

November 20, 2015

RE: Oppose immigration policy riders in FY2016 appropriations bill

Dear Members of Congress:

On behalf of the 45 undersigned organizations, we strongly urge Congress to pass a Fiscal Year (“FY”) 2016 appropriations bill free of immigration policy riders.

(1) Congress should oppose riders that withhold federal funds from, or deny federal assistance to, localities with so-called “sanctuary” policies.

In recent months some Members have sought to punish San Francisco and other so-called “sanctuary” cities through the denial of federal funding and assistance. Such a denial would unfairly punish cities based on an erroneous premise. The term “sanctuary” cities invokes a false myth that certain cities are free from immigration enforcement. That is simply not true. Through the automatic sharing of fingerprints obtained at booking, law enforcement agencies in all localities immediately notify Department of Homeland Security (“DHS”) of every single individual taken into state or local custody.

To date, no legislation punishing “sanctuary” cities has passed both chambers, despite various efforts. Since Congress has declined to pass legislation aimed at financially punishing “sanctuary” cities, Congress should reject any attempts to use the appropriations process to slip controversial policy changes into the FY16 omnibus bill.

Some of the recent congressional proposals to withhold funding from “sanctuary” cities include:

- July 2015: House Appropriations Committee adopted an amendment to its FY16 DHS bill¹ that would deny disaster preparedness grants² to localities with community trust policies;
- July: House passed the “[Enforce the Law for Sanctuary Cities Act](#)” (H.R. 3009) to withhold law enforcement funding from localities with community trust policies;³
- October: The “Stop Sanctuary Policies and Protect Americans Act” (S. 2146) failed on cloture in the Senate. The bill would have withheld law enforcement funding and housing assistance⁴ to over 350 localities with community trust policies. The bill was

¹ A bill making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2016, and for other purposes, H.R. ____, 114th Cong. (1st Sess. 2015), available at <http://appropriations.house.gov/uploadedfiles/bills-114hr-fc-ap-fy2016-ap00-hsecurity.pdf>.

² “Amendment to Homeland Security Appropriations Bill Offered by Mr. Yoder of Kansas,” prohibiting a “sanctuary city” from receiving “any Department of Homeland Security Grant funded under the heading ‘Federal Emergency Management Agency—State and Local Programs’” (STAFF OF H. COMM. ON APPROPRIATIONS, 114TH CONG., REP. ON AMENDMENTS ADOPTED TO THE HOMELAND SECURITY APPROPRIATIONS BILL FOR FY 2016 11-12 (Comm. Print 2015), available at <http://appropriations.house.gov/uploadedfiles/hmcp-114-ap00-20150714-sd004.pdf>).

³ The federal law enforcement programs targeted in H.R. 3009 are the Justice Department State Criminal Alien Assistance (“SCAAP”), Community Oriented Policing Services (“COPS”), and Edward Byrne Memorial Justice Assistance Grant programs (Enforce the Law for Sanctuary Cities Act, H.R. 3009, 114th Cong. (1st Sess. 2015)).

⁴ The federal programs targeted in S. 2146 are DOJ SCAAP, COPS, and Department of Housing and Urban Development’s Community Development Block Grant Program (Stop Sanctuary Policies and Protect Americans Act, S. 2146, 114th Cong. (1st Sess. 2015)).

opposed by a broad spectrum⁵ of domestic violence service providers,⁶ housing advocates,⁷ mayors,⁸ law enforcement,⁹ and immigrants' rights groups;¹⁰

- November: Rep. Sanford (R-SC) filed an amendment to the Surface Transportation Reauthorization and Reform Act (H.R. 3763)¹¹ to eliminate highway funding for localities with community trust policies. The amendment was ruled out of order by the Rules Committee.¹²

Any policy rider targeting “sanctuary” cities would harm over 350 localities in 25 states, including Alabama, Arizona, California, Colorado, Connecticut, Florida, Georgia, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Virginia, Washington, Wisconsin, and the District of Columbia.¹³

These 350 localities have implemented community trust policies in order to promote public safety and fight crime. As the President of the Major Cities Chiefs Association Tom Manger recently testified before the Senate Judiciary Committee, “To do our job we must have the trust and respect of the communities we serve. We fail if the public fears their police and will not come forward when we need them. Whether we seek to stop child predators, drug dealers, rapists or robbers – we need the full cooperation of victims and witness. Cooperation is not forthcoming from persons who see their police as immigration agents. When immigrants come

⁵ See GENERAL OPPOSITION TO PROPOSED LEGISLATION, <http://www.aila.org/detainers> (last visited Nov. 12, 2015).

