



TIM GRIFFIN
ATTORNEY GENERAL

Opinion No. 2025-048

September 17, 2025

The Honorable Kendon R. Underwood
State Representative
Post Office Box 446
Cave Springs, Arkansas 72718

Dear Representative Underwood:

You have requested an opinion from this Office on whether the City of Fayetteville, Arkansas has adopted a prohibited “sanctuary policy” under A.C.A. § 14-1-103. Your request is made both as a resident under A.C.A. § 14-1-103(c) and as a member of the General Assembly under A.C.A. § 14-1-103(d).

On June 27, 2025, my Office sent a letter to Fayetteville City Attorney Kit Williams requesting “copies of any City of Fayetteville ordinances and policies addressing the issues described in § 14-1-103(b).” The City Attorney responded on July 1, 2025, in writing with attached records. In that letter, the City Attorney stated that “the City of Fayetteville *has no ordinance nor policies that violate* A.C.A. 14-1-103(b).” (Emphasis added.) My Office sent a follow-up letter to the City Attorney on August 4, 2025, and reiterated a request for “any materials related to any of the issues described in § 14-1-103(b).” On August 5, 2025, the City Attorney replied, that “to the best of” his “knowledge and belief, any city ordinances, resolutions or policies, including formal or informal practices, training materials, emails, or memoranda related to any issues described in § 14-1-103(b)” had already been provided with his “earlier correspondence.”

While I have been provided with copies of numerous documents, the most relevant one is a written statement by the mayor. The statement, which is attached to this opinion as Exhibit 1, was published on June 17, 2025. The statement indicated that “FPD does not participate in civil immigration enforcement violations.” And the mayor “reiterated the city’s position,” stating, “I want to reaffirm clearly: The City of Fayetteville does not assist ICE in carrying out its agenda. Our police department’s role is to keep our community safe, not to act as agents of immigration enforcement.”

RESPONSE

As explained more fully below, it is my opinion that the mayor’s written statement—by its own terms—(1) reflects a preexisting policy and (2) that policy violates A.C.A. § 14-1-103. Thus, it is

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a “sanctuary policy,” which means that, under A.C.A. § 14-1-103(c)(2), the City is not eligible to receive discretionary funding administered by the state. The City may submit evidence demonstrating that the sanctuary policy is no longer current or that exceptions have been made that would allow City employees to comply with the statute. If that evidence is submitted, the City will be eligible to receive the discretionary funds again.

DISCUSSION

1. General rules. Under A.C.A. § 14-1-103, a local government cannot “enact or adopt a sanctuary policy.”¹ A policy is considered a prohibited “sanctuary policy” if it promulgates or reflects any one of a list of prohibited actions. For purposes of this opinion, the most relevant prohibited actions are policies that:

- “Limit[] or prohibit[] a local government official or person employed by the local government from communicating or cooperating with federal agencies or officials to verify or report the immigration status of a person within the local government”;²
- “Restrict[] or impose[] any conditions upon the local government’s cooperation or compliance with detainers or other requests from United States Immigration and Customs Enforcement to maintain custody of an immigrant or to transfer an immigrant to the custody of United States Immigration and Customs Enforcement”;³ or
- “Prevent[] law enforcement officers from asking a person about his or her citizenship or immigration status.”⁴

When this Office receives a complaint that a local government has adopted a formal or informal sanctuary policy, it must review and issue an opinion on whether such an unlawful policy exists under A.C.A. § 14-1-103.⁵

If the Attorney General finds that a local government “has enacted or adopted a sanctuary policy,” that local government will be “ineligible to receive discretionary moneys provided through funds or grants administered by the state until the Attorney General certifies that the sanctuary policy is

¹ A.C.A. § 14-1-103(a)(1).

² *Id.* § 14-1-103(b)(2)(A).

³ *Id.* § 14-1-103(b)(2)(D).

⁴ *Id.* § 14-1-103(b)(2)(F).

