

**Americans for Citizenship Backgrounder on
State and Local Law Enforcement and Immigration with Input from:
American Civil Liberties Union, American Immigration Council, Immigrant Legal Resource
Center and the National Immigration Law Center**

Localities that Limit Entanglement with Immigration Enforcement Promote Community Policing and Public Safety

- States and localities across the country must make decisions about how to best serve their community and promote public safety. This involves building trust with immigrants and making immigrants feel welcome. Many sheriffs and law enforcement officers support “ICE hold policies” limiting entanglement because they allow police departments to work more effectively with the community on solving and preventing crimes.¹
- There is a wide variety of no-detainer, limited-detainer, and “sanctuary city” policies in effect around the country. Some of these policies allow for communication with ICE while refusing to detain people at ICE's request. This means that the locality may not be willing to detain an immigrant on an unconstitutional detainer that keeps an immigrant in prison without probable cause. But that same locality may be willing to work with ICE on particular cases to notify them about the inmate’s release date.
- Even with these policies in effect, ICE is informed of *every single person* booked into custody because their fingerprints are sent to the FBI and shared with DHS. No jurisdiction – including so-called sanctuary cities – shields arrested criminals from ICE’s knowledge. It’s up to ICE to follow up on these notifications or obtain a warrant.
- A high percentage of DHS removals are for relatively minor or very old crimes.² Policies limiting state and local entanglement with immigration enforcement help to ensure that immigrants are not racially profiled by being pulled over for minor offenses. The policies also protect immigrants who have lived in the U.S. for many years but commit minor crimes from being unnecessarily held by state and local police on immigration detainees.

Federal agencies did not do all they could to ensure the return to federal custody of Juan Francisco Lopez-Sanchez.

- There are many questions about whether federal (ICE and Bureau of Prisons) and local officials did all that they could do in the tragic case leading to Kathryn Steinle’s murder.³ The federal government has many tools at its disposal to resume custody in cases like this including warrants and orders of supervision including in cities like San Francisco with confidentiality policies.
- It is clear that Border Patrol was effective in the Lopez-Sanchez case as he was apprehended at the border multiple times and served many years in prison for illegal re-entry.

States and Localities Across the Country Have Policies in Place to Ensure Immigrants’ Constitutional Fourth Amendment Rights are Respected

¹ See Elise Foley, “Why Some Cities Don't Rush To Turn Over Undocumented Immigrants To The Feds.” Huffington Post (July 9, 2015), http://www.huffingtonpost.com/2015/07/09/sanctuary-cities-law-enforcement_n_7765058.html?1436478670 (quoting law enforcement leaders).

² FY 2003 to FY 2013, 81.3 percent of DHS’ removals of individuals with a criminal conviction were of individuals with convictions other than serious or violent convictions. Marc Rosenblum and Kristen McCabe, *Deportation and Discretion: Reviewing the Record and Options for Change*, p. 15 (Washington, DC: Migration Policy Institute, 2014) See <http://www.migrationpolicy.org/research/deportation-and-discretion-reviewing-record-and-options-change>.

³ <http://www.vox.com/2015/7/8/8914805/immigrant-murder-sanctuary-city>

- The Immigrant Legal Resource Center (ILRC) documented nationwide 326 counties, 32 cities and four states that have policies to ensure that cooperation between local law enforcement and the Department of Homeland Security (DHS) does not violate the Constitution.⁴
- Multiple courts have found that DHS detainer policies violate the Constitution because no judicial officer performs an individualized determination of probable cause. In response, states and localities have sought to ensure that they respect their residents' Constitutional rights against unlawful detention by limiting their entanglement with ICE detainees.

New American Immigration Council Report Finds Higher Immigration is Associated with Lower Crime Rates

- Between 1990 and 2013, the foreign-born share of the U.S. population grew from 7.9 percent to 13.1 percent and the number of unauthorized immigrants more than tripled from 3.5 million to 11.2 million.
- During the same period, FBI data indicate that the **violent crime rate declined 48 percent**—which included falling rates of aggravated assault, robbery, rape, and murder. Likewise, the **property crime rate fell 41 percent**, including declining rates of motor vehicle theft, larceny/robbery, and burglary.

American Immigration Council Report Finds Immigrants are Less Likely than the Native-Born to Be Behind Bars and Less Likely to Engage in Criminal Behavior

- An analysis of data from the 2010 American Community Survey (ACS) indicates that roughly **1.6 percent of immigrant males age 18-39 are incarcerated, compared to 3.3 percent of the native-born**. This disparity in incarceration rates has existed for decades, as evidenced by data from the 1980, 1990, and 2000 decennial censuses.
- The 2010 Census data reveals that incarceration rates among the young, less-educated Mexican, Salvadoran, and Guatemalan men who make up the bulk of the unauthorized population are significantly lower than the incarceration rate among native-born young men without a high-school diploma.
- Several studies have found that immigrants are less likely than the native-born to engage in either violent or nonviolent “antisocial” behaviors; that immigrants are less likely than the native-born to be repeat offenders among “high risk” adolescents; and that immigrant youth who were students in U.S. middle and high schools in the mid-1990s and are now young adults have among the lowest delinquency rates of all young people.
- Immigrants are a self-selected group of people who tend to be highly motivated. They have left their homes and moved to a new country to improve their lives and the lives of their children. There is a great incentive to stay out of trouble.

Mandatory Minimums are not a Solution. Comprehensive Immigration Reform is.

- Some Republicans are proposing mandatory minimums for immigrants who re-enter the United States illegally. Federal law already includes steep prison sentences for immigrants who re-entry illegally. In the case of Juan Francisco Lopez-Sanchez, the defendant already served a sentence of 48 months in federal prison. The issue is not that he should have been jailed longer at taxpayer expense. Instead, the issue is that there was ineffective communication regarding his particular case which was not the fault of the city's policy but instead seems to be a result of miscommunications between officials.

⁴ See <http://www.ilrc.org/enforcement>.

- The U.S. government already prosecutes re-entry cases very aggressively. There were 19,898 illegal re-entry convictions in 2013⁵ and the average sentence was 18 months.⁶ Assuming current annual conviction levels, an increase in average sentence length for people with illegal reentry convictions from 18 months (the current average sentence) to 5 years would cost taxpayers **approximately \$2 billion per year.**
- An increase to a five year mandatory minimum would be extremely costly to taxpayers and would lead to new federal prison construction. It also would directly counter the nationwide bipartisan call for a reduction in incarceration levels.
- Comprehensive immigration reform is the real, lasting solution. Good policies are made over time – by examining our values and opinions – and ideally by working towards equality and justice for all people. They are not made in a vacuum based on isolated incidents. The actions of one person should never be used to justify policies that criminalize entire communities.

⁵ See <http://trac.syr.edu/immigration/reports/356/>.

⁶ See http://www.ussc.gov/sites/default/files/pdf/research-and-publications/quick-facts/Quick_Facts_Illegal_ReentryFY13.pdf