



## Trump 'anarchist' city punishment plan is all politics, experts say

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**Washington (CNN)**- President Donald Trump's threat to punish cities with ongoing protests, calling them "anarchist jurisdictions" and threatening to pull federal funding, has little legal backbone, several constitutional law experts said.

The memo, issued late Wednesday night, faced immediate blowback for setting up a potential overreach of the federal government. The White House directive calls protests over police brutality and racism that have turned violent "anarchy," and places blame on local officials in New York City, Washington, DC, Portland and Seattle for the unrest. He's threatening to withhold federal funds if they don't act.

The directive -- which is thin on details and comes amid a push in the President's campaign to play up civil unrest -- lands this week as a political statement above all.

"I think this is classic Trump. This will be in ads and we'll never hear about this again," said Neil Eggleston, the former administration Obama White House counsel. "It gets everybody's attention, then it will disappear into the ether."

Ilya Shapiro, director of the libertarian-conservative Cato Institute's constitutional studies center, agreed that the White House's directive was very broad and unspecific. "This is almost entirely a political statement ... this is kind of laying a marker," he said.

Trump's gambit is reminiscent of previous attempts by his administration to punish so-called sanctuary cities -- a catch-all term used to describe jurisdictions that in some ways do not cooperate with federal immigration enforcement authorities -- by withholding funding.

Over recent weeks, the President has buckled down on his message of law and order, singling out cities where protests over police brutality and racial inequality have been ongoing.

"The fact is that we've seen tremendous violence and we will put it out very, very quickly if given the chance," Trump said earlier this week during his visit to Kenosha, Wisconsin. Wednesday's memorandum targeting state and local governments is yet another example of the administration trying to crack down on cities that don't align with his agenda, state and local officials said.

Mayors of New York City, Portland, Seattle, and Washington, DC, immediately denounced Wednesday's memo revoking federal funding as an overreach into their governments.

"Our cities, and the millions of Americans who we represent, are not President Trump's political pawns. We are confronting unprecedented challenges—fighting back a pandemic and economic devastation without another stimulus," the Democratic mayors said in a joint statement. "Now, instead of leadership from the White House, we are faced with new attacks that are unlawful, unconstitutional and will be undoubtedly defeated in court."

New York state Attorney General Letitia James called the White House funding threat "nothing more than a desperate, last ditch election strategy" in a tweet and threatened to sue.

Asked at the White House briefing on Thursday what authority the President based the memo on, press secretary Kayleigh McEnany framed the directive as a review. She also cited a Supreme Court decision from 1987 that said the federal government could withhold funding from states if it met certain criteria.

"I'm not going to get ahead of exactly what the final product will look like," McEnany said. A specific plan and legal reasoning for withholding funds wouldn't be due for weeks, CATO's Shapiro said. One part of the memo instructs the Office of Management and Budget to tell federal agencies within 30 days how the administration believes it can legally withhold grants from localities.

The memo appeared to build on an idea Republican Sen. Joni Ernst introduced in June. The legislation proposed by Ernst would withhold federal funding from local governments where demonstrators had declared so-called autonomous protest zones. The bill has not moved forward since.

Previous Trump administration actions targeting jurisdictions over local policies have called into question the administration's decision-making and motivations.

At the start of his presidency, for example, Trump threatened to withhold federal funds from sanctuary cities.

In 2017, then-Attorney General Jeff Sessions announced that applicants for Edward Byrne Memorial Justice Assistance Grants would have to comply with federal immigration enforcement. States pushed back and sued over the move.

The requirements outlined by the Justice Department included letting federal authorities access detainees in jails to inquire about immigration status and giving the federal government 48 hours' notice before releasing any inmates it's interested in.

The question at the core of the cases challenging the requirements was whether the Justice Department had the authority to condition the grants on immigration compliance. Lower courts largely blocked the Justice Department from adding new requirements for the policing grants, though appeals courts have been split on the matter.

The justification behind other administration actions to punish states has been slammed in court before, such as when the Department of Homeland Security earlier this year admitted it made false statements to defend a decision targeting New York.

In February, DHS had blocked New Yorkers from participating in Trusted Traveler Programs over provisions in a state law protecting the information of undocumented immigrants applying for driver's licenses to be shared with federal immigration enforcement agencies.

But several other states, whose residents are able to participate in the Trusted Traveler Programs -- which expedite service for pre-approved travelers entering the US -- do not currently provide federal authorities with full access to applicants' driving history, according to a court filing.

DHS informed the government attorneys that statements it made in the case were "inaccurate in some instances and give the wrong impression in others," according to the filing. The department has since announced it will allow New York state residents to participate in Trusted Traveler Programs.