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Sanctuary in New Mexico:
Imagining a State-Wide Policy
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Current immigration rhetoric surrounds the transient migrant community in the United States. Within the borderlands, however, there also exists an established community. These residents are greatly impacted by changing immigration policies and often leave undocumented immigrant populations in particularly vulnerable situations. Sanctuary policy is one way that cities and counties can support a sense of security for undocumented immigrants.

Before discussing sanctuary in detail, it is important to understand the difference between ‘sanctuary’ and ‘asylum’ within the United States. These issues tend to overlap with each other given that both deal with migration and have been receiving increasing media attention. According to *New York Times* journalists Michael D. Shear and Eileen Sullivan (2019), “asylum is a legal process by which people fleeing persecution in their home country may seek to live in safety in the United States.” Regardless of where the individual entering the country came from, the United States has an obligation to review the asylum application (Shear, 2019). Asylum is protected by international law whereas sanctuary is not. The process of asylum is complex and there are many variables which determine whether an application is to be accepted or denied. When we speak of sanctuary, we are instead referring to limited cooperation between local and federal law enforcement within the United States. According to the National Conference of State Legislatures (2019), “there is no legal definition for sanctuary policies, the term is applied to jurisdictions that limit cooperation with federal immigration authorities, such as failing to provide information about immigration status and limiting the length of immigration detainees.” The terms ‘sanctuary city’ and ‘sanctuary state’ are derived from this concept of sanctuary policy.

The issue of sanctuary and immigration reform is often described as one that the United States has not previously faced. The United States has actually dealt with the issue of sanctuary and the presence of sanctuary related movements since the Vietnam War. According to Andrea Delgado, the 1980's was a time where the United States first had to address the issue of sanctuary and its new definition - as opposed to its previous religious one - since "Central American refugees [were] fleeing conflict and strife in their home countries" (Delgado, 2017). She explained that roughly one million individuals from El Salvador and Guatemala fled their home countries and then through Mexico with the ultimate goal of entering the United States during this time. The movement was largely due to economic instability, social repression, and violence. It prompted the first widespread sanctuary city movement in the United States.

Given recent mass migration concerns such as migrant caravans from Central America, there has been a re-emergence of a sanctuary movement across the nation. It has become a controversial topic in politics under President Donald Trump's administration. Trump based his immigration narrative on the notion that migration along the border with Mexico is a crisis. He has presented policies to counter perceived crime and drug smuggling from the southern border. It is of little surprise, then, that Trump opposes sanctuary cities and states. Trump has consistently opposed these sanctuary policies due to the misconception that undocumented immigrants are criminals and that such sanctuary policies breed crime. He has gone so far as to state, "Democrats must change the Immigration Laws FAST. If not, Sanctuary Cities must immediately ACT to take care of the Illegal Immigrants - and this includes Gang Members, Drug Dealers, human Traffickers, and Criminals of all shapes, sizes and kinds. CHANGE THE LAWS NOW!" (Trump, 2019).

Some states that have taken a state policy approach to sanctuary, including California. Other states have localities that have adopted sanctuary policies to welcome migrants. Determining which states have adequate sanctuary policy is difficult since there is not a standard form of the legislation. In our opinion through this research, containing localities with sanctuary policies is not enough to justify considering that state a sanctuary. The most reliable compilation of sanctuary states, then, comes from *Pacific Standard* who determines sanctuary state status to be non-binary (Herrera, 2019).

New Mexico has not adopted a state-wide policy despite having multiple jurisdictions which claim sanctuary for their residents. During the 2019 regular legislative session, Senate Bill 196 (also known as House Bill 195) was introduced in an attempt to prohibit “state and local agencies from expending resources to enforce federal immigration laws” (SB-196, 2019). The bill was postponed indefinitely due to both its content and its late proposal during the session (A. Rubio, New Mexico State Legislature Representative, personal communication, June 27, 2019). Given the circumstances, the only remaining way that this bill can be heard once more is by it being introduced by the governor in the 2020 legislative session or if the bill is budget related.

Throughout the development of this report, we conducted a series of in-person, phone, and email interviews with law enforcement, elected officials, professors, and other individuals. We attempted to analyze the largest concerns against and arguments for sanctuary within New Mexico. These include existing legislation, public safety, education, and federal funding.

Though we frequently use the term ‘sanctuary’ in our research, the term is often misunderstood. It is important to understand the terminology surrounding sanctuary and the implications of these terms within legislation. For the purposes of our argument, a ‘sanctuary’

refers to a place in which local law enforcement does not do the work of federal immigration enforcement. In many places across the country, however, policies are implemented for this purpose and are called different names. These policies often include words such as ‘welcoming,’ ‘safe,’ or ‘friendly’ in place of ‘sanctuary.’ Others have opted for less common terminology, including keywords such as ‘values,’ ‘neighbor,’ and ‘support’. Regardless of policies’ names, there is a general consensus amongst public officials and scholars that the term is ‘loaded’ and ‘political.’ Many communities seem hesitant to use or be associated with it at all.

