

POLITICO



Lucia Quiej joins demonstrators on Nov. 16 to rally against President-elect Donald Trump, asking that the city of Homestead, Florida, be a sanctuary city. | Getty

Sanctuary cities stand firm against Trump

At least 37 cities have reaffirmed their immigration policies despite the president-elect's threat to withhold federal funding.

By RUAIRÍ ARRIETA-KENNA | 12/12/16 05:14 AM EST

At least three dozen so-called sanctuary cities across the country are standing firm against President-elect Donald Trump's pledge to crack down on them, according to a POLITICO analysis.

Trump has pledged that one of the top priorities for his first 100 days in office is to "cancel all federal funding to sanctuary cities," an unspecific term for jurisdictions that limit, in one way or another, their cooperation with federal immigration enforcement agents.

But with six weeks to go until the inauguration, POLITICO identified not one city that is reconsidering its “sanctuary” policies — such as not asking residents about their immigration status or detaining people solely because of that status — on account of the presidential election.

Instead, officials in at least 37 cities listed below have doubled down since Trump’s election, reaffirming their current policies or practices in public statements, despite the threat of pushback from the incoming administration, and at least four cities have newly declared themselves sanctuary cities since Trump’s win. Ten other cities have said they will wait to see what Trump does but are not currently making any changes, according to local news reports and inquiries from POLITICO.

There is no definitive list of U.S. sanctuary cities because of the term’s flexible definition. The 47 total sanctuary cities POLITICO identified were compiled from multiple sources, including a 2006 Congressional Research Service report, a 2014 Department of Homeland Security report and a 2016 Department of Justice memo. They range from small towns like Aberdeen, Washington, and Ashland, Oregon, to big cities like New York and San Francisco.

Some city officials just don’t take Trump’s threat seriously, while others are openly flouting a president-elect they see as hostile to immigrants. Regardless, legal experts say Trump would have a lot of trouble fulfilling his promise to withhold federal funds.



Senators unveil bipartisan bill to protect Dreamers

By SEUNG MIN KIM

“It depends on how serious they get, but whatever is going to happen, this is going to end up in court,” said Bill Ong Hing, a law professor at the University of San Francisco and the founder of the Immigrant Legal Resource Center.

The Trump transition team did not respond to requests for comment.

Most local leaders avoid the ambiguous term “sanctuary city,” including Fresno Police Chief Jerry Dyer, who said he thinks it is somewhat of a misnomer because it implies that such cities offer blanket protection from deportation when that is not the case. In reality, Dyer said Fresno’s policy limits police officers’ cooperation with Immigration and Customs Enforcement, but they, as in almost every other sanctuary city, still must and do cooperate with federal authorities “when it is to assist them with criminal activity other than immigration status.”

Dyer doubts that Trump will follow through with his threat to withhold funds — and he's not alone. Leaders of several cities — including Baltimore; Long Beach, California; Mesa, Arizona; and Springfield, Oregon — are satisfied with putting off any conversation about their sanctuary practices until Trump can prove that his funding threat is real. Tyler Gamble, the communications director of the New Orleans Police Department, said the city's current policies have been approved by the Department of Justice, and he sees no reason to speculate on the future.

Legal experts seem to agree that the Trump administration would have a difficult time enacting the type of defunding it wishes to see. The most basic argument against the federal government's ability to do that is nested in the Tenth Amendment. "It's about federalism. It's about separation of powers," Hing said. Phil Torrey, a lecturer at Harvard Law School and the supervising attorney of the Harvard Immigration Project, explained that the Tenth Amendment gives broad powers to the states that include the ability to set policy agendas for local law enforcement, while it gives broad powers to the federal government to decide how to tax and spend dollars. The Supreme Court comes in when these powers collide, and the court has established precedent that the federal government cannot be overly coercive, Torrey said.

One such example is *South Dakota v. Dole*, a 1987 case that clarified what rules Congress must follow when attaching conditions to federal funds. In that case, the court ruled that the federal government could withhold some highway funding from cities that did not enforce the federal drinking age because it wouldn't be enough money to be considered coercive and because it did not violate the "germaneness rule" since the drinking age condition was determined to be germane to the purpose of the funds: safe interstate travel. That second rule, in particular, will be harder to satisfy with sanctuary cities, Hing argues, because "most federal funds to cities and local governments are not germane to immigration enforcement."

Another relevant Supreme Court ruling is *National Federation of Independent Business v. Sebelius*, in which the Supreme Court in 2012 ruled unconstitutional a provision of the Affordable Care Act that would have blocked federal Medicaid funding to states that didn't accept Obamacare's proposed Medicaid expansion. Hing suggests that the Supreme Court struck down that provision because it "went too far" and was deemed too coercive.



