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FAIR is a nonprofit public interest organization working to end illegal immigration and to set levels of legal immigration that are consistent with the national interest.



FEDERATION FOR AMERICAN IMMIGRATION REFORM

February 10, 2020

The Honorable Luke Clippinger, Chairman
Judiciary Committee
Room 101
House Office Building
Annapolis, MD 21401

Dear Chairman Clippinger and other distinguished members of the Committee,

My name is Shari Rendall and I am the Director of State and Local Engagement at the Federation for American Immigration Reform (FAIR). FAIR is an non-profit, non-partisan organization of concerned individuals who believe that our immigration law must be reformed to serve our nation's interests.

FAIR advocates for immigration policies that reduce the harmful impact of illegal immigration on national security, public safety, the economy, jobs, education, healthcare and the environment.

Founded in 1979, FAIR has two million members and supporters nationwide including approximately 12,300 in Maryland. On behalf of our members and supporters, I am writing to express FAIR's strong opposition to House Bills (HB) 388 and 403. FAIR opposes the reckless lawlessness of sanctuary policies like those imposed by these bills.

If enacted, these bills would enact dangerous policies that provide a safe-haven, or "sanctuary," in which illegal aliens can work and live without fear of apprehension by federal immigration authorities. Such policies undoubtedly encourage illegal immigration.

Most everyone is familiar with Kate Steinle's story: The young woman was walking with her father on the San Francisco pier and was gunned down by Juan Francisco Sanchez-Lopez, an illegal alien with seven prior criminal convictions and five previous deportations.



Sanchez-Lopez admitted that he chose to live in San Francisco because he knew he would be protected by its sanctuary policy.¹ His belief couldn't have been truer—as law enforcement in San Francisco had him in custody just months before Kate Steinle's death—but refused to turn him over to federal immigration authorities.

Many expect crimes like this to happen in border states like California. However, most would be shocked to find out these incidents are not relegated to those states alone. Many Maryland jurisdictions that enacted sanctuary policies that shelter criminal aliens by impeding the enforcement of federal immigration laws and blocking or barring free communication between state and local officials and federal immigration officials, did so under former President Obama. They have affirmed these policies in defiance of President Trump.

Despite US Immigration and Customs Enforcement (ICE) detainer requests, sanctuary jurisdictions like Montgomery and Prince George's Counties regularly release criminal aliens that pose a clear public safety threat back into the community. In May 2017, Montgomery County released 19 year-old Salvadoran national, Mario Granado-Alvarado, after he posted bail even though ICE requested he be held. Granado-Alvarado was arrested for vehicular theft and for bringing an assault-style rifle onto his high school parking lot. He had been arrested previously also on auto theft charges.

In Prince Georges County, a 14 year-old may have been alive today if law enforcement had honored an ICE detainer. Two suspected murderers and MS-13 gang members, Josue Rafael Fuentes-Ponce and Joel Ernesto Escobar, had been in police custody the year before a 14 year-old girl was killed on another attempted murder charge. They were released because Prince Georges County banned honoring immigration detainees.

These are clear and unambiguous violations of federal law. State and local officials cooperate with the federal law enforcement in every aspect, such as gun control and drug laws, and immigration should not be an exception.

Sanctuary policies rely on the false premise that individuals in the country unlawfully are "law-abiding," but simply lack "papers" or "documentation." However, the average adult illegal alien routinely commits multiple crimes just to conceal their presence in the United States and work without authorization. In 2013, the Social Security Administration's Office of the Chief Actuary estimated that more than 40 percent of all illegal aliens working in the United States were using fake or stolen Social Security Numbers. Elsewhere, the office has put the figure as high as 75 percent.² Furthermore,

¹ Breitbart, "Murderer: I chose SF Because it is a 'Sanctuary City,'" July 6, 2015.

² The Washington Times, "When Illegals Use Piflered Social Security Numbers, May 23, 2018; See also, The New York Times, Illegal Alies Are Bolstering Sociall Security with Billions, April 5, 2005

many falsify I-9 forms under penalty of perjury. It is improper for a state legislature to tolerate sanctuary jurisdictions that enable these federal crimes.

Moreover, the assumption that illegal aliens commit crimes at a lower rate than American citizens is simply not true. FAIR's recent study of data from the federal government's State Criminal Alien Assistance Program (SCAAP) found that illegal aliens are more likely to be incarcerated in state prisons and county jails than U.S. citizens and legal immigrants.³ In fact, this report finds that in the states examined, illegal aliens are incarcerated up to five and a half times as frequently as citizens and legal immigrants.⁴ Additionally, the report found that states with the highest incarceration rates are also the states that boast numerous sanctuary jurisdictions.⁵

According to U.S. Sentencing Commission data provided at a recent U.S. House of Representatives hearing on immigration enforcement, over 35 percent of the individuals who are sentenced for federal crimes are illegal aliens.⁶ Given that illegal aliens are an estimated 3.5 percent of the population⁷ that means that illegal aliens are ten times more likely to be sentenced for a federal crime than legal residents.