Within recent years, the term ‘sanctuary’ has come up for debate and public discussion due to President Trump’s immigration policy and rhetoric. During his 2016 campaign and subsequent election, Trump threatened to remove federal funding in cities which declared themselves to be ‘sanctuary’ in Executive Order 13768 and has repeatedly drawn attention to cities such as San Francisco, who in his tweets has considered as future locations for “placing Illegal Immigrants” (Trump, 2019). These threats have not been followed through and have been challenged in courts throughout the country. We will describe the threat to federal funding in more detail later in our report. Despite the lack of follow-through, the conversation itself puts more pressure on communities who are actively considering this legislation.

In these discussions of ‘sanctuary cities,’ the term is widely understood as places which protect undocumented and immigrant populations. *Black’s Law Dictionary* defines ‘sanctuary’ more specifically in two parts: as “a safe place, esp. where legal process cannot be executed” or “a holy area of a religious building; esp., the area in a church where the main altar is located” (Garner, 2000). Some people over the course of our research expressed concerns about the two parts of the definition being conflated, saying they would not support a sanctuary policy on the

grounds that it should be strictly considered a religious space banning legal processes (Y. Flores, Councilor for District 6 of the City of Las Cruces, personal communication, June 25, 2019).

More specifically, Las Cruces City Councilor Yvonne Flores described ‘sanctuary’ as “a term of art in a world of law” (Y. Flores, Councilor for District 6 of the City of Las Cruces, personal communication, June 25, 2019). Other people seemed hesitant to embrace a ‘sanctuary city’ policy because of its political implications and a fear of expressing such a clear and controversial opinion on immigration. In 2019, the word ‘sanctuary’ has been adopted by groups including the National Rifle Association for their own campaigns, referring to parts of the state as a “Second Amendment Sanctuary” (Trotta 2019). This use of “sanctuary” is in reaction to new gun background checks signed into New Mexico law in March, 2019. The majority of sheriffs in the state have attempted to claim “Second Amendment Sanctuary” within their respective counties in order to avoid enforcing this new law (Romero and Williams, 2019).

In Doña Ana County, a resolution was passed in 2014 “establishing Doña Ana County as a ‘Safe Community for All Residents.’” The resolution explains that it “prohibits County personnel from disclosing the immigration status of County residents except in instances where such disclosure is required by federal or state law, regulations, or court order” (Doña Ana County Board of County Commissioners, 2014). Dr. Serin Houston has analyzed sanctuary policies across the United States between 2001 and 2014 with the help of Mt. Holyoke undergraduate students. In her 2019 article, “Conceptualizing Sanctuary as a Process,” Houston explains that there are two approaches to sanctuary policy: declarative policy and procedural policy. Declarative policy presents “a formal declaration of a place as a sanctuary or articulated a public statement of concern about anti-immigrant policies at state or federal levels” while

procedural policies present “practices use to work around federal immigration enforcement mandates” (Houston, 2019, p. 5). While Houston says that these are not binary options and that some places can choose to enact policy that does both, they are good distinctions through which to begin analyzing legislation. The words ‘safe community’ and ‘safe haven’ used to describe Doña Ana County are declarative statements. Sheriff Kim Stewart and County Commissioner Chair Lynn Ellins explained that they consider this policy in the county as demonstrations of how the county already follows state law (K. Stewart, Chief Sheriff of Doña Ana County, personal communication, July 2, 2019; L. Ellins, Chair County Commissioner for District 1 in Doña Ana County, personal communication, July 10, 2019). Sheriff Stewart said that ‘safe haven’ is a “made up term” to send a message (K. Stewart, Chief Sheriff of Doña Ana County, personal communication, July 2, 2019). That is not to say that the message and its subsequent actions are not important, only that it is not the policy’s phrasing that influences action.

Still other officials feel as if claiming ‘sanctuary’ is the only statement bold enough to match what should be done in the current political climate. Las Cruces City Councilor Gabriel Vasquez said that he believes while the Las Cruces Welcoming Community Resolution functions as a sanctuary policy, they are at risk of using a lack of formal sanctuary policy as an excuse for inaction (Las Cruces City Council, 2017). The word ‘sanctuary’ in the right context, however, provides a clear and consistent message to the community about what the policy means (G. Vasquez, Councilor for District 3 of the City of Las Cruces, personal communication, July 3, 2019). The term ‘Welcoming Community,’ as used by Las Cruces since 2017, serves as our case study for the majority of this report since the policy has inspired significant action and momentum close to the US/Mexico border. While this language too is controversial, the

resolution serves as an example of a city committed to limiting collaboration between local and federal law enforcement while maintaining confidence in their right to federal funding.

