



Written by [Warren Mass](#) on October 13, 2017

Sessions and DOJ Give Sanctuary Cities “Last Chance” to Comply

The Justice Department posted a press release on October 12 noting that the DOJ has provided a “last chance” for “sanctuary cities” to comply with 8 U.S.C. 1373 — “Communication between government agencies and the Immigration and Naturalization Service.”



The first paragraph of the law reads:

Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

The DOJ statement named five jurisdictions that have preliminarily been found to have laws, policies, or practices that may violate 8 U.S.C. 1373:

Cook County, Illinois;
Chicago, Illinois;
New Orleans, Louisiana;
New York, New York; and
Philadelphia, Pennsylvania.

The statement also cleared two other jurisdictions — Milwaukee County, Wisconsin and the State of Connecticut, about which the Justice Department has found no evidence of being out of compliance with 8 U.S.C. 1373. DOJ said it has also previously sent letters to two jurisdictions notifying them that the department found no evidence that they are currently out of compliance with 8 U.S.C. 1373: Clark County, Nevada and Miami-Dade County, Florida.

“Jurisdictions that adopt so-called ‘sanctuary policies’ also adopt the view that the protection of criminal aliens is more important than the protection of law-abiding citizens and of the rule of law,” the DOJ release quoted Attorney General Jeff Sessions as saying. “I commend the Milwaukee County Sheriff’s Office and the State of Connecticut on their commitment to complying with Section 1373, and I urge all jurisdictions found to be out of compliance in this preliminary review to reconsider their policies that undermine the safety of their residents. We urge jurisdictions to not only comply with Section 1373 but



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to establish sensible and effective partnerships to properly process criminal aliens.”

The release stated that jurisdictions that were found to have possible violations of 8 U.S.C 1373 will have until Oct. 27, 2017 to provide additional evidence that the interpretation and application of their laws, policies, or practices comply with the statute.

NBCNews noted in a report that President Trump issued an executive order in January aimed at cutting off funding from sanctuary cities, but the order has been in legal limbo after a judge issued a nationwide injunction in April. An earlier report from NBC News on April 26 said that Federal District Court Judge William Orrick had issued an order the previous day prohibiting the White House from withholding federal funds from sanctuary cities.

Orrick issued a nationwide injunction in response to a lawsuit filed by San Francisco and nearby Santa Clara County. Orrick said the executive order was unconstitutional because it imposed conditions on federal funds already issued or approved.

However, noted NBCNews, the judge’s order does not completely forbid the federal government to withhold grant money from uncooperative cities. The report said an existing federal law (presumably 8 U.S.C. 1373) says local governments cannot restrict law enforcement officials from sending information to the federal government about the citizenship status of any person.

Orrick said his injunction “does not impact the government’s ability to use lawful means to enforce existing conditions of federal grants,” including obeying that law.

In view of this last statement, Sessions may well have sound legal standing for insisting that sanctuary cities obey federal law.

NBCNews also clarified that the “sanctuary city” dispute stems from these cities’ refusal to honor requests, issued by U.S. Immigration and Customs Enforcement asking local law enforcement to hold suspected criminals believed to be in the country illegally for up to 48 hours after they are scheduled to be released. A common feature of sanctuary city declarations is a stated refusal to comply.

An [article posted by The New American](#) last month reported another case where a judge — this time U.S. District Judge Harry Leinenweber of Chicago — ruled that the Department of Justice cannot withhold federal dollars in law-enforcement grants to sanctuary cities.

The article noted that the city of Chicago filed a lawsuit against the Justice Department after the DOJ announced that it would stop providing Edward Byrne Memorial Justice Assistance grants to cities that do not comply with federal immigration laws. The DOJ announcement followed a ruling by the aforementioned Judge Orrick that blocked Trump’s executive order against sanctuary cities, forcing the Trump administration to revise its sanctuary city policy so that its scope was limited to law-enforcement purposes.

In addition to the cities named by the Justice Department as potentially being in noncompliance with 8 U.S.C. 1373, starting in 2018, the DOJ will also have to deal with the entire state of California.

We reported in [our article on October 6](#) that California’s Governor Jerry Brown had signed the California Values Act into law on October 5, which prohibits state and local agencies from enforcing immigration laws or from working with immigration enforcement agencies. The law will take effect on January 1.

Photo of Attorney General Jeff Sessions: AP Images



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