



THE PROMISE OF SANCTUARY CITIES AND THE NEED FOR CRIMINAL JUSTICE REFORMS IN AN ERA OF MASS DEPORTATION

FAIR PUNISHMENT PROJECT



INTRODUCTION

Following Donald Trump's electoral victory last November, numerous mayors rushed to assure non-citizens that their cities would be sanctuaries. Their promises to thwart President Trump's barbaric immigration policies intensified after he issued his executive order threatening federal funding for sanctuary cities.¹ Austin Mayor Steve Adler used his annual State of the City address to tell "the immigrant and refugee community in this city...that they are an important part of our community and in this community they should feel welcomed and safe."² In Portland, the mayor vocally promised to stand fiercely against the Administration's efforts, and declared that under his watch, Portland "will not be complicit in the deportation of our neighbors."³ He explained: "For more than 150 years, Portland has been a destination for those wanting to apply their hard work to the purpose of creating a better life for themselves and their families. My own family made the trek on the Oregon Trail. We are a city built on immigration." After calling the Executive Order signing "one of the worst days for immigrants in America since Japanese internment,"⁴ Seattle Mayor Ed Murray threatened to sue the federal government if it followed through on its threats.⁵ San Francisco did not wait; it almost immediately filed suit.⁶

This lofty rhetoric obscures a harsh reality: because of the way federal immigration law and deportation policies are entangled with the criminal justice system, cities that strive to be safe spaces often have criminal justice systems that feed the President's

- 1 See Executive Order 13768, *Enhancing Public Safety in the Interior of the United States*, 82 FED. REG. 8799, 8800 (2017).
- 2 Nolan Hicks, *Adler Condemns Trump Order, Says Immigrants Are Welcome in Austin*, AUSTIN AMERICAN-STATESMAN, Jan. 28, 2017, available at: <http://www.mystatesman.com/news/local-govt-politics/adler-condemns-trump-order-says-immigrants-are-welcome-austin/wxTv2J343jXhrxZlvRMf4J> (last visited Mar. 29, 2017).
- 3 Sara Roth, *Mayor Wheeler: Portland 'Will Resist' After Trump's Crackdown on Sanctuary Cities*, KGW, Jan. 25, 2017, available at: <http://www.kgw.com/news/politics/mayor-wheeler-portland-will-resist-after-trumps-crackdown-on-sanctuary-cities/392611824> (last visited Mar. 29, 2017).
- 4 Statement of Mayor Edward B. Murray, Jan. 25, 2017, available at: <http://murray.seattle.gov/mayor-murray-on-president-trumps-executive-orders-on-immigration> (last visited Mar. 29, 2017).
- 5 Daniel Beekman, et al., *Seattle 'Won't Be Bullied,' Will Fight Trump's Sanctuary-City Order, Mayor Says*, SEATTLE TIMES, Jan. 25, 2017, available at: <http://www.seattletimes.com/seattle-news/politics/seattle-wont-be-bullied-will-fight-trumps-order-mayor-says> (last visited Mar. 29, 2017). Shortly before publication of this report, Seattle filed its own lawsuit challenging the order. See Daniel Beekman, *Seattle Sues Trump Administration Over 'Sanctuary Cities' Order*, SEATTLE TIMES, Mar. 29, 2017, available at: <http://www.seattletimes.com/seattle-news/politics/seattle-sues-trump-administration-over-sanctuary-cities> (last visited Mar. 30, 2017).
- 6 Emanuella Frinberg, *San Francisco Challenges Trump's Executive Order*, CNN, Jan. 31, 2017, available at: <http://www.cnn.com/2017/01/31/politics/san-francisco-sanctuary-city-lawsuit/> (last visited Mar. 29, 2017). Thirty-six cities and counties recently filed an amicus brief in support of San Francisco's lawsuit. See *San Francisco v. Trump, et al.*, Case No. 3:17-cv-485 (N.D. Cal. 03/29/2017) (Rec. Doc. 62-1) ("Amicus Brief of 36 Cities and Counties in Support of City and County of San Francisco's Motion for Preliminary Injunction"), available at: https://www.lieffcabraser.com/pdf/Amicus_Brief_San_Francisco.pdf (last visited Mar. 30, 2017).

deportation machine. While many officials champion their status as “sanctuary cities” and have taken meaningful steps to protect immigrant communities, sweeping criminal laws in these places leave many immigrants trapped within an arm’s reach of deportation.

President Trump intends to use local criminal justice systems to deport as many non-citizens as resources will allow. Local officials—mayors, city council members, county commissioners, prosecutors, and the police—now have a critical opportunity to thwart his plans and acknowledge the inextricable link between the deportation pipeline and the criminal justice system, and to finally reform their criminal justice systems. It is already smart policy to stop sending people to jail en masse; localities’ punitive policies disproportionately send people of color, including immigrants, to languish in jail or prison. But to make good on their laudable sanctuary goals, local officials must heed the advice of criminal justice reformers, immigration advocates, and their communities, and institute sweeping change.

This report is a collaboration between the Fair Punishment Project⁷ and the Immigrant Defense Project,⁸ with the support of the Immigrant Legal Resource Center.⁹ Together, we hope that our breadth of experience can help advance the conversation that has already started about the intersection between criminal justice and President Trump’s immigration policies.¹⁰ In this report, we first explain the various ways that non-citizens are trapped in the deportation web, starting with arrest. We then offer concrete reform proposals that officials at every level of city and county government can implement. These reforms can lead to meaningful change that will protect immigrant communities and increase public safety. This is just the beginning of the dialogue and is by no means an exhaustive list—criminal justice reform is complicated—but we hope this report advances a necessary conversation with extraordinarily high stakes.

7 The Fair Punishment Project uses legal research and educational initiatives to ensure that the U.S. justice system is fair and accountable. As a joint initiative of Harvard Law School’s Charles Hamilton Houston Institute for Race & Justice and its Criminal Justice Institute, we work to highlight the gross injustices resulting from prosecutorial misconduct, ineffective defense lawyering, and racial bias, and to highlight the unconstitutional use of excessive punishment. The Project also closely partners with The Bronx Defenders, which provides invaluable strategic, research, and writing assistance. More information about the FPP and its supporters is available at its website: www.fairpunishment.org.

8 The Immigrant Defense Project (IDP) fights for the human rights of immigrants in the criminal legal and immigration systems. We work to end the current era of unprecedented mass deportation via strategies that attack these two interconnected systems at multiple points. We use impact litigation and advocacy to challenge unfair laws and policies and media and communications to counter the pervasive demonization of immigrants. And we provide expert legal advice, training, and resources to immigrants, legal defenders, and grassroots organizations, to support those on the frontlines of the struggle for justice. IDP has played a critical role in supporting successful campaigns to limit ICE-police collaboration, and in developing and advocating for innovative criminal justice reforms that benefit both noncitizens and citizens. More information is available at IDP’s website: www.immdefense.org.

9 Since 1979, the Immigrant Legal Resource Center (ILRC) has stood at the forefront of defending the rights of the entire immigrant community, regardless of legal status, prior contact with the criminal justice system, or income. Over thirty years ago, ILRC pioneered “crim-imm” work in the state of California through its trainings and manuals dedicated to raising the standard of practice for the defense of immigrants in criminal proceedings. Since then, it has been a national leader at the intersection of immigrant and criminal justice and has provided legal support, technical assistance and training, and policy advocacy to improve social and economic stability and opportunities for immigrants, to disrupt systems of inequality and punishment, and keep families together. More information is available at ILRC’s website: www.ilrc.org.

10 See, e.g., Shakeer Rahman & Robin Steinberg, *Sanctuary Cities in Name Only*, N.Y. TIMES, Feb. 15, 2017, available at: <https://www.nytimes.com/2017/02/15/opinion/sanctuary-cities-in-name-only.html> (last visited Mar. 30, 2017). See also, e.g., Ingrid V. Eagly, *Immigrant Protective Policies in Criminal Justice*, 95 TEX. L. REV. 245 (2016); Mijente, *Expanding Sanctuary: What Makes a City a Sanctuary Now?*, Jan. 27, 2017, available at: <http://mijente.net/2017/01/27/sanctuary-report> (last visited Mar. 30, 2017); Immigrant Legal Resource Center, *Local Options for Protecting Immigrants*, Dec. 14, 2016, available at: <https://www.ilrc.org/local-options> (last visited Mar. 30, 2017); Wayne A. Cornelius, et al., *Giving Sanctuary to Undocumented Immigrants Doesn’t Threaten Public Safety—It Increases It*, L.A. TIMES, Feb. 2, 2017, available at: <http://www.latimes.com/opinion/op-ed/la-oe-sanctuary-cities-trump-20170202-story.html> (last visited Mar. 30, 2017); Daniel Denvir, *The False Promise of Sanctuary Cities*, SLATE, Feb. 17, 2017, available at: http://www.slate.com/articles/news_and_politics/jurisprudence/2017/02/the_false_promise_of_sanctuary_cities.html (last visited Mar. 30, 2017).

SUMMARY OF EIGHT PROPOSED REFORMS

- **End All Local Collusion with ICE.** Mayors, city councils, county commissioners, and other public officials should prohibit all government agencies—particularly those in law enforcement—from working with immigration authorities. Local law enforcement should not honor warrantless detainer requests, collect information about an individual’s immigration status or place of birth, or share information with ICE beyond what federal law requires.
- **Do Not Enter Into 287(g) Agreements.** To effectuate its policies, the Trump Administration is counting on local police to enter into 287(g) agreements that deputize local police officers as de facto federal immigration agents. Police chiefs and sheriffs must refuse to enter into these damaging agreements, which dramatically increase the Administration’s deportation capabilities and lead to racial profiling. Similarly, local law enforcement departments should not participate in joint task force operations with ICE.
- **Stop Asking for Cash Bail.** Cash bail keeps poor people in jail for low-level crimes. That is bad policy in any context, but it is particularly dangerous for non-citizen detainees who sit in jail at the mercy of an increasingly aggressive federal deportation force. Prosecutors must stop asking for it.
- **Decriminalize Certain Offenses.** Harsh local ordinances do not measurably serve the public good, and instead, unnecessarily expose non-citizens to deportation. Local lawmaking bodies should decriminalize low-level offenses that too often target black and brown communities. Cities should, at a minimum, create civil enforcement options for low-level crimes, which would reduce the number of arrests and decrease over-incarceration in local jails.
- **End “Broken Windows” Policing.** Broken windows policing does not increase public safety. Instead, it leads to racial profiling of communities, over-incarceration at local jails, and increased deportation of non-citizens. It is past time for cities to abandon this method of policing. District attorneys should stop prosecuting these cases, and should, at a minimum, create pre-plea diversion programs for low-level offenses.
- **Consider Immigration Consequences in Discretionary Decisions.** Prosecutors, who wield extraordinary power over a non-citizen’s fate, should consider immigration consequences at all stages of the criminal process, starting with the initial charging decision and lasting throughout plea negotiations. Additionally, prosecutors should work with advocates to create simplified post-conviction

procedures for non-citizens who received ineffective advice as to the immigration consequences of their conviction.

- **Ensure Public Defenders Have Resources to Meet Constitutional Obligations to Noncitizen Clients.** The Supreme Court has held that the Sixth Amendment requires defense counsel to advise non-citizen defendants of the immigration consequences of a potential conviction. In order to fulfill this obligation, local governments must adequately resource public defender offices. Informed defenders can make all the difference in someone's immigration case and help keep families together.
- **Get Police Out of Local Schools and End Probation Reporting of Youth to Immigration Authorities.** When offenses occur in schools, they should be dealt with internally. Especially given potential long-term immigration consequences, it is imperative that prosecutors and law enforcement officials revisit harsh arrest policies that have been shown to disproportionately impact youth of color.

HOW THE CRIMINAL JUSTICE SYSTEM INTERACTS WITH THE DEPORTATION MACHINE

Numerous localities call themselves sanctuaries, but there is no agreed-upon definition of "sanctuary city." In many sanctuary jurisdictions, local jails refuse to honor warrantless detainer requests lodged by Immigration and Customs Enforcement (ICE), a right of refusal based largely on constitutional violations inherent in ICE's process, recognized by numerous federal courts.¹¹ Other localities have adopted "don't-ask" policies, which prohibit law enforcement from stopping an individual to determine their immigration status.¹² Police in Madison, Wisconsin, have long refrained from asking individuals their immigration status, and both the mayor and police chief there have reaffirmed that position since President Trump issued his Executive Order.¹³

These are important policies, and there are good reasons for city officials to have them. It is morally opprobrious to send non-citizens back to potentially life-threatening situations in their native countries, or to wrest them from their lives and families because of an offense committed a decade earlier. And harsh enforcement policies may not keep communities safer. A recent study concluded that "crime is

11 See, e.g., *Galarza v. Szalczyk*, 745 F.3d 634 (3d Cir. 2014); *Morales v. Chadbourne*, 793 F.3d 208 (1st Cir. 2015). See also 8 C.F.R. § 287.7 ("The detainer is a request . . .") (emphasis added).

