



Date: December 13, 2023

To: ACCGov District 4 Commissioner Allison Wright
ACCGov District 7 Commissioner John Culpepper
ACCGov District 10 Commissioner Mike Hamby

From: ACCGov Manager Blaine Williams *BHW*

Via email

In follow-up to our October Library Town Hall at the main branch of the Library, I wanted to provide the information outlined below in response to some of the questions posed.

Regarding assertion that the Mayor and Commission have designated ACC as a “Sanctuary City:

At the Town Hall, a member of the public had pointed out a website which identifies Athens as a “sanctuary city.” It was also asked whether the Resolution approved by the Mayor and Commission in August of 2019 (**Attachment #1**) was sufficient to make ACCGov a “sanctuary city.” The Attorney’s Office has undertaken some excellent research and I am sharing some of the findings herein.

I. Georgia Law related to Sanctuary Cities.

Section 36-80-23 of the Official Code of Georgia, (**Attachment #2**), states in Section (b) that “[n]o local governing body, whether acting through its governing body or by an initiative, referendum, or any other process, shall enact, adopt, implement, or enforce any sanctuary policy.” Subsection (6) of Section (a) of Section 36-80-23 of the Official Code of Georgia states that ““Sanctuary policy” means any regulation, rule, policy, or practice adopted by a local governing body which prohibits or restricts local officials or employees from communicating or cooperating with federal officials or law enforcement officers with regard to reporting immigration status information while such local official or employee is acting within the scope of his or her official duties.”

Section 36-80-23 of the Official Code of Georgia further provides as follows:



(c) Any local governing body that acts in violation of this Code section shall be subject to the withholding of state funding or state administered federal funding other than funds to provide services specified in subsection (d) of [Code Section 50-36-1](#).

(d) As a condition of funding, the Department of Community Affairs, the Department of Transportation, or any other state agency that provides funding to local governing bodies shall require certification pursuant to [Code Section 50-36-4](#) as proof of compliance with this Code section.

Based upon a review of the attached Resolution adopted by the Commission in August of 2019, staff does not believe that ACCGov has adopted a “sanctuary policy” under Georgia law. While expressing support of Athens immigrant, undocumented, and Latinx communities as its purpose, the attached Resolution merely expresses a desire to be welcoming to people from all backgrounds and to foster a community where all people can feel safe. The Resolution does not prohibit or restrict local officials or employees from communicating or cooperating with federal officials or law enforcement officers with regard to reporting immigration status information while such local official or employee is acting within the scope of his or her official duties.

II. Federal Law related to Sanctuary Cities.

Staff was unable to find any federal statutory authority or regulations relating to sanctuary cities. Attached is a Law Review article which provides insight concerning this developing area of the law. **(Attachment #3)**

III. Review of Website Identifying Athens as a Sanctuary City.

Staff reviewed the website which lists Athens-Clarke County as a “sanctuary city.” The link to this website is as follows: [Map: Sanctuary Cities, Counties, and States \(cis.org\)](#). The website states as follows with respect to the entities identified as “sanctuary cities”: *These cities, counties, and states have laws, ordinances, regulations, resolutions, policies, or other practices that obstruct immigration enforcement and shield criminals from ICE — either by refusing to or prohibiting agencies from complying with ICE detainers, imposing unreasonable conditions on detainer acceptance, denying ICE access to interview incarcerated aliens, or otherwise impeding communication or information exchanges between their personnel and federal immigration officers.*



The website's designation of Athens-Clarke County as a "sanctuary city" indicating it is based on a April 2018 decision by past Sheriff Ira Edwards.

Below is a link to an April 13, 2018 Red and Black article the website organizers cite as the source for their information and provides further context on this issue:

https://www.redandblack.com/athensnews/breaking-clarke-county-sheriff-will-no-longer-enforce-48-hour-ice-detainer-for-inmates/article_d796c95a-3f62-11e8-96b3-87095cdecacd.html

There was also a Flagpole article on the same day:

<https://flagpole.com/news/in-the-loop/2018/04/13/sheriff-reverses-policy-on-ice-detainers/>

The Mayor and Commission do not have any direct control or authority over the Sheriff related to these issues given the position's status as a Constitutional Officer, so to the specific assertion that the Mayor or Commission have taken any steps towards this designation would appear to be inaccurate.

