



Adriana Pinon
Senior Staff Attorney/Policy Counsel

June 5, 2019

Aransas County Commissioners Court
2840 Highway 35 N
Rockport, TX 78382-5711

Dear Commissioners:

On behalf of the American Civil Liberties Union of Texas (ACLU) and its thousands of members across the state, I write urging you to decline renewing your County's application to collaborate with Immigration and Customs Enforcement (ICE) through a delegation of authority pursuant to section 287(g) of the Immigration and Nationality Act (287(g) Program). Our understanding is that your current 287(g) program is set to expire on June 30, 2019. As you deliberate whether to continue collaboration through this program, we encourage you to keep in mind the history of adverse consequences resulting from collaboration through 287(g). Since its creation in 1996, this program has had a track record of devastating consequences for communities: it erodes people's trust in our police officers and makes residents reluctant to report crimes because they fear they or their family members might face deportation. In addition, such collaboration strains public funds and exposes local governments to legal liability. On account of the serious concerns associated with this program, Texas Sheriffs like those in Harris and Fort Bend Counties, terminated their participation in the program.¹ We encourage you to do the same.

As discussed further below, the costs of continuing to enmesh the County in federal civil immigration enforcement far outweigh any perceived benefits. If you are considering renewal of the program, the harmful impact of it on your community should be discussed and the public should be allowed to offer commentary on it. We therefore also ask that you discuss renewal of this program in a public comment meeting pursuant to the Texas Government Code § 551.001(4)(B).² *See also* Tex. Gov't Code § 552.001(a) ("The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.").

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AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF TEXAS

287(g) agreements drain department finances

287(g) agreements cost counties significant amounts of money while damaging public safety and community trust in law enforcement. The costs incurred by your County should deter you from renewing this program. The American Immigration Council's analysis of the program's history demonstrates that state and local governments have to pay the majority of 287(g) costs including travel, housing, and per diem for officers during training; salaries; overtime; other personnel costs; and administrative supplies.³⁴ As you're aware from having participated in this program, these and other costs add up. For example, Harris County Sheriff Ed Gonzalez estimated that the program cost his department \$675,000 annually before he rescinded its agreement.⁵ Mecklenburg County in North Carolina spent \$5.3 million to operate a 287(g) program in its first year alone, while another North Carolina county, Alamance, spent \$4.8 million in the first year of its 287(g) agreement.⁶

Fort Bend County decided not to apply for a 287(g) program because “[the county] would have been forced to send six personnel members to a four-week training, at a cost of half a million dollars.” Sheriff Nehls said he wouldn't feel comfortable “‘knowing I'd send \$500,000 of taxpayers' money for something that maybe makes us feel good . . . it would be irresponsible for me to do that.’”⁷ Instead of spending more taxpayer money on a federal responsibility, your County should start saving money and better protect your community.

Participating in 287(g) undermines community trust and safety

In addition to depleting County resources, the program jeopardizes community safety.⁸ When sheriff deputies or other County employees engage in immigration enforcement, fewer people report crimes for fear of being deported—a result which is bad for everyone in your County. The Texas Major Cities Chiefs voiced their concern that community trust erodes when police

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The 287(g) program can also lead to constitutional violations when local law enforcement detains individuals beyond the amount of time authorized by an ICE detainer—the County is the one held liable. For example, a federal court held the Los Angeles Sheriff's Department (LASD) liable for Fourth Amendment violations for holding people without probable cause and longer than the 48 hours permitted by ICE detainers in *Roy v. County of Los Angeles*, 2018 WL 914773, at *23 (C.D. Cal. Feb. 7, 2018) (citing *Santos v. Frederick Cty. Bd. of Comm'rs*, 725 F.3d 451, 465 (4th Cir. 2013)). There have also been numerous settlements for large amounts of money damages as a result of lawsuits brought against local jurisdictions for unlawful use of detainers.¹³ The Fifth Circuit's decision in *City of El Cenizo v. Texas* does not absolve police from liability when a person's detention lacks probable cause or when it extends beyond 48 hours. The Court merely held that compliance with SB 4's ICE-detainer mandate was not unconstitutional in every instance, but could still be unconstitutional in particular circumstances. 890 F.3d 164, 187 (5th Cir. 2018). This legal risk to your County only compounds the harm that such collaboration brings to communities.