12 See, e.g., Los Angeles, CA Police Dept., Special Order 40: Undocumented Aliens, Nov. 29, 1979, available at: http://assets.lapdonline.org/assets/pdf/SO_40.pdf ("Officers shall not initiate police action with the objective of discovering the alien status of a person."); Washington, DC, Mayor's Order 2011-174, Oct. 19, 2011, available at: <http://dcregs.dc.gov/Gateway/NoticeHome.aspx?NoticeID=1784041> (public safety employees "shall not inquire about a person's immigration status ... for the purpose of initiating civil enforcement of immigration proceedings that have no nexus to a criminal investigation."); San Francisco, CA, Admin. Code, Chapter 12H: Immigration Status, available at: <http://sfgsa.org/index.aspx?page=1067> (barring law enforcement from stopping or questioning persons solely on the basis of immigration status).

13 WSAU, *Madison Police Will Not Ask About Immigration*, Jan. 26, 2017, available at: <http://wsau.com/news/articles/2017/jan/27/madison-police-will-not-ask-about-immigration> (last visited Mar. 29, 2017).

statistically significantly lower in sanctuary counties compared to nonsanctuary counties,” which “support[s] arguments made by law enforcement executives that communities are safer when law enforcement agencies do not become entangled in federal immigration enforcement efforts.”¹⁴



Additionally, law enforcement’s primary responsibility is to keep communities safe. This requires full participation from citizens and non-citizens alike. But if contacting the police or showing up in court as a victim or witness may lead to deportation, non-citizens will stay away. A recent study found that Latinos were

44 percent less likely to report that they were a victim of a crime, and 45 percent less likely to volunteer any information about a crime at all if they believed that the police would use the interaction as an opportunity to determine the individual’s immigration status.¹⁵ The Major Cities Chiefs Association has warned against creating “a divide between the local police and immigrant groups [that] 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.”¹⁶

But the harsh reality is that any contact with the criminal justice system that a non-citizen has, however small, creates a serious risk that ICE will intervene. A mere arrest can trigger an ICE alert—not only for individuals here without authorization, but also for asylees, lawful permanent residents, and others here with valid status.

Here is how that happens. Whenever police arrest and book someone into a local jail, they submit the person’s fingerprints to the FBI for a criminal history and a warrants check. The FBI then shares those prints with the Department of Homeland Security

14 Tom K. Wong, *The Effects of Sanctuary Policies on Crime and the Economy*, CENTER FOR AMERICAN PROGRESS, Jan. 26, 2017, available at: <https://www.americanprogress.org/issues/immigration/reports/2017/01/26/297366/the-effects-of-sanctuary-policies-on-crime-and-the-economy> (last visited Mar. 29, 2017).

15 Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement*, Univ. Ill. at Chicago, May 2013, available at: https://greatcities.uic.edu/wp-content/uploads/2014/05/Insecure_Communities_Report_FINAL.pdf (last visited Mar. 29, 2017).

16 Major Cities Chiefs Association, *M.C.C. Immigration Committee Recommendations for Enforcement of Immigration Laws by Local Police Agencies*, June 2006, available at: https://www.majorcitieschiefs.com/pdf/MCC_Position_Statement.pdf (last visited Mar. 31, 2017).

(DHS) so that it can determine if the individual should be removed.¹⁷ If a non-citizen is already in the fingerprint database, generally because they have had prior interactions with immigration when applying for a visa or greencard or while at the border, then DHS will know the person is at the jail.

At that point, if ICE wants to grab the person, it is not especially hard. First, ICE can lodge a detainer request. If a locality refuses to submit to that request, ICE can try to arrest the individual leaving the jail, find him at a court date, or locate him at home. And in cases where someone has returned to the U.S. after deportation, the federal Government can charge him with a federal offense and place him in federal custody.

Even if the person's fingerprints are not in the database, ICE can still use the arrest to locate the individual. Given time and resources, ICE can look through public arrest records for clues suggesting that the individual is a non-citizen. That identification process is aided substantially when local law enforcement note a foreign place of birth at booking (as many Sheriff's agencies do), information that is then shared with ICE. This information is sometimes sufficient for ICE to arrest and deport the person; other times, it triggers further investigation. ICE officials might try to interview the individual, hoping to obtain an incriminating statement about immigration status. Officers often do not identify themselves as ICE or give any warning that the information given can be used against the person. ICE can then take that person into custody and subsequently use that information against him in court.

ICE can also patrol courthouses around the country, targeting suspected immigrants. This occurred recently. According to Oregon Public Broadcasting, five "plainclothes immigration enforcement agents...were asking people—predominantly those of color—to identify themselves inside the Multnomah County Courthouse in downtown Portland."¹⁸ Likewise, in Bernalillo County, New Mexico, "ICE agents arrested two women at the Bernalillo County Metropolitan Courthouse," both of whom "were in court for hearings on drunken driving charges."¹⁹ According to the ACLU of New Mexico, one of the two women "has two young daughters and no other criminal history."²⁰ ICE officers have also targeted survivors of domestic abuse in and around courthouses. In El Paso, ICE arrested an undocumented woman who was in court to receive a protection order after her alleged abuser tipped them off.²¹ ICE admits that

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- 17 Priority Enforcement Program, Immigration and Customs Enforcement, available at: <https://www.ice.gov/pep> (last visited Mar. 29, 2017). In the President's Executive Order, he directed the Secretary of Homeland Security to "immediately take all appropriate action to terminate the Priority Enforcement Program (PEP) . . . and to reinstitute the immigration program known as 'Secure Communities' . . ." Executive Order 13768, *Enhancing Public Safety in the Interior of the United States*, 82 FED. REG. 8799, 8801 (2017). Secure Communities "link[ed] people booked into local jails with federal immigration communities" and resulted in "more and more immigrants who had committed traffic or immigration violations [being] nabbed by local officials and turned over to immigration authorities . . ." Suzanne Gamboa, *Obama Ends Secure Communities Program that Helped Hike Deportations*, ASSOCIATED PRESS, Nov. 21, 2014, available at: <http://www.nbcnews.com/storyline/immigration-reform/obama-ends-secure-communities-program-helped-hike-deportations-n253541> (last visited Mar. 29, 2017).
- 18 Conrad Wilson & Phoebe Flanigan, *ICE Confirms Portland Officials' Fears About Immigration Arrests at Courthouse*, OREGON PUB. BROADCASTING, Jan. 30, 2017, available at: <http://www.opb.org/news/article/portland-ice-immigration-arrests-multnomah-county-courthouse> (last visited Mar. 29, 2017).
- 19 Heath Haussamen, *Are This Week's ICE Raids 'Routine' or a Trump-Driven Escalation?*, NMPOLITICS.NET, Feb. 10, 2017, available at: <http://nmpolitics.net/index/2017/02/are-this-weeks-ice-raids-routine-or-a-trump-driven-escalation> (last visited Mar. 29, 2017).
- 20 *Id.*
- 21 See Margaret Hartmann, *ICE Arrests Domestic Violence Victim at Texas Courthouse*, N.Y. MAG., Feb. 16, 2017, available at: <http://nymag.com/daily/intelligencer/2017/02/ice-arrests-domestic-violence-victim-at-texas-courthouse.html> (last visited Mar. 29, 2017).

patrolling courthouses is a priority: “[L]ocating these individuals at a courthouse is, in some instances, the agency’s only likely means of affecting their capture.”²²

PRESIDENT TRUMP’S EXECUTIVE ORDERS ON DEPORTATION

To be clear, ICE has used the criminal justice system to fuel deportation for a long time. President Obama’s Administration deported more non-citizens than any prior Administration, relying on law enforcement and the criminal justice system to do so under extremely harsh federal immigration laws passed in 1996. These laws expanded the incarceration of immigrants, created a fast track for deportations without due process, set the foundation for local police and ICE collaborations, and made legal immigration much more difficult.²³



PHOTO BY FIBONACCI BLUE

But President Trump’s policies are a dramatic escalation from past practices. His public statements, his executive orders, and early ICE activity indicate that this country will see a forced exodus like never before.

First, President Trump’s January 25, 2017 Executive Order significantly expands the class of non-

citizens classified as a “priority” for deportation. Under President Obama’s Priority Enforcement Program (PEP), the Department of Homeland Security targeted an individual if he: (1) was considered a threat to national security; (2) was apprehended at or near a port of entry; or (3) had been convicted of a felony, aggravated felony, significant misdemeanor offense, or three separate misdemeanor offenses.²⁴ Under President Trump’s Executive Order, an individual is prioritized for deportation if he has “been charged with any criminal offense, where such charge has not been resolved; [or] ... [has] committed acts that constitute a chargeable criminal offense...”²⁵ This Executive Order is a mandate to use the criminal justice system to deport as many of the estimated 11 million undocumented people as possible, in addition to

22 Aimee Green, *Men Won’t Say They’re Federal Agents, Follow Immigrant Through Portland Courthouse*, THE OREGONIAN/OREGONLIVE, Jan. 31, 2017, available at: http://www.oregonlive.com/portland/index.ssf/2017/01/men_wont_say_theyre_federal_ag.html (last visited Mar. 29, 2017).

23 The 1996 Laws are shorthand for two laws passed in 1996 that dramatically changed the U.S. immigration system: the Antiterrorism and Effective Death Penalty Act (AEDPA) and the Illegal Immigration Reform & Immigrant Responsibility Act (IIRIRA). The 1996 Laws make immigration enforcement so severe that a single incident of marijuana possession can be enough to deport a green card holder.

24 See Priority Enforcement Program, Immigration and Customs Enforcement, available at: <https://www.ice.gov/pep> (last visited Mar. 29, 2017); Jeh Johnson, *Policies for the Apprehension, Detention, and Removal of Undocumented Immigrants*, Dept. of Homeland Security, Nov. 20, 2014, available at: https://www.dhs.gov/sites/default/files/publications/14_1120_memo_prosecutorial_discretion.pdf (last visited Mar. 29, 2017).

25 Executive Order 13768, *Enhancing Public Safety in the Interior of the United States*, 82 FED. REG. 8799, 8800 (2017) (emphasis added).

green card holders and those living here with lawful status who have even minor criminal records.

Second, President Trump's Executive Order calls for reinstatement of the Secure Communities Program.²⁶ First implemented under President George W. Bush and subsequently expanded under President Obama, the program created an information-sharing system between the FBI and DHS. More specifically, it granted DHS access to the FBI's fingerprint database, and therefore to the prints of everyone booked into a local jail.²⁷ As explained earlier, if DHS finds a fingerprint match between its database and a fingerprint sent from a local jail—either because of a prior immigration application or a contact with a border official—then DHS registers a hit and can ask the local jail to detain the individual, often without a judicial warrant, for potential immigration enforcement. President Obama officially discontinued the program in 2015 amid widespread complaints about racial profiling and unconstitutional detentions in local jails.²⁸ He replaced it with the Priority Enforcement Program (PEP), which kept the fingerprint sharing in place, but made some revisions as to who was prioritized and how DHS interacted with the local jails. President Trump has returned to Secure Communities and intends to ramp it up.

And finally, on February 20, 2017, DHS issued two implementation memos outlining the Administration's plans to rely heavily on local criminal justice actors as faux-ICE agents.²⁹ Both memos call for widespread implementation of 287(g) programs authorizing local law enforcement agents to act as federal immigration law enforcers.³⁰ Under these agreements, local law enforcement becomes a "force multiplier" for the federal government, authorized to "investigate, identify, apprehend, arrest, detain, and conduct searches authorized



Geraud* has lived in the United States for eight years.

He got married in 2014, and he and his wife are expecting their first child this April. Since arriving here, he has worked as a mechanic. He has one arrest: for misdemeanor possession of a forged identification card. He pled guilty to a non-criminal violation and after completing five days of community service, the judge dismissed his case. Donald Trump's executive order makes him a priority for deportation.

Omar* has been in the United States for fourteen years.

He has one child who was born here. He has been arrested once—for obstructing the view while driving—because he had an air-freshener hanging in his window. Police then arrested him because he did not have a driver's license, and he pleaded guilty to driving without a license. He paid his fine and left the jail. He too is a priority for deportation under Donald Trump's executive order.

**Names changed to protect the identities of the families involved.*

26 *Id.*

27 Secure Communities, Dept. of Homeland Security, available at: <https://www.ice.gov/secure-communities> (last visited Mar. 29, 2017).