⁵ *Id.* § 14-1-103(c)(1) (for state residents), -103(d)(1) (for members of the General Assembly). Although these provisions have differing language, they ultimately ask the same question: does a local government have an order, ordinance, or law enforcement policy that violates § 14-1-103?

repealed or no longer in effect.”⁶ Legislators may ask for an opinion under A.C.A. § 14-1-103(d)(1) “[b]efore the provision of funds or the award of grants” is even made to the local government.

In order for the Attorney General to determine that a city does in fact have an unlawful sanctuary policy under A.C.A. § 14-1-103, four elements must be met:

- First, the person seeking the Attorney General’s review must be an Arkansas resident, legislator, or both.⁷
- Second, the information or record must be an “order, ordinance, or law enforcement policy.”⁸
- Third, the information or record must meet one of the six categories listed under A.C.A. § 14-1-103(b)(2)(A)–(F).
- Fourth, the order, ordinance, or law enforcement policy that meets one of the six categories under A.C.A. § 14-1-103(b)(2)(A)–(F) must also be current and in effect.⁹

Since the first element is clearly met here, I will restrict my analysis to the remaining three.

2. Element two. The media release is written evidence of a pre-existing law-enforcement policy. The media release expressly describes a policy of the Fayetteville Police Department when the release says that the “FPD does not participate in civil immigration enforcement violations.” The release goes further, stating that the release’s content and the mayor’s statement “reiterate[] the city’s position” and “reaffirm clearly” the city’s policy regarding immigration.

3. Element three. For the purposes of my review under A.C.A. § 14-1-103, the City of Fayetteville’s orders and law enforcement policy may violate A.C.A. § 14-1-103 in six distinct ways. For the reasons discussed below, it is my opinion that the “Media Release,” reflects a pre-existing prohibited sanctuary policy under A.C.A. § 14-1-103(b)(2)(A), -103(b)(2)(D), and -103(b)(2)(F).

3.1. Limiting or prohibiting cooperation. A policy is a prohibited sanctuary policy if it “[l]imits or prohibit[s] a local government official or person employed by the local government from communicating *or cooperating* with federal agencies or officials to verify or report *the immigration status* of a person within the local government.” (Emphases added.) The mayor’s

⁶ A.C.A. § 14-1-103(c)(2).

⁷ See *id.* § 14-1-103(c)(1) (state residents), -103(d)(1) (members of the General Assembly).

⁸ *Id.* § 14-1-103(b)(2) (defining “sanctuary policy”).

⁹ *Id.* § 14-1-103(a)(2) (implying that a sanctuary policy that “is repealed or no longer in effect” would not continue to violate the statute in question).

media release expressly states that the City has a policy of “not participat[ing] in civil immigration enforcement violations” and that the “City of Fayetteville does not assist ICE....” A declaration that the City does not “participate in civil immigration enforcement violations” and “does not assist ICE” indicates that the City “limit[] or prohibit[s]” its employees from “cooperating with federal agencies ... to verify or report the immigration status” of someone within the City. This is a clear violation of the statute.

Further, the media release makes clear that the policy predated the release. The release made clear that it was merely “reiterat[ing] the city’s position” regarding immigration. And the mayor herself said she wanted to “*reaffirm* clearly” what that position was. So for some, currently unknown, amount of time before the media release, the City had a policy under which they did not communicate or cooperate with federal agencies regarding someone’s immigration status.

Thus, the mayor’s statement reflects a pre-existing policy that violates A.C.A. § 14-1-103(b)(2)(A).

3.2. Detainer requests. Subdivision -103(b)(2)(D) prohibits any policy that “[r]estricts or imposes any conditions upon the local government’s cooperation or compliance with detainers or other requests from United States Immigration and Customs Enforcement to maintain custody of an immigrant or to transfer an immigrant to the custody of United States Immigration and Customs Enforcement.” For similar reasons as those discussed in Subsection 3.1 of this opinion, the mayor’s statement violates this subdivision. The statement that the “City of Fayetteville does not assist ICE” and does not “participate in civil immigration enforcement violations” broadly encompasses any act by the city or its staff that helps or facilitates ICE operations, such as cooperating and complying with detainers or other requests from ICE. The refusal to “assist ICE” imposes conditions upon which the City of Fayetteville cooperates and complies with detainers or other requests from ICE.¹⁰ Thus, the mayor’s media release reflects a pre-existing policy that violates A.C.A. § 14-1-103(b)(2)(D).

