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DOJ Targets 29 'Sanctuary Cities' in Latest Salvo

The Justice Department sent letters to the jurisdictions warning that they may be at risk of losing federal law enforcement grant funding.



By Alan Neuhauser, Staff Writer Nov. 15, 2017, at 3:26 p.m.



Attorney General Jeff Sessions addresses law enforcement and members of the press at JFK International Airport in New York City on Oct. 27. The Justice Department sent a letter to 29 'sanctuary' cities, counties and states on Wednesday warning that they might not be in compliance with federal law. EDUARDO MUNOZ ALVAREZ/GETTY IMAGES

THE JUSTICE DEPARTMENT on Wednesday escalated its crackdown on so-called "sanctuary" jurisdictions, naming more than two dozen cities, counties and states across America that it believes may be out of compliance with laws mandating local cooperation with federal immigration authorities.

Attorney General Jeff Sessions sent letters to officials in localities from Jackson, Mississippi, to Sonoma County, California, demanding that they certify that they are in compliance with federal immigration law or risk losing millions of dollars through a federal law enforcement grant program.

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The letters were sent to jurisdictions that previously received Byrne Justice Assistance Grants, which were allocated about \$376 million by Congress in fiscal 2016.

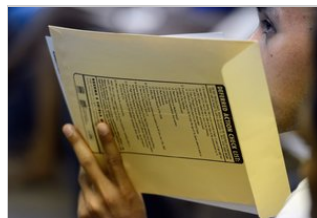
At issue is a portion of law in the U.S. Code known as Section 1373, which prohibits localities from taking any step that would restrict public employees from sharing someone's immigration status with federal authorities.

The Justice Department under Sessions has taken an expansive view of the statute: Cities, counties and states that bar police from asking about someone's immigration status or prohibit officers from allowing federal immigration agents into their jails may be in violation of Section 1373, the attorney general has contended.

In the letters to the sanctuary jurisdictions, which the Justice Department barred reporters from making public, the department cited policies in each jurisdiction that appeared not to be in compliance, frequently including prohibitions on local police inquiring about immigration status. But they also pointed to policies like declining to notify federal immigration authorities of the upcoming jail release of someone in the country illegally or whether officials reasonably suspect a person illegally reentered the U.S.

"I urge all jurisdictions found to be potentially out of compliance in this preliminary review to reconsider their policies that undermine the safety of their residents," Sessions said in a statement accompanying the letters. "We urge jurisdictions to not only comply with Section 1373,

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but also to establish sensible and effective partnerships to properly process criminal aliens."

The letters say no final determination has been made on whether the jurisdictions are in compliance and gives them until Dec. 8 to address the Justice Department's concerns. It marks at least the third time this year that the Justice Department has sent letters to jurisdictions warning that they might be out of compliance.

Just two hours before the latest round of letters were made public, a federal court in Philadelphia [blocked](#) the Justice Department from tying Byrne Grant funding to compliance with Section 1373. Philadelphia had been one of five jurisdictions to receive a letter from the Justice Department last month accusing the city of potentially being in conflict with the law and at risk of losing up to \$1.6 in federal law enforcement grant funding.

U.S. District Judge Michael M. Baylson, however, concluded that the city was in compliance.

"Given Philadelphia's unique approach to meshing the legitimate needs of the federal government to remove criminal aliens with the City's promotion of health and safety, there is no conflict of any significance," Baylson wrote in a lengthy memo accompanying his preliminary injunction Wednesday.

The order applies only to Philadelphia's grant application, but it was a setback in the Justice Department's efforts to force localities to fully cooperate with federal immigration enforcement.

Notably, federal judges have concluded that while Section 1373 prohibits local towns, counties and states from enacting any rule or policy that would prevent officers from sharing someone's immigration status with authorities – or even maintaining that information locally – it says nothing about policies that simply bar police from asking for that information or notifying federal authorities about someone's release date from jail.

"It's a separation of powers issue," says Christopher Lasch, a law professor specializing in immigration policy at the University of Denver Sturm College of Law. "There's a really basic concept here, which is that the federal government really can't compel state officers to do anything. But the Department of Justice has really tried to split hairs on Section 1373, because Section 1373 technically doesn't compel anything. It forbids localities from forbidding their own officials from doing things."

Federal judges in several jurisdictions during the Obama administration concluded that requiring local police to comply could run afoul of the 10th Amendment, which restricts the federal government from what's known as "commandeering" or "conscripting" local resources to enforce federal law. The Obama administration chose not to pursue appeals – a decision that seems less likely in the Trump administration, which is already appealing certain injunctions.

Wednesday's announcement represents the latest of several attempts by the Trump administration and the Justice Department to tie federal law enforcement grants to full cooperation with federal immigration law.

In January, President Donald Trump signed an executive order threatening to rescind federal funds from sanctuary jurisdictions,

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a measure that was [largely struck down](#) three months later by a federal judge in California, who found that only Justice Department grants could be tied to local immigration enforcement. The administration is [appealing](#) that ruling.

Another federal judge in Chicago ruled in September that only Congress has the power to impose new conditions on existing grants, not executive branch agencies like the Justice Department. However, the judge did find that the Justice Department was well within its rights to ensure localities are complying with laws that are already on the books – including Section 1373.



DOJ Ends Certain Police Reviews

The letters that the Justice Department sent Wednesday may signal that it's prepared to defend its more expansive view of Section 1373 and once again argue over the extent of the statute in court.

Hiroshi Motomura, a law professor specializing in immigration policy at the UCLA School of Law, says the letters could also be an attempt to stir up enough uncertainty that town councils, county freeholders and state legislators simply capitulate rather than risk losing crucial federal funds.

"Even if a locality is in the sanctuary camp, it may get cold feet depending on whether or not it wants to go to court to defend its policy," he says. "A lot of what's going on is the Justice Department is interested in using the risk of litigation to persuade cities not to take the chance."

The jurisdictions that received the DOJ letters Wednesday were:

Albany, New York
 Berkeley, California
 Bernalillo County, New Mexico
 Burlington, Vermont
 Contra Costa County, California
 City and county of Denver, Colorado
 Fremont, California
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Alan Neuhauser covers law enforcement and criminal justice for U.S. News & World Report. He ... [READ MORE »](#)

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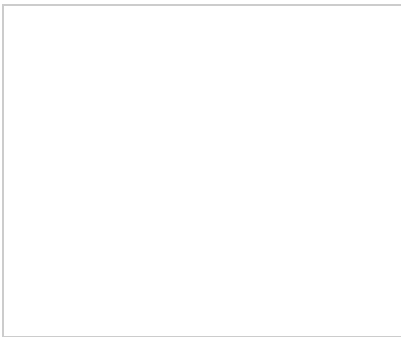
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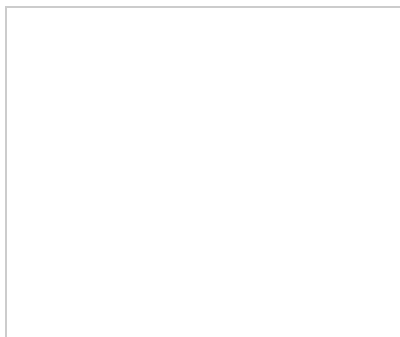
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