28 See, e.g., Suzanne Gamboa, *Obama Ends Secure Communities Program that Helped Hike Deportations*, ASSOCIATED PRESS, Nov. 21, 2014, available at: <http://www.nbcnews.com/storyline/immigration-reform/obama-ends-secure-communities-program-helped-hike-deportations-n253541> (last visited Mar. 29, 2017); National Immigrant Justice Center, *Obama Administration Ends Secure Communities*, Nov. 21, 2014, available at: https://www.immigrantjustice.org/press_releases/obama-administration-ends-secure-communities (last visited Mar. 29, 2017).

29 See, e.g., Ron Nixon & Michael Shear, *New Trump Deportation Rules Allow Far More Expulsions*, N.Y. TIMES, Feb. 21, 2017, available at: <https://www.nytimes.com/2017/02/21/us/politics/dhs-immigration-trump.html> (last visited Mar. 29, 2017); Joel Rose, et al., *Homeland Security Outlines New Rules Tightening Enforcement of Immigration Law*, NPR, Feb. 21, 2017, available at: <http://www.npr.org/sections/thetwo-way/2017/02/21/516433342/homeland-security-outlines-new-rules-tightening-enforcement-of-immigration-law> (last visited Mar. 29, 2017).

30 John Kelly, *Implementing the President's Border Security and Immigration Enforcement Improvements Policies*, Dept. of Homeland Security, Feb. 20, 2017, available at: https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Implementing-the-Presidents-Border-Security-Immigration-Enforcement-Improvement-Policies.pdf (last visited Mar. 29, 2017); John Kelly, *Enforcement of the Immigration Laws to Serve the National Interest*, Dept. of Homeland Security, Feb. 20, 2017, available at: https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf (last visited Mar. 29, 2017).

under the” Immigration and Nationality Act.³¹ The implementation memos also direct a vast expansion of partnerships with as many “qualified local law enforcement agencies” as possible.

The President has encouraged the expansion of 287(g) programs despite substantial evidence indicating that the program leads to racial profiling and constitutional violations. One study of the program in North Carolina concluded that it “encourages, or at the very least tolerates, racial profiling and baseless stereotyping, resulting in the harassment of citizens and isolation of the Hispanic community.”³² A 2011 Department of Justice investigation into the Maricopa County Sheriff’s Office reached a similar conclusion, finding that the Office’s 287(g) program resulted in a “widespread pattern or practice of law enforcement or jail activities that discriminate against Latinos.”³³

The Trump Administration is making good on its campaign promise to deport as many immigrants as possible. The Administration will find them at jails, courthouses, homes, or at probation, no matter what the charge, and it will rely on local actors and local criminal justice systems to do so.³⁴ No one is safe; a police officer’s decision to arrest, even for petty offenses, now carries profound consequences for undocumented individuals.

AGGRESSIVE CRIMINAL JUSTICE POLICIES PLACE MILLIONS AT RISK OF DEPORTATION, EVEN IN SANCTUARY CITIES

Given the aggressive law enforcement practices that exist in many cities, an unimaginable number of people are at risk for deportation. According to the Migration Policy Institute, a nonpartisan think tank that analyzes worldwide immigration policy, the Executive Orders’ priorities for removal “could ultimately include the entire unauthorized population”—approximately 11 million people—“unless specifically exempted” by the Administration.³⁵ This number does not even include green card holders, asylees, and others here with lawful status who can be targeted for

31 Kelly, *Enforcement of the Immigration Laws to Serve the National Interest*, *supra*.

32 Deborah M. Weissman, et al., *The Policies and Politics of Local Immigration Enforcement Laws: 287(g) Program in North Carolina*, UNIV. NORTH CAROLINA AT CHAPEL HILL SCHOOL OF LAW, Feb. 2009, available at: <http://www.law.unc.edu/documents/clinicalprograms/287gpolicyreview.pdf> (last visited Mar. 29, 2017).

33 Thomas E. Perez, *United States’ Investigation of the Maricopa County Sheriff’s Office*, Dept. of Justice, Dec. 15, 2011, available at: https://www.justice.gov/sites/default/files/crt/legacy/2011/12/15/mcso_findletter_12-15-11.pdf (last visited Mar. 29, 2017). See also American Immigration Council, *The 287(g) Program: A Flawed and Obsolete Method of Immigration Enforcement*, Nov. 29, 2012, available at: <https://www.americanimmigrationcouncil.org/research/287g-program-flawed-and-obsolete-method-immigration-enforcement> (last visited Mar. 29, 2017).

34 If anyone had doubts about the President’s commitment, ICE erased them when it arrested a domestic abuse victim in an El Paso courthouse as she sought out a restraining order. See Marty Schladen, *Immigration Agents Detain Domestic-Abuse Victim In Court*, STATESMAN JOURNAL, Feb. 15, 2017, available at: <http://www.statesmanjournal.com/story/news/nation-now/2017/02/15/immigration-agents-detain-domestic-abuse-victim-court/97973230> (last visited Mar. 29, 2017).

35 Sarah Pierce & Randy Capps, *Trump Executive Order and DHS Guidance on Interior Enforcement: A Brief Review*, Migration Policy Institute, Feb. 2017, available at: <http://www.migrationpolicy.org/research/trump-executive-order-and-dhs-guidance-interior-enforcement-brief-review> (last visited Mar. 29, 2017). Additionally, the Los Angeles Times recently consulted immigration experts concerning the potential impact of the Administration’s actions. Those experts concluded that “[u]p to 8 million people in the country illegally could be considered priorities for deportation.” Brian Bennett, *Not Just ‘Bad Hombres’: Trump Is Targeting Up to 8 Million People for Deportation*, L.A. TIMES, Feb. 4, 2017, available at: <http://www.latimes.com/politics/la-na-pol-trump-deportations-20170204-story.html> (last visited Mar. 29, 2017).

deportation for something as petty as jumping a turnstile or possessing a small amount of marijuana, no matter how long ago it occurred.

“Broken windows” policing, or more euphemistically, “quality-of-life” policing, is one of the biggest reasons so many are needlessly trapped in the criminal justice system. Made popular in the 1980s and 1990s, this style of policing prioritizes enforcement of low-level nuisances. Proponents assume that “[i]f a window in a building is broken and is left unrepaired, all the rest of the windows will soon be broken.”³⁶ If disorder persists, the theory goes, residents will



withdraw from community life, leaving an opening for serious crime to move into and take over the neighborhood.³⁷ Advocates believe that to forestall a rise in violent crime, police and prosecutors should aggressively enforce nuisance-type crimes such as public urination, sleeping on the streets, or even graffiti art.³⁸ Proponents insist that protecting against these low-level offenses not only will prevent decay, but also will keep good, orderly residents from even “the fear of being bothered by disorderly people,” those “disreputable or obstreperous or unpredictable people: panhandlers, drunks, addicts, rowdy teenagers, prostitutes, loiterers, the mentally disturbed.”³⁹

The problem with broken windows policing is that there is scant evidence that it reduces serious crimes.⁴⁰ And there is strong evidence that these practices result in the incarceration of low-level offenders who pose no safety risk to the community while disproportionately effecting poor people and people of color. Nonetheless, broken-windows policing persists. People who present no clear public safety risk are stripped from their families and their jobs and slapped with criminal records that make it difficult to obtain future housing or employment.⁴¹

36 George L. Kelling & James Q. Wilson, *Broken Windows: The Police and Neighborhood Safety*, ATLANTIC MONTHLY, Mar. 1982, available at: <https://www.theatlantic.com/magazine/archive/1982/03/broken-windows/304465/> (last visited Mar. 29, 2017).

37 *Id.*

38 *Id.*

39 *Id.*

40 See, e.g., Bernard E. Harcourt & Jens Ludwig, *Broken Windows: New Evidence from New York City and a Five-City Social Experiment*, 73 UNIV. CHIC. L. REV. 272 (2006); John E. Eck & Edward R. Maguire, *Have Changes in Policing Reduced Violent Crime? An Assessment of the Evidence*, in Alfred Blumstein and Joel Wallman, Esq., *THE CRIME DROP IN AMERICA* 207, 228 (Cambridge 2000).

41 Derrick Jackson, *Broken Windows, Broken Policy*, BOSTON GLOBE, Dec. 29, 2014, available at: <https://www.bostonglobe.com/opinion/2014/12/29/broken-windows-broken-policy/WM8hUySULOYerJq2S2Ay1N/story.html> (last visited Mar. 29, 2017); Mythili Rao, *Even the Creator of “Broken Windows” Policing Thought It Could Lead to Racial Problems*, PUBLIC RADIO INTERNATIONAL, Jan. 27, 2014, available at: <https://www.pri.org/stories/2015-01-27/even-creator-broken-windows-policing-thought-it-could-lead-racial-problems> (last visited Mar. 29, 2017).

Quality-of-life policing has always had deleterious consequences.⁴² But now that America has elected a president who intends to deport anyone who has been convicted of, or charged with, or even could possibly be charged with, a minor offense, it is absolutely urgent that localities who have made promises of sanctuary end broken windows policing.

In New York, for example, the Police Department arrests people for selling single cigarettes, jumping subway turnstiles, or trespassing.⁴³ In Chicago, leaders have supported an aggressive ordinance targeting “small, petty crimes.”⁴⁴ And in New Orleans, the city recently rolled out a security plan that aggressively pursues quality-of-life offenses, citing broken windows theory in support.⁴⁵

Broken windows and other policies that harshly penalize low-level offenses have laid the groundwork for President Trump to identify, and then deport, immigrants charged with the smallest infractions: urinating in public, driving without a license, subway turnstile jumping, or using a small quantity of marijuana, among others. This deliberate incarceration is alarming in its own right. For those worried about mass deportations, it is terrifying.

CRIMINAL JUSTICE REFORMS FOR SANCTUARY CITIES

Local criminal justice actors around the country can and must respond to the numerous campaigns and demands to reform criminal justice practices to make their cities safer for all citizens. Below, we identify specific actions that various local leaders can take to ensure that their city becomes a legitimate sanctuary for all residents. We rely on our own experiences working on these campaigns, as well as research and information gleaned from other practitioners, advocates, and organizers across the country.⁴⁶

The list is divided into two sections. The first focuses on the need for local officials to cease cooperation with ICE, and the second on how these same officials can de-prioritize low-level offenses as part of a strategy to improve the health and safety of their cities’ residents.

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- 42 Although broken windows policing is the most popular form of the wide-net approach to law enforcement, other law enforcement strategies unnecessarily bring people into the justice system and expose them to deportation. Numerous so-called liberal places, for example, have criminalized poverty, jailing individuals for failing to either pay a traffic ticket or to show up in court to pay that ticket—charges that often result in suspended licenses, and a subsequent arrest for driving with a suspended license.
- 43 Renee Klahr, et al., *How a Theory of Crime and Policing Was Born, and Went Terribly Wrong*, NPR, Nov. 1, 2016, available at: <http://www.npr.org/2016/11/01/500104506/broken-windows-policing-and-the-origins-of-stop-and-frisk-and-how-it-went-wrong> (last visited Mar. 29, 2017).
- 44 Ted Cox, *Mayor Endorses ‘Broken Windows’ Policing, Submits Toughened Ordinance*, DNAINFO, Mar. 13, 2013, available at: <https://www.dnainfo.com/chicago/20130313/chicago/mayor-endorses-broken-windows-policing-submits-toughened-ordinance> (last visited Mar. 29, 2017).
- 45 Richard A. Webster, *Questions Raised About Jackson Square Measures in Landrieu Administration’s Security Plan*, NOLA.COM | THE TIMES-PICAYUNE, Feb. 22, 2017, available at: http://www.nola.com/crime/index.ssf/2017/02/questions_raised_about_jackson.html (last visited Mar. 29, 2017).
- 46 Our “Acknowledgments” and “Additional Resources” lists at the end of this report identify the specific individuals, organizations, and reports we consulted in compiling these suggestions for reform.

A. Stop Cooperating with ICE

Although President Trump has made many promises suggesting mass deportation is on the way, resource constraints will limit some of the damage the federal government can inflict on its own. As a result, the Administration will need cooperation from mayors, city council members, County Commissioners, police, Sheriffs, and prosecutors to help it carry out many of these threats. If people are neither arrested nor held in jail, it will be harder for ICE to target and locate them. And if local actors refuse to act as arms of ICE, then it is unlikely ICE will have the resources to fully carry out Trump's expansive and terrifying vision.

1. Mayors, City Councils, County Executives, and County Commissioners Should Prohibit Law Enforcement's Collusion with ICE

Mayors often have the authority to prohibit local police and government agencies from collaborating with ICE. They should exercise that power. Jersey City Mayor Steve Fulop, for example, recently signed an executive order barring "local police and government agencies from collaborating with immigration authorities unless mandated by law or a court. He also ordered that federal authorities get a warrant before searching public facilities, among other measures."⁴⁷ Ending local collusion with ICE would ensure that local police officers are not deputized to enforce federal immigration law, and would prevent local jails from filling up with suspected undocumented immigrants.