New Mexico is not alone in its attempts to become a sanctuary state, but the fear of becoming a sanctuary may be rooted in what makes New Mexico unique. The southern part of the state lies 100 miles within the border and 48% of the state population identifies as Hispanic (Pew Research, 2014). This makes immigration a crucial aspect of the lives of many New Mexico residents. That, however, does not equate to New Mexico being the state with the most immigration-friendly policies. Border Patrol cars roam the same roads as everyday residents along the southern border. Young children aspire to be Border Patrol agents. With the high demand of agents needed on the southern border, recruitment even happened weekly in New Mexico State University (Kocherga, 2018; Devine, 2018). According to Criminal Justice Professor Dr. Nicholas Natividad, New Mexico's highly colonized space at the expense of the dehumanization of undocumented immigrants allows for this. With colonization comes the erasure of indigenous roots. This normalizes a mindset of the need for a militarized border and xenophobic attitudes towards undocumented immigrants (N. Natividad, Professor in the Criminal Justice Department at NMSU, personal communication, June 28, 2019). 83% of Hispanics in New Mexico are born in the U.S. (Pew Research, 2014). The portion of US-born Hispanics in New Mexico is much higher than the national percentage, with 65.6% of Hispanics nationwide enjoying birthright citizenship (Flores, 2017). This breeds an atmosphere where nationalism is amplified and the desire to prove one's "American-ness" during a time of increasing anti-immigrant rhetoric becomes crucial. Coming to terms with the level of colonization along

the border and working towards a decolonized mentality that values humanity over money will be critical in promoting more immigrant-friendly policies within New Mexico.

Although colonization is part of what has allowed for the dehumanization of migrants, we cannot simply dismiss the backlash against sanctuary policies that would protect migrants. One of the largest fears at the state level in New Mexico is losing federal funding. When the Trump administration announced an executive order threatening to make sanctuary jurisdictions ineligible for federal grants, the fear among states attempting to adopt a sanctuary status is valid (Exec. Order No. 13768, 2017). This fear is even more justified since New Mexico is one of the most dependent states on federal funding in the country. 42.5% of New Mexico's state revenue comes from the federal government (Leins, 2019). With an economy that is so reliant on federal funding and extractive industries, anything that threatens potential economic development is sure to get backlash. Representative Angelica Rubio describes this as a perception of "scarcity" in the state (A. Rubio, Legislator of District 35 of New Mexico, personal communication, June 27, 2019). Scarcity is so embedded into the lives of New Mexico residents that many come to accept any funding or industries that can bring money to the state with disregard to the moral implications. The livelihood of vulnerable populations are even easier to dismiss when money is at stake. This is exemplified by the appeal of the private prison industry in New Mexico. The desperation to bring in an industry that can provide jobs and economic development makes it easier for the state to exploit people through their incarceration (A. Rubio, Legislator of District 35 of New Mexico, personal communication, June 27, 2019). Similarly, when cooperation between local and federal immigration law enforcement means federal grants are at stake, sanctuary becomes the enemy by threatening to halt the flow of money to a state with scarce

resources. This idea of scarcity in New Mexico helps explain why efforts to become a sanctuary state have been unsuccessful, but also gives us insight as to what larger structural changes must occur in the state to reduce opposition against sanctuary bills. Those fears against sanctuary policy should not be dismissed but rather addressed and understood at their root.

The consequences of sanctuary policy on public safety have often been discussed and hypothesized in existing literature. One of the most common counter arguments against sanctuary is the belief that those policies will enable an increase in crime from undocumented immigrants. This is rooted in the idea that undocumented immigrants bring in crime, even though this myth has been debunked by a few studies including one in 2019 by the Marshall Project (Flagg, 2019). The executive order against sanctuary cities was driven by that idea as the goal was to address the “significant threat to national security and public safety” undocumented immigrants (Exec. Order No. 13768, 2017) pose. Daniel Martinez, Ricardo D. Martínez-Schuldt, and Guillermo Cantor concluded in their article “Providing Sanctuary or Fostering Crime? A Review of the Research on ‘Sanctuary Cities’ and Crime” that studies on the relationship between crime and jurisdictions with sanctuary policies show that those jurisdictions are either safer from crime or no different than jurisdictions without such policies (Martinez, 2018). This is exemplified in Doña Ana County where Sheriff Stewart says that there has not been a rise in crime since the resolutions were implemented (K. Stewart, Chief Sheriff of Doña Ana County, personal communication, July 2, 2019).

