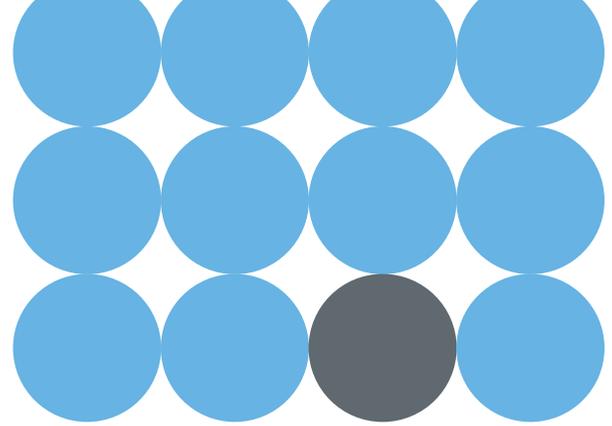


Social Justice Brief



CONTRIBUTORS:

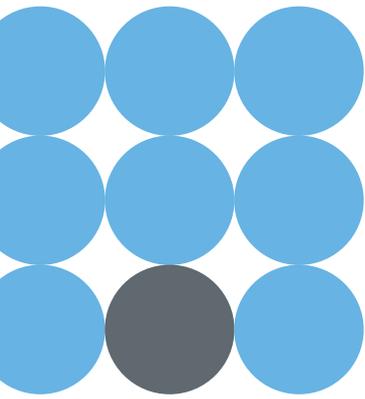
NASW Arizona Chapter
NASW California Chapter
NASW New Mexico Chapter
NASW New York City Chapter
NASW Texas Chapter
NASW National: Social Justice
& Human Rights

Intersection of Sanctuary Cities, National Immigration Policies, and Child Welfare Policies & Practice in the Trump Era



The primary mission of the social work profession is to enhance human well-being and help meet the basic human needs of all people, with particular attention to the needs and empowerment of people who are vulnerable, oppressed, and living in poverty.





Intersection of Sanctuary Cities, National Immigration Policies, and Child Welfare Policies & Practice in the Trump Era

One of the first policy acts of the Trump administration was to issue an executive order that was designed to eliminate sanctuary cities (for a full list of sanctuary cities, visit <http://ojjpac.org/sanctuary.asp>).

That the sanctuary city movement is inextricably tied to U.S. immigration policies is an understatement, especially in the President Trump era. This brief will address how the movement has somewhat evolved over time, resulting in a merging of the purely humanitarian aspects of the philosophy into a political strategy being officially embraced by some state and local governments, largely motivated by the heavy-handed deportation policies and procedures of the federal government.

The principal objective of this brief is to underscore that helping professionals such as doctors, social workers, and psychologists play a significant role in this conflictual public policy. For social workers, it requires a clarification of our position on sanctuary cities in terms of policy and practice. Because child welfare issues are so central to mass deportations, social work practice is very intersectional with the sanctuary city movement. However, we should not lose sight of the fact that there are clear correlations between social work child welfare policy and national immigration policies.

The Sanctuary City Movement in Context

Though there is no [universal definition of the term](#), over time a *sanctuary city* has come to refer to a city, county, or state that applies some restrictions or limitations on the degree to which its law enforcement officials can enforce immigration laws. The [American movement](#) to provide sanctuary to undocumented immigrants is over thirty years old. Because the Reagan administration supported the regimes in El Salvador and Guatemala, it was difficult for Salvadorans and Guatemalans who felt persecuted by their governments to gain political asylum in the United States. Organizations such as the Southside Presbyterian Church in Tucson, Arizona, moved to protect refugees fleeing civil war. Harboring these refugees was an act of open defiance of the federal government. Over the last 10 years, that individual church provided sanctuary for 13,000 refugees. In 2012, there were a few dozen sanctuary communities; today there are around 550.