Local city councils, county boards, and sheriffs likewise have the authority to end collaborations and cooperation with ICE.⁴⁸ In 2012, after the passage of Secure Communities, the D.C. Council passed the D.C. Immigration Detainer Compliance Amendment Act, limiting law enforcement's authority to cooperate with ICE. Under the law, local police have the authority to honor a detainer only if the individual is in custody and has a conviction for certain types of very serious offenses.⁴⁹ In 2014, New York City officials signed legislation limiting the information the City shares about those held in its jails and prohibiting ICE from maintaining a civil immigration enforcement office at the jail. It also precluded the NYC Department of Correction from honoring ICE detainers unless ICE both obtained a judicial warrant and the individual was convicted of a serious felony within the last five years or was a possible match on a terrorist watch list.⁵⁰ In Lawrence, Massachusetts in 2015, the city council

47 Salvador Rizzo, *N.J. Democratic Mayors Defy Trump with Sanctuary Orders*, THE RECORD, Feb. 11, 2017, available at: <http://www.northjersey.com/story/news/new-jersey/2017/02/11/nj-democratic-mayors-defy-trump-sanctuary-city-orders/97788414/> (last visited Mar. 28, 2017).

48 In the absence of action from other officials, it is imperative that local sheriffs exercise their authority to stop cooperating with ICE. Sheriffs would do well to follow the King County Sheriff's policies in this regard, which limit cooperation with ICE and prohibit the collection of information that could alert ICE to a potential candidate for deportation. See King County Sheriff's Office, General Order 5.05.000 (Handling Immigration Contacts), available at: http://www.kingcounty.gov/safety/sheriff/About/~media/safety/sheriff/documents/g/Public_GOM_rev_02_18_10.ashx (last visited Mar. 28, 2017).

49 D.C. Code Ann. § 24-211.07 (West)

50 *Mayor Bill de Blasio Signs Into Law Bills to Dramatically Reduce New York City's Cooperation with U.S. Immigration and Customs Enforcement Deportations*, NYC.gov, Nov. 14, 2014, available at: <http://www1.nyc.gov/office-of-the-mayor/news/520-14/mayor-bill-de-blasio-signs-law-bills-dramatically-reduce-new-york-city-s-cooperation-with#/0> (last visited Mar. 28, 2017).

voted to bar police from honoring ICE detainers unless ICE obtained a criminal arrest warrant. It also banned ICE from using city facilities or booking lists without obtaining a warrant.⁵¹ And just this year, the City Council in Santa Ana, California, adopted an ordinance precluding city officials from using city resources to assist in enforcing federal immigration law, or from complying with detainers based solely on immigration status.⁵² These are just a few examples of the hundreds of local policies city and county officials have enacted. These policies protect localities from liability for holding immigrants for ICE in violation of their constitutional rights, ensure that city residents are not torn from their families and communities, and prevent local resources from being funneled away from true community needs.⁵³

Programs such as these can have profound effects on reducing deportations.⁵⁴ In October 2012 alone, ICE placed over 11,000 individuals into custody through detainer programs and deported 4,000 people captured by a detainer in that same month.⁵⁵ Those removals accounted for over 25% of all interior removals (as opposed to border removals) ICE effectuated nationwide. But as local jails stopped working with ICE, the number of deportations plummeted. In December of 2015, for example, ICE placed only 3,000 non-citizens in custody, and the number of detainer-connected deportations fell below 500—just 5% of all interior removals nationwide.⁵⁶ Put differently, “[m]ore than 18,000 times over [2014 and 2015], local jails across the country have failed to hand over deportable immigrants to federal authorities.”⁵⁷ As these statistics show, this policy change is effective and critical. If sanctuary cities are going to truly protect immigrants, city and county governments and sheriffs must, at a minimum, preclude enforcement of detainers and prohibit law enforcement from using local resources to assist in the federal deportation machine.

City and county officials can also stop agencies from collecting information about immigration status, information that is often used by ICE to track citizenship or find information in support of deportation. Specifically, they should prohibit local agencies from collecting information about immigration status or place-of-birth when individuals apply for programs and services. For example, the Chicago City Council passed a law precluding any “agent or agency [from] request[ing] information about or otherwise investigat[ing] or assist[ing] in the investigation of the citizenship or immigration status of any person unless such inquiry or investigation is required by

51 Maria Sacchetti, *Lawrence Limits Cooperation With Immigration Officials*, BOSTON GLOBE, April 12, 2015, available at: <https://www.bostonglobe.com/metro/2015/08/11/city-immigrants-consider-trust-act/bqCHkOuiFtMA0xcZKCALyM/story.html#comments> (last visited Mar. 28, 2017).

52 Jessica Kwong, *Santa Ana's Status As A Sanctuary City Made Official*, ORANGE COUNTY REGISTER, Jan. 17, 2017, available at: <http://www.ocregister.com/articles/city-741463-santa-sanctuary.html> (last visited Mar. 28, 2017).

53 See Immigrant Legal Resource Center, *Enforcement*, available at: www.ilrc.org/enforcement (last visited Mar. 28, 2017) (collecting a complete list of policies).

54 See Transactional Access Records Clearinghouse, *The Role of ICE Detainers Under Bush and Obama*, Feb. 1, 2016, available at: <http://trac.syr.edu/immigration/reports/458> (last visited Mar. 28, 2017).

55 *Id.*

56 *Id.*

57 Morgan Smith & Jay Root, *Jails Refused to Hold Thousands of Immigrants Sought by Feds*, TEXAS TRIBUNE, Jan. 15, 2016, available at: <https://www.texastribune.org/2016/01/15/34-texas-counties-declined-hold-deportable-immigra/> (last visited Mar. 28, 2017).

Illinois State Statute, federal regulation, or court decision.”⁵⁸ The City of Seattle recently passed a far-reaching Welcoming City Resolution with a similar mandate, stating that city officials “will not require any person seeking or accessing City programs or services to disclose their immigration status. City employees will make no record of any immigration status information that is inadvertently disclosed and will treat such immigration status information as confidential and sensitive information...”⁵⁹

For similar reasons, City and county officials should also preclude police from asking arrestees about place of birth at booking. In Taos, New Mexico, for example, officers are instructed that “[n]o inmate shall be asked about his place of birth or country of origin upon admission” to the local jail.⁶⁰ There is a similar policy in San Miguel, New Mexico.⁶¹

These programs are hugely important. By prohibiting the collection of information about immigration status as a requirement for use of city or county services, officials cut off an obvious avenue for ICE to glean information about potential non-citizens. It is also good policy.

Even if city and county officials do not ban the collection of this information, they should pass strict limits on agencies’ ability to share any information with ICE officials beyond what federal law requires.⁶² Probation officers, for example, often cooperate with ICE agents, tipping them off to a non-citizen’s reporting date so that ICE can

show up and take that person into custody. Where cities or counties have control over probation departments, they can prevent this from happening. In Santa Fe, New Mexico, the city council passed a resolution affirming their authority to preserve the confidentiality of information collected from residents, including



58 Chicago Code § 2-173-020.

59 City of Seattle, *Resolution 31730*, Jan. 30, 2017, available at: http://murray.seattle.gov/wp-content/uploads/2017/01/2017_013017_reso_welcoming_city.pdf (last visited Mar. 28, 2017).

60 *Immigration and Customs Enforcement*, Taos County Adult Detention Center Policies and Procedures, available at: https://www.ilrc.org/sites/default/files/resources/20_-_taos_policy.pdf (last visited Mar. 28, 2017).

61 *Immigration and Customs Enforcement Intake Process*, San Miguel County Detention Center Policies and Procedure, available at: https://www.ilrc.org/sites/default/files/resources/18_-_san_miguel_policy.pdf (last visited Mar. 28, 2017).

62 See 8 U.S.C. § 1373 (limiting restrictions on sharing citizenship or immigration status with the federal government if such information is collected). But see Immigrant Legal Resource Center, *Nearly 300 Law Professors: Trump’s Executive Order on ‘Sanctuary’ Cities Is Unconstitutional*, Mar. 13, 2017, available at: <https://www.ilrc.org/nearly-300-law-professors-trump%E2%80%99s-executive-order%E2%80%9Csanctuary%E2%80%9D-cities-unconstitutional> (last visited Mar. 28, 2017).

a person's immigration status.⁶³ New York City Council Speaker Melissa Mark-Viverito has promised to pass legislation requiring that every City employee and contractor protect sensitive information like sexual orientation, religion, and immigration status by limiting its disclosure, except where required by law. Further, the legislation will require that each agency review its data collection, retention and disclosure policies so that, going forward, the City collects only what is necessary to efficiently provide quality services.⁶⁴ Similar policies exist in Chicago,⁶⁵ Seattle,⁶⁶ and many other localities.

Finally, city and county officials should prohibit law enforcement from looking to civil immigration information in the FBI's National Crime Information Center (NCIC) database when deciding whether to make an arrest. Local law enforcement regularly access the NCIC database during traffic stops or street encounters to determine if someone has an outstanding criminal warrant or is wanted in another jurisdiction. Under President George W. Bush, the FBI added civil immigration information to this database, including information related to people with outstanding administrative orders of removal.⁶⁷ Even though local law enforcement agencies are not authorized to make arrests for civil immigration violations in the absence of a 287(g) agreement, police departments often do it anyway, taking individuals into custody rather than issuing a ticket or otherwise releasing the person.⁶⁸

Beyond the liability issues cities face for making these unconstitutional arrests, cities that fail to prohibit consideration of this information risk exacerbating racial profiling and undermining trust with immigrant communities.⁶⁹ The Major City Chiefs, as well as the President's Task Force on 21st Century Policing, have explicitly called for the removal of civil immigration information from federal criminal databases like NCIC.⁷⁰ Cities and counties should follow suit.

2. Police Chiefs and Sheriffs Should Refuse to Enter into 287(g) Agreements and Joint Task Force Operations with ICE

Both the Executive Order and the February 20th Department of Homeland Security Implementation Memos contemplate a vast expansion of 287(g) agreements. At

63 Daniel Chacon, *City Council Committee Approves 'Welcoming' Resolution*, SANTA FE NEW MEXICAN, Feb. 13, 2017, available at http://www.santafenewmexican.com/news/local_news/city-council-committee-approves-welcoming-resolution/article_0d93fe79-05d9-582a-878e-2258c393342c.html (last visited Mar. 28, 2017).

64 New York City Council, *Speaker Melissa Mark-Viverito Delivers 2017 State of the City Address*, Feb. 16, 2017, available at: <http://council.nyc.gov/press/2017/02/16/1370/> (last visited Mar. 28, 2017).

65 Chicago Code § 2-173-030.

66 City of Seattle, *Resolution 31730*, Jan. 30, 2017, available at: http://murray.seattle.gov/wp-content/uploads/2017/01/2017_013017_reso_welcoming_city.pdf (last visited Mar. 28, 2017).

67 See Hannah Gladstein, et al., *Blurring The Lines: A Profile of State and Local Police Enforcement of Immigration Law Using the National Crime Information Center Database, 2002-2004*, Migration Policy Institute, available at: <http://www.migrationpolicy.org/research/blurring-lines-profile-state-and-local-police-enforcement-immigration-law-using-ncic> (last visited Mar. 31, 2017).

68 *Id.*

69 *Id.*

70 See Major Cities Chiefs Association, *M.C.C. Immigration Committee Recommendations for Enforcement of Immigration Laws by Local Police Agencies*, available at: https://www.majorcitieschiefs.com/pdf/MCC_Position_Statement.pdf (last visited Mar. 31, 2017).

present, 37 law enforcement agencies have entered into agreements,⁷¹ with their police becoming a “force multiplier” for federal immigration enforcement.⁷² Law enforcement should decline to be ICE’s minions and refuse to enter into these agreements.⁷³

Similarly, many local law enforcement agencies engage in joint task force operations with ICE. These task forces typically involve multi-agency investigations purportedly involving alleged trafficking or gang activity. In many instances, however, ICE will use information and arrests from such operations for purely civil immigration enforcement. In Santa Cruz, for instance, the local police department has accused the Department of Homeland Security of using a joint task force operation largely as a way to identify and arrest suspected undocumented immigrants who were not facing criminal indictment.⁷⁴ Explicit joint operations between police and ICE erode public belief that the agencies are separate and that that it is safe to contact local law enforcement agents. Cities and counties have no obligation to participate in these kinds of joint task forces and would better serve their own residents if they avoided them.