Regarding the assertion that Athens-Clarke County is the "unsafest city in the Southeastern Conference:"

At the Town Hall, a member of the public declared that ACC was the unsafest city in the Southeastern Conference. Below are tabular data compiled by the Athens-Clarke County Police Department.

Staff reviewed the FBI crime statistics from 2022 through their [Crime Data Explorer](#) and calculated the crime rate per 1,000 people for each "SEC" school city.

In short, Athens-Clarke County is in the middle of the cohort cities when it comes to crime in "SEC" towns. Staff have compiled the statistics by overall crime rate and then crime rate by persons, property, and society. Gainesville, FL did not have any available crime data from what staff could find.



City	All Offenses Rate/1k
<i>Baton Rouge</i>	123.3
<i>Knoxville</i>	100.7
<i>Nashville</i>	99.1
<i>Tuscaloosa</i>	92.4
<i>Fayetteville</i>	88.3
<i>Columbia, SC</i>	73.2
<i>Columbia, MO</i>	69.9
Athens	66.0
<i>Lexington</i>	65.6
<i>Starkville</i>	63.7
<i>Oxford</i>	58.1
<i>College Station</i>	45.5
<i>Auburn</i>	41.7

City	Crimes Against Persons Rate/1k
<i>Nashville</i>	30.4
<i>Knoxville</i>	28.4
<i>Tuscaloosa</i>	27.1
<i>Baton Rouge</i>	26.8
<i>Columbia, MO</i>	21.7
Athens	20.8
<i>Fayetteville</i>	19.0
<i>Oxford</i>	18.5
<i>Lexington</i>	15.4
<i>Starkville</i>	15.0
<i>Columbia, SC</i>	14.7
<i>Auburn</i>	10.2
<i>College Station</i>	9.0



City	Crimes Against Property Rate/1k
<i>Fayetteville</i>	82.7
<i>Starkville</i>	63.1
<i>Columbia, SC</i>	58.4
<i>Baton Rouge</i>	53.7
<i>College Station</i>	48.8
<i>Lexington</i>	45.8
<i>Columbia, MO</i>	43.4
<i>Knoxville</i>	41.3
<i>Nashville</i>	40.3
Athens	38.9
<i>Tuscaloosa</i>	27.6
<i>Auburn</i>	27.4
<i>Oxford</i>	20.6

City	Crimes Against Society Rate 1/k
<i>Fayetteville</i>	19.6
<i>Baton Rouge</i>	18.6
<i>Columbia, SC</i>	13.8
<i>Starkville</i>	12.0
<i>Knoxville</i>	10.8
<i>Columbia, MO</i>	10.3
<i>Lexington</i>	9.7
<i>Tuscaloosa</i>	9.1
<i>Oxford</i>	7.8
Athens	7.4
<i>Nashville</i>	6.7
<i>College Station</i>	6.3
<i>Auburn</i>	6.2

Resolution in Support of Athens Immigrant, Undocumented, and Latinx Community

Whereas, Athens-Clarke County, Georgia embraces and celebrates our diversity of cultures, languages, religions, and ethnicities, and the Athens-Clarke County community benefits from the hard work, cultural offerings, and tax dollars of the immigrants who call Athens, Georgia home; and

Whereas, Athens-Clarke County, Georgia appreciates the many cultural, educational, and economic contributions the Latinx community continues to give; and

Whereas, one in ten Georgia residents is an immigrant and more than 375,000 undocumented residents live in Georgia; and

Whereas, white nationalists and xenophobes have been emboldened by some politicians and members of the media, and we recognize that our entire community, not just people of color and immigrants, is harmed by the existence of white supremacy in our community going unchallenged; and

Whereas, our immigrant and undocumented neighbors, especially those of Latinx heritage, face daily fears and threats from individuals and institutions such as ICE and we have witnessed these fears and threats become realities in the tragedies of the El Paso shooting, the family separations and incarceration at the southern border, and the mass arrests in Mississippi; and

Whereas, for the Athens community to be whole, it is necessary that families and loved ones remain together and that all people, including those without documentation, feel welcome and comfortable interacting with local law enforcement, their local government, and all services provided by such; and

Whereas, we unflinchingly defend the human rights of all people, including citizens, noncitizens, and those without documentation, and recognize that we cannot be witness to the violation of constitutional rights given to all people, repeatedly reaffirmed in cases such as *Yick Wo v. Hopkins* and *Plyler v. Doe*.