Sanctuary can even promote community policing and encourage a sense of safety for the undocumented community. According to Justin Crawl, a professor from the Criminal Justice Administration Department from Mansfield University of Pennsylvania, “community policing is

an organizational philosophy that stresses the importance of law enforcement working cooperatively with community members to identify and resolve issues related to crime and disorder” (Crowl, 2017). Community policing can be beneficial to local police agencies, but would require the community’s trust in law enforcement. Yet, how can trust be achieved if immigrant populations fear their local officers? This is only disadvantageous to the job of local law enforcement given that, according to Dr. Sutham Cheurprakobkit and Dr. Robert Bartsch, “Spanish-speaking Hispanics [are] more likely to cooperate with police and...have generally positive attitudes towards police” (Cheurprakobkit, 1999).

In communities where undocumented immigrants reside there is often a fear of reporting crime or helping law enforcement due to citizenship status. This fear can be attributed to cooperation among local law enforcement and federal immigration authorities as well as lack of familiarity with the system. According to Dr. Cecilia Menjivar and Dr. Cynthia Bejarano, “[for Mexican and Central American immigrants]...immigration authorities (*‘la migra’*) are the most feared public officials” (Menjivar, 1999). The same study also found that, given this fear, migrants from Mexican and Central American descent “go to great lengths to avoid any contact with the justice system, so as to evade detection by immigration (Menjivar, 1999). This avoidance of the criminal justice system leads immigrants to not use the court systems or report crimes even if it could be to their own benefit.

This fear can be reduced by limiting the cooperation between federal immigration agencies and local law enforcement. This reduced fear could help undocumented immigrants feel more comfortable reporting crime and accessing help when they are victims of crime. Dr. Tom Wong, Associate Professor of Political Science at UC San Diego and his students conducted a

survey experiment and found “that when local law enforcement officials work with ICE on federal immigration enforcement, undocumented immigrants are 60.8% less likely to report crimes they witness...42.9% less likely to report crimes they are victims of to the police” (Wong, 2017). Among other effects, undocumented migrants are less likely to do business, attend public events where police are present, look for a new job and enroll their children in after-school programs (Wong, 2019). Local law enforcement cooperation with federal immigration agencies weakens the relationship with the community and has negative implications on daily aspects in the lives of migrants.

Given the limited scope of our research, we did not go in depth into alternative ways to develop the state’s economy without exploiting communities and falling into the mentality of scarcity. We do, however, attempt to address the fear of federal funding. Most literature on sanctuary focuses either on theory of the relationship between local and federal government or addresses concerns over the issue of public safety. Little attention, however, has been given to the fear of losing federal funding. This has become an even more prominent issue since Trump’s 2017 executive order where he stated that “sanctuary jurisdictions are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary” (Exec. Order No. 13768, 2017).

The Edward Byrne Memorial Justice Assistance Grant (JAG) received national attention after Trump announced his anti-sanctuary executive order as it is the “leading source of federal justice funding to state and local jurisdictions” (Office of Justice Program, 2018). New Mexico alone received \$775,728.00 for state purposes and \$699,318.00 for local law enforcement agencies in the 2018 federal fiscal year (New Mexico Department of Public Safety, 2018). In the

fiscal impact report (FIR) for HB-195, the analysis reported a concern with the fact that “in the case of many federal law enforcement grant the federal government requires immigration cooperation assurances as a prerequisite to receiving funding” and \$335 million worth of JAG grants were not received nationwide in the summer of 2018 (NM Finance Fiscal Impact report, 2019).

Since the executive order’s announcement in January of 2017, there has been extensive litigation to challenge its legality and defend sanctuary cities and states. The Department of Justice (DOJ) added three conditions to the JAG which include: complying with 8 U.S.C. § 1373, giving the Department of Homeland Security (DHS) personnel access to jails and detention centers and giving DHS a 48 hour notice prior to a detainee’s release (U.S. Department of Justice, 2017). 8 U.S.C. § 1373 “generally bars restrictions on communication between state and local agencies and officials at the Department of Homeland Security” which is at the core of sanctuary policies (U.S. Department of Justice, 2017). District Courts in Illinois, Pennsylvania, and California have ruled that Section 1373 is an unconstitutional federal statute (Immigrant Legal Resource Center, 2018; Somin, 2017). The legal arguments have been framed around a violation of the 10th amendment with the executive branch overstepping into legislative authority (Immigrant Legal Resource Center, July 2018). Judge Orrick in San Francisco’s lawsuit against Jeff Sessions even argued that California complying with 1373 would cause them “to allocate their limited law enforcement resources to exchange information with the federal government whenever requested instead of to the essential services (like enforcing generally applicable criminal laws) they believe would most benefit their respective communities” (City and County of San Francisco v. Jefferson B. Sessions). The legal sentiment to protect sanctuary

jurisdictions has thus focused on local and state authority and maintaining a distinction between the job of local and federal law enforcement.

