



## Illegal Alien Sues San Francisco for Violating Sanctuary City Law

Pedro Figueroa Zarceno, an illegal alien from El Salvador, filed a lawsuit on January 17 against the city and county of San Francisco (which are consolidated), the acting police chief, the sheriff, and several police officers for violating San Francisco's sanctuary city law by arresting and detaining him.



The lawsuit charges that when Figueroa went to San Francisco's auto impound lot in December 2015 to claim his stolen car — which had been recovered by police — he was directed to the nearest police station to get the paperwork necessary to retrieve his car. The complaint, curiously filed on Figueroa's behalf by a nonprofit group called Asian Americans Advancing Justice/Asian Law Caucus, states:

However, instead of being assisted by the police, Mr. Figueroa was victimized yet again when he was unlawfully arrested and detained by San Francisco Police Department officers.

The complaint went on to state that officers from San Francisco's police and sheriff's departments identified a civil immigration warrant for Figueroa, and then "proceeded to violate San Francisco's Sanctuary Ordinance by contacting federal immigration authorities, providing them with Mr. Figueroa's location, and coordinating to hold him in custody long enough for federal immigration agents to arrive at the police station."

The complaint noted that "the San Francisco Police Department directly transferred Mr. Figueroa to Immigration and Customs Enforcement custody, where he remained for the next two months."

The complaint also noted that "upon Mr. Figueroa's detention on December 2, 2015, ICE [Immigration and Customs Enforcement] sought to effectuate his 2005 removal order."

The lawsuit, which was filed in U.S. District Court for the Northern District of California, seeks an unspecified amount and also asks for an injunction against San Francisco that prohibits its officers from assisting or cooperating with federal immigration authorities unless otherwise required by federal or state law.

While it may seem to any reasonable person that local police officials should cooperate with federal immigration officials attempting to detain and deport aliens who are in this country illegally, such logic escapes the leaders of more than 200 municipalities (including San Francisco, Los Angeles, Boston, Miami, New York, and Washington, D.C.) that have declared themselves to be "sanctuary cities."

The lawsuit included a summary of exactly how and when San Francisco became "a City and County of



Refuge,” noting:

San Francisco declared itself a city of refuge on December 23, 1985 when the San Francisco Board of Supervisors passed San Francisco Resolution 1087-85, the City of Refuge Resolution, in response to the Salvadoran and Guatemalan refugee crises. The resolution provided, in part, that: “San Francisco finds that immigration and refugee policy is a matter of Federal jurisdiction; that federal employees not City employees, should be considered responsible for implementation of immigration and refugee policy.”

Under the City of Refuge Resolution, then-Mayor of San Francisco Dianne Feinstein was urged by the San Francisco Board of Supervisors to “affirm that City Departments shall not discriminate against Salvadoran refugees because of immigration status, and shall not jeopardize the safety and welfare of law-abiding refugees by acting in a way that may cause their deportation.”

The suit quoted a statement from then-Mayor Feinstein that the resolution “has one purpose and that is to emphasize that persons are not going to be discriminated against or hassled in San Francisco because of their immigration status as long as they are law-abiding.”

Feinstein’s statement ignores a key point, however, and that is, an alien who has entered our country illegally cannot be law-abiding because he has violated our nation’s immigration laws. And while the resolution’s statement that “federal employees not City employees, should be considered responsible for implementation of immigration and refugee policy,” that should not absolve city employees from the same civic responsibilities that all citizens have — to cooperate with law enforcement at all levels of government.

Sharing information with federal immigration authorities is not the same as taking personal responsibility for enforcing federal immigration statutes.

A subsequent law passed by San Francisco in 1989, and signed by then-mayor Art Agnos, the City of Refuge Ordinance, also known as the “Sanctuary Ordinance,” officially codified the 1985 City of Refuge Resolution. The Sanctuary Ordinance was signed into law by Agnos and included a prohibition on San Francisco employees assisting or *cooperating with* any investigation, detention, or arrest conducted by the federal agency charged with enforcement of federal immigration law.

Therein lies the crux of the matter. In most circumstances, even an ordinary citizen, not to mention a city official, can be charged under federal law with “misprision of felony” for failing to inform authorities about the commission of a crime. Therefore, so-called sanctuary city laws create a dilemma for city officials, who must decide which of two conflicting laws they will obey. However, this point has not, to our knowledge, been addressed by any court, probably because “misprision of felony” charges are difficult to prove and are rarely brought.

The Department of Homeland Security, which oversees ICE, told the *San Francisco Chronicle* that police ran a background check on Figueroa and learned that he had a 10-year-old outstanding warrant for deportation after failing to appear at an immigration hearing in Texas in 2005, and a 2012 conviction for drunken driving. It was then that police contacted the ICE service center, and an ICE duty officer was told where to find Figueroa.

Figueroa is scheduled to appear at an immigration hearing in May, his attorney told the *Chronicle*, but because of a backlog in immigration courts, it could be two years before his hearing is held.

On the day before Figueroa’s attorneys filed the suit, San Francisco Mayor Ed Lee announced a new



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campaign to support illegal aliens in his city. “San Francisco is a sanctuary city and will not waiver in its commitment to protect the rights of all its residents,” Lee’s statement was reported by station KRON 4.

An [article posted by The New American](#) in 2015 explored the question of whether San Francisco’s sanctuary city law had contributed to the tragic murder of a woman named Kathryn Steinle, who was walking on San Francisco’s Pier 14 with her father when she was gunned down by an illegal alien named Juan Francisco Lopez-Sanchez.

Sanchez later said that the reason he had moved to San Francisco was because it was a sanctuary city. His trial will begin in February.

*The New American* article noted that Lopez-Sanchez, Steinle’s accused killer, was not turned over to U.S. Immigration and Customs Enforcement agents, as they had requested. Instead, the San Francisco Sheriff’s Department set him free. The article noted:

Federal immigration authorities blame the local police for not keeping Lopez-Sanchez in custody, as they had requested, so they could pick him up and make sure he was deported. The San Francisco Sheriff’s Department says sorry, but it was simply obeying the decision by city officials to make San Francisco a sanctuary city for illegal aliens (or, as they like to say, “undocumented workers”).

That article included a significant observation from Jessica Vaughan of the Center for Immigration Studies taken from an article entitled “Sanctuary Cities Continue to Obstruct Enforcement, Threaten Public Safety.” The report noted, in part:

Under Barack Obama, the Justice Department has never done anything to compel any of these entities to comply with the law. Our nation’s top law enforcement agency hasn’t sued; it hasn’t tried to withhold federal funds; it has done absolutely nothing to force these “sanctuary cities” to comply with our immigration laws.

As a result, there are untold numbers of illegal aliens in this country, many of whom have already been convicted of other crimes, who are confident they are safe from deportation.

That policy is likely to come to an end with the end of the Obama administration, however. A CNN report last September 1 quoted a statement from candidate Donald Trump about his opinion of sanctuary cities:

“Block funding for sanctuary cities ... no more funding. We will end the sanctuary cities that have resulted in so many needless deaths,” candidate Trump said while campaigning in Phoenix. “Cities that refuse to cooperate with federal authorities will not receive taxpayer dollars, and we will work with Congress to pass legislation to protect those jurisdictions that do assist federal authorities.”

While there is no guarantee than any candidate’s promises will be fulfilled, Trump’s words at least inspire hope that the new administration will pressure sanctuary cities to change their illogical, destructive policies.

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