Therefore let it be resolved by the Mayor and Commission of Athens-Clarke County, Georgia that:

The Athens-Clarke County Unified Government is welcoming to people from all lands and backgrounds and strives to foster a community where individuals and families of all statuses feel safe, are able to prosper, and can breathe free; and

The Athens-Clarke County Unified Government denounces white supremacy and recognizes the role that some government institutions have played in creating it and commits itself to working to reverse the damage that has resulted to black, brown, and all other minority communities.

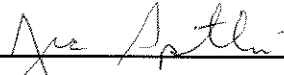
So resolved this 20th day of August, 2019.

APPROVED



Kelly Girtz, Mayor

ATTEST



Jean Spratlin, Clerk of Commission

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working to reverse the damage that has resulted to black, brown, and all other minority communities.

Spanish Translation:

Una resolución en apoyo de los inmigrantes, los residentes indocumentados y la comunidad latina de Athens

Considerando que el condado de Athens-Clarke, Georgia acoge y celebra nuestra diversidad de culturas, idiomas, religiones y etnias y que la comunidad del condado de Athens-Clarke se beneficia del trabajo duro, las ofertas culturales y las contribuciones impositivas de los inmigrantes que hacen su vida en Athens, Georgia; y

Considerando que el condado de Athens-Clarke, Georgia valora las muchas contribuciones culturales, educacionales y económicas que la comunidad latina sigue dando; y

Considerando que uno de cada diez residentes de Georgia es inmigrante y que más de 375,000 residentes indocumentados viven en Georgia; y

Considerando que los nacionalistas blancos y los xenófobos han sido alentados por algunos políticos y algunos medios de comunicación y que reconocemos que nuestra comunidad entera, no solo la gente de color y los inmigrantes, se daña cuando la existencia de la supremacía blanca en nuestra comunidad no se resiste; y

Considerando que nuestros vecinos inmigrantes e indocumentados, especialmente los de ascendencia latina, enfrentan el miedo y las amenazas diarios de individuos y de las instituciones como ICE y que hemos visto esos miedos y amenazas realizados en las tragedias del tiroteo en El Paso, las separaciones de familias y los encarcelamientos en la frontera del sur y los arrestos en masa en Mississippi; y

Considerando que para lograr la integridad de la comunidad de Athens es necesario que las familias y las personas queridas se queden juntos y que todas las personas, inclusive los que no tienen documentación, se sientan acogidas y cómodas al interactuar con los cuerpos de seguridad locales, su gobierno local y todos los servicios provistos por éstos; y

Considerando que defendemos implacablemente los derechos humanos de todas las personas, incluyendo los ciudadanos, los no ciudadanos y los que no tienen documentación, y que reconocemos que no podemos aceptar la violación de los derechos constitucionales dados a todas las personas, reafirmados repetidamente en casos como *Yick Wo v. Hopkins* y *Plyler v. Doe*.

En consecuencia, el Alcalde y la Comisión del condado de Athens-Clarke Georgia proclama que:

El Gobierno Unificado del Condado de Athens-Clarke acoge a las personas de todas las tierras y todos los orígenes y se esfuerza por fomentar una comunidad en la que los individuos y las familias de todos los estatus se sientan cómodos, sean capaces de prosperar y puedan respirar libres; y

El Gobierno Unificado del Condado de Athens-Clarke denuncia la supremacía blanca y reconoce el papel que algunas instituciones gubernamentales han desempeñado en crearla y se compromete a trabajar para enmendar el daño hecho a las comunidades negra, latina y de todas las demás minorías.

West's Code of Georgia Annotated
Title 36. Local Government (Refs & Annos)
Provisions Applicable to Counties, Municipal Corporations, and Other Governmental Entities
Chapter 80. General Provisions

Ga. Code Ann., § 36-80-23

§ 36-80-23. Immigration sanctuary policies; prohibition; penalties

Effective: July 29, 2020

[Currentness](#)

(a) As used in this Code section, the term:

(1) “Federal officials or law enforcement officers” means any person employed by the United States government for the purpose of enforcing or regulating federal immigration laws and any peace officer certified by the Georgia Peace Officer Standards and Training Council where such federal official or peace officer is acting within the scope of his or her employment for the purpose of enforcing federal immigration laws or preserving homeland security.

(2) “Immigration status” means the legality or illegality of an individual’s presence in the United States as determined by federal law.

