Chair: We hear the other side.

Mr. Macias: It goes both ways.

ICE is moving out of downtown and close to the east side of Albuquerque.

Ms. Hemmer: Going back to the people who have been arrested for misdemeanors and are on hold for deportation, what is the percentage?

Mr. Macias: He will try his hardest to get the statistics.

Ms. Seluja: If a person is detained without a status and they ask to speak their embassy consulate and they offer to pay for their own voluntary request to leave?

Mr. Macias: If they are encountered by the local police they won't have that choice. Volunteer deportation can be approved by Mr. Macias and the Administrative Judge and can work through a deportation bond.

Ms. Seluja: Why would you hold someone who wants to leave?

Mr. Macias: We had a group of Israeli students, they were taken in to custody, within a few hours we had an attorney who requested voluntary deportation and we worked with them.

Public Hearing:

SOMOS UN PUEBLO UNIDO – Most of the time individuals do not have an ICE hold, how do you work with them?

Mr. Fierro: We run a roster of the Santa Fe Detention Center and based on the information we get we impose a detainer. We get the name that they provide the officer and the date of birth, if we have the same name and date of birth we can implement the detainer. We work off of bio metrics.

SOMOS UN PUEBLO UNIDO Spokesperson – A few months back there was a directive that Santa Fe County was not to impose ICE holds.

Mr. Macias: We take public information and identify possible individuals that have criminal background.

Carla Lopez: One issue that came to us recently was one man, had two kids, she charged him for domestic violence. How do we get him out to take care of his kids?

Mr. Fierro: That has happened on another example: DWI, he is a kid that is in a boxing program. Did we take all the positive attributes under consideration, yes, he is finishing school and will graduate this year. APD is working with him to keep him on the right path. We take all positive attributes under consideration. We forward all comments to Mr. Macias for approval.

Mr. Macias offered his help to Staff and to the committee if they have any questions. There are many advocacy groups, but not everyone has an opportunity to have counsel. I have also engaged the Mexican Counsel Generals, if they have issues to bring them to me.

Ms. Lopez: This is a man being held in El Paso, can this still be brought to you?

Mr. Macias: Yes.

Chair: People are afraid to report crimes or call for help. If they see ICE with the local police, there is distrust and a fear from the beholder. What is your relationship with the State Police?

Mr. Macias: I have no authority over the Border Patrol. I have engaged the Bishop's; I have reached out to them to provide them with the information. There is a very different mandate by the Border Patrol. Border Patrol has had a long standing history and relationship with law enforcement in the South.

I am very respectful of the Chief and his system; I am focusing on the criminal aliens in the jail.

Chair: Provided an example that last week there was ICE presence at a health clinic.

Mr. Macias: We do not go to churches or hospitals. He was not aware of this situation and it is not a policy. Bring this situation to Mr. Fierro and he will reach out to the State Police.

Ms. Shinas: I was a witness, there was an ICE person and an individual was escorted out.

Mr. Macias: That was probably HSI (Homeland Security Investigation). Our fugitive proceedings will not go to the hospital. If a special agent was invited by the local police; I can't speak to that since I was not there.

Ms. Shinas: I have worked with immigrant families for over 20 years. The fear is huge because when they hear ICE they worry about being undocumented. There are students who have been here since they were infants and they have never been to Mexico and they are being dropped there. When you go in to a home, do you look at that family, do you look at the whole family and say you are all undocumented, or do you look at the individual alone and not traumatize them.

Mr. Macias: When ICE goes they are to focus on their target. They do not take the families. That has changed. I am still keenly aware that if you have a law enforcement officer taking a family member. I am sworn to abide by the constitution. Consideration will always be given for that human aspect. I involve the Bishop's because there is a spiritual presence.

Chair: There are details we encounter with our community. Does the probation officer call ICE?

Mr. Macias: The department wants us to have that. Texas is different, I am not aware of how it is done in NM.

Ms. Hemmer: Do you have an agreement with the Sheriff's department?

Mr. Macias / Mr. Fierro: No we don't.

Chair: We disagree with ICE detainers. We believe they are requests not orders. When you say our jail did not call you, the jail followed your request. Which is supposedly: hold these people for 48 hours longer. What I am trying to say, you should not accuse our jail for letting these people out in the street; you, ICE are letting them out in the street.

Mr. Macias: We were trying to keep abreast by looking at the public information and we sometimes have to guess to see when they are going to be let out. The department still feels that they have a force of law. Between agencies we are asking that the law enforcement agencies assist us. If they don't abide by the detainer policy that can affect the Department of Justice.

Chair: I don't like that they are saying that the jail is releasing criminals. I don't want our jail to be looked at as releasing criminals to the community.

Introduction of members with their affiliation.