A recent executive order on immigration issued by President Trump includes a number of worrisome positions on immigration that appear to be emerging from the new political realities of Trump's presidency. To some degree, the sanctuary city executive order, titled [Enhancing Public Safety in the Interior of the United States](#), was the first salvo in what is likely to be a series of battles to implement draconian immigration policies. The sanctuary cities section of the executive order essentially seeks to eliminate sanctuary cities as they presently exist. Section 9 of the executive order includes the following:

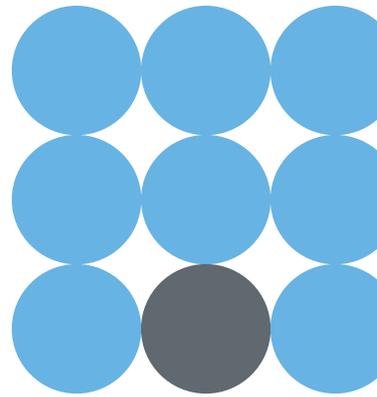
In furtherance of this policy, the Attorney General and the Secretary, in their discretion and to the extent consistent with law, shall ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary. The Secretary has the authority to designate, in his discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction. The Attorney General shall take appropriate enforcement action against any entity that violates 8 U.S.C. 1373, or which has in effect a statute, policy, or practice that prevents or hinders the enforcement of Federal law.

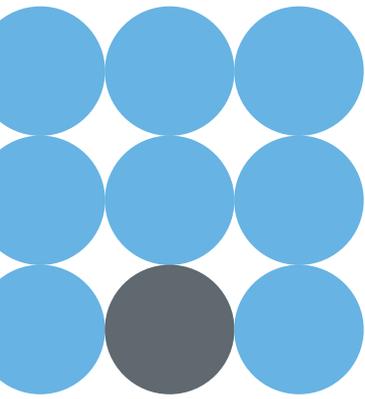
The intent of this executive order is clear. It is meant to create disincentives that punish jurisdictions that may want to continue to openly provide sanctuary for undocumented individuals. Although President Trump's executive order does not specifically identify

which funding would be canceled, it has been suggested that the following [five programs](#) are at risk:

- » The Edward Byrne Memorial Justice Assistance Grant Program, which helps states and localities pay for a range of criminal justice needs.
- » U.S. Economic Development Administration grants, which assist economically distressed areas with job creation and public works projects.
- » The State Criminal Alien Assistance Program, which reimburses localities for costs associated with detaining immigrants.
- » The Community Development Block Grant Program, which helps fund a range of housing, infrastructure, and business development projects.
- » The Office of Community Oriented Policing Services, which provides money for law enforcement agencies to hire additional community policing officers.

Most of the programs that would be targeted for rescission are within the authority of the U.S. Department of Justice and are issued as competitive grants to state and local jurisdictions. The most well-known of these grants is the Byrne Justice Assistance Grant (JAG) program. The JAG program provides states, tribes, and local governments with funding to support a range of program areas including law enforcement, prosecution, indigent defense, courts, crime prevention and education, corrections and community corrections, drug treatment and enforcement, planning, evaluation, technology improvement, and crime victim and witness initiatives. Obviously, the threat of losing such critical funding will give jurisdictions pause about continuing to support sanctuary city ideals.





If the threat of defunding comes to fruition, the [hardest-hit states](#) would likely include California, New York, Illinois, Pennsylvania, and Maryland. California could lose as much as \$239.5 million if its cities don't comply, New York risks losing \$191.1 million, followed by Illinois at \$91.3 million, Pennsylvania at \$65.2 million, and Maryland losing \$35 million. As it stands now, the elimination of funds due to noncompliance with the executive order will be specific to the individual sanctuary city. For instance, Austin, Texas, has openly declared itself a sanctuary city that will likely resist the executive order. In that case, Austin (rather than the whole state of Texas) will lose federal grant funds.

The decision to bar a sanctuary city from receiving grants is with the U.S. Department of Justice, through the Office of Justice Programs. The procedures for denying federal grants will likely come from future grant award processes that will include detailed language that requires the grantee to assist in the enforcement immigration laws to receive a grant or to retain eligibility for continued grant funding. How compliance will be monitored is unclear.

