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DOJ gives funding advantage to cities cooperating with immigration authorities

By [Joe Hernandez](#) · November 22, 2017



 U.S. Attorney General Jeff Sessions delivers the keynote address during the General Assembly of the International Association of Chiefs of Police conference in Philadelphia. (Bastiaan Slabbers for WHY Y)

The U.S. Department of Justice is trying a new tactic to punish sanctuary cities: put them at a competitive disadvantage for federal policing grants.

In a round of grants awarded Monday, the DOJ said it gave special treatment to municipalities that fully cooperate with detention requests made by federal immigration authorities.

The news comes not long after a number of federal courts blocked the Trump administration from attempting to keep grant funding from sanctuary cities.

Those federal court decisions overruled an executive order signed by President Trump in January to withhold funding from sanctuary jurisdictions, which generally refers to cities or counties that do not provide information to federal agents about people who may be in the country illegally.

Many cities say they are not responsible for checking immigration status or enforcing federal immigration laws, and that doing so would betray the trust of immigrant communities who may stop cooperating with local police.

Katie Eyer, an associate professor at Rutgers School of Law, was one of nearly 300 attorneys who co-signed a letter to Trump in March, claiming the executive order was unconstitutional because it coerced cities and counties into enforcing federal immigration laws.

“This seems to be quite obviously ‘take two,’ ” Eyer said.

Prioritizing certain applicants over others is “a fairly normal part of agency process,” Eyer noted, but “this was not a particularly normal use of that type of prioritization authority.”

Experts say it could face a legal challenge of its own.

On Monday, Attorney General Jeff Sessions awarded nearly \$100 million in federal grants to police departments across the country to hire more than 800 new, full-time officers.

The grants came from the DOJ’s Office of Community Oriented Policing Services — known as COPS — which started in 1994.

In deciding how to award this year’s COPS grants, the DOJ gave a leg up to law enforcement agencies that assisted federal immigration officials, including providing access to local jails and inmates as well as giving advance notice when inmates suspected of being in the country illegally would be released. The DOJ told applicants of the criteria ahead of time.

Sessions said 80 percent of this year's grantees fully cooperate with Immigration and Customs Enforcement officials.

"Cities and states that cooperate with federal law enforcement make all of us safer by helping remove dangerous criminals from our communities," Sessions stated. "I applaud their commitment to the rule of law and to ending violent crime, including violent crime stemming from illegal immigration."

A federal judge in Philadelphia has objected to Sessions' remarks, saying there is no evidence that withholding the legal status of a resident puts public safety at risk.

Philadelphia, a sanctuary city, sued the DOJ over Trump's executive order to withhold federal funding from such municipalities.

The DOJ has criticized Philadelphia for failing to fully aid federal immigration authorities, but city officials do notify ICE about unauthorized immigrants if they have been convicted of a serious felony. In addition, city officials honor detainer requests from ICE if they come with a judicial warrant, which is not ICE's standard policy.

Last week, [U.S. District Judge Michael Baylson blocked the Trump administration from withholding federal funding](#) from the city for not fully cooperating with ICE officials. Judges in Chicago and [California](#) have issued similar rulings.

Temple University law professor Jennifer Lee said the DOJ prioritization appears to have the same goal as the executive order: to crack down on sanctuary cities for refusing to help ICE officers. "It feels very similar in flavor to the yanking of federal grants from jurisdictions based on their sanctuary status," she said.

Lee said the priority consideration for law enforcement agencies that cooperate with ICE could be construed as unconstitutional, but added that it is typical for the federal government to set criteria that prioritize certain applicants over others.

That's one reason, she said, that a court challenge could be more complicated than the lawsuits against the January executive order.

"Legally, it is a harder question because it doesn't create that obvious dividing line of either you get the grant or you don't," Lee said.

Among the applicants that received grants this year were police departments in Allentown, Pennsylvania, and West Orange, New Jersey.

It is unclear whether more municipalities that fully comply with federal immigration authorities applied this year, compared with previous years.

For example, Philadelphia, an avowed sanctuary city that received a \$3 million grant from the Obama administration last year to hire 25 officers, did not apply this year.

Camden, another sanctuary city that has revamped its police department in recent years with an emphasis on community policing, also did not apply this year but has received COPS grants in the past.

In New Jersey, the Essex County Sheriff's Office received a nearly \$2 million COPS grant this year to hire 15 new deputies.

The office provides court security and prisoner transport and has patrol and narcotics divisions, but it does not operate the county jail.

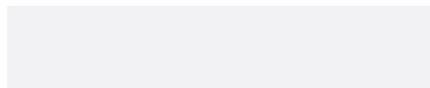
Essex County Sheriff Armando Fontoura said he welcomes the grant — which his office has received in previous years — especially in an era of ever-tightening budgets.

Fontoura said his deputies often work with ICE officers, and that the sheriff's department honors the agency's detainer requests to hold those suspected of being in the country illegally.

"We don't specifically go out and look for these folks, but we come across them all the time," Fontoura said. "We don't shun our responsibility. If they're wanted on a warrant, we're duty-bound and obligated to make an arrest. Simple as that."

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