(3) “Immigration status information” means any information, not including any information required by law to be kept confidential but otherwise including but not limited to any statement, document, computer generated data, recording, or photograph, which is relevant to immigration status or the identity or location of an individual who is reasonably believed to be illegally residing within the United States or who is reasonably believed to be involved in domestic terrorism as that term is defined in [Code Section 16-11-220](#) or a terroristic act as that term is defined by [Code Section 35-3-62](#).

(4) “Local governing body” means any political subdivision of this state, including any county, consolidated government, municipality, authority, school district, commission, board, or any other local public body corporate, governmental unit, or political subdivision.

(5) “Local official or employee” means any elected or appointed official, supervisor or managerial employee, contractor, agent, or certified peace officer acting on behalf of or in conjunction with a local governing body.

(6) “Sanctuary policy” means any regulation, rule, policy, or practice adopted by a local governing body which prohibits or restricts local officials or employees from communicating or cooperating with federal officials or law enforcement officers with regard to reporting immigration status information while such local official or employee is acting within the scope of his or her official duties.

(b) No local governing body, whether acting through its governing body or by an initiative, referendum, or any other process, shall enact, adopt, implement, or enforce any sanctuary policy.

(c) Any local governing body that acts in violation of this Code section shall be subject to the withholding of state funding or state administered federal funding other than funds to provide services specified in subsection (d) of [Code Section 50-36-1](#).

(d) As a condition of funding, the Department of Community Affairs, the Department of Transportation, or any other state agency that provides funding to local governing bodies shall require certification pursuant to [Code Section 50-36-4](#) as proof of compliance with this Code section.

Credits

Laws 2009, Act 152, § 1, eff. May 5, 2009; Laws 2013, Act 27, § 5, eff. July 1, 2013; Laws 2016, Act 370, § 1, eff. July 1, 2016; Laws 2020, Act 521, § 36, eff. July 29, 2020.

Ga. Code Ann., § 36-80-23, GA ST § 36-80-23

The statutes and Constitution are current through legislation passed at the 2023 Regular Session of the Georgia General Assembly. Some sections may be more current, see credits for details. The statutes are subject to changes by the Georgia Code Commission.

CURRENT DEVELOPMENTS

THE LEGALITY OF SANCTUARY CITIES

GRACE BENTON*

I. INTRODUCTION

In an interview with a Seattle radio station in August 2016, then-presidential candidate Donald Trump declared, “sanctuary cities are out. . . sanctuary cities are over.”¹ Bringing an end to sanctuary cities—jurisdictions that limit cooperation with federal immigration authorities—factored prominently into Candidate Trump’s 2016 campaign and was a top-priority when he assumed the presidency. On January 25, 2017, just five days after his inauguration, President Trump signed an executive order that sought to restrict federal funding to jurisdictions that limit cooperation with Immigration and Customs Enforcement (ICE), an agency within the Department of Homeland Security (DHS) responsible for enforcing federal laws on border control, customs, trade, and immigration.² Citing the “immeasurable harm to the American people and to the very fabric of our republic” resulting from sanctuary cities’ “willful[]” violation of Federal laws in their “attempt to shield aliens from removal from the United States,” the executive order vowed to “ensure that jurisdictions that fail to comply with applicable Federal law do not receive Federal funds. . .”³ Specifically, the Administration sought to condition the Byrne Justice Assistance Grants (Byrne JAG), the State Criminal Alien

* Grace Benton, J.D. Candidate, 2020 Georgetown University Law Center; M.A. Arab Studies, Georgetown University, 2014; B.A. International Studies, Spanish & Arabic, University of Alabama at Birmingham, summa cum laude, 2011. © 2019, Grace Benton.

1. Fred Barbash, *Trump’s Campaign Words Stalk Him in Court on Sanctuary Cities, Just as in Travel Ban Cases*, WASH. POST (Mar. 30, 2017), <https://www.washingtonpost.com/news/morning-mix/wp/2017/03/30/trumpss-campaign-words-stalk-him-in-court-on-sanctuary-cities-just-as-in-travel-ban-cases>.

2. Muzaffar Chishti & Jessica Bolter, *Trump Administration Ratchets up Pressure on “Sanctuary” Jurisdictions*, MIGRATION POLICY INSTITUTE (Feb. 22, 2018), <https://www.migrationpolicy.org/article/trump-administration-ratchets-pressure-sanctuary-jurisdictions>.

3. Exec. Order No. 13,768, 82 Fed. Reg. 8799 (Jan. 25, 2017) (Enhancing Public Safety in the Interior of the United States).