These court rulings protect sanctuary cities from complying with 1373. As a result of pending litigation, the DOJ has stated that they “will not use or enforce those conditions in FY 2018 JAG awards to these jurisdictions” (Office of Justice Program, 2018). New York, Connecticut, New Jersey, Rhode Island, Washington, Massachusetts, and Virginia have also sued, arguing that the new conditions imposed on the JAG are unconstitutional (Immigrant Legal Resource Center, August 2018). Given the pending litigation, the DOJ will not enforce award conditions 52-56 in those states, which encompass the new conditions added in the executive order (Bureau of Justice Assistance, 2017). Although the lawsuit is still in process, these states should serve as proof that the legality of making federal funds contingent on cooperation between state/local and federal government for immigration purposes is still undecided. Since New Mexico was not part of the multi-state lawsuit, the exemption from award conditions 52-56 does not apply to them. The state could, however, decide to follow the lead of those states in suing the DOJ’s overreach of power and attack on sanctuary jurisdictions. In the meantime, it is important to note that every court that has ruled that the DOJ’s imposed conditions to the JAG are unconstitutional and that the executive order can be simplified as a fear tactic to prevent the expansion of the sanctuary movement.

The Operation Stonegarden Program (OPSG) has been of particular concern for states along the border, including New Mexico who receives nearly \$3 million annually (NM Finance Fiscal Impact report, 2019). OPSG “supports enhanced cooperation and coordination among Customs and Border Protection (CBP), United States Border Patrol (USBP), and federal, state,

local, tribal, and territorial law enforcement agencies” (Homeland Security, 2019). The funds can be used for “personnel-related costs, including overtime, travel, and per diem, as well as vehicle rentals, mileage and fuel costs, and other equipment” (Homeland Security, 2017). Although OPSG is often associated with Border Patrol, the Federal Emergency Management Agency (FEMA) also funds and manages the grant. A DHS audit on the grant in November of 2017 concluded that “FEMA and CBP have not issued adequate guidance or conducted thorough reviews of proposed Stonegarden spending” (Homeland Security, 2017). This is clear to sheriffs along the border, like Doña Ana County Sheriff Stewart, who see the lack of grant accountability as a result of internal conflicts over the use of grant money between USBP and FEMA (K. Stewart, Chief Sheriff of Doña Ana County, personal communication, July 2, 2019). FEMA expanded the scope of OPSG in a memo in November of 2018 to allow the funds to be used for humanitarian relief as a response to the “influx” of unaccompanied minors and minors in general along the border (Homeland Security, 2018).

In regards to OPSG, New Mexico counties and cities hoping to promote sanctuary policies can either forgo the funds altogether or can use it in creative ways and increase transparency. For example, the Board of Supervisors of Pima County in Arizona rejected \$1.4 million in OPSG funds in September of 2018 to send a message about the current administration’s immigration policies (Foster, 2018). A year later, however, the Board ruled to accept \$1.8 million under certain conditions. The goals of these conditions were to increase accountability from the sheriff, redirect funds for humanitarian aid, and keep Immigration and Customs Enforcement (ICE) out of the Pima County detention center (Reyes, 2019). This reconsideration came after the Sheriff applied for the grant for 2018, indicating the Sheriffs

persistence to receiving the money (Schmidt, 2019). Doña Ana County receives \$800,000 from Stonegarden, but Sheriff Stewart has decided to use the funds for humanitarian aid. Her goal is to use the money for a medical trailer at the Port of Santa Teresa and to help migrants and asylum-seekers that pass through Doña Ana before heading to their final destination. She also clearly stated that Doña Ana County Sheriff's Department does not enforce federal law arguing that they have enough work and will not do the job of Border Patrol agents. They simply coexist with federal law enforcement, and will only help them for emergency circumstances. She explained that in her 6 months on the job that has only happened once (K. Stewart, Sheriff of Doña Ana County, Personal Communication, July 2, 2019). Doña Ana County provides a model for other counties in New Mexico along the border. Stonegarden is not funding that itself is anti-sanctuary. It can be used in creative ways or with increased accountability to help migrants along the border instead of creating fear among the established undocumented community in New Mexico.

Up to this point, we have attempted to reframe the narrative of sanctuary policy in order to appeal to those who are more skeptical. This work expands upon the proposed SB-196 bill (2018) and will benefit its future iterations. However, we believe that working within this state-wide policy model alone is not sufficient. By working strictly with the goal of a state sanctuary policy, we are restricting ourselves and disconnecting from momentum at the local level. We agree with Houston's argument that "sanctuary is not just a state of being, but, rather, a dynamic and complicated process that...outlines strategies for working around federal mandates" (Houston, 2019, p. 13-14). This process is especially important for New Mexico where counties

along the southern border have already begun to implement sanctuary policies to be used as models across the state.

A state-wide policy, if enforced properly, would greatly benefit New Mexico. Yet by focusing only on this state level, New Mexico risks creating a blanket policy that does not actually impact the lives of individuals. California passed SB-54, the California Values Act, but at least 14 counties and cities have challenged it (Raphelson, Hobson, & Bentley, 2018). A state-wide policy may send a political message in support of undocumented immigrants, but if local communities are not enforcing or supportive of state policy, then there is no benefit to those the policy aims to support. In the meantime, those cities challenging state sanctuary law are in limbo in terms of whether they will adopt the policy or not.

