



## Between a rock and a hard place

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On Feb. 24, Oakland, Calif., Mayor Libby Schaaf issued a tweet and press release warning her community that U.S. Immigration and Customs Enforcement (ICE) “is preparing to conduct an operation in the Bay Area, including Oakland, starting as soon as within the next 24 hours.”

Schaaf’s shocking warning made national headlines, and the resulting fallout drew responses from both Attorney General Jeff Sessions, who accused her of endangering the lives of federal law enforcement officers and promoting a “radical open-borders agenda” as well as President Trump, who said what she did “was a disgrace.”

ICE’s acting director, Thomas Homan, was also incensed. “The Oakland mayor’s decision to publicize her suspicions about ICE operations further increased that risk for my officers and alerted criminal aliens — making clear that this reckless decision was based on her political agenda with the very federal laws that ICE is sworn to uphold,” he said in a statement.

In the three days after Schaaf’s warning, ICE arrested approximately 150 undocumented residents across the region, about half of which had prior criminal convictions, according to multiple national news sources. Homan, however, said 864 immigrants with criminal histories were still at large, and in part blamed Schaaf for the raids’ ineffectiveness. “I have to believe that some of them were able to elude us thanks to the mayor’s irresponsible decision,” he told reporters after the raids.

Schaaf has gone on the record multiple times saying she does not regret her decision, and in a news conference with local TV stations said she “felt it was her duty to share the information.”

She also said that while she’s being criticized by many nationally, there has been an outpouring of support from within her community.

“I’m so appreciative of the Oakland community. I have obviously gotten much criticism but much of it from outside of this community and some of the feelings of being supported, of being heard, of being stood up for, those have been really wonderful for me to hear,” she told local TV reporters. “I’m so grateful to live in this community.”

*\*Editor’s note – Neither Mayor Schaaf nor ICE representation responded to interview requests from American City & County.*

Schaaf’s actions have thrown into sharp relief the tension municipalities across the country are feeling between cooperating with the federal government and protecting the rights of residents in

their community. With new federal priorities regarding immigration and a renewed interest in the issue driven by the rhetoric of the Trump campaign and subsequent administration, many local leaders are left wondering what, if anything, can be done to resolve the issue.

But before a solution can be reached, it's first necessary to unpack the problem.

### **Immigration without rhetoric**

David Bier, an immigration policy expert at the Cato Institute, agrees there is a lot of rhetoric involved in the immigration debate – some of it founded, some of it not. For starters, he says it's important to understand that undocumented immigration has been on the decline since around 2008. “The illegal immigrant population in the United States is down from 12 million to around 11 million,” he says. “The entire population [of the U.S.] is growing; the illegal immigrant population hasn't grown, in fact, it's shrunk over the past 10 years.”

But even though their numbers are shrinking, it seems the arguments over what to do with these undocumented individuals have grown more intense and vitriolic in recent years. There are two main reasons for this, according to Bier. The first is confusion created by the growing visibility of legal immigrants to the country, he says. “The immigrant share of the population nationally hasn't been this large since the early 20th century... and they're going across the entire United States for the first time.”

Bier explains these individuals are settling in places where they traditionally have never gone, and as a consequence, unlikely communities are taking an interest in the immigration debate on a national scale for the first time.

Additionally, the Trump administration's focus on immigration has reinvigorated the debate across the country. From decrying sanctuary cities as safe harbors for violent criminals to demanding a wall along the U.S. border with Mexico to stop what Trump has described on multiple occasions as an unrelenting torrent of illegal immigration, Trump's showmanship and charisma have energized a support base that shares these views, regardless of their accuracy.

Bier argues the numbers simply don't support Trump's claims, particularly when it comes to the dangers of immigrant populations.

“All of this [contention] has been justified by crime,” he says. “The concern that immigrants come here and commit crimes is the number one reason cited for crackdowns. There's just no evidence that immigrants – authorized or unauthorized – or sanctuary city policies increase crime.” In fact, Bier says the opposite is true. Higher immigrant populations are associated with reductions in crime, and public safety resource expenditures are reduced when immigrant populations increase. “This is a big part of this conversation that just isn't based on any rigorous analysis.”

