

INTRODUCTION

The estimated 11 million undocumented immigrants in the U.S. face massive challenges under President Donald Trump’s administration. Increased anti-immigrant rhetoric, deportations carried out through U.S. Immigration and Customs Enforcement (ICE), and Department of Justice’s threats to sanctuary cities¹ have pushed immigrants back into the shadows. The number of immigrants with no criminal record who have been arrested increased by [more than 250 percent](#) in one year. Several conservative states have also increased their attacks on undocumented immigrants and sanctuary cities—municipalities that prevent a law enforcement agency from participating in federal immigration enforcement.

As arrests of undocumented immigrants have skyrocketed, cities and states are taking important steps to stand up for families and to protect the role of local law enforcement to keep our neighborhoods safe. Sanctuary policies build trust between immigrant communities and law enforcement, and communities with these policies experience [lower rates of crime, unemployment, and poverty, as well as higher incomes](#). A report by the [International Association of Chiefs of Police](#) recognizes that “assisting in federal immigration enforcement efforts can drive a wedge between local law enforcement officials and the communities they serve, which undermines public safety.” The [Major Cities Chiefs Association](#) goes further to describe that “a divide between local police and immigrant groups would result in increased crime against immigrants and in the broader community, create a class of silent victims and eliminate the potential for assistance from immigrants in solving crimes or preventing future terroristic acts.”

Additionally, undocumented immigrants—including children, the mentally disabled, victims of sex trafficking, refugees, and torture survivors—have no guaranteed right to counsel in immigration cases even though [access to counsel is extremely helpful](#) in these complicated cases. A [study by the University of Pennsylvania Law Review](#) found that immigrants with representation were five and a half times more likely to obtain relief than immigrants representing themselves. In fact, they found that only two percent of immigrants without counsel prevailed in their cases.

This brief details how states are fighting back against threats to sanctuary cities by seeking to limit exposure to detention and deportation and by providing support to undocumented immigrants throughout the deportation process.

MESSAGING

Topline Message

America deserves a commonsense immigration process, one that includes a roadmap for new Americans who aspire to be citizens. Our state and local governments need to stay out of the deportation business, and focus on real solutions that increase safety for all our residents.

¹ Though not a legal term, “sanctuary cities” loosely refers to jurisdictions where local police will not coordinate with federal law enforcement in efforts to deport undocumented immigrants. Local police will not ask for an arrestee’s immigration status or detain them based on immigration status alone.

We are safer when victims and witnesses can come forward.

Indiscriminate deportation tears apart families and communities. States that provide fair and competent representation for those facing deportation promote justice, due process, and fair outcomes and create a positive economic impact by ensuring families and workplaces can stay together.

Talking Points

- Law enforcement depends on community trust to effectively maintain public safety and fight crime. When immigrants fear the local police will ask about immigration status, they're less likely to report crimes. When there are fewer reported crimes, a city can grow more dangerous.
- Anti-sanctuary bills force local law enforcement to comply with all requests from ICE, creating higher costs. This money and local police time would be better spent on local crime.
- Nearly all police chiefs of major cities around the country oppose anti-sanctuary measures because they make us less safe.
- ICE requests violate the constitution and values of fairness and due process—people are being held with no probable cause.
- Immigrants deserve their fair day in court. ICE proceedings have no transparency or fairness if the person lacks a lawyer simply because they cannot afford one.
- Immigrants are the heart of our country's history and social diversity. America is a nation founded on the idea that all men and women are created equal, that all people have rights, no matter what they look like or where they came from. How we treat new immigrants reflects our commitment to the values that define us as Americans.
- We believe that families should stick together, that we should look out for each other, and that hard work should be rewarded.

Key Facts and Data

- According to recent polling, 60 percent of Americans believe the top immigration priority should be citizenship for those already here, while only 13 percent think it should be deportation. ([CNN/ORC International Poll](#))
- 70 percent of undocumented immigrants are less likely to report crime to the police because of a fear of an inquiry about immigration status. ([University of Illinois, Chicago](#))
- 28 percent of U.S.-born Latinos said they are less likely to contact police officers if they have been the victim of a crime because they fear that police officers will use this interaction as an opportunity to inquire into their immigration status or that of people they know. ([University of Illinois, Chicago](#))
- There are, on average, 35.5 fewer crimes committed per 10,000 people in sanctuary counties compared to non-sanctuary counties. ([Center for American Progress](#))
- Median household annual income is, on average, \$4,353 higher in sanctuary counties compared to non-sanctuary counties. ([Center for American Progress](#))
- The poverty rate is 2.3 percent lower, on average, in sanctuary counties compared to non-sanctuary counties. ([Center for American Progress](#))

- Unemployment is, on average, 1.1 percent lower in sanctuary counties compared to non-sanctuary counties. ([Center for American Progress](#))

POLICY OPTIONS

Support and create more sanctuary cities

Though the Trump Administration's [January 2017 Executive Order](#) and [April 2017 DOJ letters](#) sent to nine cities have threatened sanctuary jurisdictions with the loss of federal funding, this move has thus far been deemed unconstitutional. Many states continue to allow and encourage sanctuary cities, and there are additional ways states can stand up for the rights of immigrants and to protect the role of local law enforcement.

