



March 25, 2021

The Honorable Tom Dolan, Chairman  
Municipal and County Government Committee  
New Hampshire House of Representatives  
107 North Main Street  
LOB Room 301  
Concord, NH 03301

Dear Chairman Dolan and other distinguished members of the Municipal and County Government Committee:

I am submitting this statement in strong support of House Bill 266 on behalf of the Federation for American Immigration Reform (FAIR). FAIR is a non-profit, non-partisan organization of concerned individuals who believe that our immigration laws must be reformed to serve our nation's interests.

Founded in 1979, FAIR has two million members and supporters nationwide including approximately 4,000 in New Hampshire. FAIR opposes the reckless lawlessness of sanctuary policies and recognizes that HB 266 makes New Hampshire safer.

If enacted, HB 266 would prohibit jurisdictions from employing dangerous policies that provide a safe-haven, or "sanctuary," in which illegal aliens can work and live without fear of apprehension by federal immigration authorities.

Sanctuary policies not only lead to more crimes but they are also a magnet for illegal immigration. Most everyone is familiar with Kate Steinle's story, the young woman walking with her father on the San Francisco pier who was gunned down by Juan Francisco Sanchez-Lopez, an illegal alien with seven prior criminal convictions and five previous deportations. Sanchez-Lopez admitted that he chose to live in San Francisco because he knew its sanctuary policy would protect him.<sup>1</sup>

In Orange County, California, two years after the state passed its sanctuary law, the Orange County sheriff's office was forced to release more than 1,500 aliens with ICE detainers back onto the streets. More than 400 of those aliens were rearrested with charges including rape, assault with a deadly weapon, child sex offenses, domestic violence, and driving under the influence.

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<sup>1</sup> Breitbart, "Murderer: I chose SF Because it is a 'Sanctuary City,'" July 6, 2015.

Every single one of those crimes was preventable because none of those criminals should have still been in the U.S. State and local officials cooperate with federal law enforcement in every other aspect of federal law, such as gun control and drug laws – immigration enforcement should not be an exception.

Many expect crimes committed by illegal aliens to happen in big states like California, with huge illegal alien populations. However, most would be shocked to find out these incidents are not limited to high immigration states and southern border states alone. New Hampshire has sheltered its share of criminal aliens. In a December 2018 US Immigration and Customs Enforcement (ICE) enforcement action, a 44 year-old Brazilian native (who was wanted in his country for embezzling/smuggling firearms) was arrested in Windham for assuming the identity of an American citizen. Also in Windham, in 2017, Rodolgo Raxton-Garcia, who was a passenger in a van stopped for erratic driving, was arrested and identified as a felon wanted in New York for sexual conduct with a child under the age of 14. In Manchester in 2015, Keilyn Adolph Rivera was charged with possession with the intent to distribute after he was found with 100 oxycontin pills at the Mall of New Hampshire. All were illegally present in the US.

Sanctuary policies come in all shapes and sizes. Some are written; some are not. Some are enacted through local laws, while others masquerade as “welcoming” resolutions; some even appear as internal law enforcement agency policies. However, they all generally bar state or local officials, including law enforcement, from asking lawfully stopped or detained individuals about their immigration status, and reporting or otherwise cooperating with federal immigration officers. Regardless of how they are enacted or what form they take, the uniting factor is that sanctuary policies place a greater emphasis on the welfare of illegal aliens than the welfare and safety of citizens and legal residents in their own communities. For example, days prior to the infamous 9-11 attacks, two of the hijackers were stopped on separate occasions by police. If their backgrounds and immigration status had been checked, their plot might have been uncovered before this tragedy occurred.

Hundreds of cities and municipalities nationwide have declared themselves “welcoming or sanctuary cities.” These “welcoming or sanctuary cities” claim that they do not interfere with federal law enforcement but simply leave immigration enforcement to federal agencies. However, this is simply a matter of semantics as “welcoming or sanctuary cities” actively impede the enforcement of federal immigration laws and often attempt to block or bar free communication between state and local officials and federal immigration officials. This is a clear and unambiguous violation of federal law, and is considered a sanctuary policy, regardless of what it is called.