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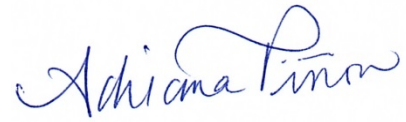
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Sincerely,

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Adriana Pinon



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June 5, 2019

Burnet County Commissioners Court
220 S. Pierce Street
Burnet, TX 78611

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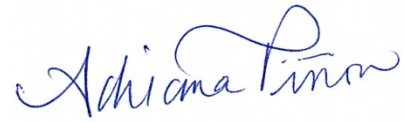
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June 5, 2019

Calhoun County Commissioners Court
211 S. Ann St., Suite 301
Port Lavaca, TX 77979

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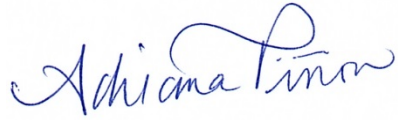
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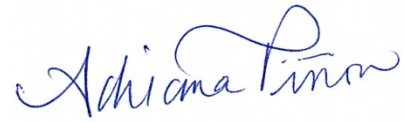
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Adriana Pinon



Adriana Pinon
Senior Staff Attorney/Policy Counsel

June 5, 2019

DeWitt County Commissioners Court
307 North Gonzales Street
Cuero, TX 77954

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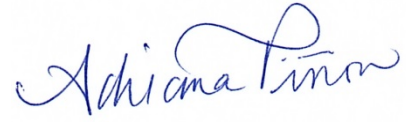
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Texas

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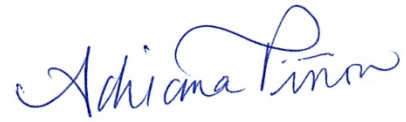
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As discussed further below, the costs of continuing to enmesh the County in federal civil immigration enforcement far outweigh any perceived benefits. If you are considering renewal of the program, the harmful impact of it on your community should be discussed and the public should be allowed to offer commentary on it. We therefore also ask that you discuss renewal of this program in a public comment meeting pursuant to the Texas Government Code § 551.001(4)(B).² *See also* Tex. Gov't Code § 552.001(a) ("The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.").

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Participating in 287(g) undermines community trust and safety

In addition to depleting County resources, the program jeopardizes community safety.⁸ When sheriff deputies or other County employees engage in immigration enforcement, fewer people report crimes for fear of being deported—a result which is bad for everyone in your County. The Texas Major Cities Chiefs voiced their concern that community trust erodes when police

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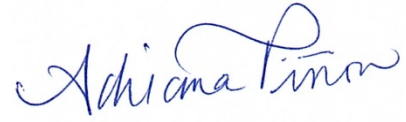
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Sincerely,

A handwritten signature in blue ink that reads "Adriana Pinon". The signature is written in a cursive, flowing style.

Adriana Pinon



Adriana Pinon
Senior Staff Attorney/Policy Counsel

June 5, 2019

Jackson County Commissioners Court
115 W. Main Street, Room 207
Edna, Texas 77957

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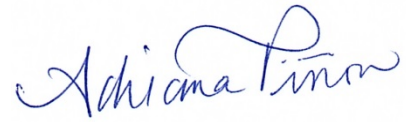
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Senior Staff Attorney/Policy Counsel

June 5, 2019

Kendall County Commissioners Court
201 E. San Antonio Ave.
Boerne, TX 78006

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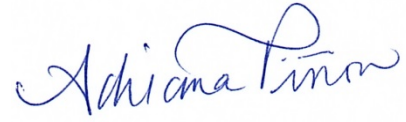
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June 5, 2019