Assistance Program (SCAAP), and the Office of Community Oriented Policing Services (COPS).⁴ In August 2018, the Ninth Circuit found that the executive order did not pass constitutional muster, ruling that it violated the Separation of Powers principle because “the Executive Branch may not refuse to disperse the federal grants in question without congressional authorization.”⁵ While unsuccessful, the executive order marked the beginning of the Trump Administration’s battle against sanctuary jurisdictions and served as a harbinger of the Administration’s broader program to overhaul the American immigration system. This in turn has resulted in multiple rounds of litigation that has left uncertain the ability of local jurisdictions to push back on federal immigration policy.

Sanctuary cities are loosely defined as jurisdictions that limit cooperation with federal immigration authorities regarding the location and removal of unauthorized immigrants.⁶ Such cooperation can range from information-sharing to detaining immigrants who have been charged with or convicted of crimes past their release dates so that federal immigration enforcement agents can come pick them up.⁷ Proponents of sanctuary cities warn that when local law enforcement actors cooperate with immigration authorities, immigrant communities stop reporting crimes and rapport between immigrant communities and local law enforcement suffers, resulting in less safety for everyone.⁸ Detractors contend that sanctuary policies undermine federal law and protect immigrants who have committed crimes, leading to instability and a lack of safety.⁹ This debate implicates the tension between state sovereignty and the power of the federal government. Increasing executive actions against sanctuary cities have forced the judiciary to directly confront the question of whether the federal government can condition funding for local jurisdictions on compliance with a federal regulatory program.¹⁰

4. Chishti & Bolter, *supra* note 2.

5. City & Cty. of San Francisco v. Trump, 897 F.3d 1225, 1231 (9th Cir. 2018); *see also* Molly Olmstead, *Federal Appeals Court Finds Executive Order Threatening Sanctuary Cities Unconstitutional*, SLATE (Aug. 1, 2018, 3:06 PM), <https://slate.com/news-and-politics/2018/08/sanctuary-cities-executive-order-ruled-unconstitutional-by-appeals-court.html>.

6. Dara Lind, *Sanctuary Cities, Explained*, VOX (Mar. 8, 2018, 12:00 PM), <https://www.vox.com/policy-and-politics/2018/3/8/17091984/sanctuary-cities-city-state-illegal-immigration-sessions>.

7. *See* Tal Kopan, *Trump and Sessions Lose Another Sanctuary Cities Case*, CNN (Apr. 19, 2018, 4:39 PM), <https://www.cnn.com/2018/04/19/politics/court-rules-against-trump-sessions-sanctuary-cities-chicago/index.html>.

8. Jasmine L. Tyler, *Trump Administration Threatens ‘Sanctuary Cities,’* HUMAN RIGHTS WATCH (Feb. 2, 2018, 1:23 PM), <https://www.hrw.org/news/2018/02/02/trump-administration-threatens-sanctuary-cities>.

9. *See* Nancy Dillon, *Trump Administration’s War on ‘Sanctuary’ Cities Takes Another Hit as Los Angeles Wins Temporary Injunction*, N.Y. DAILY NEWS (Sept. 14, 2018, 5:15PM), <http://www.nydailynews.com/news/ny-news-los-angeles-wins-temporary-injunction-against-jeff-sessions-20180914-story.html>.

10. *See* Sean Illing, *Sessions is Suing California over its “Sanctuary” Laws. I asked 8 Legal Experts who will Win.*, VOX (Mar. 8, 2018, 1:40 PM), <https://www.vox.com/2018/3/8/17092820/california-sessions-sanctuary-cities-lawsuit-doj-immigration>.

II. “SANCTUARY” JURISDICTIONS IN THE UNITED STATES

A. *What is a “Sanctuary City?”*

While the term “sanctuary city” has no official definition, it has come to refer generally to local jurisdictions that in some way limit cooperation with federal efforts to locate and remove unauthorized immigrants.¹¹ While such jurisdictions are colloquially referred to as “sanctuary cities,” sanctuary policies can be enacted at the municipal, county, and state levels.¹² Sanctuary policies vary widely and can include prohibiting local law enforcement from asking people about their immigration status, reporting suspected unauthorized immigrants to federal immigration authorities, or detaining immigrants charged with or convicted of crimes past their release date so that federal immigration authorities can pick them up (known as a “detainer”).¹³ Designation as a sanctuary jurisdiction does not mean that local authorities do not share *any* information about immigrants with federal enforcement agencies. For example, every jurisdiction still shares fingerprint data upon arrest with the Federal Bureau of Investigation (FBI), which in turn shares this information with the DHS for immigration status checks.¹⁴