⁶ Letter from the National Task Force to End Sexual and Domestic Violence Against Women to the Senate (Oct. 14, 2015), available at <http://www.aila.org/infonet/national-task-force-end-violence-opposes-s-2146>.

⁷ Letter from housing and community development organizations to the Senate, “Vote NO on Stop Sanctuary Policies and Protect Americans Act (S. 2146)—Community Development Block Grant (CDBG) Program Funding” (Oct. 9, 2015), available at http://nlihc.org/sites/default/files/LTR_opposing-sanctuary-cities-bill-S2146_100815_1.pdf.

⁸ Letter from the U.S. Conference of Mayors to the Senate opposing S. 2146 (Oct. 14, 2015), available at <http://www.aila.org/infonet/united-states-conference-of-mayors-oppose-s-2146>.

⁹ See Major Cities Chiefs Association and Major County Sheriffs' Association Letter to Sen. Chuck Grassley, Chairman, S. Comm. On the Judiciary, Sen. Patrick Leahy, Ranking Member, S. Comm. On the Judiciary (Oct. 19, 2015), available at <http://www.aila.org/infonet/letter-county-sheriffs-opposing-s-2146>; Law Enforcement Immigration Task Force Letter to Sen. Chuck Grassley, Chairman, S. Comm. On the Judiciary, Sen. Patrick Leahy, Ranking Member, S. Comm. On the Judiciary at 2 (July 20, 2015), available at http://immigrationforum.org/wp-content/uploads/2015/07/7_20_2015-LEITF-Letter-re-sanctuary-proposals-Senate.pdf; President's Task Force on 21st Century Policing Final Report at 18 (May 2015), available at http://www.cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf; and, *Sanctuary Cities: A Threat to Public Safety: Hearing Before the Immigration and Border Subcomm. of H. Comm. On the Judiciary*, 114th Cong. 1-7 (2015) (statement of Richard S. Biehl, Chief of Police, Dayton Police Department), available at <http://judiciary.house.gov/cache/files/f535f46d-35be-466f-9270-d32cd7ad9582/biehl-testimony.pdf>.

¹⁰ See Letter from 144 national, state, and local advocacy organizations to the House of Representatives, “Vote NO on the ‘Enforce the Law for Sanctuary Cities Act’ (H.R. 3009)” (July 22, 2015), available at <https://www.aclu.org/letter/sign-letter-house-opposing-hr-3009-enforce-law-sanctuary-cities-act>; Letter from 139 national, state, and local organizations to the Senate, “Vote NO on the ‘Stop Sanctuary Cities Act’ (S. 1814)” (Aug. 4, 2015), available at <https://www.aclu.org/letter/sign-letter-senate-judiciary-committee-opposing-s-1814-stop-sanctuary-cities-act>; and Letter from 103 national, state, and local organizations to the Senate, “Vote NO on the Grassley/Vitter Substitute Amendment to the ‘Stop Sanctuary Cities Act’ (S. 1814)” (Sep. 1, 2015), available at <https://www.aclu.org/letter/sign-letter-opposing-grassley-vitter-substitute-amendment-s-1814-stop-sanctuary-cities-act>.

¹¹ Surface Transportation Reauthorization and Reform Act, H.R. 3763, 114th Cong. (1st Sess. 2015) (“Amendment to Rules Committee Print 114-32, Offered by Mr. Sanford of South Carolina,” available at <http://amendments-rules.house.gov/amendments/SANFOR0331030151322152215.pdf>).

¹² Blog Post, Representative Mark Sanford, For too long, Congress has relied on temporary measures to maintain federal highway funding (Nov. 5, 2015), <https://sanford.house.gov/media-center/blog-posts/for-too-long-congress-has-relied-on-temporary-measures-to-maintain-federal>.

¹³ Angie Junck and Grisel Ruiz, *Detainer Map*, Immigrant Legal Resource Center, Aug. 17, 2015, <http://www.ilrc.org/enforcement>.

to view their local police and sheriffs with distrust because they fear deportation, it creates conditions that encourage criminals to prey upon victims and witnesses alike.”¹⁴

Congress should not hold back federal funding from 350 localities with community trust policies, and instead should reject any riders seeking to withhold funding from so-called “sanctuary” cities.

(2) Congress should oppose riders that seek to prevent DHS from exercising its prosecutorial discretion authority consistent with the 2014 Civil Enforcement Priorities Memorandum (“Priorities Memo”).¹⁵

The House Appropriations Committee adopted an amendment in its FY16 DHS bill that would prohibit the use of funds for “the release from custody, other than for removal from the United States, any alien described in the Priority 1 or Priority 2 category” in the Priorities Memo. The amendment improperly intrudes on the immigration agency’s long-established authority to exercise prosecutorial discretion on a case-by-case basis. This authority includes the decision to detain or to release an immigrant under supervision, based on the individual factors in each case including equities, flight risk, and threat to public safety.