Lavaca County Commissioners Court
Lavaca County Courthouse
109 North LaGrange
Hallettsville, Texas 77964

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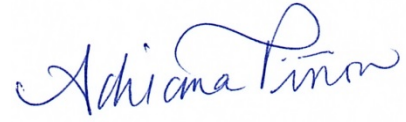
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Adriana Pinon



Adriana Pinon
Senior Staff Attorney/Policy Counsel

June 5, 2019

Lubbock County Commissioners Court
Lubbock County Courthouse
904 Broadway, Suite 101
Lubbock, TX 79401

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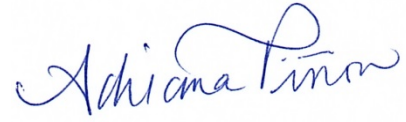
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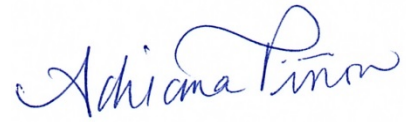
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Participating in 287(g) undermines community trust and safety

In addition to depleting County resources, the program jeopardizes community safety.⁸ When sheriff deputies or other County employees engage in immigration enforcement, fewer people report crimes for fear of being deported—a result which is bad for everyone in your County. The Texas Major Cities Chiefs voiced their concern that community trust erodes when police

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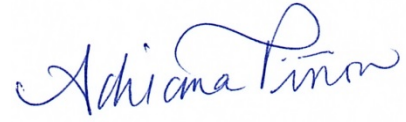
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Adriana Pinon



Adriana Pinon
Senior Staff Attorney/Policy Counsel

June 5, 2019

Nueces County Commissioners Court
Nueces County Courthouse
901 Leopard St.
Corpus Christi, TX 78401

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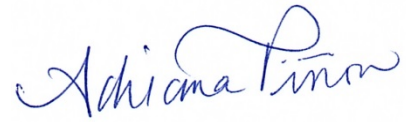
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June 5, 2019

Potter County Commissioners Court
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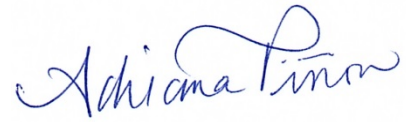
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Participating in 287(g) undermines community trust and safety

In addition to depleting County resources, the program jeopardizes community safety.⁸ When sheriff deputies or other County employees engage in immigration enforcement, fewer people report crimes for fear of being deported—a result which is bad for everyone in your County. The Texas Major Cities Chiefs voiced their concern that community trust erodes when police

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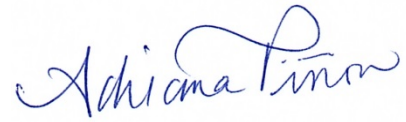
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Sincerely,

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Adriana Pinon



Adriana Pinon
Senior Staff Attorney/Policy Counsel

June 5, 2019

Rockwall County Commissioners Court
101 E. Rusk St.
Suite 202
Rockwall, TX 75087

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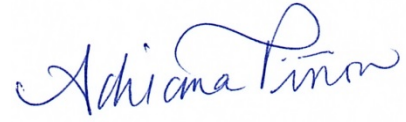
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Senior Staff Attorney/Policy Counsel

June 5, 2019

Smith County Commissioners Court
Smith County Annex Building
200 E. Ferguson, Suite 100
Tyler, Texas 75702

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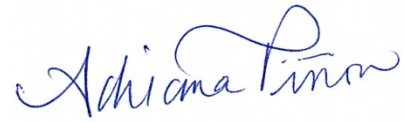
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June 5, 2019

Tarrant County Commissioners Court
100 E. Weatherford
Room 502A
Fort Worth, TX 76196

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As discussed further below, the costs of continuing to enmesh the County in federal civil immigration enforcement far outweigh any perceived benefits. If you are considering renewal of the program, the harmful impact of it on your community should be discussed and the public should be allowed to offer commentary on it. We therefore also ask that you discuss renewal of this program in a public comment meeting pursuant to the Texas Government Code § 551.001(4)(B).² See also Tex. Gov't Code § 552.001(a) ("The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.").