This concern is not isolated to California. In February, 2019, local hesitance to abide by gun reform efforts prompted Governor Michelle Grisham to tweet, “I’m not daunted by obstacles, whether it’s NRA propaganda, rogue sheriffs throwing a childish pity party or bad-faith critics. Legislative leaders and I will continue to fight the scourge of gun violence in our communities. #nmleg #nmpol #SB8.” (Grisham, 2019) Individual resistance on the part of counties or public officials could prove dangerous to a state sanctuary bill.

Prior to the full enacting of a state-wide policy, it is imperative for there to be a cultural shift within the state of New Mexico (N. Natividad, Professor of Criminal Justice at NMSU, personal communication, June 28, 2019). This need for a cultural shift entails a change of mentality and perception among members of the community (including overcoming perspectives of scarcity and colonization discussed earlier in this report). The shift is not something that is done overnight or something that can be achieved through mere adoption of a state policy. It is a

gradual and incremental approach which can only be done by first adopting policies at the local level. Without this gradual shift, some counties may be hesitant to enforce and embrace state policy. Adoption of policies at the local level would serve as a sort of “foot in the water” approach where communities can get a feel for the impact of ‘welcoming community’ policies. Policies such as those adopted in Las Cruces can serve as a beginning step for this cultural shift.

While this cultural shift may not be realistic across the state in the short-term, momentum for it already exists within individual counties, cities, and institutions within the 100 mile border zone. As previously discussed, one of these is Doña Ana County which declared itself to be a “Safe Community” in 2014. Since then, Sheriff Kim Stewart has taken steps to reaffirm the county’s commitment to this policy. Within the county, Las Cruces became a “Welcoming Community” in 2017 (Las Cruces City Council, 2017). Las Cruces Public Schools have issued their own policies and New Mexico State University has attempted to become a sanctuary campus. According to a document by ICE on Secure Communities and places which have refused to honor ICE detainees, a 2014 decision by New Mexico County Jails banned cooperation with any ICE detainees (U.S Immigration and Customs Enforcement, 2017). Following the lifetime of SB-196, it would be easy to assume that there is little interest in sanctuary policies within New Mexico, yet that is not true in many parts of the state.

There are also numerous policies and measures that we believe would help complement existing sanctuary policies and support the future of them within the state as opposed to state-wide adoption. Measures such as fingerprinting databases for local law enforcement agencies is one way where the community would decrease its reliance on Border Patrol or other

federal agencies. This would also lead to a decrease in community fear towards local police officers.

There are also ways to enact effective sanctuary policies within school districts. In New Mexico, this is a particularly useful step. According to 2017 data analyzed by the Migration Policy Institute, 88,400 children in New Mexico are from immigrant families - 19% of children in New Mexico (Migration Policy Institute, 2017). A 2017 article by Leyla Santiago for *CNN* titled "They live in Mexico and go to school in the US," explains that roughly 800 students cross the border from Mexico to Columbus, NM, in order to go to school (Santiago, 2017). In 2017, the district enrollment for Deming Public Schools (DPS) was 5,490 (The Annie E. Casey Foundation: Kids Count Data Center, 2019). This means that 14.57% of DPS students had to cross the border from Palomas, Mexico that year to attend school each day. Buses pick those children up at the border to bring them to school. These students interact with Border Patrol agents on a daily basis. When discussing Gadsden Independent School District, Superintendent Travis Dempsey said he knows of students who live in New Mexico with relatives but whose parents live in Ciudad Juarez. Dempsey believes that immigration politics and policies have negatively impacted their enrollment within the district (T. Dempsey, Gadsden ISD Superintendent, personal communication, June 27, 2019). Though district data does not show a drop over the last five years as he suggested, this data was not broken down by race or ethnicity and could still be possible to see further trends to support his hypothesis.

For some school districts, the impact of immigration policy is more evident. In February 2017, ICE raids in Las Cruces prompted 2100 absences in the Las Cruces Public Schools (LCPS) the next day. At the elementary schools, this was a nearly 150% increase in absences. Attendance

returned to normal the next week. Though unavailable to meet with us during the course of our research, LCPS Superintendant Greg Ewing told *The New Yorker* in March of 2017 that the attendance record from those days following the ICE raids was “alarming” (Blitzer, 2017). The records from these days show a direct correlation between a fear of ICE and a distrust in the city. The Welcoming Community Resolution was signed in December of that year following these events.