There is an open question as to the Trump administration's legal authority to enforce the cancellation of federal contracts and grants of resistant sanctuary cities. The executive order strongly implies that state and local governments are obligated to work with the Immigration and Customs Enforcement (ICE) agency to enforce federal immigration statutes and policies related to detaining undocumented individuals. According to an article in [The Atlantic](#), a 1997 case (www.theatlantic.com/politics/archive/2017/01/trumps-sloppy-

[unconstitutional-order-on-sanctuary-cities/514883](#)) says that the federal government does not necessarily have the legal mandate to order local officials to enforce all federal laws. Also, in the [2012 Affordable Care Act decision](#), the Supreme Court said that the government cannot use the threat of large funding cuts to coerce states into adopting federally demanded policies. Some legal experts interpret language in Section 9 of the executive order as being coercive, which would make canceling federal grants and contracts with non-cooperative sanctuary cities legally dubious.

The same *Atlantic* article suggests that Section 9 of President Trump's executive order is indeed an implied threat to noncompliant jurisdictions, and the threat is reinforced by the use of nonlegal language to vilify jurisdictions that continue with sanctuary city policies. For example, strong wording in the executive order is viewed by some in the immigration community as meant to intimidate and coerce sanctuary city jurisdictions into compliance:

Sanctuary jurisdictions across the United States willfully violate Federal law in an attempt to shield aliens from removal from the United States. These jurisdictions have caused immeasurable harm to the American people and to the very fabric of our Republic.

Sanctuary Cities Evolution: Local Officials' Resist Immigration Enforcement Policy

For the most part, the sanctuary city movement has evolved into a more recent phenomenon as a response to President Obama's efforts to

target undocumented immigrants with criminal records. Unlike sanctuary churches of the 1980s, today's sanctuary cities are not motivated by overt civil disobedience but instead are taking a [course of noncooperation](#) with federal immigration authorities in their efforts to deport immigrants.

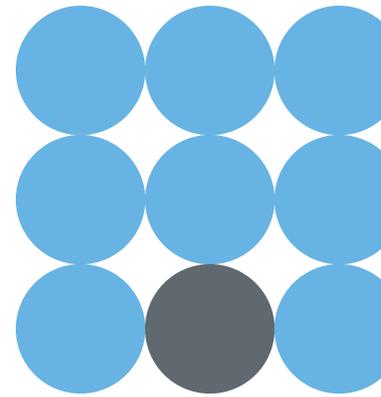
In early 2008, Congress approved the [Secure Communities Program](#). The program was used to compile a national database of fingerprints of anyone charged with a crime. If a fingerprint reveals that the arrestee is undocumented, ICE can ask a local jail to hold an inmate beyond their release date, until the agency comes to take the person into federal custody. This initiative also allows local law enforcement to be deputized to enforce immigration law. For instance, when a local police officer makes traffic stops, the officer can ask the driver about his or her immigration status and arrest those who are in the country illegally. The Secure Communities Program led to the deportation of 2.5 million people during the Obama administration.

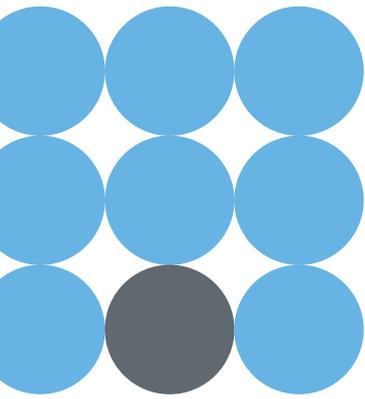
When these policies were implemented nationally, many communities resisted. They were more willing to take undocumented immigrants accused of serious crimes into custody, but several of them balked at turning over undocumented immigrants arrested on minor charges. Similarly, jurisdictions across the country were very resistant to having their local police ask about immigration status. For some city leaders, the reason was straight forward: They were not in favor of mass deportations, and they were resistant to assisting the federal government's efforts in rounding up and deporting undocumented individuals.

One function that most sanctuary city officials found problematic was the expectation of the federal government that local police act as deputized ICE officers. Local police departments fear that taking on the function of arresting people on immigration-related violations would discourage members of immigrant communities who are victims or witnesses of serious crimes from cooperating with investigations. In addition, some officials are concerned that by agreeing to question a person about his or her immigration status during a police encounter would leave the police officers open to accusations of [racial profiling](#), especially against Hispanic people, those of Middle Eastern origins, and people from [South Asia](#) (who are often mistaken as being Middle Eastern).

