Federal judge blocks Trump administration’s attack on “sanctuary cities”

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A Federal court in San Francisco issued a ruling Monday blocking the Trump administration's executive order which sought to restrict federal grants to so-called “sanctuary cities.”

U.S District Judge William Orrick wrote in his decision that the administration’s attempt to impose restrictions on federal funding to municipalities that do not cooperate with the attempts of federal immigration officials to round up and deport undocumented immigrants was a violation of the separation of powers clause of the constitution, which grants Congress, not the Executive Branch of the government, the power to approve and dispense federal funds.

President Trump signed the order, Executive Order 13768, titled “Enhancing Public Safety in the Interior of the United States,” in the first week of his administration. The order outlines the administration’s policy of mass detention and deportation and attempts to restrict funding to cities that do not cooperate with federal efforts.

The central reasoning of the executive order is that sanctuary cities are in violation of 8 U.S.C. Section 1373, a section of the Immigration and Naturalization Act which prohibits states and municipalities from refusing to give the federal government information about the immigration status of individuals living in their communities. Therefore, according to the reasoning of the Trump Justice Department, the administration has the right to withhold federal grants to states and cities that it deems to be not in compliance with that section of the law.

The language used in the order is consistent with the anti-immigrant demagoguery that is the hallmark of Trump’s administration. In the opening section the order states, “Many aliens who illegally enter the United States and those who overstay or otherwise violate the terms of their visas present a significant threat to national security and public safety. This is particularly so for aliens who engage in criminal conduct in the United States.”

This statement is demonstrably false. Undocumented immigrants are not convicted of crimes at any higher percentage than the population as a whole. This is a fact that Trump and the Justice Department are certainly aware of. The order, much like the administration’s attempt to ban immigrants from predominantly Muslim countries, is a blatantly political attempt to inflame and mobilize the nationalist elements who are Trump’s most ardent supporters.

To that end, Trump has consistently sought to portray immigrants as dangerous criminals. In launching his presidential campaign, he described Mexican immigrants as “rapists.”

In subsequent public appearances, both before and since his election, the President and his surrogates would frequently highlight a crime allegedly committed by an undocumented immigrant and imply that this was indicative of the immigrant community as a whole. Frequently, this would include an appearance by a family member of a victim of a violent crime, exploiting their loss to elicit an emotional response and whip up anti-immigrant racism.

Further evidence of this tactic can be seen in another section of the order, which requires states to release reports highlighting the past criminal convictions of detained immigrants.

The lawsuit in question was filed jointly by Santa Clara County, California and the City of San Francisco. In April Judge Orrick issued an order temporarily blocking the law. In his preliminary ruling, the judge emphasized that the executive order was a violation of the separation of powers outlined in the Constitution.

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"Where Congress has failed to give the President discretion in allocating funds, the President has no constitutional authority to withhold such funds and violates his obligation to faithfully execute the laws duly enacted by Congress if he does so," Orrick noted. "Section 9 purports to give the Attorney General and the Secretary the power to place a new condition on federal funds (compliance with Section 1373) not provided for by Congress. But the President does not have the power to place conditions on federal funds and so cannot delegate this power."

In advocating in favor of the executive order Justice Department lawyers have been unable to craft an argument justifying it on constitutional grounds and have instead asserted that the order only covers three small grants, totaling approximately $1 million for both counties.

The court rejected this argument outright, citing both the language of the section in question as well as statements made about the law by both President Trump and Attorney General Jeff Sessions.

In his ruling Judge Orrick noted that, "The President has called it 'a weapon' to use against jurisdictions that disagree with his preferred policies of immigration enforcement." He also noted that Attorney General Jeff Sessions "has warned that jurisdictions that do not comply with Section 1373 would suffer 'withholding grants, termination of grants, and disbarment or ineligibility for future grants,' and the 'claw back' of any funds previously awarded."

The fact that the Trump administration was unable to provide any legal rationale for the order and instead sought to minimize its intended consequences is a clear indication of its provocative nature.

The attack on undocumented immigrants, so-called "sanctuary cities," and the "liberal judiciary" that supposedly enables them, has been a persistent theme of the right-wing media for years. In signing the executive order Trump and Sessions were almost certainly aware that it would be challenged and overturned and that this would provide further fuel for the far-right elements that helped bring Trump to power and view his presidency as a vehicle to further their reactionary agenda.

Since taking office in January the Trump administration has launched a campaign of terror against undocumented immigrants. Building on the policies of the Obama administration, which deported more immigrants than all previous administrations combined, Trump's administration has detained and deported tens of thousands of undocumented, mostly Latino, immigrants.

Many of those detained are longtime residents of the US who are arrested at their workplace, in their homes or picking their children up at school. Many more arrived in the US after fleeing wretched conditions in countries devastated by the intervention of American imperialism, such as Guatemala, Honduras, or Nicaragua. Virtually all are workers, and therefore find no legitimate political representation in either of the two parties of big business.

Most recently, the Trump administration rescinded the Temporary Protected Status granted to Haitian immigrants in the wake of the 2010 earthquake that destroyed Haiti and from which the country has never fully recovered. This will require an estimated 59,000 Haitian immigrants to return home by July 2019 or face deportation to the poorest country in the western hemisphere. This follows a similar decision earlier this month, which removed protected status from some 5,000 Nicaraguan immigrants, including many who have lived in the US for decades.

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