There are real impacts on areas that receive high levels of immigrants, however. While it's difficult to generalize on a national scale, Bier says immigrant populations will have unique needs, and particularly in smaller communities, addressing these needs can strain the services the local government can provide. Bier explains that in a large city that's used to receiving

immigrants like New York, Philadelphia, Chicago or Los Angeles, extensive infrastructure is already in place to help these individuals acclimate quickly and access the resources they need to be successful. In smaller communities, these services may not be available, and the mere discussion of making them available can cause conflict.

However, once this infrastructure is in place, the financial net gain to the community is undeniable, Bier says. “You have an expanded tax base, you have more workers, your community is growing and attracting new businesses to cater to the new consumers that are coming in,” he says. “You really have a virtuous cycle of economic activity that happens. Driving away new residents is not a positive strategy for economic growth.”

David Kallick, director of the Immigration Research Initiative at the Fiscal Policy Institute, agrees, saying that several American cities with declining populations have rebounded by making themselves more immigrant-friendly.

“The American economy is and always has been good at absorbing newcomers,” Kallick says. This is particularly true of cities with declining populations. According to a study released by the Fiscal Policy Institute, immigrants are the backbone of entrepreneurship in America and have been a crucial player in the revitalization of our nation’s main streets. In fact, the report revealed that between 2000 and 2013, immigrants accounted for 48 percent of the overall growth of business ownership in the U.S.

“These are types of businesses that don’t often get a lot of attention from economic development officials and don’t have huge profits, Kallick, the report’s author, wrote in an associated statement, but they play a big role in neighborhood revitalization, and they can be an important economic step up for entrepreneurs.”

But immigrants will not go where they feel unwelcome or unsafe, which leads to the question of so-called sanctuary cities. Bier explains that this is a broad term, but it generally refers to communities that have in one way or another refused to cooperate with the federal government’s immigration enforcement actions. It’s impossible to know how many sanctuary communities there are in the country because it’s difficult to come to a consensus on what constitutes one, but many localities have expressed some shade of non-participation in using their resources to enforce federal immigration laws. This non-participation, Bier says, is well within their rights.

“It’s a clear principle of our constitution and the structure of government that our constitution establishes that states and localities can set whatever policies they want, and the federal government cannot dictate how they spend their resources or what policies they can adopt,” he says. “The Supreme Court has repeatedly reinforced this principle.”

He adds that local communities are very limited in what they can do to actively undermine federal actions, “but in terms of passive inactivity – not doing something, not taking action – they have total and complete authority to do that.”

This authority, however, is being called into question like never before.

### **Federal faith and statewide skepticism**

The debate over restricting cooperation with the federal government versus partnering with it played out recently in a contentious vote in the San Gabriel, Calif., city council. In a 3-2 decision, the council voted to terminate a partnership its sheriff had entered into with ICE to share resources.

According to Councilmember John Harrington, who voted to keep the agreement in place, the San Gabriel Police Department agreed to collaborate with Homeland Security Investigations (HSI), a department under the ICE umbrella, last summer. Councilmember Jason Pu, who voted to terminate the agreement, says the police department entered into the partnership without the public or the council's knowledge or consent, and feels the agreement would place many of the city's 45,000 residents, roughly 60 percent of which are Asian and 25 percent of which are Hispanic, in varying states of jeopardy and fear.

San Gabriel, a neighbor to Los Angeles, has a long history of embracing immigration, says Harrington. "We've been an immigrant city since before there was a California or even a United States," he says. "This is where the Spanish Missionaries came in the 1700s... [today] we're a diverse and mixed community, and so we're on the front lines of the immigration issue."

Counterintuitively, the city's embrace of immigrants is the reason why Harrington is disappointed they decided to terminate the partnership. He feels the agreement helped protect the immigrant community.

"Our agreement was specifically with Homeland Security Investigations," Harrington says, pointing out that HSI has nothing to do with the immigration enforcement arm of ICE. He explains the memorandum of understanding (MoU) the sheriff entered into allows the sheriff's department access to the ICE database, and in return, one of San Gabriel's officers would be deputized as a customs agent.

"The ICE database that we had access to [under the MoU] is a resource that is almost invaluable," Harrington says. "This is a criminal database, not a database of immigrants. These are criminals that do gun trafficking, drug trafficking and human trafficking... Our chief made the decision that this was a vital tool in criminal law enforcement."

