



Sanctuary Cities

The Definition of a Sanctuary City

There is no standard definition for what makes a municipality a “sanctuary city.” Generally, jurisdictions are considered “sanctuary cities” when they enact or implement ordinances, local laws or policies of noncooperation with federal immigration authorities in the enforcement of federal immigration law. Some definitional elements of sanctuary city policies include:

- “Policies or laws that limit the extent to which law enforcement will go to assist the federal government on immigration matters.”¹
- Policies that disregard requests from Immigration and Customs Enforcement (ICE) to hold indefinitely immigrant inmates beyond their detention dates (commonly known as “detainers”).²
- Policies that bar local police from asking for proof of citizenship and from arresting immigrants who lack documentation unless they are suspected of committing other criminal offenses.³

The term “sanctuary city” is a misnomer, and some have confused sanctuary city policies with the idea that immigrants in these communities are protected from any immigration enforcement action brought against them. Contrary to this common misconception, nothing in a sanctuary city policy prevents federal enforcement actions.

There also is confusion about the difference between a “sanctuary city” and the “sanctuary movement” in churches, wherein undocumented who are in danger of being deported take refuge in a church and seek protection or

“sanctuary” there. While both share the word “sanctuary” in their names, these two concepts are not synonymous with one another.

Why The “Sanctuary City” Issue is in the Public Eye Now

Sanctuary cities have long been an issue with immigration restrictionists in Congress and with both Republican and Democratic Administrations. Indeed, even the Obama Administration has opposed the concept, challenging Cook County Illinois, in particular, in its efforts to shield itself from calls for cooperation with the federal government in immigration enforcement actions.

The issue emerged as a powerful federal legislative issue in 2015 after the death of Kate Steinle in San Francisco, California. On July 1, 2015, Ms. Steinle, a U.S. citizen, was killed by Juan Francisco López Sánchez, an undocumented felon who had been previously deported from the country. López Sánchez had been released from prison in April 2015, but the local city government did not honor a detainer request by ICE for his custody. Subsequent to Ms. Steinle’s death, several bills to penalize sanctuary cities gained new steam in Congress; The U.S. House of Representatives passed some of them. However, none were enacted into law.

On January 25, 2017, President Donald J. Trump issued [Executive Order \(EO\) 13768 on interior immigration enforcement](#), which brought sanctuary cities to the forefront of the new Administration’s immigration policy agenda. Notably, section 9 of the EO seeks to ensure that sanctuary cities do not receive certain federal grants and directs the Attorney General to take appropriate enforcement actions against

such cities. This section of the order has been subject to several ongoing lawsuits and preliminary injunctions, temporarily halting section 9 from implementation.

The Administration's strong opposition to sanctuary cities was more recently highlighted on March 6, 2018, when the Department of Justice (DOJ) filed a lawsuit in the U.S. District Court in Sacramento against the state of California. The lawsuit [alleges](#) that three California laws are unlawful and have "the purpose and effect of making it more difficult for federal immigration officers to carry out their responsibilities in California."⁴

[The Catholic Church's Position on Sanctuary Cities](#)

While USCCB has never categorically expressed support for or opposition to sanctuary cities, it has spoken out against specific pieces of legislation that would have curtailed sanctuary city activity.

On October 19, 2015, Most Reverend Eusebio Elizondo, then-Chairman of the USCCB Committee on Migration, wrote to the full Senate expressing the Committee on Migration's opposition to S. 2146, the "Stop Sanctuary Policies and Protect Americans Act of 2015." Bishop Elizondo wrote in that letter that "in our view, the legislation would undermine public safety, harm poor communities and individuals, and remove discretion from the courts, thus increasing the costs of enforcement and incarceration." He concluded the letter by asserting, "it is our strong view that S. 2146 is an overreach and would make our communities more dangerous for U.S. citizens and others."

On February 11, 2015, another representative of USCCB's Committee on Migration spoke publicly on behalf of the committee against federal legislative efforts to have local police carry out federal immigration enforcement actions.⁵ At that time, Most Reverend Gerald F. Kicanas, Bishop of Tucson, Arizona, testified

before the House Judiciary Subcommittee on Immigration and Border Security on behalf of the USCCB Committee of Migration, of which he was a consultant, on the Catholic Church's perspective on interior immigration enforcement legislation. He expressed the Church's opposition to H.R. 2280, the Strengthen and Fortify Enforcement (SAFE) Act, asserting that it "would criminalize undocumented immigrants and those who offer them basic needs assistance."