3.3. Asking about immigration status. Subdivision -103(b)(2)(F) prohibits any policy that “[p]revents law enforcement officers from asking a person about his or her citizenship or immigration status.” The mayor’s statement expressly indicates that—at least as it pertains to “civil immigration” violations—the City has a policy under which they do not “participate” in any “civil immigration enforcement violations.” That broad policy prevents law enforcement officers from asking about someone’s “citizenship or immigration status.” Therefore, the pre-existing policy evinced by the mayor’s media release violates A.C.A. § 14-1-103(b)(2)(F).

The City appears to believe that, as long as it does not promulgate a policy that is the verbatim contradiction of one of the subdivision in A.C.A. § 14-1-103(b)(2), then the City cannot be in violation of the statute. Not so. Instead, the statute prohibits policies that hinder or prevent the

¹⁰ See *Condition*, *Black’s Law Dictionary* 368–69 (12th ed. 2024) (defining “condition” to include “[a] stipulation or prerequisite”).

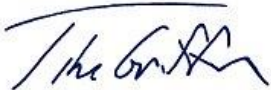
actions described above. Since the mayor's media release reflects such a policy, that is sufficient to establish a violation of this statute.

4. Element four. Subdivision -103(c)(2) requires me to determine whether the sanctuary policy "is repealed or no longer in effect." If so, then the City is no longer in violation of the statute. If not, then the City is not eligible to receive the discretionary moneys.

I have exchanged four letters with the City (two sent, and two received), seeking information on the City's existing policies that are relevant to A.C.A. § 14-1-103. The City believes that not only does it lack any policies that violate § 14-1-103, but the City does not have any policies that are even relevant to the statute. Based on the information articulated above, that belief is mistaken. Therefore, based on the information currently available to me, it is my opinion that the City's policy is still current and effective.

If the City of Fayetteville clearly indicates that its pre-existing policy has been amended or contains exceptions that permit the City's employees to comply with the law, then that will be sufficient to conclude that the sanctuary policy in question is not current or effective. Based on what records I receive, I will then issue an opinion and either certify or not certify that the policy has been repealed or is no longer effective. But until I receive evidence that the policy is not currently in effect, the City of Fayetteville will not be eligible to receive discretionary funding administered by the state.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim Griffin", with a horizontal line drawn above it.

TIM GRIFFIN
Attorney General



CITY OF
FAYETTEVILLE
ARKANSAS

MEDIA RELEASE

FOR IMMEDIATE RELEASE

City of Fayetteville Responds to ICE Presence During State-Led Stop

FAYETTEVILLE, Ark. — The City of Fayetteville is providing the following clarification after questions arose regarding law enforcement activity involving U.S. Immigration and Customs Enforcement (ICE) earlier today.

“The Fayetteville Police Department has not been contacted by ICE or any other federal, state, or local agency regarding any immigration enforcement operations in our city.

At approximately 9:03 a.m., FPD received a request for assistance from Arkansas State Police related to a traffic stop near I-49 and Exit 64. A Fayetteville Police sergeant responded to the scene and observed both Arkansas State Police and U.S. Immigration and Customs Enforcement (ICE) personnel present.

FPD had no further involvement in the investigation and left the scene. FPD does not participate in civil immigration enforcement violations.”

Mayor Molly Rawn reiterated the city’s position, stating:

“I want to reaffirm clearly: The City of Fayetteville does not assist ICE in carrying out its agenda. Our police department’s role is to keep our community safe, not to act as agents of immigration enforcement.”

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