Since 2017, in New Hampshire, there has been a proliferation of counties and cities – Cheshire, Deerfield, Dublin, Harrisville, Lyme, and Manchester that do not call themselves sanctuary cities

yet their practices make them function as sanctuary cities.<sup>2</sup> Enacting HB 266 will ensure these jurisdictions cannot prohibit or restrict communication with immigration officials.

Unfortunately, illegal aliens that reside in sanctuary cities do not necessarily remain solely within that locality. In the sanctuary city of Lawrence, Massachusetts, which is only four miles from the New Hampshire state line, dozens were arrested in October 2018 on federal drug, firearms, and immigration charges. In addition, authorities seized ten kilos of fentanyl, enough “to kill half the state of Massachusetts.”<sup>3</sup> According to then-U.S. Attorney Andrew Lelling, “Lawrence is a clearing house for illegal drugs pouring into New Hampshire and Maine.”<sup>4</sup> New Hampshire had the third highest rate of opioid-related overdose deaths in the country according to the National Institute on Drug Abuse.<sup>5</sup> Many of these are related to fentanyl, the majority of which is manufactured in China and Mexico and brought into the United States across our southern borders. According to Jon DeLena, an associate special agent in charge of the New England field division of the Drug Enforcement Administration, cartels, like Mexico’s Sinaloa, are making decisions that are going to affect what happens in New Hampshire. He says they have better research and development than any Fortune 500 company.<sup>6</sup>

Sanctuary policies rely on the false premise that individuals in the country unlawfully are “law-abiding,” but simply lack “papers” or “documentation.” However, the average adult illegal alien routinely commits multiple crimes just to conceal his presence in the United States and work without authorization. The Social Security Administration and *New York Times* report that approximately 75 percent of illegal aliens have fraudulently obtained Social Security numbers, which is a felony.<sup>7</sup> Furthermore, many illegally falsify I-9 forms which are executed under penalty of perjury. It is improper for a state legislature to tolerate sanctuary jurisdictions that enable these federal crimes. Could this person have a criminal record abroad or be a terrorist in hiding? Nobody knows.

According to U.S. Sentencing Commission data provided at a U.S. House of Representatives hearing on immigration enforcement, over 35 percent of the individuals who are sentenced for federal crimes are illegal aliens.<sup>8</sup> Given that illegal aliens are an estimated 3.5 percent of the population, that means that illegal aliens are ten times more likely to be sentenced for a federal crime than legal residents.

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<sup>2</sup> FAIR, Sanctuary Jurisdictions Nearly Double Since President Trump Promised to Enforce Our Immigration Laws, May 2018

<sup>3</sup> 7 News Boston, Feds Seize Enough Fentanyl to Kill Half the State in Massive Lawrence-area Drug Sweep, October 4, 2018

<sup>4</sup> Ibid

<sup>5</sup> National Institute on Drug Abuse, New Hampshire Opioid Summary, February 2018

<sup>6</sup> New Hampshire Union Leader, “Beyond The Stigma: For Drug Cartel New Hampshire Was A Target Rich Environment”, May 2019

<sup>7</sup> The New York Times, “Illegal Aliens Are Bolstering Social Security With Billions”, April 2005

<sup>8</sup> United States Sentencing Commission Interactive Sourcebook.

Furthermore, shielding illegal aliens needlessly endangers innocent lives. There are roughly 3 million criminal aliens living in the United States—that is, illegal aliens with criminal records in addition to their unlawful presence in this country—and nearly 1 million of these aliens have final orders of removal.<sup>9</sup> These criminals should not be able to continue to live in communities and engage in further criminal activity.