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Participating in 287(g) undermines community trust and safety

In addition to depleting County resources, the program jeopardizes community safety.⁸ When sheriff deputies or other County employees engage in immigration enforcement, fewer people report crimes for fear of being deported—a result which is bad for everyone in your County. The Texas Major Cities Chiefs voiced their concern that community trust erodes when police

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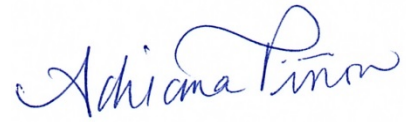
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Sincerely,

A handwritten signature in blue ink that reads "Adriana Pinon". The signature is written in a cursive, flowing style.

Adriana Pinon



Adriana Pinon
Senior Staff Attorney/Policy Counsel

June 5, 2019

Terrell County Commissioners Court
Terrell County Courthouse
105 E Hackberry St
Sanderson, TX 79848

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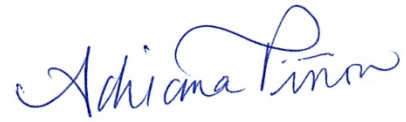
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Senior Staff Attorney/Policy Counsel

June 5, 2019

Victoria County Commissioners Court
115 N. Bridge St.
Victoria, TX 77901

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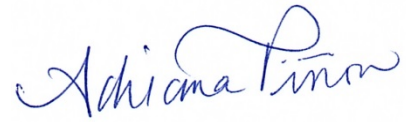
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June 5, 2019

Walker County Commissioners Court
1100 University Avenue
Room 204
Huntsville, TX 77340

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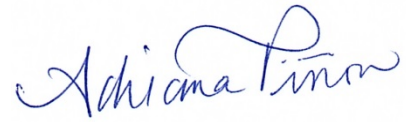
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Adriana Pinon



Adriana Pinon
Senior Staff Attorney/Policy Counsel

June 5, 2019

Waller County Commissioners Court
836 Austin Street Suite 203
Hempstead, TX 77445

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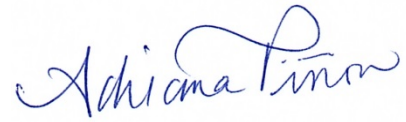
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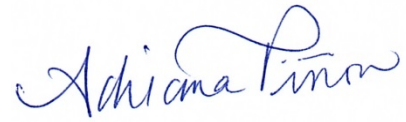
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Williamson County Commissioners Court
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Dear Commissioners:

On behalf of the American Civil Liberties Union of Texas (ACLU) and its thousands of members across the state, I write urging you to decline renewing your County's application to collaborate with Immigration and Customs Enforcement (ICE) through a delegation of authority pursuant to section 287(g) of the Immigration and Nationality Act (287(g) Program). Our understanding is that your current 287(g) program is set to expire on June 30, 2019. As you deliberate whether to continue collaboration through this program, we encourage you to keep in mind the history of adverse consequences resulting from collaboration through 287(g). Since its creation in 1996, this program has had a track record of devastating consequences for communities: it erodes people's trust in our police officers and makes residents reluctant to report crimes because they fear they or their family members might face deportation. In addition, such collaboration strains public funds and exposes local governments to legal liability. On account of the serious concerns associated with this program, Texas Sheriffs like those in Harris and Fort Bend Counties, terminated their participation in the program.¹ We encourage you to do the same.

As discussed further below, the costs of continuing to enmesh the County in federal civil immigration enforcement far outweigh any perceived benefits. If you are considering renewal of the program, the harmful impact of it on your community should be discussed and the public should be allowed to offer commentary on it. We therefore also ask that you discuss renewal of this program in a public comment meeting pursuant to the Texas Government Code § 551.001(4)(B).² See also Tex. Gov't Code § 552.001(a) ("The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.").