3. Prosecutors Should Stop Asking for Cash Bail

The movement to end the cash bail system has gained tremendous momentum over the last few years, with conservative think tanks, liberal politicians, and law enforcement officials supporting an end to the system that keeps poor people in jail because they cannot pay. Money bail is bad policy and should be reformed in its own right. As Harris County Sheriff Ed Gonzalez recently stated during a hearing on the legality of bail: “When most of the people in my jail are there because they can’t afford to bond out, and when those people are disproportionately black and Hispanic, that’s not a rational system.”⁷⁵

Because cash bail keeps poor people in jails, it makes many non-citizens sitting ducks for ICE. Cash bail systems require defendants to pay a cash surety as a guarantee that he or she will arrive in court. Many individuals cannot pay, and they sit in jail until their case is resolved. This occurs even if the defendant is charged with a minor offense. In most jurisdictions, prosecutors ask the judge to set bail amounts. Prosecutors can ask for no bail, or they can ask for extremely high amounts, but when the prosecutor asks, the judge generally grants the request. If a non-citizen cannot pay, he will sit and wait in jail, making it easy for ICE to find him when he is eventually released. For localities

71 See *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, U.S. Immigration and Customs Enforcement, available at: <https://www.ice.gov/factsheets/287g> (last visited Mar. 28, 2017).

72 Kelly, *Enforcement of the Immigration Laws to Serve the National Interest*, *supra*.

73 American Immigration Council, *The 287(g) Program: A Flawed and Obsolete Method of Immigration Enforcement*, Nov. 29, 2012, available at: <https://www.americanimmigrationcouncil.org/research/287g-program-flawed-and-obsolete-method-immigration-enforcement> (last visited Mar. 28, 2017).

74 Michael Todd, *Santa Cruz Police: Homeland Security Misled City with ‘Gang’ Raids that Were Immigration Related*, THE MERCURY NEWS, Feb. 23, 2017, available at: <http://www.mercurynews.com/2017/02/23/santa-cruz-police-homeland-security-raids-immigration-status-not-gang-related> (last visited Mar. 28, 2017).

75 Michael Hardy, *In Fight Over Bail’s Fairness, a Sheriff Joins the Critics*, N.Y. TIMES, Mar. 9, 2017, available at: <https://www.nytimes.com/2017/03/09/us/houston-bail-reform-sheriff-gonzalez.html> (last visited Mar. 28, 2017).

that notify or otherwise cooperate with ICE, setting bail also increases the likelihood that ICE will have time to issue a detainer and target the person.

This may occur in Austin, Texas, where the sheriff recently adopted a new detainer policy. Newly-elected District Attorney Margaret Moore intends to ask judges to raise the bail for immigrant offenders to ensure they are not released from prison before prosecution. In practice, this means that even those charged with a misdemeanor will be a sitting duck when ICE comes to town. ICE can then simply lie in wait until the individual finally walks out of jail.⁷⁶

Bail is not necessary to protect public safety. In Washington, D.C., there is no money bail system. Defendants are only held if they are classified as a flight risk or a danger to the community. In 2015, judges released 91 percent of defendants pretrial. Between 2010-2015, police rearrested only ten percent of those released on bail while they were pending resolution.⁷⁷ Prosecutors should follow the District of Columbia, and stop asking for bail except in the rarest of cases.



B. De-Prioritize Low-Level Offenses

Refusing to cooperate with ICE is one way to help stem President Trump's ability to engage in mass deportations. Reducing enforcement of low-level offenses—whether by decriminalizing offenses, refusing to arrest and prosecute for more minor offenses, or utilizing civil enforcement options—will also help keep people out of the criminal system, and off of ICE's radar. This is not merely good immigration policy; it is smart policy period.⁷⁸

Law enforcement and conservatives increasingly recognize this fact. Last July, a collection of law enforcement leaders, including the Major Cities Chiefs Association and the National District Attorneys Association, wrote a joint letter to then-

76 Tony Plohetski, Sean Collins Walsh, & Taylor Goldenstein, *In 'Sanctuary' Fight, a New Question of Justice Emerges*, AMERICAN STATESMAN, Feb. 18, 2017, available at <http://www.mystatesman.com/news/local/sanctuary-fight-new-question-justice-emerges/RqbZDLdTnNPCDY4E6CHKTJ> (last visited Mar. 28, 2017).

77 Ann E. Marimow, *When it Comes to Pretrial Release, Few Other Jurisdictions Do It D.C.'s Way*, WASH. POST, July 4, 2016, available at https://www.washingtonpost.com/local/public-safety/when-it-comes-to-pretrial-release-few-other-jurisdictions-do-it-dcs-way/2016/07/04/8eb52134-e7d3-11e5-b0fd-073d5930a7b7_story.html?utm_term=.c7f2d2c5eadd (last visited Mar. 28, 2017).

78 To be clear: we believe that it is wrong to deport individuals accused or convicted of more serious offenses as well. But this report provides solutions as a specific response to President Trump's new orders, which have expanded ICE's focus to even those charged with small crimes.

candidate Donald Trump, explaining that “[t]oo many resources go toward arresting, prosecuting and imprisoning low-level offenders, and those suffering from mental illness and drugs or alcohol addiction, making it difficult for law enforcement to address more serious crime.”⁷⁹ Conservative groups such as Right on Crime agree, and now support “reducing excessive sentence lengths and holding nonviolent offenders accountable through prison alternatives, public safety can often be achieved consistent with a legitimate, but more limited, role for government.”⁸⁰

Local officials should heed this bipartisan consensus and de-prioritize low-level offenses.

1. City Councils Should Decriminalize, or at a Minimum, Create Civil Enforcement Options for Certain Offenses

Harsh and unnecessary local ordinances usually fail to increase public health and safety even while exposing undocumented immigrants to deportation. One particularly striking example are laws criminalizing homelessness. On any given night in the United States, roughly 500,000 people are homeless. It is difficult to estimate the exact percentage who are immigrants. Many are ineligible for assistance and therefore are not identified in surveys that rely on data from social services to account for the homeless population. Others are scared to come forward and identify themselves even if they can obtain services, fearing identification and deportation. But immigrant rights workers and advocates for the homeless both believe that immigrant populations make up a considerable portion of the homeless population.⁸¹

Los Angeles has the highest number of undocumented immigrants in California, with estimates reaching about 815,000 people.⁸² It also has one of the largest homeless populations in the country—second only to New York—with 2015 estimates at 44,359.⁸³ It is fair to assume, as both immigrants rights leaders and homeless advocates have, that a substantial number of these homeless persons are undocumented immigrants. It also has extraordinarily harsh laws punishing those who

79 Letter from Association of Prosecuting Attorneys et. al. to Hillary Clinton & Donald Trump (July 13, 2016), <http://www.lawenforcementleaders.org/wp-content/uploads/2016/07/Law-Enforcement-Letter.pdf> (last visited Mar. 28, 2017).

80 Right on Crime, *The Conservative Case for Reform*, available at: <http://rightoncrime.com/the-conservative-case-for-reform> (last visited Mar. 28, 2017).

81 Meribah Knight, *Far From Family, Alone, Homeless, and Still Just 18*, N.Y. TIMES, Feb. 25, 2012, available at: <http://www.nytimes.com/2012/02/26/us/of-young-immigrants-who-arrive-alone-many-end-up-homeless-in-chicago.html> (last visited Mar. 28, 2017); Leslie Berenstein Rojas, *Immigrants a Largely Hidden Segment of L.A.'s Homeless Population*, KPCC, July 14, 2016, available at <http://www.scpr.org/news/2016/07/14/62582/immigrants-a-largely-hidden-segment-of-la-s-homele> (last visited Mar. 28, 2017).

82 Laura Hill & Joseph Hayes, *Undocumented Immigrants*, Public Policy Institute of California, June 2015, available at: http://www.ppic.org/main/publication_show.asp?i=818 (last visited Mar. 28, 2017). The PPIC could be estimating the actual immigrant population; the Migration Policy Institute estimates that there are over one million undocumented immigrants in Los Angeles County. See Migration Policy Institute, *Profile of the Unauthorized Population: Los Angeles County, CA*, available at: <http://www.migrationpolicy.org/data/unauthorized-immigrant-population/county/6037> (last visited Mar. 28, 2017).

83 Los Angeles Homeless Services Authority, *2015 Greater Los Angeles Homeless Count*, May 11, 2015, available at: <https://documents.lahsa.org/Planning/homelesscount/2015/HC2015CommissionPresentation.pdf> (last visited Mar. 28, 2017).

are poor and homeless. As of 2015, Los Angeles had nine ordinances criminalizing begging and panhandling, and fifteen criminalizing standing, sitting, or resting.⁸⁴

Other city ordinances criminalizing non-dangerous behaviors provide a tremendous opportunity for the police to sweep immigrants into the criminal justice system while providing no public safety benefit. Again in Los Angeles, city ordinances prohibit “stand[ing] in or upon any street, sidewalk or other public way open for pedestrian travel,” or “annoy[ing] or molest[ing] another or mak[ing] any remark to or concerning another to the annoyance of such other person” on the subway.⁸⁵ San Francisco has similar ordinances, making someone a misdemeanor for “solicit[ing] in an aggressive manner in a public place,”⁸⁶ loitering near a public toilet,⁸⁷ public urination,⁸⁸ and sitting or lying on a public sidewalk between 7 a.m. and 11 p.m.⁸⁹ If an immigrant who is mentally ill or intoxicated momentarily blocks a sidewalk or creates a minor commotion on the subway, or asks for money too aggressively, he may find himself in the justice system and, eventually, deported.

City councils have the power to de-criminalize behaviors like these. The Los Angeles City Council recently took an important step in decriminalizing street vending within the city, believing that continued criminalization would open dozens of immigrants up to deportation.⁹⁰ City Council member José Huizar explained, “We cannot continue to allow an unregulated system that penalizes hard-working, mostly immigrant, vendors with possible misdemeanor charges, particularly in the current political environment. These people are not asking for a handout, they are asking for an opportunity to lift themselves up and provide for their families.”⁹¹ City councils should move quickly to decriminalize other quality-of-life policing ordinances, which would protect hard-working immigrants, their children, and other vulnerable family members.

Providing the police with civil enforcement options is another way for city councils to reduce the number of arrests and decrease over-incarceration in their local jails. For instance, arrests for low-level marijuana possession dropped significantly after New York City police were given discretion to issue a civil summons in lieu of arrest, falling from nearly 30,000 in 2013 to a low of approximately 16,000 in 2015.⁹² To be

84 Policy Advocacy Clinic, *California's New Vagrancy Laws*, Berkeley Law School, June 2016, available at: http://wraphome.org/wp-content/uploads/2016/06/NVL-Update-2016_Final.pdf (last visited: Mar. 28, 2017).

85 *Id.* See also Los Angeles City Council, *Official City of Los Angeles Municipal Code*, Chapter IV: Public Welfare, available at: <https://law.resource.org/pub/us/code/city/ca/LosAngeles/Municipal/chapter04.pdf> (last visited Mar. 28, 2017).

86 S.F. Police Code Art. 2, § 120-2.

87 S.F. Police Code Art. 2, § 124.2.

88 S.F. Police Code Art. 2, § 153.

89 S.F. Police Code Art. 2, § 168.

90 ABC7, *Street Vending Decriminalized in Los Angeles*, Jan. 31, 2017, available at: <http://abc7.com/news/street-vending-decriminalized-in-la/1730362> (last visited Mar. 28, 2017).

91 *Id.*

92 See *Low-Level Enforcement in New York City*, The Knowledge Project, available at: <http://www.justice-data.nyc/lowlevel-reform> (last visited Mar. 28, 2017). Despite this progress, however, it is concerning that the number of low-level marijuana arrests has been on the rise since the end of 2015. See Max Rivlin-Nadler, *Low Level Marijuana Arrests Increase in De Blasio's New York*, VILLAGE VOICE, Feb. 6, 2017, available at: <http://www.villagevoice.com/news/low-level-marijuana-arrests-increase-in-de-blasios-new-york-9649293> (last visited Mar. 28, 2017).

clear, civil summons can still lead to criminal enforcement—an unpaid fine or missed court date can lead to an arrest warrant⁹³—and for that reason, city councils should prioritize decriminalizing low-level behavior as aggressively as they can under state law. But reducing low-level arrests is an essential component of providing sanctuary to a city’s residents, and civil enforcement can serve that end, too.

2. Law Enforcement Should Stop Enforcing Arrests and Prosecutions for Low-Level Offenses

End Broken-Windows Policing

Broken-windows policing does not effectively reduce crime, but it does destroy communities, disproportionately affect people of color, and easily lead to mass deportation.⁹⁴ Therefore, even where local laws permit law enforcement to arrest people for these low level offenses, police chiefs, sheriffs, and prosecutors should instruct their offices to stop enforcing them. A group of nearly 200 current and former police chiefs, sheriffs, federal and state prosecutors, and attorneys general from all fifty states made just this recommendation in response to Trump’s policies, explaining that police “need not use arrest, conviction, and prison as the default response for every broken law. In these cases, prison is not only unnecessary from a public safety standpoint, it also endangers our communities.”⁹⁵ It is time to stop these prosecutions.