Likewise, the assumption that illegal aliens commit crimes at a lower rate than American citizens is simply not true. FAIR’s recent study of data from the federal government’s State Criminal Alien Assistance Program (SCAAP) found that illegal aliens are more likely to be incarcerated in state prisons and county jails than U.S. citizens and legal immigrants.<sup>10</sup> In fact, this report found that in the states examined, illegal aliens are incarcerated up to five and a half times as frequently as citizens and legal immigrants.<sup>11</sup> Additionally, the report found that states with the highest incarceration rates of illegal aliens are also the states that boast numerous sanctuary jurisdictions.<sup>12</sup>

According to the Office of Inspector General, in Fiscal Year 2019, immigration officers nationwide made 143,100 arrests of aliens charged with or convicted of 489,100 crimes. These crimes included approximately 45,804 assaults, 6,650 sex crimes, and 1,923 killings.<sup>13</sup> Opponents of anti-sanctuary policies justify shielding illegal aliens from our immigration laws by saying it is necessary for law enforcement to build trust within the community. But by “community” they mean the community of people who violate our nation’s immigration laws – not the community of people whom those laws were meant to protect.

Moreover, state and local cooperation with ICE does not reduce the number of non-citizens reporting crimes or coming forward with testimony about being criminalized. Besides the fact that anonymous tips can be given, there are already a number of programs that allow state and local police to encourage victim and witness cooperation by granting lawful status to illegal aliens who aid in the prosecution of criminals. If illegals provide helpful information to police, they may qualify for a “U,” “T,” “S” or “VAWA” nonimmigrant visa, which, in-turn, would allow them to apply for permanent legal status in the U.S. Sanctuary policies actually prevent illegal alien victims of crime from taking advantage of these programs.

Many jurisdictions are bullied into adopting sanctuary policies by advocates claiming that honoring or complying with detainers (written requests issued on behalf of the US Department of Homeland Security to another law enforcement agency to detain an individual based on an inquiry into immigration status or an alleged violation of civil immigration law) would be unconstitutional and a violation of the Fourth Amendment. The United States Court of Appeals

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<sup>9</sup> The Washington Examiner, “ICE: 950,000 Illegals With ‘Removal Orders’, Raids Get Just A Sliver, Feb 20, 2017

<sup>10</sup> Federation for American Immigration Reform, “SCAAP Data Suggest Illegal Aliens Commit Crime at a Much Higher Rate Than Citizens & Lawful Immigrants,” February 3, 2019.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Office of Inspector General, “U.S. Immigration and Customs Enforcement’s Criminal Alien Program Faces Challenges, February 18, 2020

for the First Circuit, which governs New Hampshire, has never determined that honoring or complying with detainers is unconstitutional. In *Morales v. Chadbourne*, the First Circuit held that for a federal government official to issue a detainer they must have probable cause to believe that a person is in the country unlawfully.

The only court that has directly ruled on the question of constitutionality of honoring detainers is the Court of Appeals for the 5th Circuit in *El Cenizo v. Texas*, 90 F.3d 164 (5th Cir. 2018). In *El Cenizo*, the court held that not only is honoring them lawful under the 4th Amendment but that a state can require its localities to do so. Additionally, the court determined that state and local law enforcement are not making any independent decisions about detaining someone but acting only where there has already been direction from the ICE agent who makes the underlying removability determination. Therefore, New Hampshire law enforcement would be able to comply with properly made detainer requests as required by HB 266.

ICE has just 20,000 employees, only half of whom are dedicated to the apprehension and removal of illegal aliens. The cooperation of state and local law enforcement, who number about 900,000 strong, is a force multiplier vital to ferreting out those among us who wish to cause us harm. If ICE is forced to go into communities rather than the secure environment of local jails, many who wish us harm will not be removed, and others may be put at risk. HB 266 ensures this cooperation.

Finally, sanctuary policies tell individuals that despite violating federal laws, law enforcement and other government officials will ignore them. Just because the regulation of immigration is a federal issue does not mean that state and local law enforcement agencies must overlook immigration violations that harm their communities.

HB 266 is needed to clarify New Hampshire's public policy of cooperation with federal immigration authorities and for this reason FAIR strongly supports this legislation.

I thank you for the opportunity to provide my input. Please do not hesitate to reach out to me, if I may be of assistance. I may be reached by email at [shrendall@fairus.org](mailto:shrendall@fairus.org) or by phone at 202-328-7004.

Sincerely,



Shari Rendall