Mr. Macias appreciated is thanks.

b. **US Citizenship and Immigration Services presentation from Field Office Director Patti Reynolds.**

Ms. Reynolds: Thank you for inviting me to the meeting this evening. In meeting with the Senior Leaders, when Homeland Security was divided, there was division of difference agencies. Citizenship and Immigration governs lawful residency and citizenship. One of the major points is de-mystifying the system and getting good information to our customer base. One of the things that you have pointed out is the fear factor. Even though they see the Immigration in our name they confuse us with the enforcement side and they are still afraid, they don't know what part we play in Immigration. One of our goals is to get the information to the community so they can make the best decision for their life. One of the things that we are combating is the UPIL. There are lawyers that seeking out the immigrants and perpetrating a crime against these individuals. Sometime they take their money and don't even file an application for these individuals. These Notarios are taking a serious amount of money to do this. They are seeking out those people who have been told no in the past from our agency and they make empty promises to the individuals. They don't take the money just from the immigrant they take it from the family. We want to reach out to the community. I am excited to be here, you are a point of contact. We want to go to the community and let the immigrants know we are all on safe soil. I want to go to the community; I want them to understand we will treat them with the utmost respect. I want to grant them service in a timely manner. If there is a way we can reach out to those who are too afraid to come to me, I would like to do this.

What do you want to know about Immigration Services?

Ms. Hemmer: Who makes the decision in your Albuquerque office? Say someone got a DWI five years ago and they want to know how that will affect that application?

Ms. Reynolds: The law makes the decision, the adjudicators follow the law. Depending on the circuit, it differs by location. If they are convicted of a CMIT it could affect their application; they would need to review if they are in the statutory period.

Ms. Hemmer: What is discretionary? Example: He is morally terrible, he is not married.

Ms. Reynolds: If you are talking good moral character of it is of the common man in the era that you live. We cannot expect anyone to live by a higher standard. We can't hold him to a higher standard than the common man.

Ms. Hemmer: I heard that 2 years ago there were ICE trucks parked in your business parking lot and that frightens people.

Ms. Reynolds: We were co-located at one time. We want to have an open-house, open, welcoming and transparent.

Immigration is one of the most complex and difficult laws and changes rapidly. It is difficult but getting out in to the community; we can answer questions. Jacque Crouse is from San Antonio, we are looking for venues to talk to people. We do mock interview to help them know what they will be exposed to. We need to have security in our building, and this is terrifying to individuals.

Ms. Seluja: Question on notice of intent. There are 2 American Citizens, one with two children and the other with one child. The issue is that the husband will have to move back for a period of time. One started the procedures, she gave birth without the husband being here, and they didn't have the resources and had to ask the community for help. I read that there is a new way to check case-by-case.

Ms. Reynolds: That is a provisional waiver that they can apply with the I-130. They can have it provisionally adjudicated. When they depart the United States, it is the departure that triggers the unlawful presence. Provisional waiver only covers unlawful presence. I601 has a 2 part process, you have to have a qualifying family member that can prove they would be affected if you leave the US, so even if you prove that it would be a hardship, it could still be denied. The extreme hardship is the first positive factor in the process.

Ms. Crouse said that this is not expected to be law until December. If anyone applies today, it is best to tell them, do not apply until it is in place, it is in draft form. It is only out for draft comment.

Ms. Reynolds will provide the committee where you can make the comment on this law.

Chair: Is there anything that is new in the last couple of years?

Ms. Crouse: When you talk about adjudication; you can always talk to Ms. Reynolds and bring the information to her attention for help.

Ms. Reynolds: I want to point out that one of the things that because of past deportation issues, there may be concerns. Albuquerque ICE does guide us on bonds and other important actions. There is a good communication to assure 1) denial isn't being made because there is a mistake and 2) there is a good working relationship between the two agencies.

Ms. Crouse suggested that the Immigration Committee invite a contact from the Border Patrol and HSI (Homeland Security) to speak about their roles with immigrants and the laws. Ms. Reynolds will send the contact information to the committee.

Ms. Seluja: When can we complain if they go over the 120-day.

Ms. Reynolds asked that this information be sent to her and she will do the follow up. We track the applications and they do get lost in the shuffle, but please check with me and keeping open communication.

Thank you so much.

## **IX. Communications from the Floor**

### **Alegria, Attorney here in Santa Fe and works for the SFPS**

When there is an issue in the home CYFD goes to the home. I am an Immigration Lawyer and I told the family members that they did not have to tell CYFD what their status was. CYFD was trying to get the family to cooperate with them. I wanted to share this information that is happening in the public schools. There is a fear factor in the schools for families on how to respond to these agencies.

Chair: SOMOS un Pueblo Unido does training for families with children in the schools.

Captain Wheeler: We train our officers that this is not a question that is pertinent and shouldn't be asked. Working crimes with children and with CYFD we want to ask questions that will help us assist the family. We do not ask the question on immigration status.

Chair: We will consider asking CYFD to attend a meeting and share their policy with us.

## **X. Communications from Committee and Adjournment**

It has been suggested that we have the County be a permanent member in our committee. According to the ordinance that created us; it says the county of Santa Fe and it says these are organizations of the county of Santa Fe. This was suggested by a county commissioner.

Rev. Topple – The information was very good that Mr. Macias provided. He referenced operation streamline and they are Border Patrol. It is “in mass deportation”. It is a very controversial process. This is a good topic for the future, how do we educate our young people on situations as this.

There being no further business to come before the Immigration Committee, the meeting was adjourned at 6:00 pm.

Signature Page:

4/3/12 Immigration Committee Meeting

Minutes submitted by: Fran Lucero, Stenographer

A handwritten signature in cursive script that reads "Fran Lucero". The signature is written in black ink and is positioned below the text "Minutes submitted by: Fran Lucero, Stenographer".

Minutes approved by: Maria Cristina Lopez, Chair