In 2016, USCCB opposed an effort to force local entities to engage in immigration enforcement, in part, by cutting off funding to non-compliant jurisdictions. USCCB's Committees on Migration and Domestic and Social Development along with Catholic Charities USA (CCUSA) came out against S. 3100, the "Stop Dangerous Sanctuary Cities Act."⁶ This bill would have allowed and pressured state and local law enforcement agencies and officials to act as agents of the Department of Homeland Security (DHS) when conducting local law enforcement and community actions.⁷ In addition, S. 3100 would have denied certain public works and economic development grants, as well as Community Development Block Grants (CDBG), to jurisdictions identified as "sanctuary jurisdictions."⁸

In 2017, [USCCB's Committee on Migration, in conjunction with CCUSA, opposed](#)⁹ similar legislation, [H.R. 3003](#), the "No Sanctuary for Criminals Act."¹⁰ H.R. 3003 would have denied vital federal funding related to law enforcement, terrorism, national security, immigration, and naturalization to jurisdictions if they were deemed to be non-compliant with H.R. 3003's provisions relating to immigration enforcement. The bill would have undermined the discretion of local law enforcement, "hamper[ing] the ability of local law enforcement officials to apprehend criminals and ensure public safety in all communities."

[The Case Against Sanctuary Cities](#)

Opponents of sanctuary cities assert that immi-

grants are guests in the United States and that when they commit serious crimes, they should be removed so they cannot continue to commit crimes in the United States. They contend that sanctuary cities permit criminal immigrants to remain in the country and to continue to commit crimes that victimize both U.S. citizens and law-abiding immigrants.

Opponents of sanctuary cities are not limited to those who seek to use state and local law enforcement officials to deport criminal immigrants. Many sanctuary city opponents also want to use state and local law enforcement officials as a force to remove non-criminals who are present in the United States without authorization, such as children and workers who have not committed any crimes.

The Case in Support of Sanctuary Cities

While every piece of legislation should be reviewed on a case-by-case basis, there are some general public policy arguments for supporting reasonable sanctuary city policies:

- **Having local officials enforce federal immigration law erodes community trust and does not prevent crime.** [Statistics](#) show that a cooperative relationship between law enforcement and immigrant communities enhances public safety and reduces crime.¹¹ In contrast, greater involvement of local police in immigration has significantly heightened many immigrants' fear of the police, contributing to their social isolation and exacerbating their mistrust of law enforcement authorities. Public safety strategy, including building trust through community policing, is a matter of legitimate concern to city government. Congress should defer to the expertise of these local leaders to create and foster community safety responses
- **Allowing local enforcement of federal immigration law has led to lower crime reporting by immigrants and less in-**

formation sharing between immigrant communities and local police. Increased police involvement in immigration enforcement, has left many immigrants feeling as though they can no longer go to local law enforcement to report being the victims of or witnesses to crime. To this end, a recent study on Latino communities undertaken by the University of Illinois Chicago reported that 45% of Latinos surveyed stated that they are less likely to voluntarily offer information about crimes and 45% are less likely to report a crime because they are afraid the police will ask them, or people they know, about their immigration status due to increased local enforcement efforts on behalf of the federal government.¹²

- **Requiring local law enforcement entities to enforce federal immigration law complicates their responsibility to protect and serve the local communities of which they are a part.** Building and maintaining trust between local law enforcement and residents is an important mechanism in any effort to stop criminal behavior. As local law officials take on the responsibility to enforce federal immigration law, the risk emerges that rifts will occur between local law enforcement and the local community. Immigrants living in these communities may become less likely to report crimes or to cooperate with police for fear that their immigration status might come into question. The challenge of building and maintaining trust between police and immigrant communities is a fundamental reason why the involvement of local law officials in the enforcement of federal immigration law can be problematic.

What “Sanctuary Cities” Can and Cannot Do

In recent years, numerous individuals have brought lawsuits against their cities for carrying out allegedly unlawful detainer holds.¹³ These suits have included constitutional chal-

lenges, such as Fourth and Tenth Amendment claims.¹⁴ Sanctuary cities may cite the desire to avoid such litigation as part of the justification for passing their sanctuary city ordinances.

While cities may argue that they should be permitted to exist as sanctuary cities, the new Administration and Congress have attempted to punish sanctuary cities through efforts to cut federal funding from local budgets across the country, as well as the DOJ's recent efforts to have California's sanctuary-related state laws deemed unlawful. As noted above, the Administration's efforts to cut certain federal funding is subject to [ongoing litigation](#). To learn more please review our related backgrounder here .

