



Trump DOJ Demands Documents From “Sanctuary” Jurisdictions

The Department of Justice issued a press release on January 24 stating that it had sent a letter to 23 “sanctuary” jurisdictions, demanding that each provide documents showing whether each jurisdiction is violating federal law by restricting its law-enforcement officers from sharing information with federal immigration authorities.

Such jurisdictions refuse to cooperate with federal immigration authorities or honor detainer requests from Immigration and Customs Enforcement (ICE) to hold detainees in their custody who are in this country illegally until ICE agents can apprehend them.

The statement noted that all 23 of the jurisdictions had been previously contacted by the Justice Department. In those communications, the DOJ raised concerns about laws, policies, or practices that may violate 8 U.S.C. 1373, a federal statute that promotes information sharing related to immigration enforcement.

The release quoted the following statement from Attorney General Jeff Sessions:

I continue to urge all jurisdictions under review to reconsider policies that place the safety of their communities and their residents at risk. Protecting criminal aliens from federal immigration authorities defies common sense and undermines the rule of law. We have seen too many examples of the threat to public safety represented by jurisdictions that actively thwart the federal government’s immigration enforcement — enough is enough.

The DOJ statement also warned the jurisdictions that failure to comply with 8 U.S.C. 1373 could result in the Justice Department seeking the return of FY2016 grants, requiring additional conditions for receipt of any FY2017 Byrne JAG funding, and/or the noncompliant jurisdictions being deemed ineligible to receive FY2017 Byrne JAG funding.

The Edward Byrne Memorial Justice Assistance Grant Program, or JAG, originated with the Consolidated Appropriations Act of 2005. The program is named for New York City police officer Edward Byrne, who was killed in the line of duty in 1988 while protecting an immigrant witness who agreed to testify against drug dealers. The JAG program is administered by the DOJ’s Office of Justice Programs and provides federal criminal justice funding to state, local, and tribal jurisdictions.

The release named the jurisdictions that received the letter, with most of them being cities or counties. Among them were New York City; Chicago; Cook County, Illinois; and the city and county of San Francisco. Also included were the states of Illinois, Oregon, and California. California became a sanctuary state after its ultra-liberal governor, Jerry Brown, signed the California Values Act into law last October 5.

The mayors of several large cities have criticized the Trump administration’s policy’s against sanctuary cities and several mayors, including New York Mayor Bill de Blasio, Denver Mayor Michael Hancock,



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and New Orleans Mayor Mitch Landrieu protested by boycotting a previously planned White House meeting on January 24 with the president. "This is a destructive ploy by the Trump administration's lawyers to politicize a routine exchange of information," Hancock asserted. "I refuse to meet with the president under these kinds of threats and fear mongering."

Chicago Mayor Rahm Emanuel, who was former President Obama's White House chief of staff in 2009 and 2010, complained, "The Trump administration's actions undermine public safety by jeopardizing our philosophy of community policing, as they attempt to drive a wedge between immigrant communities and the police who serve them."

De Blasio went so far as to accuse the administration of renewing "a racist assault on our immigrant communities."

However, White House spokeswoman Sarah Sanders said the mayors cannot "pick and choose what laws they want to follow."

DOJ is not the only federal department to take sanctuary cities to task. As we [observed in a recent article](#), Secretary of Homeland Security Kirstjen Nielsen said while speaking to the Senate Judiciary Committee on January 16, that DHS has asked federal prosecutors to consider the possibility of bringing criminal charges against leaders of so-called sanctuary cities. "The Department of Justice is reviewing what avenues may be available," Nielsen told the committee.

Nielsen's statement reinforced what the acting ICE director, Tom Homan, said during a January 2 appearance on the Fox News Channel's *Your World With Neil Cavuto*, namely, that politicians should be held "personally accountable" for crimes committed by illegal immigrants. "We've got to start charging some of these politicians with crimes," Homan said.

Though neither Nielsen nor Homan mentioned a specific plan for bringing criminal charges against officials in so-called sanctuary jurisdictions who refuse to comply with 8 U.S.C. 1373 (the federal law that says local government officials may not interfere with communications between their entity and ICE regarding the immigration status of detainees) they might consider charging such officials with "misprision of felony." 18 U.S. Code § 4 defines "misprision of felony" as follows:

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

In order for an official to be charged with "misprision of felony" for failure to turn over an illegal alien, the alien must be guilty of a felony. Not all illegal aliens are felons, but some are. In addition to being charged with non-immigration-related crimes that are felonies, an alien who has been legally removed from the United States commits a felony if he reenters the country illegally one or more times.

Since the number of aliens who have illegally reentered the United States again after being deported is considerable, pursuing "misprision of felony" charges against officials in sanctuary jurisdictions should certainly be considered an option.

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