Drug possession offenses are a good place to start. According to a report by Human Rights Watch, between 2007 and 2012, the United States deported more than 260,000 people for drug offenses, many of whom were longtime lawful permanent residents.⁹⁶ Convictions for non-citizens increased 43% in that period.⁹⁷ Statistics also show that marijuana arrests remain highly skewed towards non-whites, even though white people and people of color use pot in equal numbers. Police can stop the practice of jailing petty drug users, which wastes public money, does little to deter other crimes, and funnels people into the deportation machine.

Some prosecutors have taken steps toward that goal. In 2014, former Brooklyn District Attorney Kenneth Thompson announced that his office would limit prosecution of most low-level marijuana possession cases involving first-time

93 Leon Neyfakh, *Does Decriminalization Work?*, Slate, Feb. 17, 2015, available at: http://www.slate.com/articles/news_and_politics/crime/2015/02/decriminalization_why_reducing_the_punishments_for_misdemeanors_doesn_t.html (last visited Mar. 28, 2017).

94 See, e.g., Renee Klahr, et al., *How a Theory of Crime and Policing Was Born, and Went Terrible Wrong*, NPR, Nov. 1, 2016, available at: <http://www.npr.org/2016/11/01/500104506/broken-windows-policing-and-the-origins-of-stop-and-frisk-and-how-it-went-wrong> (last visited Mar. 28, 2017); Mary Emily O’Hara, *NYPD’s ‘Broken Windows’ Policing Is the Same Old Stop and Frisk*, VICE, Aug. 6, 2014, available at: <https://news.vice.com/article/nypds-broken-windows-policing-is-the-same-old-stop-and-frisk> (last visited Mar. 28, 2017).

95 Law Enforcement Leaders to Reduce Crime & Incarceration, *Fighting Crime and Strengthening Criminal Justice: An Agenda for the New Administration*, Feb. 13, 2017, available at: http://lawenforcementleaders.org/wp-content/uploads/2017/02/LEL_Agenda_for_a_New_Administration.pdf (last visited Mar. 28, 2017).

96 Human Rights Watch, *A Price Too High: U.S. Families Torn Apart by Deportations for Drug Offenses*, June 16, 2015, available at: <https://www.hrw.org/report/2015/06/16/price-too-high/us-families-torn-apart-deportations-drug-offenses#a74003> (last visited Mar. 28, 2017). ICE does not maintain, or at least does not publicly release, data relating to the visa status of deportees.

97 *Id.*

offenders, specifically “in an effort to make better use of limited law enforcement resources and to prevent offenders—who are disproportionately young men of color—from being saddled with a criminal record for a minor, non-violent offense.”⁹⁸ In 2014, Philadelphia’s City Council passed an ordinance directing police to process possession of 30 grams of marijuana or less as a civil offense rather than a criminal one.⁹⁹ The policy change immediately paid dividends; marijuana arrests went down 77% in the year after decriminalization¹⁰⁰ and the city saved about millions of dollars in costs over the two years following the ordinance’s enactment.¹⁰¹

Cities must also reexamine their enforcement of prostitution-related offenses. Although the overwhelming majority of sex trafficking victims are black or Hispanic women, those same women are also disproportionately targeted for arrest on prostitution-related charges.¹⁰² Even before the President signed his Executive Order, a prostitution conviction could lead to deportation, including for lawful permanent residents.¹⁰³ Now that anyone who has been so much as arrested for, or charged with, a minor crime can be subject to deportation, however, law enforcement’s discriminatory methods of policing sex trafficking crimes present grave challenges to the victims of sex trafficking schemes. For instance, even as the New York City Police Department promises not to prosecute victims or ask them about their immigration status if they report a sex trafficking offense,¹⁰⁴ they continue to arrest individuals for engaging in suspected prostitution activity.¹⁰⁵ And yet, as New York City Police Commissioner James O’Neill said, “we can’t just arrest our way out of this problem.”¹⁰⁶ He is right. Decriminalization of sex work and changing policing policies should be prioritized.

Traffic violations are another unnecessary entry point into the criminal justice system. Between 2013 and 2015, the Sheriff’s departments in Los Angeles and San Francisco—cities with loud support for sanctuary—arrested and charged a combined nearly 35,000 people for offenses arising out of unpaid traffic tickets or driving

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- 98 Kenneth P. Thompson, *Brooklyn District Attorney Kenneth P. Thompson Announces New Policy for Prosecuting Low-Level Marijuana Possession Arrests*, Kings County District Attorney’s Office, July 18, 2014, available at: http://brooklynda.org/wp-content/uploads/2015/03/MarijuanaPolicy_7_8_2014.pdf (last visited Mar. 28, 2017).
- 99 Phil. City Code Ch. 10-2100 (Marijuana Possession).
- 100 Mark Dent, *Marijuana Arrests Are Down 77 Percent Since Philly Decriminalized It Last Year: It’s Being ‘Normalized’*, BILLYPENN, Sept. 1, 2015, available at: <https://billypenn.com/2015/09/01/marijuana-arrests-are-down-77-percent-since-philly-decriminalized-it-last-year-its-being-normalized> (last visited Mar. 28, 2017).
- 101 Hayden Mitman, *At City Hall, Activists Tout Fiscal Benefits of Marijuana Decriminalization*, PHILLY VOICE, Oct. 20, 2016, available at: <http://www.phillyvoice.com/city-hall-activists-tout-9m-city-savings-marijuana-decriminalization/> (last visited Apr. 1, 2017); Linn Washington, Jr., *How Decriminalizing Marijuana Saved Philadelphia \$9 Million*, ALTERNET, Oct. 26, 2016, available at: <http://www.alternet.org/drugs/decriminalizing-pot-saves-philadelphia-9-million> (last visited Mar. 28, 2017).
- 102 Melissa Gira Grant, *The NYPD Arrests Women for Who They Are and Where They Go—Now They’re Fighting Back*, VILLAGE VOICE, Nov. 22, 2016, available at: <http://www.villagevoice.com/news/the-nypd-arrests-women-for-who-they-are-and-where-they-go-now-theyre-fighting-back-9372920> (last visited Apr. 1, 2017) (finding that in New York state, “85% of those arrested for loitering for prostitution between 2012 and 2015 were black or Latina”).
- 103 Prostitution convictions are generally deemed to be “crimes involving moral turpitude” under immigration law. *See, e.g., Rohit v. Holder*, 670 F.3d 1085 (9th Cir. 2012).
- 104 Emma Whitford, *NYPD Urges Immigrant Sex Trafficking Victims to Anonymously Report Abuse*, GOTHAMIST, Feb. 2, 2017, available at: http://gothamist.com/2017/02/02/sex_trafficking_nypd_tips.php (last visited Apr. 1, 2017).
- 105 Emma Whitford, *NYPD Still Arresting Sex Workers Despite Pledge to Target Traffickers*, GOTHAMIST, Feb. 24, 2017, available at: http://gothamist.com/2017/02/24/nypd_sex_trafficking_immigrants.php (last visited Apr. 1, 2017).
- 106 *Id.*

with a suspended license. These arrests occurred disproportionately among Latino populations. But there is no requirement that the Sheriff's Department actually effectuate arrests for these offenses, nor is it necessary to arrest people for unpaid tickets or driving without a license to ensure public safety. Indeed, Rhode Island made driving on a suspended or expired license for the first or second time a civil violation.¹⁰⁷

Create Pre-Arrest or Pre-Plea Diversion Programs

Although decriminalization is preferable, in cases where officials and prosecutors lack the political will to enact such policies, they can still develop and utilize pre-arrest or pre-plea diversion programs. These programs keep people out of jail, and often preclude a conviction that makes the non-citizen deportable, ineligible for legal status, and/or a higher priority for deportation. Critically, for the programs to aid immigrants, it is crucial that prosecutors allow them to participate without pleading guilty. A guilty plea, even if later vacated, still counts as a conviction under immigration law.¹⁰⁸



In Houston, Texas—a region not known for leniency—the new district attorney Kim Ogg created a diversion program to keep those arrested for marijuana possession under four ounces out of court and jail. Instead, those caught with pot will take a drug-education class in lieu of a citation or arrest.¹⁰⁹ In Cook County,

Illinois, individuals with first-time and low-level offenses can participate in classes on substance use and “justice involvement” to avoid a conviction.¹¹⁰

Some localities also offer pre-plea diversion programs for individuals charged with a DUI offense. Counties across Pennsylvania offer participation in a pre-plea

107 R.I. Gen. Laws Ann. § 31-11-18.1.

108 INA § 101(a)(48)(A), 8 USC § 1101(a)(48)(A); See *Matter of Pickering*, 23 I&N Dec. 621 (BIA 2003).

109 Kim Ogg, *Misdemeanor Marijuana Diversion Program*, Harris County District Attorney's Office, Mar. 1, 2017, available at: <https://app.dao.hctx.net/OurOffice/MMDP.aspx> (last visited Mar. 28, 2017).

110 Cook County State's Attorney, *Drug School Diversion Program*, available at: <http://www2.tasc.org/program/state%E2%80%99s-attorney%E2%80%99s-drug-school-diversion-program> (last visited Mar. 28, 2017). In a related effort, California legislators recently passed a law that allows defendants to legally expunge drug convictions for federal purposes, including immigration. See Cal. Penal Code § 1203.43; Immigrant Legal Resource Center, *New California Drug Provision Helps Immigrants: Plea Withdrawal After Deferred Entry of Judgment (DEJ)*, Mar. 21, 2016, available at: <https://www.ilrc.org/new-california-drug-provision-helps-immigrants-plea-withdrawal-after-deferred-entry-judgment-dej> (last visited Mar. 28, 2017).

Statewide Accelerated Rehabilitative Disposition (ARD) program for a first-time DUI. Requirements vary by county but generally require participation in a program in exchange for suspension of charges.¹¹¹ All or parts of many other states, including Florida, Georgia, Indiana, Kansas, Louisiana, Oregon, and Texas, offer similar initiatives.¹¹²

And in Seattle, city officials implemented the Law Enforcement Assisted Diversion Program (LEAD) in 2011, a program allowing “police officers [to] exercise discretionary authority at point of contact to divert individuals to a community-based, harm-reduction intervention for law violations driven by unmet behavioral health needs.”¹¹³ At least six other cities have established similar programs.¹¹⁴ Other cities should implement such programs, which reduce recidivism¹¹⁵ and keep individuals out of jail and the court system.

Expand Acceptable Identification Documents

Police officers must also accept non-traditional forms of identification, rather than just government-issued IDs, when admitting individuals into diversion programs or issuing civil citations. Often, police officers require individuals to present limited forms of government-issued identification as a prerequisite for admission into a non-punitive program. This is the case, for example, in Harris County’s new marijuana diversion program.¹¹⁶ But for obvious reasons, non-citizens cannot always obtain these identification cards and therefore cannot satisfy the identification requirements, making them more likely to get arrested, booked, and charged in cases where they might otherwise avoid arrest entirely.

Police and prosecutors should therefore expand the class of identifications needed for these programs. They should accept identity documents from the individual’s place of birth, such as their consular identification card, passport, or driver’s license. And city councils should develop programs creating municipal identification cards that are provided to all of the city’s residents, regardless of their immigration status. Moreover, local governments should issue these cards without asking for an individual’s place of birth or retaining any application documents, lest ICE attempt to access that information.

111 See Elizabeth Buner, *Pre-Trial Diversion Programs for DUIs*, Traffic Resource Center for Judges, available at: <http://home.trafficresourcecenter.org/~media/Microsites/Files/traffic-safety/Issue%20Brief%20%20Pretrial%20Diversion%20programs.ashx> (last visited Mar. 30, 2017).

112 *Id.*

113 See LEAD National Support Bureau, available at: <http://www.leadbureau.org> (last visited Mar. 28, 2017).

114 *Id.*

115 Susan E. Collins, et al., *LEAD Program Evaluation: Recidivism Report*, Mar. 27, 2015, available at: http://static1.1.sqspcdn.com/static/f/1185392/26121870/1428513375150/LEAD_EVALUATION_4-7-15.pdf?token=Fb3113gV30dTyEzGmSWbWrmU2o%3D (last visited Mar. 28, 2017) (concluding that Seattle’s LEAD program led to significant drop in recidivism in both the short term and the long term).

116 Kim Ogg, *Misdemeanor Marijuana Diversion Program*, Harris County District Attorney’s Office, Mar. 1, 2017, available at: <https://app.dao.hctx.net/OurOffice/MMDP.aspx> (last visited Mar. 28, 2017).