There are multiple ways for schools to protect their undocumented students which now exist within some schools along the border. The first is actively training staff and school administrators to understand the unique position of undocumented students both when registering for and when attending school. When enrolling in school, families are asked for multiple forms of identification. There are alternative forms of identification (such as baptism documentation in place of a birth certificate) that schools are instructed to accept but that many people may not be aware of. Dempsey explained that many parents are hesitant to hand over these forms of identification as additional information for the school despite being protected by the Family Education Rights and Privacy Act of 1974 (FERPA). Another service that school personell can provide undocumented students is in the form of the day-to-day classroom environment. Fostering trust, providing counseling and academic support, as well as tracking academic performance can assist students. Working on creating close relationships between students’ families and parents and classroom teachers can also impact a student’s success.

Schools can also create their own policies and resolutions. The Las Cruces Public School District has enacted three such policies over the last three years: “Access to Education and Protections for Immigrant Students” (2017), “Resolution Opposing Family Separation” (2018),

and “Resolution Ensuring Immigrant Student Access to the Full Benefits of an LCPS Education” (2017). These policies reference *Plyler v. Doe* (1982) which ensures a child’s right to a public education regardless of immigration status. They outline the specific protocol for school officials when ICE requests a student’s information, steps for understanding the family situations of students, creating relationships with non-profit organizations that support immigrant families and children in the city, and creating guidelines to protect students’ privacy. When talking to Superintendent Dempsey, one thing he was proud of in Gadsden was their dual-language classrooms. 8 of the 16 Gadsden schools currently emphasize bilingual education and teach all students in both Spanish and English (T. Dempsey, Gadsden ISD Superintendent, personal communication, June 27, 2019).

Following national trends, there have also been efforts by colleges and universities to put in place their own sanctuary policies to protect students on campus. Shortly after the 2016 election, professors at New Mexico State University (NMSU) began efforts to make NMSU a sanctuary campus within a group called “Standing with Our Students.” One of those professors was Dr. Julie Steinkopf, who describes the group’s efforts as “sobering” due to the fact that many professors were uninterested in or afraid of signing a petition to hold perpetrators of hate crimes on campus accountable, not let ICE on campus, and prevent faculty from turning student’s names and information over to ICE. Steinkopf attributed this hesitance to a mixture of politics, apathy, and racism amongst the university’s faculty members (J. Steinkopf, Professor of Sociology at NMSU, personal communication, June 26, 2019). The theory behind a person’s fear to be associated with dissent and political resistance is explained in part by James Scott in *Domination and the Arts of Resistance* (Scott, 1990). In a second petition, Standing with Our

Students changed the word ‘sanctuary’ to “safe and caring campus.” Though the president of the university refused to take action, this momentum led to increased resources for undocumented students and is an effort that Steinkopf hopes will continue in the future. Steinkopf explained that when comparing the actions of NMSU with the actions of universities in the north of New Mexico (such as the University of New Mexico), there were different considerations that had to be made. It was more dangerous for students at NMSU, for example, to publically claim their undocumented status due to the large presence of Border Patrol and ICE in the region (J. Steinkopf, Professor of Sociology at NMSU, personal communication, June 26, 2019). Understanding what works best for the students in each particular region of New Mexico is important when creating policies for them.

Another important measure that could be taken in favor of sanctuary policy in the state would be to close down - or at least reduce the reliance on - private prisons within the state. There is often a narrative that private prisons promote economic growth in New Mexican communities which, while true to an extent, is not always the most moral approach. Private prison companies focus on pushing for harsher sentences for profit. In “Private Prisons and the Emerging Immigrant Market in the US: Implications for Security Governance,” Dr. Karina Moreno Saldivar and Dr. Byron E. Price (2015) found that the two largest private prison companies - CCA and The Geo Group Inc. - have put their lobbying efforts to push for copycat bills of Arizona’s SB 1070 in other states (Saldivar and Price, 2015, p. 34). This demonstrates private prison efforts to push for anti-immigration bills in hopes of profiting off the incarceration of undocumented immigrants. There is also often a prioritization of profits over the implementation of fair justice in the sense that those in charge of the prison may reduce the

quality of living and numerous programs in order to reduce expenditures and save more money. To do so, they may detain a larger number of inmates and migrants in such facilities. If these private prisons exist within sanctuary counties, there is an independent incentive to criminalize migrants that counteracts the message of sanctuary policy. It becomes a debate of economic growth versus morality, justice, and doing what is right. Pushing for the closing of private prisons or reducing reliance on them is a step towards doing what is just and creating consistent policy. Economic growth must come from alternate sources.

As explained previously, New Mexico relies heavily on federal funding. Within the state, immigration and community welfare policies have often been overlooked in favor of exploitative industries such as mining and oil. By choosing to strengthen industries which benefit the communities' health and safety, the fear of losing federal funding with sanctuary policy would be decreased (A. Rubio, New Mexico State Legislature Representative, personal communication, June 27, 2019). Some state legislators - such as Moe Maestas, Chair of the House Commerce and Economic Development House Committee - have advocated for policies to strengthen the economy in more creative ways. During his 2016 campaign for Governor, Maestas suggested policies to strengthen health care, film production, agriculture, and small business, amongst others. Reimagining budget distribution within the state to advocate for the welfare of its residents - such as the May 2019 "Wellbeing Budget" implemented in the nation of New Zealand - could benefit New Mexico while paving a path for eventual sanctuary policy (The Tal Ohanga, 2019).