Ostensibly, the Trump administration's strategy is to prioritize the apprehension of undocumented individuals with criminal records for deportation. However, they have not been clear about the process for identifying and rounding up those with criminal records. Neither has the administration clearly defined what kind of criminal record would lead to deportation.

The Trump executive order [defines criminal loosely](#); the term includes anyone who has crossed the border illegally (which is a criminal misdemeanor), those who have violated recent deportation orders, and any undocumented person who has *abused any public benefits program*. The new guidelines allow ICE agents such broad latitude in classifying unauthorized residents as having committed a criminal act that those who overstay their visas would easily fit that definition. Such flexibility given to immigration agents could lead to nearly all





the 11 million undocumented immigrants vulnerable to being classified as criminals. The potential disruption to families and the creation of fear among unauthorized residents are very real impacts of this executive policy. It also makes the sanctuary city movement a very relevant and necessary safeguard against undeserved apprehensions and detentions.

President Trump's Enhancing Public Safety in the Interior of the United States executive order is an extension of the Obama administration's policy. However, President Trump's [executive order](#) comes out of a political environment that is perceived to be anti-immigrant, which suggests a much more aggressive and widespread movement toward mass deportations. In the face of that perception, some sanctuary city leaders have become even more defiant. For example, the governor of the state of Washington recently signed an executive order that forbids state agencies from pursuing violators of federal civil immigration laws, or to act on behalf of the federal government to enforce immigration policies.

In the face of those ambiguities, many believe that [sanctuary cities will complicate](#) the administration's efforts to operationalize the deportation plans of undocumented criminals. This is because without the cooperation of local law enforcement, finding immigrants would be a difficult task. It has been suggested that the administration would have to create a large deportation force to identify, apprehend, detain, and deport up to 3 million people.

In March 2017, the U.S. Department of Homeland Security (DHS) issued [a report](#) on undocumented immigrants with criminal charges or convictions who, the agency learned, were

released from jails in sanctuary cities. Critics say the reports are part of an effort from the White House [to shame cities](#) into joining its effort to lock up undocumented immigrants and to facilitate ICE in apprehending them up for deportation. This year to date, more than 600 jurisdictions in the U.S. refused to hold undocumented immigrants for ICE. DHS wants to decrease that rate of refusal. Thus, to shame and pressure local jurisdictions, DHS will publicly release a weekly list of all the jurisdictions that released undocumented immigrants from custody instead of holding them for deportation.

For example, during the week of March 2017, the list disseminated by ICE highlighted Travis County, Texas. During that week, DHS listed 206 people nationwide who left jail instead of being held for pickup and deportation by ICE agents. Of those 206 people, 142 were from Travis County. This report prompted the Texas governor to excoriate Travis County over its rate of releasing individuals that ICE wanted held. The governor used that report to strongly call for the [end of sanctuary cities on a statewide basis](#), and the month prior withheld more than \$1.5 million in government grants from the governor's office to the Travis County sheriff's office.

Massive Amount of Manpower and Collaboration Required

A major reason for the Trump administration's pressure to eliminate sanctuary cities is that it will take an enormous amount of manpower and federal and local collaboration to implement the executive order. The following figures from a recent [Pew Research](#) study demonstrate the magnitude of the federal

government's challenge in ferreting out criminal and other unauthorized immigrants:

- » There were 11.1 million unauthorized immigrants in the U.S. in 2014
- » The U.S. civilian workforce included 8 million unauthorized immigrants in 2014
- » Mexicans made up 52 percent of all unauthorized immigrants in 2014
- » The number of unauthorized immigrants from nations other than Mexico grew by 325,000 since 2009, to an estimated 5.3 million in 2014; numbers went up most for unauthorized immigrants from Asia and Central America, and ticked up for those from sub-Saharan Africa
- » Six states received [59 percent of unauthorized immigrants](#) in 2014: California, Texas, Florida, New York, New Jersey, and Illinois; in six other states, the unauthorized immigrant population rose over the same time: Louisiana, Massachusetts, New Jersey, Pennsylvania, Virginia, and the state of Washington
- » About two-thirds (66 percent) of the unauthorized adults in 2014 had been in the United States for at least 10 years.