¹ Tim Henderson, Urban Sheriffs Flee ICE Program as Small Counties Join Trump's Deportation Push, Stateline, (Jan. 14, 2019), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/01/14/urban-sheriffs-flee-ice-program-as-small-counties-join-trumps-deportation-push>.

² Office of the Attorney General, *2018 Open Meetings Handbook* at 40 (citing Tex. Att'y Gen. Op. No. JC-0169 (2000) at 4, https://www.texasattorneygeneral.gov/sites/default/files/2018-06/OMA_handbook_2018.pdf).
AMERICAN CIVIL LIBERTIES UNION FOUNDATION OF TEXAS

287(g) agreements drain department finances

287(g) agreements cost counties significant amounts of money while damaging public safety and community trust in law enforcement. The costs incurred by your County should deter you from renewing this program. The American Immigration Council's analysis of the program's history demonstrates that state and local governments have to pay the majority of 287(g) costs including travel, housing, and per diem for officers during training; salaries; overtime; other personnel costs; and administrative supplies.³⁴ As you're aware from having participated in this program, these and other costs add up. For example, Harris County Sheriff Ed Gonzalez estimated that the program cost his department \$675,000 annually before he rescinded its agreement.⁵ Mecklenburg County in North Carolina spent \$5.3 million to operate a 287(g) program in its first year alone, while another North Carolina county, Alamance, spent \$4.8 million in the first year of its 287(g) agreement.⁶

Fort Bend County decided not to apply for a 287(g) program because “[the county] would have been forced to send six personnel members to a four-week training, at a cost of half a million dollars.” Sheriff Nehls said he wouldn't feel comfortable ““knowing I'd send \$500,000 of taxpayers' money for something that maybe makes us feel good . . . it would be irresponsible for me to do that.””⁷ Instead of spending more taxpayer money on a federal responsibility, your County should start saving money and better protect your community.

Participating in 287(g) undermines community trust and safety

In addition to depleting County resources, the program jeopardizes community safety.⁸ When sheriff deputies or other County employees engage in immigration enforcement, fewer people report crimes for fear of being deported—a result which is bad for everyone in your County. The Texas Major Cities Chiefs voiced their concern that community trust erodes when police

³ Anneliese Hermann, 287(g) Agreements Harm Individuals, Families, and communities, but They Aren't Always Permanent, Center for American Progress (April 4, 2018),

<https://www.americanprogress.org/issues/immigration/news/2018/04/04/448845/287g-agreements-harm-individuals-families-communities-arent-always-permanent/>

⁴ *The 287(g) Program: An Overview*, American Immigration Council (March 15, 2017),

<https://www.americanimmigrationcouncil.org/research/287g-program-immigration>

⁵ Lise Olsen, *18 Texas sheriffs step up to replace Harris County in Trump's deportation push*, HOUSTON CHRONICLE, Mar. 28, 2017, available at <http://www.houstonchronicle.com/news/houston-texas/houston/article/18-Texas-sheriffs-step-up-to-replace-Harris-11028107.php>

⁶ Mai Thi Nguyen and Hannah Gill, *The 287(g) Program: The Costs and Consequences of Local Immigration Enforcement in North Carolina Communities*, University of North Carolina at Chapel Hill, The Latino Migration Project (2010) at 33, available at https://isa.unc.edu/files/2012/06/287g_report_final.pdf.

⁷ KTRK, “Fort Bend County won't join ICE 287g program, Sheriff Says.” ABC13 EYEWITNESS NEWS, Aug. 3, 2017, available at: <http://abc13.com/sheriff-fort-bend-co-wont-join-ice-287g-program/2270683/>

