



## Sanctuary Cities Defy Trump's Pledge to Defund Them. How He Can Fight Back.

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Leaders of sanctuary cities that protect illegal immigrants from deportation are responding defiantly to threats by President-elect Donald Trump to withhold federal funding from them.

Local governments from cities including the District of Columbia, Los Angeles, New York City, Chicago, and Boston over the past few days have said that despite the financial cost they could face in a Trump administration, they will not change policies that limit their cooperation with immigration-related requests from the federal government.

“To all those who are, after Tuesday’s election, very nervous and filled with anxiety as we’ve spoken to, you are safe in Chicago, you are secure in Chicago, and you are supported in Chicago,” Chicago Mayor Rahm Emanuel, a Democrat, said Monday. “Chicago will always be a sanctuary city.”

Though Trump has not specified how he would fulfill his promise to combat sanctuary cities since winning the presidency, allies of his say he has broad tools to encourage localities to play a more proactive role in immigration enforcement.

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“These mayors, what they aren’t saying, is they receive tons of dollars in federal grants and president-elect Trump has made clear that sanctuary cities may see some of that money dry up if they are continuing to defy federal law,” said Kris Kobach, Trump’s immigration adviser and the Kansas secretary of state, in an interview Tuesday on “Fox & Friends.”

Blocking Funding

Previous efforts in Congress to withhold federal funding from sanctuary cities have failed recently, including legislation sponsored by Sen. David Vitter, R-La., last year that focused on law enforcement grant programs and Community Development Block Grants for affordable housing, anti-poverty programs, and infrastructure development.

Democrats still hold 48 Senate seats, enough to block most legislative initiatives by employing the filibuster.

But proponents of stronger immigration enforcement said legislation specific to one form of grants—funding from the Department of Justice—could be easier to implement.

That's because the Department of Justice is currently undertaking a review on whether to withhold federal law enforcement money from 10 sanctuary cities, including New York, Chicago, and Philadelphia.

The Obama administration began this project last year, and it has sent letters to those jurisdictions asking them to certify that they're complying with a federal law that requires local governments to share certain information about illegal immigrants with federal officials.

“If these sanctuaries want to cling to their policies, the federal government ought to sue them for obstruction,” said Jessica Vaughan, director of policy studies for the Center for Immigration Studies, in an interview with The Daily Signal.

### Expanding Enforcement

Vaughan, and other immigration experts, say they also expect Trump to bring back a controversial local enforcement program, called Secure Communities.

Under Secure Communities, federal immigration agents asked law enforcement agencies to hold in custody illegal immigrants who they came into contact with for an extra 48 hours from when they would normally be released so they could be picked up and deported. These requests were known as detainees.

Critics of the program said it violated immigrants' civil rights, and did not differentiate between low-level and serious offenses. Many local jurisdictions stopped complying with the program, fearing they would be sued by immigrant rights groups.

In November 2014, the Obama administration got rid of the program and replaced it with a less demanding version, the Priority Enforcement Program (PEP).

With the new program, local authorities, in most cases, are asked to only notify federal immigration officials when they plan to release someone from jail whom the government seeks to deport.

“I think he [Trump] will bring back Secure Communities,” said Alex Nowrasteh, an immigration policy analyst at the Cato Institute, in an interview with The Daily Signal. “That is super easy to do and the legislative and regulatory machinery is already there. If he did that, there would be

much more uniform detection of illegal immigrants in local and state jails and they would be much more likely to be released into ICE [Immigration and Customs Enforcement] custody.”

In his first post-election interview, Trump said he will focus on deporting illegal immigrants with criminal records and not everyone living in the United States illegally. He put the number he would target at 2 million or 3 million people.

The Obama administration already prioritizes deporting convicted criminals. It has expelled 530,000 convicted criminals from the U.S. since 2013.

But its definition of criminal is narrower than the approach that Trump may take.

Currently, federal immigration officers are told to first target illegal immigrants considered to be threats to national security and public safety, who have likely been convicted of a felony. Other priorities for deportation include individuals who have been convicted of multiple misdemeanors, and recent arrivals who came here illegally after Jan. 1, 2014

Nowrasteh and Vaughan say reverting back to Secure Communities could allow Trump to widen that net so it includes illegal immigrants who have been charged but not convicted, and people charged with immigration violations like illegal re-entry and overstaying visas.

“I could see him widening [immigration enforcement] dramatically to what was going on under Secure Communities where he would target any unlawful immigrant who was arrested for any reason,” Nowrasteh said.

#### State and City Pushback

If Trump were to do that, Nowrasteh said, he will get pushback from states and localities.

Some states and cities already have in place laws that limit their cooperation with federal immigration authorities.

For example, in California, it’s harder to apprehend illegal immigrants because of a state law, known as the Trust Act, that strictly limits the situations in which local agencies will help ICE take custody of those it seeks to deport.

The mayor of Somerville, Massachusetts, meanwhile, has issued an executive order, also called the Trust Act, which shields immigrants with minor or no criminal records from possible deportation.

“I could see a case where a state like California will take the federal government to court saying it’s unconstitutional for the feds to force them to participate in this type of program,” Nowrasteh said. “I have no doubt there are many administrative ways these cities and police departments can obstruct [federal] immigration enforcement.”

Indeed, a 2014 federal appeals court ruling declared that complying with detainer requests is optional, and local jurisdictions are legally free to enact their own policies.

Also, a 1997 Supreme Court ruling in the case *Printz v. the United States* confirmed that Congress cannot force states to enact or enforce a federal regulatory program, such as ICE's detainer requests.

If localities continue to oppose helping the federal government, Vaughan said she expects Trump to make it hard for them to resist.

According to the Los Angeles Times, Trump's advisors are drafting plans to resume workplace raids and to ramp up pressure on local police and jails to identify illegal immigrants.

"The foundation for more robust enforcement is already there," Vaughan said. "The idea is not, and has not ever been, to go door to door and round up every illegal immigrant who can be found. It's to have a credible enforcement system that works on a routine basis, that focuses the most on threats, but does not necessarily exempt people caught in worksite operations or other ways that can come to the attention of ICE."