Although New Mexico has not passed a state-wide sanctuary policy, the state has shown other efforts to support undocumented immigrants in the state. For example, undocumented

immigrants in New Mexico are eligible for driver's licenses. This allows them to have a form of identification and gives them mobility without fear. State insurance plans where undocumented people are eligible, like California's Medi-Cal (Romo, 2019), could also benefit their overall daily life. Dr. Wong found that when local law enforcement officials work with ICE on federal immigration enforcement, undocumented immigrants are 69.6% less likely to use public services that requires them to disclose their personal contact information (Wong, 2017). Use of public health services and overall health of this population would likely increase with access to a state insurance program that allows them to go to the doctor and receive preventative treatment.

Efforts, however, should not end with policies because they are vulnerable to changing politics. Ideally, New Mexico would pass all the immigrant-friendly policies that we have described. Yet with immigration being such a sensitive topic, there is no guarantee of these described policies being implemented. Advocates doing grassroots work have the ability to help undocumented immigrants living in states without sanctuary policies or with anti-sanctuary policies. For example, the American Civil Liberties Union of New Mexico gives Know Your Rights (KYR) presentations in hospitality centers where recently-arrived immigrants are placed for a few days before moving to their sponsors. KYR presentations give people the tools to advocate for themselves and protect information about their status in case they have an encounter with any law enforcement officer. These presentations are especially important to give to the wider population in order to try to reach as many members of the undocumented community.

Our research demonstrates that policy and action at the local level will have the greatest influence on the undocumented community in a state not yet ready to adopt a statewide policy. It is better to implement small-scale legislation with guaranteed enforcement rather than

declarative idealistic policy without accounting for the vast diversity within New Mexico's population. Understanding the impact and success of Doña Ana's "Safe Community" resolution shows that sanctuary within the 100 mile border zone is possible and effective. If attention was turned next to Luna and Hidalgo County, this would create great strides for New Mexico in protecting its undocumented population in the borderlands. Creativity and open-mindedness on the part of local organizations and small communities will be crucial to reaching an eventual state policy, as well as understanding that the current lack of sanctuary policy should not deter people from finding alternative ways to support the undocumented community within the state.

We acknowledge that there were some limitations to our research this summer. In using the "Welcoming City" resolution as a successful model for local sanctuary policy, we focused on interviews with people who could explain its success. If this study had been conducted in a different county without a sanctuary policy in place, the reactions of elected officials and others interviewed may have been less positive. We also recognize that we did not include all the knowledge available within the community given that our research relied on the insight given to us by public officials and professors.

If granted the opportunity to expand our research, we would have interviewed a broader selection of people. These would include health professionals, grassroots organizers, and an increased number of public safety officials. Over time, the expertise of health professionals could benefit our research by showing long-term trends in public service utilization in Las Cruces following the "Welcoming Community" resolution. Grassroots organizers have been on the ground advocating for sanctuary policy in New Mexico for many years. Their experience would have helped us learn about strategies to implement these policies well. Since the majority of the

literature on sanctuary policy appears to focus on public safety, speaking to people in this field would have helped us apply trends from national data to the community of Las Cruces.

Due to our limited understanding of economics, our group was not prepared to do a comprehensive economic analysis of social costs and benefits in the state. It was also difficult to access data on the cost and use of public services. With these figures and sufficient economic expertise, we could have provided financial evidence that the fear of losing federal funding is exaggerated. Our understanding of these funds within this report are supported by qualitative findings instead of financial analysis.

Based on our interviews, we learned that a lot of people consider sanctuary to be a political and complicated term. They tend to shy away from using that word in policy as a result. A randomized survey amongst community members could have illuminated this concept. In this hypothetical survey, one group would be asked whether they support sanctuary policy and a second if they think local law enforcement should do the work of federal immigration enforcement. Any discrepancies in the results would indicate that people's understanding of 'sanctuary' is political.

Despite these perceived limitations, we believe this research can serve as a foundation for future sanctuary policy in New Mexico. It provides a basic understanding of how local communities have acted and created policies to support undocumented individuals. The implementation of sanctuary policy has broad impacts within the community. As we have seen throughout this paper, sanctuary impacts almost every aspect of everyday society including public safety, education, funding, local and state legislation, and state-federal relations. Each of

these aspects can play a crucial role in creating eventual state sanctuary policy. In the absence of a state bill, we hope that our research can encourage advocacy and groundwork at the local level.

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