

Sanctuary Cities and Immigration Detainers: A Primer

By Lázaro Zamora Apr 25, 2017



The issue of sanctuary cities has received heightened attention in Congress and the new Trump administration. In 2015 and 2016, various members of Congress introduced several legislative proposals to bar federal funds from so-called sanctuary states and localities that limited their cooperation with federal immigration authorities. More recently, following President Donald Trump's executive order denouncing sanctuary cities, the Department of Justice (DOJ) announced that jurisdictions applying for DOJ grants would have to certify compliance with federal immigration law that prohibits state and local restrictions on voluntarily exchanging information with federal authorities regarding a person's immigration status. The executive order has already attracted legal challenges, and a district judge in San Francisco granted a temporary injunction of the sanctuary cities section of the order on April 25.

It must be noted that the DOJ guidance does not *mandate* that jurisdictions honor what are called immigration detainers (explained below) from the federal government, which highlights some of the regulatory and constitutional limitations and challenges involved around the issues of sanctuary cities and the role of states and localities in enforcing federal immigration law. Even the act of withholding federal funds from local jurisdictions can face court challenges if the conditions are so substantive that they could be considered coercion or if they are unrelated to the federal interest or program at hand. Here we explain key terms in this debate, and discuss the challenges involved in addressing sanctuary city policies, including adherence to detainers, through federal legislation, regulation, or anything beyond voluntary federal-local cooperation.

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