Although a primary feature of the Trump administration's immigration policy focuses on securing the Mexican border, it is important to note that undocumented residents in the United States include many millions who did not illegally enter the United States from Mexico. Over half are individuals who overstayed their visas. In 2014, visa [overstays accounted for](#) about two-thirds of undocumented residents. Even [among Mexicans](#), one-third of the unauthorized population were due to visa overstays. This fact further complicates the process for rounding up and vetting

unauthorized residents to determine their criminal backgrounds. It also further clouds the definition of "criminality" as the premise for initiating deportations.

Intersection of Sanctuary City, Immigration Policy, and Child Welfare

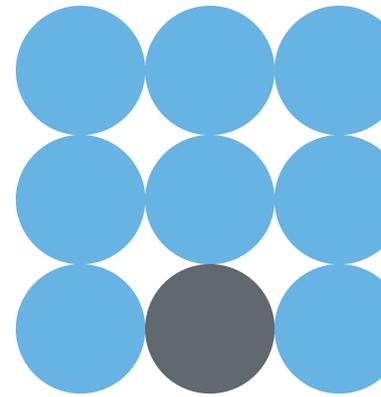
A Brief History of Child Welfare and Immigration

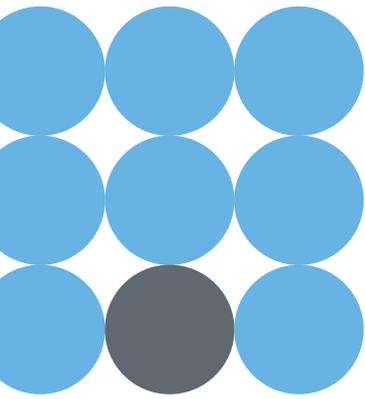
The U.S. government has responded to child welfare concerns among immigrant families [since 1912](#). Early on, the Children's Bureau was mandated to develop and implement programs that prioritize the needs of immigrant children. In the 1960s, the Children's Bureau's child welfare activities included expanding its services to refugee families and children. As stated in a 2015 [Children's Bureau issues brief](#),

Throughout the subsequent decades, the field of social work and child welfare continued to work toward more inclusive practices and policies, with an ever-increasing emphasis on the importance of cultural awareness, the need for cultural competency training, and the recruitment of minorities into the field...Today, child welfare workers face many of the same—as well as some new—challenges in helping immigrant children and their families.

Key Facts

- » The U.S. Census Bureau estimates that in 2013, there were 40.8 million immigrants in the United States.
- » According to the Annie E. Casey Foundation's Kids Count Data Center,





approximately 17.8 million (24 percent) children in the United States live in a home with at least one immigrant parent.

- » Although the overall rate of maltreatment did not differ significantly between immigrant and nonimmigrant families, immigrant children were found to be more likely to suffer from emotional abuse, whereas nonimmigrant children were found more likely to suffer from physical neglect.
- » Risk and protective factors differ between immigrant and nonimmigrant families, and immigrant families tend to have a higher poverty rate than U.S.-born families. But they are less likely to access services.

Immigration Policies and Child Welfare in the Trump Era

The child welfare aspects of the move toward aggressive U.S. immigration policies are formidable. To quote directly from an article in [First Focus](#),

President Trump's new immigration enforcement policies have widened the definition of priorities for deportation. Mothers and fathers who are now targeted for deportation through this expanded definition rightfully fear sudden separation from their U.S. born children. This fear drives immigrant children and families away from the normalcy of their daily lives and into the shadows.

The uncertainty of deportation triggers parental fears about the future of their children. Within the child welfare sphere, [there are reports](#) of undocumented immigrant parents who look for assistance in making arrangements for alternative guardians in the event they are

detained by ICE. Parents are [finding trusted people](#) to assume legal responsibility to make sure their children born in the U.S. can receive guardianship in this country if a parent is deported. Such preplanning is necessary because even though rate of deportations under the Obama administration was high, protections were put in place that required ICE agents to work collaboratively with child welfare systems to facilitate guardianship arrangements for families with children. This arrangement between ICE and child welfare agencies no longer exists. Therefore, there is a need for support of sanctuary cities from child welfare providers, advocates, and state and local government officials to militate against family crises and the resultant devastating impact on children of deported parents. The trauma of [losing a parent](#) to deportation has been documented to have severe negative impacts on a child's well-being.

