

THE WALL STREET JOURNAL.

TRUMP'S SANCTUARY CITY ORDER FACES FIRST TEST IN COURT

San Francisco and Santa Clara County argue order is unconstitutional and makes budgeting impossible

By Sara Randazzo and Alejandro Lazo
April 14, 2017

SAN FRANCISCO – President Donald Trump's order to [pull funds from cities](#) that refuse to assist in U.S. immigration enforcement faced its first test Friday in a federal courtroom here.

San Francisco and Santa Clara County are [suing the administration](#), arguing that the order is unconstitutional and makes it impossible to plan local budgets. Dozens of other cities have filed briefs in support of those suits or filed suits of their own.

The president's executive order requires U.S. officials to ensure that sanctuary cities "are not eligible to receive federal grants, except as deemed necessary for law enforcement purposes." The order doesn't specify what types of federal funds could be withheld.

A Justice Department attorney defending the order said Friday only a small number of federal grants can be withheld from local governments – specifically, grants offered through the Department of Homeland Security and the Justice Department – and the majority of San Francisco and Santa Clara County federal funds were safe under the directive.

The two California municipalities, the first to sue the Trump administration over the issue, are asking for a preliminary injunction blocking the order's implementation for all jurisdictions nationally.

San Francisco gets more than \$1.2 billion a year in federal funding, though much of that goes to address such social problems as "health care, nutrition and other safety-net programs," according to the city attorney's office.

Santa Clara County said in a court filing it receives approximately \$1 billion annually in federal funds, representing about 15 percent of its \$6 billion annual budget.

Chad Readler, a Justice Department lawyer representing the administration, said in court Friday that only a limited amount of money could be withheld from cities. Less than \$1 million in federal grants for Santa Clara County and possibly no money for San Francisco could be affected by the executive order, he said, though attorneys for San Francisco said after the hearing they believed the city did receive some of those grants.

Pressed by U.S. District Judge William Orrick on the purpose of the order if only a small amount of money is at stake, the federal government lawyer said it was meant to highlight policies that are important to the president.

"There is no actual enforcement action on the table or that has been formally threatened," said Mr. Readler.

He add that the two jurisdictions had taken a “dramatic reading” of the executive order and “the broadest possible reading.”

The Trump administration had countered in filings ahead of the hearing Friday that the order hasn’t yet gone into effect and no cities have been officially declared sanctuary jurisdictions, making any legal challenges premature.

Attorneys for both San Francisco and Santa Clara said a preliminary injunction is necessary because of conflicting rhetoric from the Trump administration.

“Unfortunately, with the Trump administration, federal lawyers have repeatedly said one thing in court while the attorney general and the president say something else in public,” San Francisco City Attorney Dennis Herrera said in a statement following the hearing. “That’s why we need a court order to protect San Francisco and every other sanctuary jurisdiction.”

Judge Orrick said Friday he would issue a ruling as soon as he could.

The Trump administration hasn’t publicly defined what it means by [sanctuary jurisdictions](#), but San Francisco attorneys point to comments made late last month by Attorney General Jeff Sessions that cited a murder in the city by an illegal immigrant as the harm that can come by such sanctuary policies.

Mr. Sessions said last month Homeland Security had found more than 200 recent instances of jurisdictions refusing to honor Immigration and Customs Enforcement detainer requests for individuals charged or convicted of serious crimes.

“The American people are not happy with these results,” he said. “They know that when cities and states refuse to help enforce immigration laws, our nation is less safe.”

Three dozen cities and counties from 13 states have voiced their support for a nationwide ban on implementing the order, urging Judge Orrick in a friend-of-the-court brief filed in the Northern California cases to find the executive order unconstitutional.

The brief argues that the order violates the 10th Amendment “because it seeks to usurp local police power and commandeer scarce city and county resources.”