

*Additional resource for Open Space Sanctuary discussion, during AED's March, 2017 Conference.  
Not created by AED.*

## **LEGAL IMPLICATIONS OF SANCTUARY CITY STATUS**

The term “Sanctuary City” is not an official designation, but rather refers to municipalities that pledge not to cooperate with the federal government on immigration enforcement. New York, Seattle, Denver, and Los Angeles, among others, considers themselves sanctuaries.

A sanctuary city resolution expressly forbids police or other city employees from assisting in the enforcement of federal immigration law without a warrant. It prohibits the use of city resources to aid ICE investigation, arrest or gathering of information — unless it entails violation of criminal law.

A resolution is not an ordinance that has the effect of law — its effect is mostly symbolic, though in the current climate it carries undeniable political force.

Now, most large jurisdictions—even those that do not label themselves as sanctuaries, such as Philadelphia, which considers itself a “Fourth Amendment city,” a municipality that protects against unreasonable searches and seizures—will no longer commit their police to federal immigration work. Hundreds of U.S. jurisdictions, including cities, counties, and whole states, are exhibiting some form of noncompliance with federal immigration authorities.

“Local law enforcement is not going to do the job of the federal immigration agency,” Denver Mayor Michael Hancock stated. “It’s not our responsibility.” Denver doesn’t have a formal policy of noncooperation with federal immigration authorities, but it refuses to unlawfully detain suspected undocumented immigrants without warrants.

Federal immigration laws are extremely complicated in that they involve both civil and criminal aspects. The federal government and its designated agencies such as I.C.E. and the Department of Justice have clear authority and responsibility to regulate and enforce immigration law.

Federal law does not require the states or local police agencies to enforce immigration laws nor does it give the states or local agencies the clear authority to act in the area of immigration.

But while Congress almost certainly cannot force local cops to hold suspects, it can withhold funding—a common way to avoid violating the 10<sup>th</sup> Amendment, which gives power not explicitly held by the federal government to the states. Trump has said he will cut all federal funding from sanctuary cities as a threat to ensure compliance, taking up a threat that congressional Republicans made last year after a San Francisco woman

was [murdered](#) by an undocumented immigrant with a criminal record whose detainer request had been ignored by the county sheriff's department.

The version of that bill that was proposed by Sen. Pat Toomey of Pennsylvania this summer would have cut two types of federal grants to sanctuary jurisdictions, amounting to a penalty of about \$700 million, [collectively](#), on the 10 largest noncompliant localities. That is a small portion of the money cities receive from the federal government but would still put local authorities in a difficult position.

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

Religious Sanctuary Legalities:

### ***Legal Questions***

Everyone always wants to know - are we breaking the law? Law is a lot like scripture - its up to your interpretation. There is a law against bringing in and harboring persons not authorized to be in the U.S. (insert footnote. INA Sec.274) While we are clearly not bringing people in, whether we are harboring someone is up for interpretation. Some courts have interpreted harboring to require concealment of a person, when we declare Sanctuary for an individual we are bringing them into the light of the community, not concealing them in the dark of secrecy (U.S. V Costello, 66 F.3d 1040, 7th Cir. 2012). Other courts have interpreted harboring to be simple sheltering (U.S. V Acosta de Evans, 531 F.2d 428 (9th Cir. 1976)).

Those who are entering sanctuary will most likely have an opportunity to win relief from deportation, this means that they are not a high priority for deportation and that ICE can and should grant them prosecutorial discretion. In essence, the Sanctuary Movement is holding the administration accountable to their own standards and guidelines as put forth by the President's Executive Actions.