Furthermore, shielding criminal aliens needlessly endangers innocent lives. There are roughly 3 million criminal aliens living in the United States, and nearly one million of these aliens have final orders of removal.⁸ These criminals should not be able to continue to live in communities and engage in further criminal activity.

Many jurisdictions are bullied into adopting sanctuary policies by open-borders advocates claiming that honoring or complying with immigration detainers would be unconstitutional, primarily as a violation of the Fourth Amendment. Detainers are written requests issued on behalf of the U.S. Department of Homeland Security to another law enforcement agency to hold an individual based on an inquiry into immigration status or an alleged violation of civil immigration law for up to 48 hours. Simply put, detainers constitute a reasonable request for state/local assistance in effectuating a civil arrest based on an administrative warrant, which ICE may issue, pursuant to explicit statutory authority.

Neither the U.S. Supreme Court nor the U.S. Court of Appeals for the 4th Circuit, which governs Maryland, has ever determined that honoring or complying with detainers is unconstitutional. The only federal appellate court that has ever directly ruled on the

³ Federation for American Immigration Reform, "SCAAP Data Suggest Illegal Aliens Commit Crime at a Much Higher Rate Than Citizens & Lawful Immigrants," February 3, 2019.

⁴ *Id.*

⁵ *Id.*

⁶ United States Sentencing Commission Interactive Sourcebook.

⁷ Pew Research Center, "5 facts about illegal immigration in the U.S.," Nov. 3, 2016.

⁸ The Washington Examiner, "ICE: 950,000 Illegals With 'Removal Orders', Raids Get Just A Sliver, Feb 20, 2017

constitutionality of detainers, the Fifth Circuit in *El Cenizo v. Texas*⁹ last year, held not only that detainers are constitutional, but that Texas in its 2017 anti-sanctuary law, SB 4, could constitutionally require its cities and counties to honor them.

It is no secret that Americans face serious threats from terrorist organizations. With the FBI pursuing hundreds of active extremist investigations, federal agents are stretched thin and depend heavily on intelligence provided by state and local law enforcement. By impeding cooperation with federal immigration officials, sanctuary policies create an environment where terrorists and other criminal aliens can go undetected and uninterrupted.

A recent report issued by the Departments of Justice and Homeland Security showed three out of every four individuals convicted of international terrorism-related charges in U.S. federal courts between September 11, 2001 and December 31, 2016 were foreign born.¹⁰

ICE has just 20,000 employees, only half of whom are dedicated to the apprehension and removal of illegal aliens. The cooperation of state and local law enforcement, which number about 900,000 strong, is vital to ferreting out those among us who wish to cause us harm. At least five of the 9/11 hijackers were illegal aliens, four of whom came into contact with state and local law enforcement several times before the attacks, in some cases just days prior to the attack.¹¹ If those state and local law enforcement officers had worked with federal immigration officials, the 9/11 terrorist plot might have been thwarted.

While the cost of illegal immigration to public safety is incalculable, the fiscal cost of illegal immigration also bears a heavy price tag. Annually, U.S. taxpayers pay roughly \$116 billion in costs associated with illegal immigration. A significant majority of this price tag, \$88.9 billion, is absorbed by state and local governments.¹²

In Maryland, taxpayers spend an estimated \$2.4 billion each year for illegal aliens and their U.S.-born children.¹³ One hundred thirty-seven million of those expenditures are for Criminal Justice alone. These costs come in the form of educational, healthcare, welfare and law enforcement expenditures to illegal aliens and their families.

⁹ No. 17-50762 (5th Cir. May 8, 2018).

¹⁰ Department of Justice Press Release, DOJ/DHS Report: Three Out of Four Individuals Convicted of International Terrorism and Terrorism-Related Offenses Were Foreign Born, January 16, 2018

¹¹ CNN, "Another Hijacker Was Stopped for Traffic Violation, January 9, 2002

¹² Federation for American Immigration Reform, "The Fiscal Burden of Illegal Immigration," 2017.

¹³ Ibid.

Sanctuary policies contribute significantly to these costs by telling individuals that despite violating federal laws, law enforcement and other government officials will ignore them. Just because the regulation of immigration is a federal issue, does not mean that state and local law enforcement agencies must overlook immigration violations that harm their communities.

To the contrary, the cost of illegal immigration disproportionately affects state and local governments, giving them even more incentive to cooperate with federal officials. To ensure the safety of our communities, state and local law enforcement and governments should be encouraged—not discouraged—from cooperating with federal immigration authorities. For these reasons, FAIR opposes HB 388 and 403.

I thank you for the opportunity to provide my input. Please do not hesitate to reach out to me, if I may be of assistance. I may be reached by email at srendall@fairus.org or by phone at 202-328-7004.

Sincerely,

A handwritten signature in black ink that reads "Shari Rendall". The signature is written in a cursive, flowing style.

Shari Rendall