B. *Local Non-Cooperation as Strategy*

Polities offering refuge or sanctuary from the authorities can trace their roots back to early civilization.¹⁵ For example, the Hebrews created “cities of refuge” that sheltered people who had accidentally killed someone and were pursued by the person’s family, and the Athenians established a right of asylum to “all those who were likely to suffer summary vengeance.”¹⁶ In the United States, sanctuary cities are part of a long history of local non-cooperation with federal authorities to the end of protecting certain groups. Commentators have likened current sanctuary city practices to pre-Civil War era policies of Northern states that aimed to prevent the re-capture of slaves who had fled the South.¹⁷ These policies took the form of personal-liberty laws which restricted the ability of local law enforcement to arrest and return fugitive slaves in certain Northern jurisdictions.¹⁸

11. Lind, *supra* note 6.

12. *See Id.*

13. *Id.*

14. TOM K. WONG, CENTER FOR AMERICAN PROGRESS, THE EFFECTS OF SANCTUARY POLICIES ON CRIME AND THE ECONOMY (Jan. 26, 2017, 1:00 AM), <https://www.americanprogress.org/issues/immigration/reports/2017/01/26/297366/the-effects-of-sanctuary-policies-on-crime-and-the-economy/>.

15. Ann Deslandes, *Sanctuary Cities are as Old as the Bible*, JSTOR DAILY (Mar. 22, 2017), <https://daily.jstor.org/sanctuary-cities-as-old-as-bible/>.

16. *Id.*

17. Nicolaus Mills, *History Is on the Side of Sanctuary Cities*, THE DAILY BEAST (Mar. 3, 2018, 9:15 PM), <https://www.thedailybeast.com/history-is-on-the-side-of-sanctuary-cities?ref=scroll>.

18. *Id.*

C. *The Current State of Sanctuary*

Sanctuary policies in the context of U.S. immigration first developed in the late 1970s.¹⁹ The concept is loosely related to the Sanctuary movement in the 1980s, during which religious congregations established protected spaces in their buildings for refugees fleeing persecution in Central America.²⁰ The country's first sanctuary state was Oregon, which adopted state-wide sanctuary policies in 1987.²¹ The number of sanctuary jurisdictions has increased exponentially in recent years. In 2000, there were eleven such jurisdictions.²² By the election of Donald Trump in November 2016, there were approximately 300, and that number nearly doubled after President Trump's inauguration in January 2017. According to the Federation for American Immigration Reform, there currently are 564 sanctuary jurisdictions in the United States.²³ They represent a particularly polarizing issue that has been featured prominently in the media, fuelled by the Trump Administration's focus on sanctuary cities as part of its immigration reform program. One observer described the heated public debate over sanctuary cities as a "culture war," with inflated misrepresentations of the actual state of affairs replete on both sides of the issue.²⁴ The actual effects of declaring an area to be a sanctuary jurisdiction on security and the economy are intensely controversial, but a 2017 national study that adopted a county level of analysis suggests that there is less crime and poverty in sanctuary counties than in non-sanctuary counties.²⁵

III. THE LEGALITY OF SANCTUARY IN TRUMP'S AMERICA

Some of President Trump's earliest campaign statements challenge the legality of sanctuary jurisdictions, and his Administration has aggressively pursued this position through a blend of executive action and litigation, both defensive and offensive, resulting in a labyrinthine series of judicial decisions. The Administration's core argument is that Section 1373 of the U.S. Code squarely prohibits sanctuary jurisdictions' restriction of information to immigration authorities.²⁶ The statute provides, in relevant part, that "a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of

19. FED. FOR AMERICAN IMMIGR. REFORM, SANCTUARY JURISDICTIONS NEARLY DOUBLE SINCE PRESIDENT TRUMP PROMISED TO ENFORCE OUR IMMIGRATION LAWS, 1 (May 2018), <https://fairus.org/sites/default/files/2018-05/Sanctuary-Report-FINAL-2018.pdf>.

20. Deslandes, *supra* note 15.

21. FED. FOR AMERICAN IMMIGR. REFORM, *supra* note 19.

22. *Id.* at 1–2.