Prohibit ICE detainer compliance

Upon learning about an undocumented immigrant in a jail or prison, ICE often issues a detainer requesting that local and state jurisdictions hold the immigrant for additional time. Several federal court decisions have found this extended detention to be in violation of the Fourth Amendment against unreasonable search and seizure. ICE detainers cause the extended detention of tens of thousands of people [without probable cause, without judicial approval, and without basic due process protections](#). In response, Connecticut ([2013 CT HB 6659](#)) and California ([2013 CA AB 4](#)) have both prohibited law enforcement from complying with ICE detainers without a warrant or court order. Illinois has a similar bill pending ([2017 IL HB 3099](#)).

Court decisions: *Galarza v. Szalczyk*, 745 F.3d 634, 645 (3d Cir. 2014), *Morales v. Chadbourne*, 996 F.Supp.2d 19 (D.R.I. filed Feb. 12, 2014), *Vohra v. United States*, 2010 U.S. Dist. LEXIS 34363 (C.D. Cal. 2010), *Mercado v. Dallas County*, No. 3:15-cv-3481 (N.D.Tx. Jan. 17, 2017), *Jimenez-Moreno v. Napolitano*, No. 1:11-cv-05452 (N.D. Ill. Sept. 30, 2016).

Keep ICE out of local jails

Often, undocumented immigrants in local jails do not even comprehend that they are talking to a federal immigration agent. California's 2016 TRUTH Act protects undocumented immigrants in local jails from ICE's interrogation without notification or counsel ([2016 CA AB 2792](#)). New York's 2017 Liberty Act would prevent ICE from using state and local facilities for federal immigration enforcement, or for questioning and investigating any alleged violation of federal immigration law ([2017 NY A 3049B](#)).

Vermont enacted [2017 VT S 79](#), ensuring that state and local information does not reach federal hands. State and local government officials cannot share immigration status information with the federal government, creating a similar dynamic.

Ensure misdemeanor crimes retroactively have a maximum sentence of 364 days

Federal law defines a felony as any crime punishable by 365 days or more in jail, while state law often defines misdemeanors as crimes punishable by up to 365 days in jail. This one-day difference allows several low-level crimes to be considered felonies under immigration law, which are deportable offenses.

To ensure people aren't wrongly prioritized for deportation, several states and municipalities such as New York ([2017 NY A 4881](#)), Washington ([2011 WA SB 5168](#)), Nevada ([2013 NV SB169](#)), and California ([2014 CA SB 1310](#)) are either in the process of changing or have changed their misdemeanor definition to 364 days.

Prevent local and state police from inquiring about immigration status

Local and state police should not spend time or resources on immigration enforcement. Several states have passed laws or introduced bills to ensure that local police forces focus on public safety. New York's Liberty Act generally prohibits law enforcement agencies from stopping people based on perceived immigration status, as well as inquiring about immigration status for victims and eyewitnesses ([2017 NY A 3049B](#)). The California Senate has passed [2017 CA SB 54](#), which protects undocumented immigrants from law enforcement's asking about immigration status when an arrest is made. The law is pending approval by the Assembly.

Provide defense for undocumented immigrants in deportation proceedings

Several states and cities have begun funding counsel for deportation proceedings. These programs have only emerged in the past 24 months and have taken on two different forms:

Build a state department

California has expanded One California, a program within the Department of Social Services, to include deportation defense for legal residents and undocumented immigrants. Gov. Jerry Brown grew this department with an extra \$15 million in 2017.

Contract and partner with nonprofits

One California will award applications and contracts in-house as well as to nonprofits that provide attorneys for immigrants. Similarly, cities like Washington, D.C., and Seattle are funding community organizations to provide defense for immigrants. States and cities are also partnering with private foundations to fund this important work. New York state is committing \$10 million to a public-private partnership with Ford and Carnegie foundations to fund legal deportation defense through nonprofits like the Vera Institute. The city of Los Angeles is building a similar \$10 million fund, with \$5 million from city and county sources and \$5 million from private sources (Weingart Foundation, California Endowment, and California Community Foundation).

ADDITIONAL RESOURCES

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American Civil Liberties Union

[Current Issues: Immigration](#)

Center for American Progress

[The Effects of Sanctuary Policies on Crime and the Economy](#)

Eagly, I.V., Shafer, S., University of Pennsylvania Review, 12/2015: 164: 1

[A National Study of Access to Counsel in Immigration Court](#)

Immigrant Legal Resource Center and Washington Defender Association

[FAQ on Federal Funding Threats to Sanctuary Cities](#)

[Immigration Detainers Legal Update February 2017](#)

Major Cities Chiefs

[MCC Immigration Committee Recommendations for Enforcement of Immigration Laws by Local Police Agencies](#)

National Immigration Law Center

[Getting Police out of Deportation](#)

Theodore, N., University of Illinois, Chicago

[“Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement](#)