



Sessions: States, Cities Seeking DOJ Grants Must Comply With Federal Immigration Laws

Speaking at a White House press briefing on March 27, Attorney General Jeff Sessions (shown) reiterated what President Trump stated in his January 25 executive order regarding the harm that sanctuary jurisdictions do to the American people and to our country.



In that order, Trump wrote that (among other things) it is the policy of the United States to ensure the faithful execution of its immigration laws, and that “jurisdictions that fail to comply with applicable Federal law do not receive Federal funds, except as mandated by law.”

After being introduced by White House Press Secretary Sean Spicer, Sessions prefaced his comments by noting that immigration laws require the federal government to promptly remove aliens from our country when they are convicted or detained for certain crimes. Sessions observed that the overwhelming majority of Americans support this requirement. He cited a recent poll that indicated 80 percent of Americans believe that city officials who arrest illegal aliens for crimes should be required to turn them over to immigration authorities.

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Despite federal law and the support of most Americans, however, Sessions noted that, “unfortunately, some states and cities have adopted policies designed to frustrate this enforcement of immigration laws.”

This lack of cooperation, Sessions said, “includes refusing to detain known felons on the federal detainer request, or otherwise failing to comply with these laws.”

Sessions then referred to a March 20 report issued by the Department of Homeland Security (which we wrote about [in our article of March 21](#)). That DHS report, Sessions continued:

[Showed] that in a single week, there were more than 200 instances of jurisdictions refusing to honor ICE detainer requests with respect to individuals charged or convicted of a serious crime. The charges and convictions against these aliens included drug-trafficking, hit-and-run, rape, sex offenses against a child, and even murder. Such policies cannot continue. They make our nation less safe by putting dangerous criminals back on the streets. We all remember the tragic case of Kate Steinle, the 32-year-old woman who was shot and killed two years ago in San Francisco as she walked along a pier with her father. The shooter, Francisco Sanchez, was an illegal immigrant who had already been deported five times and had seven felony convictions.

As sad as that tragic event was, as Sessions continued, he illustrated the dire consequences of having “sanctuary cities”:



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Just 11 weeks before the shooting, San Francisco had released Sanchez from its custody, even though Immigration and Customs Enforcement officers had filed a detainer requesting that he be held in custody until immigration authorities could pick him up for removal. Even worse, Sanchez admitted the only reason he came to San Francisco was because it was a sanctuary city.

Getting down to the immediate business of remedying the threat to Americans' safety posed by providing sanctuary to those who have broken our laws by entering our nation illegally, Sessions announced that he was urging states and local jurisdictions to comply with federal immigration laws, including 8 U.S.C. Section 1373.

Furthermore, should cities, counties, and states not respond willingly with his request, he would use the carrot-and-stick approach:

"The Department of Justice will require that jurisdictions seeking or applying for Department of Justice grants to certify compliance with 1373 as a condition of receiving those awards."

Sessions also noted that enforcement of Section 1373 was not a new policy, but "is entirely consistent with the Department of Justice's Office of Justice Program's guidance that was issued just last summer under the previous administration."

He continued: "This guidance requires state and local jurisdictions to comply and certify compliance with Section 1373 in order to be eligible for OJP grants."

Since Sessions referred to 8 U.S.C. Section 1373 several times, it is worth looking at a complete description of this law prepared by the Legal Information Institute (LII) at Cornell University Law School. The law is defined as "Communication between government agencies and the Immigration and Naturalization Service."

LII's summary of the law reads:

(a) In general

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.

(b) Additional authority of government entities Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

- (1) Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.
- (2) Maintaining such information.
- (3) Exchanging such information with any other Federal, State, or local government entity.

(c) Obligation to respond to inquiries

The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the



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requested verification or status information.

The law is quite clear in that it specifies that no government entity at any level may prohibit or restrict either an entity or an official from communicating to the Immigration and Naturalization Service information regarding the citizenship or immigration status of any individual.

It is apparent that “sanctuary city” laws passed by some jurisdictions violate Section 1373. For example, a 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,” included a prohibition on San Francisco employees assisting or *cooperating with* any investigation, detention, or arrest conducted by ICE, the federal agency charged with enforcement of federal immigration law.

While Section 1373 does not require local officials to *apprehend* illegal aliens, it does say that prohibitions against communicating with immigration officials is illegal. Since the San Francisco sanctuary ordinance prohibits cooperation with immigration officials (and communicating information is certainly cooperation) it clearly violates 1373.

The DHS report to which Sessions referred in his press briefing (its first weekly “Declined Detainer Outcome Report”), while not a comprehensive list, cited 206 cases of immigrants being released from custody despite requests from federal agents to detain them until ICE agents could pick them up.

This widespread refusal of local jurisdictions to cooperate with federal immigration authorities was the apparent motivation behind Sessions’ public call to action.

As Sessions stated during the briefing:

The President has rightly said, disregard for the law must end. In his executive order, he stated that it is the policy of the executive branch to ensure that states and cities comply with all federal laws, including all immigration laws.

Photo of Attorney General Jeff Sessions: AP Images

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