23. *Id.*

24. Lind, *supra* note 6.

25. WONG, *supra* note 14.

26. Chishti & Bolster, *supra* note 2.

any individual.”²⁷ This is not the first time the federal government has raised this issue with local sanctuary jurisdictions; in 2012, Obama administration officials warned Cook County, Illinois, that it may be violating Section 1373 by refusing to communicate to ICE the release dates of immigrants detained by local authorities.²⁸ This move suggests a broad reading of the statute, one that the Trump Administration has capitalized on in its move against sanctuary cities.

The litigation that ensued following the January 2017 Executive Order and subsequent Administration attempts to condition federal grant money suggests that the federal government does not have constitutional authority to compel states, counties, and cities to enact the federal immigration program through conditioning federal funding. For example, in July 2018, the Northern District Court of Illinois held that, in light of the recent Supreme Court ruling in *Murphy v. National Collegiate Athletic Ass’n.*, Section 1373 violates the Tenth Amendment on its face under anticommandeering doctrine because it “rob[s] local policymakers of the option to decline to administer the federal immigration programs Section 1373 supports.”²⁹ The court’s ruling joins decisions from other multiple other jurisdictions that question the constitutionality of Section 1373.³⁰

Another major area of contention within the courts is the issuing of injunctions enjoining the Trump Administration from conditioning federal grant money on cooperation with local immigration officials. An Illinois District Court judge issued a nationwide injunction in September 2017, but it was narrowed to Chicago only in a Seventh Circuit ruling in June 2018.³¹ Most recently, on September 13, 2018, the Central District Court of California joined other district courts in granting a preliminary injunction that enjoined the Department of Justice from enforcing its fund-conditioning plan in a sanctuary jurisdiction; at issue in the instant case was the City of Los Angeles’s refusal to cooperate with immigration authorities.³² In his analysis, Judge Manual Real emphasized the policy ramifications of the Administration’s conditioning of funding and concluded that “the public interest is better served if

27. 8 U.S.C. §1373(a), *invalidated by* City of Chicago v. Sessions, 321 F. Supp. 3d 855 (N.D. Ill. 2018).

28. Chishti & Bolster, *supra* note 2.

29. City of Chicago v. Sessions, 321 F. Supp. 3d 855, 890 (N.D. Ill. 2018).

30. United States v. California, 314 F. Supp. 3d 1077, 1101, (E.D. Cal. 2018) (finding the constitutionality of Section 1373 “highly suspect”); *see also* City of Philadelphia v. Sessions, 309 F. Supp. 3d 289, 328–331 (E.D. Pa. 2018) (holding Section 1373 unconstitutional under the anticommandeering doctrine).

31. Steve Vladeck, *Sanctuary Cities as the Next Nationwide Injunction Test Case*, SCOTUSBLOG (Jun. 19, 2018, 1:52 PM), <http://www.scotusblog.com/2018/06/sanctuary-cities-as-the-next-nationwide-injunction-test-case/>; *see also* Jason Tashea, *7th Circuit Limits National ‘Sanctuary Cities’ Injunction to Chicago*, ABA JOURNAL (Jun. 28, 2018, 4:45 PM), http://www.abajournal.com/news/article/7th_circuit_limits_national_sanctuary_cities_injunction_to_chicago.

32. Martin Macias, Jr., *LA Wins Round in Fight over Justice Department Grant*, COURTHOUSE NEWS SERVICE (September 14, 2018), <https://www.courthousenews.com/la-wins-round-in-fight-over-justice-department-grant/>.

the City is not forced to choose between foregoing the Byrne JAG grant funds and losing its rapport with the immigrant community.”³³

IV. CONCLUSIONS

Sanctuary jurisdictions are part of a long tradition of local non-cooperation with federal authorities to protect certain groups. While they have operated in various forms for decades in the United States, they have only recently come to factor prominently in the public consciousness, playing a major role in the national debate over immigration. While the situation is still developing, recent judicial decisions indicate that sanctuary jurisdictions are operating within their constitutionally-prescribed bounds when they refuse to cooperate with federal immigration authorities,. Given the constitutional state-federal powers questions implicated in the fight over sanctuary cities and the proliferation of litigation, many expect the issue to make its way to the Supreme Court.

33. Order Granting Plaintiff’s Application for Preliminary Injunction at 5, *City of Los Angeles v. Sessions*, 293 F. Supp. 3d 1087 (C.D. Cal. 2018) (No. CV 17-7215-R).