The Priorities Memo makes clear that “[a]s a general rule, DHS detention resources should be used to support the enforcement priorities noted above or for aliens subject to mandatory detention by law.”¹⁶ However, there are certain immigrants categorized as Priority 1 or Priority 2 who should nonetheless be considered for release from detention including families with children, pregnant women, immigrants with serious illness or disability, asylum seekers, immigrants with U.S. citizen or permanent resident family, immigrants with meritorious applications for relief, and immigrants who pose no threat to public safety. In these circumstances, DHS should not be barred from expending resources to consider, on a case-by-case basis, whether the immigrant should be detained or released under supervision.

Congress should not restrain DHS from exercising prosecutorial discretion consistent with the Priorities Memo, and should reject any riders limiting DHS’s prosecutorial discretion authority.

(3) Congress should oppose any riders that harm children and their families.

Congress should oppose any riders that seek to prevent the administration from exercising its prosecutorial discretion to protect the parents of American citizens and lawful permanent residents from deportation. Congress has failed to pass comprehensive immigration reform, leaving millions of hard-working families vulnerable to deportation and permanent separation.

¹⁴ *Oversight of the Administration’s Misdirected Immigration Enforcement Policies: Examining the Impact on Public Safety and Honoring the Victims: Hearing Before the S. Comm. On the Judiciary*, 114th Cong. 2 (2015) (statement of Tom Manger, Chief of Police, Montgomery County Police Department; President, Major Cities Chief’s Association), available at <http://www.judiciary.senate.gov/imo/media/doc/07-21-15%20Manger%20Testimony.pdf>.

¹⁵ Memorandum from DHS Secretary Johnson, “Policies for the Apprehension, Detention and Removal of Undocumented Immigrants” (Nov. 20, 2014), available at https://www.dhs.gov/sites/default/files/publications/14_1120_memo_prosecutorial_discretion.pdf.

¹⁶ *Id.*, at 5.

These common-sense policies would allow American families to continue contributing to our economy and our communities.

Congress should also oppose any riders that would deprive taxpayers who use Individual Tax Identification Numbers from tax credit eligibility. These tax credits are essential to promoting the health and wellness of children by lifting families out of poverty. All taxpayers should be able to benefit from important programs such as the Child Tax Credit and the Earned Income Tax Credit.

Attaching harmful policy riders to must-pass government funding legislation is not the answer to our broken immigration system. America needs broad and humane immigration reform which would place undocumented immigrants on a workable and earned path to citizenship, thereby allowing them to contribute even more to their families, communities, and our country.

Sincerely,

National Organizations

American Civil Liberties Union
American Federation of State, County and Municipal Employees (AFSCME)
American Immigration Lawyers Association
America's Voice Education Fund
Asian American Legal Defense and Education Fund (AALDEF)
Asian Americans Advancing Justice-AAJC
Asian Pacific American Labor Alliance
Casa Esperanza
Christian Church (Disciples of Christ) Refugee & Immigration Ministries
Franciscan Action Network
Friends Committee on National Legislation
Grassroots Leadership
NAAPIMHA
National Council of Asian Pacific Americans (NCAPA)
National Council of Jewish Women
National Council of La Raza (NCLR)
National Domestic Workers Alliance
National Immigrant Justice Center
National Immigration Forum
National Immigration Law Center
National Justice for Our Neighbors
National Korean American Service and Education Consortium
National Latin@ Network: Casa de Esperanza
National Latina Institute for Reproductive Health (NLIRH)
Pax Christi USA
South Asian Americans Leading Together (SAALT)
Southeast Asia Resource Action Center (SEARAC)

United We Dream
We Belong Together

State / Local Organizations

Arkansas Interfaith Alliance
Asian Law Alliance
Capital Area Immigrants' Rights (CAIR) Coalition
Community Health Partnership
Community Legal Services in East Palo Alto
Dolores Street Community Services
Friends of Broward Detainees
Illinois Coalition for Immigrant and Refugee Rights
Korean American Resource and Cultural Center
Korean Resource Center
Nebraska Appleseed Center for Law in the Public Interest
New York Immigration Coalition
Northwest Immigrant Rights Project
Reformed Church of Highland Park, NJ
Refugee and Immigrant Center for Education and Legal Services (RAICES)
Services, Immigrant Rights, and Education Network (SIREN)