⁸ Statement of Chief J. Thomas Manger, Chairman of the Legislative Committee for the Major Cities Chiefs Association, “Examining 287(g): The Role of State and Local Law Enforcement in Immigration Law.” House Committee on Homeland Security (Mar. 4, 2009), available at <https://www.gpo.gov/fdsys/pkg/CHRG-111hhrg49374/html/CHRG-111hhrg49374.htm>

take on immigration duties and opposed such collaboration.⁹ In addition, a study of Latinos' perceptions of law enforcement in four counties (Cook, Harris, Los Angeles and Maricopa) showed that, in light of increasing police involvement with immigration officials, 70% of undocumented immigrants reported that they are less likely to contact law enforcement if they became victims of a crime out of fear they would be questioned about immigration status.¹⁰ The Houston Police Department announced a decrease of more than 40% in rape reports among Hispanics due to “fear of themselves being taken into custody by immigration authorities”¹¹. In Los Angeles, Chief Charlie Beck stated that sexual assault reports dropped by a quarter in his city this year because undocumented immigrants feared deportation when they interacted with police or testified in court.¹² We encourage you to end this entanglement and not renew your 287(g) program.

287(g) programs expose counties to costly legal liability.

The 287(g) program can also lead to constitutional violations when local law enforcement detains individuals beyond the amount of time authorized by an ICE detainer—the County is the one held liable. For example, a federal court held the Los Angeles Sheriff's Department (LASD) liable for Fourth Amendment violations for holding people without probable cause and longer than the 48 hours permitted by ICE detainers in *Roy v. County of Los Angeles*, 2018 WL 914773, at *23 (C.D. Cal. Feb. 7, 2018) (citing *Santos v. Frederick Cty. Bd. of Comm'rs*, 725 F.3d 451, 465 (4th Cir. 2013)). There have also been numerous settlements for large amounts of money damages as a result of lawsuits brought against local jurisdictions for unlawful use of detainers.¹³ The Fifth Circuit's decision in *City of El Cenizo v. Texas* does not absolve police from liability when a person's detention lacks probable cause or when it extends beyond 48 hours. The Court merely held that compliance with SB 4's ICE-detainer mandate was not unconstitutional in every instance, but could still be unconstitutional in particular circumstances. 890 F.3d 164, 187 (5th Cir. 2018). This legal risk to your County only compounds the harm that such collaboration brings to communities.

⁹ Davis Pughes and Art Acevedo, “Texas police chiefs: Do not burden local officers with federal immigration enforcement.” DALLAS MORNING NEWS, Apr. 28, 2017, <https://www.dallasnews.com/opinion/commentary/2017/04/28/texas-police-chiefs-burden-local-officers-federal-immigration-enforcement>

¹⁰ Nik Theodore, *Insecure Communities; Latino Perceptions of Police Involvement in Immigration Enforcement*, at i (2013), https://www.policylink.org/sites/default/files/INSECURE_COMMUNITIES_REPORT_FINAL.PDF.

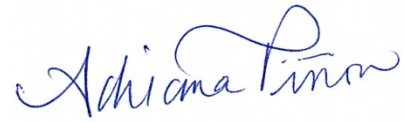
¹¹ Brooke A. Lewis, “HPD chief announces decrease in Hispanics reporting rape and violent crimes compared to last year.” HOUSTON CHRONICLE, Apr. 5, 2017, <http://www.houstonchronicle.com/news/houston-texas/houston/article/HPD-chief-announces-decrease-in-Hispanics-11053829.php?t=eb46b3d100438d9cbb&cmpid=twitter-premium>

¹² James Queally, “Latinos are reporting fewer sexual assaults amid a climate of fear in immigrant communities, LAPD says.” Los Angeles Times (Mar. 21, 2017), <http://beta.latimes.com/local/lanow/la-me-ln-immigrant-crime-reporting-drops-20170321-story.html>

¹³ <https://www.aclu.org/fact-sheet/recent-ice-detainer-damages-cases-2018>

Given these harms, you should decline to renew your County's 287(g) agreement. We also ask that discussion of continued participation be placed on the agenda of a public comment meeting and that this letter be considered testimony at that meeting. If we can answer any questions about the harms of 287(g) or provide additional materials, please do not hesitate to ask.

Sincerely,

A handwritten signature in blue ink that reads "Adriana Pinon". The signature is written in a cursive, flowing style.

Adriana Pinon