[Individual Bishops' Public Comments on this Issue](#)

- Most Reverend Salvatore J. Cordileone, Archbishop of San Francisco, issued a [state-ment](#) on July 24, 2015, in which he expressed support for the City of San Francisco's "right to exercise reasonable and appropriate discretion in the handling of immigrant detainees, consistent with their need to maintain public safety." He called for greater cooperation between local and federal but cautioned that "just and humanitarian policy should not be abandoned because of flaws in the system. Rather, proper authorities should make prudent adjustments in the application of the law in order to protect the public safety of all those living in our country."¹⁵

- Most Reverend Joe Vasquez, Bishop of Austin, was critical of HB 12, a Texas anti-sanctuary city bill in April of 2011, stating that the issue is a "moral one, not just a political one" and that the Texas bishops' opposition to the measure "stems from the belief that every person is created in God's image." Continuing, he said, "[The bill] would prohibit a municipality from adopting a policy that prohibits employees from inquiring about the immigration status of a person lawfully detained or arrested. This bill threatens public safety and endangers

the civil and constitutional rights of Texas residents. It is an expensive way to make our cities less safe and our schools less safe."¹⁶

(Last updated: 3/8/2018)

Endnotes

- 1 Michael Pearson, What's a 'Sanctuary City,' and Why Should You Care?, CNN (July 8, 2015), <http://www.cnn.com/2015/07/06/us/san-francisco-killing-sanctuary-cities/index.html>.
- 2 Maxwell Tani, A Chilling Alleged Murder Has Thrown a Major New Wrinkle Into An Already Complicated Debate, BUSINESS INSIDER (July 20, 2015), <http://www.businessinsider.com/what-are-sanctuary-cities-2015>.
- 3 Id.
- 4 Complaint, U.S. v. California, No. 18-264, Dkt No. 1, 3 (E.D. Cal. Mar. 6, 2018), available at <https://assets.documentcloud.org/documents/4403884/3-6-18-US-v-California-Complaint.pdf>
- 5 Statement of Most Reverend Bishop Kicanas, House Subcommittee Hearing on Interior Immigration Enforcement Legislation (Feb. 11, 2015), <http://www.justiceforimmigrants.org/documents/Kicanas-Final-2015Feb10.pdf>.
- 6 Stop Dangerous Sanctuary Cities Act, S. 3100, 114th Cong. (2016), available at <https://www.congress.gov/bill/114th-congress/senate-bill/3100/text>.
- 7 Id. at § 2.
- 8 Id. at § 4.
- 9 USCCB/COM and CCUSA, Letter to House of Representatives on H.R. 3003 and 3004 (June 2017), available at <https://justiceforimmigrants.org/statements/usccb-catholic-charities-usa-letter-congress-opposition-h-r-3003-3004/>.
- 10 No Sanctuary for Criminals Act, H.R. 3003, 115th Cong. (2017), available at <https://www.congress.gov/bill/115th-congress/house-bill/3003/text>.
- 11 UNIVERSITY OF ILLINOIS AT CHICAGO, INSECURE COMMUNITIES: LATINO PERCEPTIONS OF POLICE INVOLVEMENT IN IMMIGRATION ENFORCEMENT (MAY 2013), http://www.policylink.org/sites/default/files/INSECURE_COMMUNITIES_REPORT_FINAL.PDF.
- 12 Id.
- 13 See, e.g., *Morales v. Chadbourne*, 996 F. Supp. 2d 19 (D.R.I. 2014), affirmed on appeal, 793 F.3d 208 (1st Cir. 2015); *Galarza v. Szalczyk*, 2012 WL 1080020 (E.D.Pa. Mar. 30, 2012), reversed in part on appeal, 745 F.3d 634 (3rd Cir. 2014); *Davila v. NRJPB*, 2013 WL 5724939 (W.D. Pa. 2013).
- 14 In 2014, a federal court in Oregon determined that detainer orders violate the Fourth Amendment's prohibition of holding someone without probable cause. *Miranda-Olivares v. Clackamas Cnty.*, No. 3:12-cv-02317-ST, slip op. at 21 (D. Or. April 11, 2014). In addition, some individuals have argued that such orders violate the 10th Amendment's separation of powers between federal and local authorities. *Moreno et al. v. Napolitano et al.*, No. 11-cv-05452 (N.D. Ill. September 29, 2012); *Brizuela v. Feliciano*, No. 3:12-cv-00226-JBA (D.Conn. February 13, 2012). As a result of this line of argument, the 3rd Circuit has interpreted detainers to be voluntary requests. *Galarza*, 745 F.3d at 644-45 (finding that any other reading would put detainer requests in conflict with the 10th Amendment).
- 15 Archbishop Cordileone, Sanctuary Cities, LA PRENSA (July 24, 2015), <http://laprensa-sandiego.org/editorial-and-commentary/commentary/sanctuary-cities-a-statement-by-archbishop-salvatore-j-cordileone/>.
- 16 Diocese of Austin, Catholic Spirit, May of 2011, http://archive.austindiocese.org/newsletter_article_view.php?id=5827

