

# SANCTUARY CITIES PRIMER

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## WHAT IS A SANCTUARY CITY?

“Sanctuary city” has no official definition and it is not a legal term. Generally, sanctuary city describes a jurisdiction that has in some way limited local law enforcement’s involvement with federal immigration enforcement. For example, some localities have a policy limiting local law enforcement officials’ inquiry into the immigration status of victims, witnesses, or defendants; other localities will not use local resources to prolong the detention of individuals in local jails beyond the term of a criminal case at the request of federal immigration enforcement officials (called a “detainer request”) without a judicial warrant. Hundreds of cities and counties, along with [nine states](#) (CA, CO, CT, IL, NJ, NM, OR, VT, WA) across the country have adopted policies to ensure they stay focused on their primary mission to keep their communities safe by limiting their engagement with ICE.

The reasons for these policies vary but they are often based on community policing principles, an approach to law enforcement designed to build trust between police and the community in order to encourage greater cooperation and improve the ability to investigate and prosecute dangerous criminals. Many local jurisdictions do not honor detainer requests because federal courts have ruled that, without probable cause, such as a judicial warrant, holding individuals beyond their release date violates the Fourth Amendment of the Constitution.

## WHAT DO TRUMP’S EXECUTIVE ACTIONS SAY ABOUT SANCTUARY CITIES?

On his first day in office, President Trump [directed](#) his administration to evaluate and take any lawful steps to deny federal funding to so-called “sanctuary” jurisdictions. The following day, the Department of Justice (DOJ) issued guidance suggesting it might prosecute state and local officials who refuse to assist with federal immigration enforcement—an explicit threat to states and localities that limit their cooperation with immigration authorities.

However, as multiple state Attorneys Generals [have pointed out](#), these efforts are legally dubious. The Tenth Amendment, particularly the [anti-commandeering doctrine](#), prohibits the federal government from [forcing or coercing states](#) to enforce federal immigration laws. Even if the administration attempts to circumvent this, [U.S. Supreme Court precedent](#) states that conditions on federal funding must directly relate to the purpose of the funds. It would be difficult for the administration to argue that immigration enforcement is meaningfully tied to community or economic development grants.

## DO SANCTUARY CITIES PROHIBIT IMMIGRATION ENFORCEMENT?

No. It is incorrect to state that localities with policies limiting local law enforcement’s role in immigration enforcement categorically prohibit ICE from enforcing immigration law in their jurisdictions. In fact, local law enforcement agencies generally provide individual arrest information, through [interoperable database systems](#) that share fingerprints taken at local police stations with the FBI and the Department of Homeland Security (DHS). If there is a match, Immigration and Customs Enforcement (ICE)—the agency charged with the enforcement and removal of immigrants—makes determinations as to whether the individual is subject to enforcement action based on its criteria and will contact the local law enforcement agency requesting that it hold the individual for

ICE. However, local jurisdictions have their own considerations, including that holding individuals for prolonged periods without a warrant exposes the locality to legal challenges.

## ARE LOCAL LAW ENFORCEMENT OFFICERS REQUIRED TO COOPERATE WITH IMMIGRATION OFFICERS?

No. It is the responsibility of the federal government to enforce federal immigration laws. While localities may establish the manner of their cooperation with ICE, they must also balance their other legal obligations. This has been the subject of litigation over the years, with [several federal courts](#) ruling that holding immigrants for ICE without probable cause violates the Fourth Amendment of the Constitution.

## WHAT ARE THE CONCERNS WITH LOCAL LAW ENFORCEMENT INVOLVEMENT IN IMMIGRATION LAW?

Law enforcement leaders [have warned](#) that forcing state and local agencies to enforce immigration laws erodes community trust, instills fear of the police, and leads to fewer reported crimes and reduced cooperation with law enforcement. During the Trump administration, this chilling effect became evident as immigrants hesitated to report crimes or seek help from authorities. A [2018 ACLU survey](#) found that fear of deportation deterred immigrants from engaging with the justice system. Over 50% of police reported that crimes like sexual assault, domestic violence, and human trafficking became harder to investigate due to survivors' fears of immigration consequences. Additionally, 54% of judges noted that such fears disrupted court cases and delayed justice.

During the first Trump administration, local law enforcement collaboration with ICE surged, with 287(g) agreements increasing by [over 260%](#). This collaboration raised serious community concerns:

- Domestic violence organizations, such as the National Task Force to End Domestic and Sexual Violence, [strongly opposed](#) collaboration between local law enforcement and ICE, arguing it deterred victims from seeking help due to fear of deportation.
- Law enforcement leaders reported sharp declines in crime reporting among Latinos: Houston saw a 42.8% drop in [reported rapes](#) from 2016 to 2017, according to then-Police Chief Art Acevedo, while Los Angeles experienced a [25% decrease](#), which then-Police Chief Charlie Beck attributed to deportation fears.
- Heavy immigration enforcement has also been shown to [discourage parents](#) from sending their children—including U.S. citizen children—to school, undermining their [constitutional right](#) to education and jeopardizing a fundamental pillar of the American education system.