An example of how sanctuary cities have been instrumental in responding to gaps in essential services of undocumented families due to federal immigration policies can be found in a report published in the [Harvard Public Health Review](#). The article talks about the Secure Communities Program—implemented during the Obama administration—as being seen as a hindrance to preventing health disparities. The authors posited that the program caused undocumented families to essentially withdraw from accessing health care and related services out of fear of deportation. Recognizing the public health impact of immigration enforcement policies on the immigrant community, local officials increasingly identified their jurisdictions as sanctuary cities.

According to the same [article](#), these cities “established informal noncompliance protocols with federal immigration enforcement, curtailing local police officers from collecting legal statuses of victims or suspects and limiting the aggregation of legal status information for the delivery of social and medical benefits.” The article continues by saying that the health care resources that sanctuary cities provide to undocumented immigrants demonstrate how local interventions are important to responding to recognized health and social services disparities. The role that sanctuary cities have played in connecting essential services to vulnerable populations is especially critical in the child welfare arena.

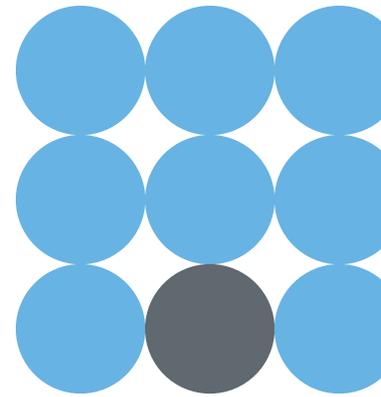
Conclusion

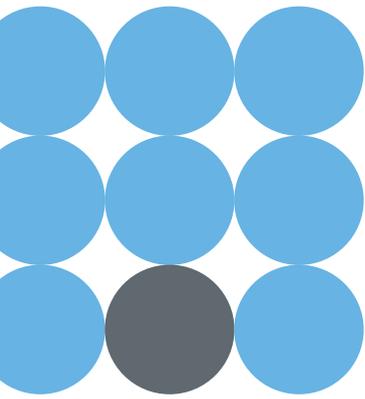
The intersectional linkage among and between sanctuary city humanitarian ideals and values; commitments of some state and local jurisdictions; stakeholder responsibilities of professionals such as doctors, social workers, psychologists, and lawyers; and federal immigration enforcement policies is clearly drawn. It would also be naïve to ignore the Trump administration’s vigorous mobilization of resources to detain and deport large numbers of “criminal illegal aliens” and their perception of sanctuary city jurisdictions as being barriers to achieving their objectives. As recently as March 27, 2017, Attorney General Sessions made a point of appearing at a daily White House press briefing to tell the public that the U.S. Department of Justice will make every effort to penalize sanctuary city jurisdictions that they deem as defiant of federal immigration laws. Overall, these conflicting interests will do harm, intended or unintended, to the children of undocumented immigrant parents.

We agree with leading immigration advocates and local governments that we must support sanctuary cities as a necessary resource to provide the type of environment where gaps in essential services for this population can be addressed. The social work profession—and others—must recognize that they have an obligation to assume a vocal role in prodding the federal government to work on systemic changes that will lead to humane immigration enforcement policies that place a high premium on protecting children of detained or deported parents.

Sanctuary city officials, with the help of faith-based and other community-based organizations, have done an admirable job in offering comprehensive services to undocumented immigrants. However, if the Trump administration follows through with mass deportation, there will continue to be a need for reforms in child welfare and family services systems. Major national child welfare and immigration advocacy organizations have been pushing for coherency in immigration policies to avoid long-term family separations that result in early childhood trauma. Some of the [recommendations](#) for achieving that goal is as follows:

- » Allowing immigration judges to consider the potential harm to a U.S. citizen child of deporting the child’s parent
- » Arrest procedures that will determine whether apprehended individuals have children or other dependents, and information sharing so families can locate detained parents
- » Limiting the presence and involvement of children during immigration enforcement procedures