CONGRESS

GOP warms to immigrants they tried to close government over

By SEUNG MIN KIM

Torrey said these ruling makes one thing very clear: “What the federal government can’t do at this point is basically pull funding wholesale from states and localities in order to get their local law enforcement agents to basically enforce federal immigration law.” There are, he noted, some Department of Justice grants set aside for local law enforcement that is arguably related to immigration enforcement and “could be at risk.” But Hing said that allotment is equivalent to a drop in the bucket, estimating it to be about \$600 million total nationally. For context, San Francisco alone receives more than \$1 billion annually in federal funds.

The fact that there’s no clear definition of sanctuary cities means it will be all the more difficult for Trump to implement any sort of defunding, Torrey said. “If the federal government is really looking to do this,” he said, “they’re going to have look at each individual sheriff’s office, and I just think that politically that’s not going to work, and logistically it doesn’t sound tenable at all.”

There are other actions besides the withholding of federal funds that the incoming Trump administration could take to reduce the number of sanctuary cities. Jessica Vaughan, director of policy studies for the Center for Immigration Studies, a research group that favors more restrictive immigration laws, said the most basic action the Trump administration could take is to clarify the expectations and obligations of local law enforcement officials. Vaughan said she believes the Obama administration’s “ambiguity” on ICE detainer requests has left sheriffs confused about their legal liability if they comply with such requests. (In many cities, the ACLU has pursued litigation against county jails that hold undocumented immigrants without court orders.) Vaughan said Sen. Jeff Sessions, Trump’s pick for attorney general, could clarify to those sheriffs that detainer requests are not optional and assure them that they will not face prosecution for assisting ICE.

As for what Vaughan describes as the “most egregious” sanctuary cities — those like Los Angeles or Chicago that openly defy even the Obama administration’s immigration enforcement efforts — she said they will likely lose the Justice Department law enforcement grants that Torrey mentioned and might even face prosecution by the department. It is very likely, she suggested, that the legality of their practices will ultimately be decided by a federal court.

Nevertheless, many leaders are ready to remain steadfast. Mayors or police spokespeople from Aberdeen; Princeton, New Jersey; Northampton, Massachusetts; and Las Vegas all told Politico that they have no plans to reassess their current practices. Similarly, in Ashland, the mayor, the city attorney and the police chief all asserted at a city council meeting on

Nov. 17 that they have no intention of changing their sanctuary status because of the election. And in Evanston, an ordinance was adopted just last week that promises the city will remain welcoming to immigrants and limit cooperation with federal immigration officials.

Donald Trump's Cabinet-in-waiting: What we know so far

By **ANDREW RESTUCCIA**

In just the past few weeks, several other cities, including Urbana, Illinois; Northfield, Minnesota; and Pittsburgh, have begun to consider taking steps to formally become sanctuaries in defiance of the president-elect. Santa Ana, California, as well as the Vermont cities of Burlington, Montpelier and Winooski, have already passed resolutions to formalize sanctuary city status since the election.

Trump may have lowered the number of immigrants he hopes to deport from “at least 11 million” to “probably 2 million,” but even then, his administration will have a steep hill to climb without the cooperation of local law enforcement. The top 10 sanctuary cities by undocumented population (Los Angeles, New York, Chicago, Seattle, Austin, Newark, Denver, Philadelphia, Minneapolis and San Francisco) account for more than 2 million undocumented immigrants.

Municipal and police leaders from the following cities have publicly reaffirmed their sanctuary status (even if they don't all accept the “sanctuary city” designation).

Appleton, Wisconsin

Ashland, Oregon

Aurora, Colorado

Austin, Texas

Berkeley, California

Boston, Massachusetts

Cambridge, Massachusetts

Chicago, Illinois

Denver, Colorado

Detroit, Michigan

Evanston, Illinois

Hartford, Connecticut

Jersey City, New Jersey
Los Angeles, California
Madison, Wisconsin
Minneapolis, Minnesota
Nashville, Tennessee
New Haven, Connecticut
New York, New York
Newark, New Jersey
Newton, Massachusetts
Oakland, California
Philadelphia, Pennsylvania
Phoenix, Arizona
Portland, Oregon
Providence, Rhode Island
Richmond, California
San Francisco, California
Santa Fe, New Mexico
Seattle, Washington
Somerville, Massachusetts
St. Paul, Minnesota
Syracuse, New York
Takoma Park, Maryland
Tucson, Arizona
Washington, D.C.

The following cities are reported to have no plans at the moment to change their immigration-related policies or practices.

Aberdeen, Washington
Baltimore, Maryland
Fresno, California
Las Vegas, Nevada
Long Beach, California
Mesa, Arizona
New Orleans, Louisiana
Northampton, Massachusetts
Princeton, New Jersey
Springfield, Oregon

The following cities have formally declared themselves sanctuaries since the presidential election.

Santa Ana, California

Burlington, Vermont

Montpelier, Vermont

Winooski, Vermont