Since July, Harrington says there have been 23 arrests in San Gabriel using ICE resources. Not one of these was to detain an undocumented immigrant; however, many of the individuals arrested were preying on the immigrant community. Two of the individuals arrested were accused of defrauding San Gabriel's immigrant population out of an estimated \$50 million. Others arrested were in possession of over 30 Chinese passports – all belonging to young women, an indication they were human traffickers. "Without this MoU, we never would have busted them," Harrington says. "Not a single person has been 'rounded up' under this MoU. Who has been removed? It's criminals."

Councilmember Pu, however, does not share Harrington's views on the benefits of the MoU and feels it's clandestine nature discredited it's legitimacy.

"I think it's important to point out that this agreement with ICE was done administratively without the knowledge or approval of the community or the council," Pu says, also taking

umbraage with the ICE deputized officer. “Under this agreement one of our officers, for whom the city of San Gabriel pays the full-time salary, that officer is working full-time for ICE and is subject to any orders or directives from the local ICE office.” Additionally, since this officer would have been beholden to the federal agency, Pu worries it would create legal concerns as California recently passed SB-54, effectively making California a “sanctuary state” by codifying and legalizing non-cooperation policies between California law enforcement and federal immigration authorities.

However, Pu says the more important concerns were from the community. “We’ve seen so much stepped-up activity from ICE, not just in California but across the country,” he says. “The experience of local communities who have partnered with ICE has not been good.” And while he agrees the partnership was entered into on good faith and there were crime-fighting benefits to be gained by the city, there are numerous examples of ICE overstepping the bounds of their agreements with other cities in the region and nationwide, making the agreement dangerous for residents.

“Cities like Oakland, Santa Cruz, Santa Monica and Los Angeles have all had experiences with ICE where the local ICE agents lied to or misled local police into not only participating in what were essentially deportation raids, but also participating in collateral arrests while they were doing targeted criminal busts.”

Pu says the public outcry against the MoU was overwhelming, and felt that if the agreement were allowed to stay in place, it would sew mistrust and fear for all law enforcement in the immigrant community. If immigrants are afraid to interact with law enforcement out of fear of being tangled up in federal investigations into their legal status, it further alienates them and creates a climate where crime can thrive, he says.

Harrington however, says the outrage over the MoU was politically charged and its termination would be ultimately detrimental to the city. “National politics gets injected into this; people say “Trump this” and “Trump that,” but last time I looked, Trump wasn’t on our council, he wasn’t our police chief,” Harrington says. “Let’s get the national politics out of this.”

To Pu, though, national politics cannot be totally disregarded when considering such partnerships locally. Explaining his vote to cancel the agreement, he said “I came to the conclusion that ICE simply cannot be trusted under the Trump administration. They’ve shown they will mislead local authorities to pursue the agenda the Trump administration has put forth.”

### **The local response**

Ted Terry is the mayor of Clarkston, Ga., a small community south of Atlanta known as the most ethnically diverse square mile in America. Over half of the city’s residents are foreign-born, and around 40 different nationalities are represented with 60 different languages spoken. His community, he says, is certainly concerned over the immigration priorities of the Trump’s administration, and he’s worried the national conversation about immigration is becoming unmoored. The solution, however, isn’t clear-cut – especially for local government leaders.

“When you say that everyone who is undocumented is a criminal, you’re getting to the place where you’re making communities less safe, you’re breaking up families and you’re taking good people out of your community,” Terry says. “When it comes down to actual policies, we have to dispense with the rhetoric and go with what works.”

When it comes to actually solving the problem, Terry adds his voice to the chorus of those calling for comprehensive immigration reform. He says the system is far too lumbering and far too difficult to navigate, but as a local leader, there’s not much that can be done to change federal immigration laws. However, he says that by being an advocate for immigrants in your community and helping them access the resources they need to successfully maneuver through the system can make a major impact. “There are people who have a legitimate claim to continue being documented, but because there are all these cracks and holes and nuances in the system, you can see how it’s easy to make one mistake and then you’re suddenly on the outside,” he says.

And while local leaders may have their hands tied when it comes to making changes to federal immigration policies, Terry thinks individual communities should turn their focus inward and decide what’s best for themselves. “I think there’s a general philosophy among and city council members that local control and home-rule are vital to the American democratic system,” he says. “Many communities feel the idea of a federal agency dictating how we should protect our communities is offensive on many different levels... It’s a blunt instrument that in some cases will cause more harm than good.