- » Training immigration and law enforcement officials to enforce the law while minimizing trauma to children
- » Appointing a DHS liaison officer charged with facilitating cases involving child welfare agencies and detained parents
- » Procedural reforms to ensure that cases involving parents with minor children employ noncustodial alternatives to detention when possible, and to encourage regular, meaningful contact between children and their detained parents
- » Placing families and unaccompanied children in homes, shelters, and with organizations in the community rather than locking them up in jail-like conditions in immigrant detention centers
- » Coordination with local child welfare agencies, to ensure that detained parents can participate in family court proceedings and administrative decisions involving their children
- » A comprehensive annual report documenting the impact of immigration enforcement activities on U.S. citizen children.

The possibility of a child welfare crisis within the undocumented immigrant community is all too real. It is NASW's hope that there can be a public-private collaboration to avoid this crisis. In the meantime, we will join sanctuary city proponents and the immigration community in advocating for balanced and humane remedies that respect the need for border security, while at the same time ensuring that the rights and needs of all children are met.

Resources

Children's Bureau

Immigration and Child Welfare

www.childwelfare.gov/pubPDFs/immigration.pdf

CLASP

Trump's Immigration Orders Endanger Immigrant and Refugee Families, America's Future, and American Values

www.clasp.org/news-room/news-releases/statement-trumps-immigration-orders-endanger-immigrant-and-refugee-families-americas-future-and-american-values

First Focus

Center for Children of Migrants

<https://firstfocus.org/issues/children-of-immigrants>

National Immigration Law Center

Administration's "Sanctuary" Announcement Nothing More Than a Diversion Tactic

www.nilc.org/2017/03/27/sanctuary-announcement-a-diversion

Scholars Strategy Network

Episode 73: Sanctuary City Limits

www.scholarsstrategynetwork.org/podcast/sanctuary-city-limits

U.S. Department of Homeland Security

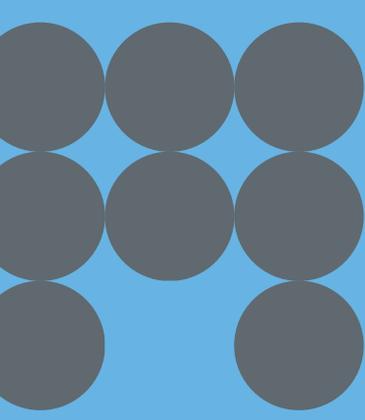
Executive Orders: Protecting the Homeland

www.dhs.gov

ADDENDUM

As an update, just hours before posting this Social Justice Brief a U.S. District Judge from California issued a temporary injunction preventing the Trump administration from going forward with rescinding federal funding from sanctuary city jurisdictions. The basis for his ruling is that Trump executive order potentially violates the U.S. Constitution. The judge ruled that he wants to weigh the full evidence of the constitutionality of the de-funding of sanctuary cities, based on their supposed refusal to cooperate with the federal government on implementing immigration laws. The central legal question in the case is whether the president even has the authority-over Congress- to issue such spending edicts, and whether the executive order was infringing on state sovereignty by "commandeering" local officials to enforce federal immigration laws.

For more information, contact Mel Wilson at mwilson.NASW@socialworkers.org.



NASW Resources

NASW » [SocialWorkers.org](https://www.socialworkers.org)

NASW Foundation » [NASWFoundation.org](https://www.naswfoundation.org)

NASW Press » [NASWPress.org](https://www.naswpress.org)

NASW Assurance Services, Inc. » [NASWAssurance.org](https://www.naswassurance.org)

NASW Center for Workforce Studies » [Workforce.SocialWorkers.org](https://www.workforce.socialworkers.org)

Help Starts Here » [HelpStartsHere.org](https://www.helpstartshere.org)

Social Work Reinvestment Initiative » [SocialWorkReinvestment.org](https://www.socialworkreinvestment.org)

Social Work Policy Institute » [SocialWorkPolicy.org](https://www.socialworkpolicy.org)

Social Work Portal » [SocialWorkers.org/swportal](https://www.socialworkers.org/swportal)



©2017 National Association of Social Workers. All Rights Reserved.