## CAN THE FEDERAL GOVERNMENT WITHHOLD FUNDING FROM SANCTUARY CITIES?

The ability of the federal government to withhold funding is legally questionable. The 10th Amendment of the U.S. Constitution, in particular, the [anti-commandeering doctrine](#), [prohibits](#) the federal government from [forcing or coercing states](#) to assist in federal immigration enforcement. Even if the administration gets around the 10th Amendment issue, the [U.S. Supreme Court has ruled](#) that the federal government can only impose conditions on federal funds if those conditions are related to the underlying purpose of the program. It would be difficult for the administration to make the case that immigration enforcement is sufficiently related to community or economic development funding.

## ARE IMMIGRANTS MORE LIKELY TO COMMIT CRIME THAN NATIVE-BORN INDIVIDUALS?

Numerous [studies](#) have long demonstrated that “immigrants are less likely to commit serious crimes or be behind bars than the native-born, and high rates of immigration are associated with lower rates of violent crime and property crime.” A 2017 report from the [Center for American Progress](#) found that sanctuary counties have 35.5

fewer crimes per 10,000 people in comparison to non-sanctuary counties. The [Cato Institute](#) has found that immigrants are less likely to be incarcerated than natives relative to their shares of the population. Even undocumented immigrants are less likely to be incarcerated than native-born Americans.

## ARE THERE ANTI-SANCTUARY CITY LEGISLATIVE EFFORTS?

Yes. While there have been many efforts in recent years in this area, two pieces of legislation are worth monitoring at the start of the 119th Congress:

- Representative Nick LaLota (R-NY) has introduced the so called [No Bailout for Sanctuary Cities Act](#) (H.R.5717) that would broadly define “sanctuary jurisdictions,” and then provide that they are ineligible for federal funds intended to benefit non-citizens in the U.S. without legal status.
- Representative Jodey Arrington (R-TX) has introduced the [America First Act](#) (H.R.10469) which along with withholding federal nutritional, healthcare, and educational assistance from immigrants and their U.S.-born children, would also remove [ESEA funding](#) from sanctuary jurisdictions, disproportionately impacting low-income children and their families.

It is expected that additional bills punishing sanctuary cities will be introduced in the 119th Congress.

## WHAT LAW ENFORCEMENT AND LOCAL OFFICIALS HAVE SAID ABOUT THREATS TO SANCTUARY CITY POLICIES:

Yes. While there have been many efforts in recent years in this area, two pieces of legislation are worth monitoring at the start of the 119th Congress:

- [Police Chief Paul Joseph, San Jose, CA](#): “Our officers will not detain, question, or arrest individuals solely for the purpose of determining whether they are undocumented. This longstanding policy ensures that law-abiding individuals, including undocumented immigrants, can come forward to report crimes or seek help without fear of deportation or arrest.”
- [Arizona Governor Katie Hobbs](#): “I will not tolerate misguided policies that don’t actually help with the critical work that’s happening here, that you’re seeing here today, that actually keeps our communities safe and secure. I will not tolerate terrorizing communities or threatening Arizonans.”
- [Denver Mayor Mike Johnston](#): “We are gonna [sic] continue to be a welcoming, open, big-hearted city that’s gonna [sic] stand by our values.” Immigration status “shouldn’t discourage someone from taking their kid to get health care, taking their kid to go to school, or driving themselves to work.”
- [Police Chief Rick Edwards, Richmond, VA](#): “Folks who have concerns about their immigration status will have no issues with the Richmond Police Department.”
- [Illinois Governor J.B. Pritzker](#): “We also just want to make sure there isn’t a violation of people’s rights with...raids...that are done in coordination [with] local law enforcement. We think that’s improper and in Illinois, that’s not something that we would condone.”
- [Boston Mayor Michelle Wu](#): “The last thing we want is for people who are part of our economy, part of our school system, part of our community and the fabric of our city, to feel that all of a sudden they have to retreat into the shadows. We want immigrants to know that it is safe for everyone, to be able to feel comfortable reaching out for emergency services, to report a crime, to ask for help, and generally to be part of our community.”
- [Police Chief Jim McDonnell, Los Angeles, CA](#): “I want to be unequivocal. LAPD will protect LA’s immigrant community. We will not cooperate with mass deportations.”