3. Prosecutors Should Factor Immigration Consequences Into All Discretionary Decision-Making Processes

Prosecutors have enormous discretion—in how to charge a case, whether to prosecute an individual case or even a class of cases all, and whether to offer a plea agreement. All of these decisions effect whether non-citizens are likely to face deportation.¹¹⁷ Prosecutors should refuse to prosecute certain offenses, considering immigration consequences in both charging and sentencing decisions, agree not to oppose post-conviction relief motions, and should clear out old warrants.

First, prosecutors should decline to charge most quality of life offenses, even if city officials will not eliminate them. Unfortunately, in many of the so-called sanctuary cities, entire prosecutorial teams are devoted to obtaining convictions for those who commit these low-level offenses. In Multnomah County, which includes Portland, the District Attorney has a “Neighborhood Unit” that focuses on low-level, “quality-of-life” offenses such as trespassing, disorderly conduct, and public urination.¹¹⁸ Starting in 2014, the Los Angeles District Attorney’s Office assigned neighborhood prosecutors to deal with graffiti, prostitution, and other broken windows type crimes.¹¹⁹ While there is surely some benefit to prosecutors spending time in their local communities, there is no reason for them to use their resources pulling people into the justice system in these ways.

Next, prosecutors should consider immigration consequences when deciding whether or how seriously to charge an individual for an offense, when engaging in plea negotiations with a defendant, and when considering post-conviction motions. The Supreme Court has recognized the need for prosecutorial sensitivity to these severe effects in *Padilla v. Kentucky*, 559 U.S. 356 (2010). “[I]nformed consideration of possible deportation,” the Court held, “can only benefit both the State and noncitizen defendants during the plea-bargaining process. By bringing deportation consequences into this process, the defense and prosecution may well be able to reach agreements that better satisfy the interests of both parties.”¹²⁰

In keeping with the Supreme Court’s decision, the past President of the National District Attorney’s Association urged prosecutors to weigh the collateral consequences of a potential conviction in every decision they make, asserting that, “[h]owever ‘justice’ might be defined by a prosecutor, the Supreme Court’s recognition of the importance of collateral consequences to a just resolution of

117 See generally Heidi Altman, *Prosecuting Post-Padilla: State Interests and the Pursuit of Justice for Noncitizen Defendants*, 101 GEO. L.J. 1 (2012).

118 Emily Green, *Broken Windows Prosecuting*, STREET ROOTS NEWS, April 15, 2016, available at: <http://news.streetroots.org/2016/04/15/broken-windows-prosecuting> (last visited Mar. 28, 2017).

119 Erika Aguilar, *LA Neighborhoods Get Prosecutors for Graffiti, Prostitution, Other 'Broken Windows' Crimes*, KPCC, June 3, 2014, available at: <http://www.scpr.org/news/2014/06/03/44504/la-neighborhoods-get-prosecutors-for-graffiti-pros/> (last visited Mar. 28, 2017); Sharon McNary, *City Attorney Neighborhood Prosecutors Attack LA Nuisances In and Out of the Courtroom*, KPCC, May 12, 2015, available at: <http://www.scpr.org/news/2015/05/12/51617/city-attorney-neighborhood-prosecutors-attack-la-n/> (last visited at Mar. 28, 2017).

120 *Padilla*, 359 at 373.

a matter should influence a prosecutor's views."¹²¹ Some prosecutorial agencies have already implemented such policies. In Alameda County, California, the District Attorney's Office directs its prosecutors "to consider the collateral consequences (including potential immigration consequences) of a criminal conviction during the plea negotiation process," particularly when an individual is charged with "less serious crimes (with shorter sentences)."¹²² So too in Santa Clara County, where District Attorney Jeff Rosen instructed prosecutors to consider potential immigration consequences when making disposition choices with an eye towards cases where immigration consequences are "disproportionately heavy" compared to the "actual sentence."¹²³ Following the example of these local offices, the California legislature amended its penal code in 2016 to require the prosecution to "consider the avoidance of adverse immigration consequences as one factor in an effort to reach a just resolution."¹²⁴

But prosecutors must go further and consider immigration consequences when making the initial charging decision. Prosecutors consider factors unrelated to the crime all the time when deciding how to charge an individual. They regularly evaluate an individual's willingness to cooperate in the investigation or provide information on other cases.¹²⁵ They should do the same with immigration consequences. As already explained, President Trump's Executive Order expands the definition of "criminal" to include anyone charged with a crime. The charging decision is therefore enormously important and can have serious immigration consequences. The King County Prosecuting Attorney's Office in Seattle has developed such a policy, ordering prosecutors to "be mindful" of immigration consequences "in charging decisions, plea offers, and sentence recommendations."¹²⁶ Other jurisdictions should follow their lead.

In addition to implementing more sensible charging policies, prosecutors should help non-citizens who were ill advised of immigration consequences prior to conviction to wind back the clock. Many non-citizens never received advice about the risk of deportation prior to taking a plea or going to trial. Now, numerous non-citizens are trying to challenge their convictions through post-conviction proceedings. If successful, their record is wiped clean, eliminating the immigration consequences. Prosecutors should stipulate to post-conviction relief or agree to allow defendants to plead to new offenses that carry less severe immigration consequences.

121 Robert M.A. Johnson, *A Prosecutor's Responsibility Under Padilla*, 31 ST. LOUIS PUB. L. REV. 129, 136 (2011). As one tangible example, prosecutors should consider asking for a sentence of less than 365 days for misdemeanor offenses, as a sentence to an offense of a year or more can frequently lead to deportation under federal immigration law. See 8 U.S.C. § 1227(a)(2)(A)(i).

122 *Guidelines Regarding the Consideration of Collateral Immigration Consequences During Plea Negotiations*, Alameda County District Attorney, Oct. 30, 2012, available at: <http://lawprofessors.typepad.com/files/immigration-guidelines-alameda-county-da.pdf> (last visited Mar. 28, 2017).

123 Letter from Jeff Rosen to Prosecutors, Santa Clara District Attorney's Office Sept. 14, 2011, available at: https://www.ilrc.org/sites/default/files/resources/unit_7b_4_santa_clara_da_policy.pdf (last viewed Mar. 28, 2017). These policies are by no means perfect. In Santa Clara, a non-citizen may have to accept more jail time than he might otherwise have received in exchange for a reduced charge. The reduced charge still makes him a lower priority for ICE, but the increased custody gives ICE longer to find him. Nevertheless, they are important steps toward forcing prosecutors to consider the risk of deportation.

124 Cal. Pen. Code. § 1016.3(b).

125 ABA Standards for Criminal Justice: Prosecution Function, Standard 3-3.9(b) (3d ed. 1993).

126 King County Prosecuting Attorney's Office, *Filing and Disposition Standards* § 2(V) (May 2016), available at: <http://www.kingcounty.gov/~media/depts/prosecutor/documents/2016/fads-may-2016.ashx?la=en> (last visited Mar. 28, 2017).

Local prosecutors should also dismiss old arrest warrants for nonviolent and other low-level offenses. Four New York City District Attorneys, including Cy Vance, have signaled their willingness to clear out 10-year-old arrest warrants for such trivial offenses as “drinking beer in public, disorderly conduct, sitting in a park after dark or riding a bicycle on a sidewalk.”¹²⁷ This is a good policy that will shield hundreds of thousands from the threat of pointless arrest, and many non-citizens from the threat of deportation. District Attorneys in other cities should do the same.

4. Localities Should Ensure Public Defenders Have Resources to Meet Constitutional Obligations to Noncitizen Clients

Out of concern for the “seriousness of deportation as a consequence of a criminal plea,” the Supreme Court has held that the Sixth Amendment requires defense counsel to advise non-citizen defendants of the immigration consequences of a potential conviction.¹²⁸ In order to fulfill this obligation, local governments must adequately resource public defender offices. Informed defenders can make all the difference in someone’s immigration case and often can obtain a disposition that lessens or avoids these harsh penalties, including deportation.

Years before the Supreme Court decided *Padilla*, public defender offices and some associations across the country, including Los Angeles, Philadelphia, and Washington state,¹²⁹ established in-house immigration positions or units to train and advise their public defenders. New York City has the most robust model in the country. In 2010, the City funded immigration positions at each New York City institutional defender office to handle criminal-trial level immigration advising for the defender organization’s attorneys and private defense counsel that are assigned through New York State’s Assigned Counsel Program.¹³⁰ Since then, New York City has expanded funding to cover certain *Padilla*-based post-conviction relief cases and, through state funding, has filled other existing resource gaps. This funding has been instrumental in ensuring that offices have dedicated staff to inform their clients of immigration consequences prior to pleas and protecting their immigration status when possible. Other cities should follow suit.¹³¹

127 Joseph Goldstein, *A Plan to Prune the City’s Thicket of Warrants for Petty Offenses*, N.Y. TIMES, Feb. 9, 2017, available at: <https://www.nytimes.com/2017/02/09/nyregion/a-plan-to-prune-the-citys-thicket-of-warrants-for-petty-offenses.html> (last visited Mar. 28, 2017). See also New York City Council, *Speaker Melissa Mark-Viverito Delivers 2017 State of the City Address*, Feb. 16, 2017, available at: <http://council.nyc.gov/press/2017/02/16/1370> (last visited Mar. 28, 2017) (expressing the City Council’s plans to work with four District Attorneys “to clear low level, nonviolent summons warrants that are 10 years or older, bringing criminal justice reform to hundreds of thousands of New Yorkers”).

128 See *Padilla*, 559 U.S. at 373-74.

129 See, e.g., Los Angeles Public Defender, Immigration Unit, available at: http://pd.co.la.ca.us/DACA_HelpYou.html (last visited Mar. 30, 2017); Washington Defender Association, Immigration Project, available at: <http://www.defensenet.org/immigration-project> (last visited Mar. 30, 2017).

130 See New York City Bar, *Padilla v. Kentucky: The New York City Criminal Court System, One Year Later*, June 15, 2011, available at: <http://www2.nycbar.org/pdf/report/uploads/PadillaCrimCtsCJOReportFINAL6.15.11.pdf> (last visited Mar. 30, 2017).

131 Immigration-specific positions or units have been created in public defender offices in Dallas and Miami, and across offices in Oregon, Maryland, and California. In addition, the California Legislature is currently considering a bill that would guarantee more funding to public defender offices precisely to ensure that non-citizen defendants are receiving adequate advice as to the potential immigration consequences of their criminal proceedings. See Cal. Leg. AB 3, *Strengthening Public Defenders Act*, Dec. 5, 2016, available at: https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB3 (last visited Mar. 30, 2017).

Five Steps Judges Can Take to Protect Immigrants

- 1. Do not ask about citizenship or immigration status on the record.** This helps ensure that judges uphold their obligations of impartiality and neutrality and protects the Fifth Amendment right against self-incrimination. In addition, requiring a defendant to identify himself as a non-citizen may alert ICE—and result in the individual being targeted for immigration detention and deportation, undermining the community's view of the fairness and impartiality of the court system. Judicial obligations under the Bill of Rights, judicial codes of conduct, and some state laws and policies preclude inquiry into citizenship and/or immigration status.¹³²
- 2. Judges should refrain from providing information on immigration consequences.** These notifications may not be tailored to every individual, and therefore, can be misleading, inaccurate, untimely, and muddle a person's understanding of the individualized advice given by defense counsel. If defense counsel does not comply with his duty to provide affirmative and accurate advice, a court notification can make it more difficult for an individual to vacate the improperly counseled—and therefore unconstitutional—plea. Court notification of immigration consequences is appropriate before taking an uncounseled plea. In such cases, judges should provide an opportunity to retain or request appointment of counsel. If state law requires court notification of immigration consequences, then judges should also make clear that only the defense attorney can provide accurate and individualized advice, and he should offer to consult with the defense attorney on this issue.
- 3. Enable defense attorneys to comply with their Constitutional duty to advise clients of immigration consequences.** Judges can provide additional time to interview clients and obtain expert immigration advice and approve requests to consult with immigration experts. Judges should also notify all defendants, regardless of their perceived citizenship status, about their right to receive immigration advice from their defense attorney. This should be done early in the case, to ensure that people have ample opportunity to consult with their defense attorney and defend the case accordingly. Judges can also support public defender offices' requests to fund in-house immigration experts or other access to immigration expertise.
- 4. Consider immigration consequences in issuing sentences.** When a defendant has volunteered her immigration status, the judge should factor that status into the disposition and sentencing determination to avoid, or at least minimize, the risk of deportation.
- 5. Prohibit courthouse arrests because of immigration status.** Courthouse arrests are alarming and cause non-citizens to stay away even when they need help. Judges often have the power to stop them in their courthouses. They should do so.

¹³² See Immigrant Defense Project, *Ensuring Compliance with Padilla v. Kentucky Without Compromising Judicial Obligations*, Nov. 2010, available at: www.immigrantdefenseproject.org/wp-content/uploads/2011/11/IDP_Judicial_Inquiry_Into_Status_Jan20111.pdf (last visited Mar. 28, 2017).

5. Localities Should Get Police Out of Local Schools and End Probation Reporting of Youth to Immigration Authorities

While this report focused primarily on reforms for adult non-citizens, we would be remiss if we failed to mention the ways in which a juvenile delinquency adjudication can have long-term immigration consequences, and propose some possible reforms.

Juvenile arrests and adjudications can increase the likelihood of deportation down the road in several ways. First, while juvenile records are usually sealed, when a non-citizen applies for immigration benefits such as a status adjustment, he must disclose the fact of his arrest—including sealed juvenile arrests. The examiner then takes into account that arrest for discretionary purposes. The arrest or adjudication can prevent a person from getting legal status.



Additionally, once a youth is arrested, the police take his fingerprints—which could end up in the NCIC database. While most states have juvenile confidentiality laws that protect records and other types of information from being shared, fingerprints are usually not protected. In the end, what may have started out as a minor incident in school (for example, a fight, or a young person having a small amount of marijuana) can result in ICE identification down the road.

Prosecutors, police, and probation departments, whenever possible, should stop arresting youth and bringing them into the juvenile and criminal legal systems. These problems often begin in schools. Increasingly, schools are employing School Resource Officers (SROs): uniformed police officers working in K-12 public schools. While ostensibly there for safety purposes, these officers participate in disciplinary matters. Their presence has contributed to the over-policing of young people, and for immigrant youth, it can create the school-to-prison-to-deportation pipeline. When offenses occur in schools, they should be dealt with internally—there is no reason for a schoolyard fight to end up in the juvenile justice system. Kids should always be treated like kids. But given potential long-term immigration consequences, it is imperative that prosecutors and police departments revisit often harsh policies.¹³³

133 See generally Immigrant Legal Resource Center, *Immigrant Youth*, available at: <https://www.ilrc.org/immigrant-youth> (last visited Mar. 30, 2017) (containing multiple resources regarding the policies affecting non-citizen youth); Juvenile Detention Alternatives Initiative, *Noncitizen Youth in the Juvenile Justice System*, June 2, 2014, available at: <http://www.aecf.org/m/resource/doc/aecf-NoncitizenYouthintheJJSsystem-2014.pdf> (last visited Mar. 30, 2017).

Seven State-Level Policy Solutions to Protect Immigrants

- 1. Support statewide pardon initiatives.** Governors who stand for immigrant rights should support expansive pardon initiatives in their states. Many non-citizens now face deportation for offenses committed years ago. Expanding the state's pardon opportunities could significantly alleviate the risk of deportation for many with old offenses.
- 2. Increase avenues for post-conviction relief.** Many non-citizens were convicted of an offense, including misdemeanors for which they served no jail time, without receiving accurate immigration advice. Unfortunately, states too often limit the time period within which to file a petition for post-conviction relief, or otherwise limit the potential bases for relief. States should amend their post-conviction relief laws to extend time to challenge a conviction, ensuring that individuals who pleaded without proper immigration advice can appeal.¹³⁴
- 3. Increase ability of judges to vacate old arrests or seal old convictions.** States should pass laws that expunge low-level arrests and convictions from an individual's record, or at least seal them from public view. Although old convictions could still carry immigration consequences, limiting their disclosure or vacating them entirely provides non-citizens with additional protections.
- 4. Support sentencing reform.** Under federal law, non-citizens, including lawful permanent residents, often face mandatory detention and deportation if the potential sentence of an offense, including many misdemeanors, is one year or more. To protect non-citizens from deportation, some states have amended their sentencing laws to lower the maximum available punishment for misdemeanors to 364 days.¹³⁵ One day makes a profound difference for many non-citizens; states should amend their laws accordingly.
- 5. Provide resources for immigration advising in criminal cases.** States should fund attorneys so that defense attorneys can comply with the constitutional right to immigration advice in a criminal case clarified in *Padilla v. Kentucky*. In July 2015, New York State funded six Regional Immigration Assistance Centers to "ensure that every client who receives legally mandated representation in the state of New York receives accurate and comprehensive advice with respect to the immigration consequences of their case."¹³⁶ Similarly, the Washington State Legislature has funded the Washington Defender Association's Immigration Project for over fifteen years.¹³⁷
- 6. Increase protections for juvenile confidentiality.** California recently passed a law that restricts the automatic sharing of confidential information arising out of juvenile court proceedings.¹³⁸ It is now unlawful for local and state entities to share information with federal officials, including immigration authorities, unless such officials file a petition in court requesting disclosure of the minor's information and the court determines that sharing the information is appropriate, taking into account the best interests of the minor. Other states should enact similar juvenile protections.
- 7. Increase transparency in gang databases.** Sweeping "gang databases" often sweep up innocent immigrants and people of color purely because of where they live or the color of their skin. Law enforcement then uses these databases to identify suspected unauthorized non-citizens. States should severely restrict their reliance on gang databases. Additionally, states should follow California's lead, which passed a law that allows individuals to challenge their inclusion in the database.¹³⁹

134 See N.Y. Crim. Proc. § 440.10 (no time limitations on filing petition for post-conviction relief); Cal. Penal Code § 17(b) (granting judge authority to reduce a felony conviction to a misdemeanor "at any time when the ends of justice will be subserved thereby"); Cal. Penal Code § 1473.7 (no time limitations on filing a claim that the noncitizen defendant failed to "meaningfully understand" the immigration consequences of a plea).

135 See, e.g., Cal. Penal Code § 18.5; Wash. Rev. Code § 9A.20.021(2).

136 N.Y. Office of Indigent Legal Services, *ILS Awards Grants for Regional Immigration Assistance Centers*, July 6, 2015, available at: <https://www.ils.ny.gov/files/Regional%20Immigration%20Assistance%20Centers%20Announcement%20070615.pdf> (last visited Mar. 29, 2017); Padilla Support Center, available at: <https://www.immigrantdefenseproject.org/what-we-do/padilla-support-center> (last visited Mar. 29, 2017).

137 Washington Defender Association Immigration Project, available at: <http://www.defensenet.org/immigration-project> (last visited Mar. 29, 2017).

138 See Cal. Welf. & Inst. Code § 831.

139 See Office of Assemblymember Shirley N. Weber, *AB 2298: Gang Databases Act (Accuracy, Consistency, & Transparency)*, Apr. 10, 2016, available at: <http://curbprisonspending.org/wp-content/uploads/2016/05/AB-2298-Final-Fact-Sheet-4-10-16.pdf> (last visited Mar. 29, 2017).



CONCLUSION

As a candidate, Donald Trump made clear that he would deport as many non-citizens as possible. As President, he has shown his willingness to follow through on that threat. Emboldened by his directives, ICE has launched a nationwide series of raids. Heartbreaking stories dominate news headlines daily, with a new tale about a deportation of a non-citizen who has been in this country for decades and who has a family and other loved ones.

Now more than ever, local officials at every level must respond to the numerous campaigns and demands to reform their criminal justice policies to ensure that non-citizens are not torn from their families and the communities and cities to which they contribute every day. Reforming their criminal justice systems is good policy under any circumstances; it is imperative now. The reforms proposed above would constitute significant steps toward that effort. They would help make their cities' criminal justice systems fairer for all their residents, but would also ensure that cities truly become safe and welcoming places for all non-citizen residents.

ABOUT THE AUTHORS

Immigrant Defense Project (IDP)

www.immdefense.org

The Immigrant Defense Project (IDP) fights for the human rights of immigrants in the criminal legal and immigration systems. We work to end the current era of unprecedented mass deportation via strategies that attack these two interconnected systems at multiple points. We use impact litigation and advocacy to challenge unfair laws and policies and media and communications to counter the pervasive demonization of immigrants. And we provide expert legal advice, training, and resources to immigrants, legal defenders, and grassroots organizations, to support those on the frontlines of the struggle for justice. IDP has played a critical role in supporting successful campaigns to limit ICE-police collaboration, and in developing and advocating for innovative criminal justice reforms that benefit both noncitizens and citizens.

Immigrant Legal Resource Center (ILRC)

www.ilrc.org

Since 1979, the Immigrant Legal Resource Center (ILRC) has stood at the forefront of defending the rights of the entire immigrant community, regardless of legal status, prior contact with the criminal justice system, or income. Over thirty years ago, ILRC pioneered “crim-imm” work in the state of California through its trainings and manuals dedicated to raising the standard of practice for the defense of immigrants in criminal proceedings. Since then, it has been a national leader at the intersection of immigrant and criminal justice and has provided legal support, technical assistance and training, and policy advocacy to improve social and economic stability and opportunities for immigrants, to disrupt systems of inequality and punishment, and keep families together.

Fair Punishment Project

www.fairpunishment.org

The Fair Punishment Project uses legal research and educational initiatives to ensure that the U.S. justice system is fair and accountable. As a joint initiative of Harvard Law School’s Charles Hamilton Houston Institute for Race & Justice and its Criminal Justice Institute, we work to highlight the gross injustices resulting from prosecutorial misconduct, ineffective defense lawyering, and racial bias, and to highlight the unconstitutional use of excessive punishment. The Project also closely partners with The Bronx Defenders, which provides invaluable strategic, research, and writing assistance.



ADDITIONAL RESOURCES

ACLU of Southern California, Sanctuary Toolkit (March 2017)

Black Alliance for Just Immigration & NYU Law School Immigrant Rights Clinic,
The State of Black Immigrants (September 2016)

Center for Popular Democracy, Protecting Immigrant Communities: Municipal Policy
to Confront Mass Deportation and Criminalization (March 2017)

Enlace, What Is a Freedom City? (February 2017)

Immigrant Defense Project, Resources on ICE Raids and Arrests

Immigrant Legal Resource Center, Enforcement

Immigrant Legal Resource Center, Local Options for Protecting Immigrants
(December 2016)

Immigrant Legal Resource Center & United We Dream, Ending Local Collaboration
with ICE: A Toolkit for Immigration Advocates (2015)

LEAD National Support Bureau

Mijente, Expanding Sanctuary: What Makes a City a Sanctuary Now?
(January 2017)

United We Dream, Here to Stay (December 2016)

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| | |
|---|--|
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| | <i>James E. Rogers College of Law</i> |

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| | |
|--|---|
| <i>#Not1More Deportation</i> | <i>MA TRUST Act Campaign</i> |
| <i>Campaign to Unite Colorado</i> | <i>Miami Detainer Ordinance Campaign</i> |
| <i>Cook County Detainer Ordinance Campaign</i> | <i>National Day Laborer Organizing Network (NDLON)</i> |
| <i>DC Comite for Immigrant Rights</i> | <i>New Orleans Congress of Day Laborers/ Congreso de Jornaleros</i> |
| <i>Florida Immigrant Coalition</i> | <i>NJ Alliance for Immigrant Justice</i> |
| <i>Free SF</i> | <i>Philadelphia Family Unity Network (PFUN)</i> |
| <i>Houston Beyond ICE/Houston Sin Miedo</i> | <i>Santa Clara County Forum for Immigrant Rights and Empowerment (FIRE) Coalition</i> |
| <i>ICE FREE AZ</i> | <i>Somos Un Pueblo Unido</i> |
| <i>ICE Out of Austin</i> | <i>WA Justice Advocacy Network</i> |
| <i>ICE Out of California/TRUST Coalition</i> | |
| <i>ICE Out of LA</i> | |
| <i>ICE Out of Rikers Campaign</i> | |

We value the organizations and networks that have engaged in or are currently re-envisioning what sanctuary and freedom look like in the context of racial justice, criminal justice reform, and immigrant rights, including (but not limited to):

| | |
|--|-------------------------------------|
| <i>1LoveMovement</i> | <i>Black Youth Project 100</i> |
| <i>American Civil Liberties Union</i> | <i>Center for Popular Democracy</i> |
| <i>Black Alliance for Just Immigration</i> | <i>Detention Watch Network</i> |

*Enlace
Families for Freedom
Juntos
Local Progress
Mijente
National Domestic Workers Alliance
National Immigration Law Center
National Immigration Project of the National*

*Lawyers Guild
Puente Human Rights Movement
Silicon Valley De-Bug
Southeast Asian Freedom Network
Southeast Asian Resource Action Center
Southern Poverty Law Center
United We Dream
Youth Justice Coalition*

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Californians United for a Responsible Budget
Drug Policy Alliance
Fortune Society
Human Rights Watch*

*Just Leadership USA
Movement for Black Lives
National Association of Criminal Defense
Lawyers
National LEAD Support Bureau
Policy Link*