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February 1, 2016

The Honorable Loretta E. Lynch
Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Dear Attorney General Lynch:

I look forward to your fiscal year 2016 spending plan, as required by section 534 of the Consolidated Appropriations Act, and the President's fiscal year 2017 budget request. I want to express the Committee's expectation that the Department of Justice will allocate its resources to the enforcement of existing Federal law.

In particular, I want to focus your attention on the 2016 grant application process for State and local law enforcement agencies. One of the first and most important principles behind successful law enforcement is cooperation and timely information sharing. Congress created the law enforcement grant programs administered by your department for the primary purpose of enhancing the law enforcement capabilities of State and local law enforcement agencies, and my subcommittee has the duty to ensure that these State and local law enforcement agencies are following Federal law before they become eligible to receive Federal grants.

To ensure complete cooperation and information sharing among law enforcement agencies, I expect your office to enforce section 1373 of title 8 of the United States Code in the course of the upcoming 2016 grant application process. This law states that local governments may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Department of Homeland Security information regarding the citizenship or immigration status, lawful or unlawful, of any individual. It is well known that numerous jurisdictions across the country have "sanctuary policies" that prevent State and local law enforcement agencies from releasing criminal illegal aliens into Federal custody for deportation, and prevent State and local law enforcement officers from sharing information with Department of Homeland Security officials regarding the detention status of criminal illegal aliens or when or if those criminal illegal aliens will be released onto American streets in violation of Federal detainers.

If these sanctuary city jurisdictions expect to receive Federal law enforcement grant dollars, they must comply with existing Federal law. I believe there are several actions that you should take to ensure compliance with section 1373 of title 8 of the United States Code and to help prevent the release of dangerous criminal aliens into our communities. These include:

1. The Department should work with State and local jurisdictions to change their illegal sanctuary policies. If they refuse, the Department should seek injunctive relief to compel the jurisdiction to comply with Federal law.
2. For the fiscal year 2016 and future grant application processes, you should amend the application process for the Edward Byrne Memorial Justice Assistance Grant program (Byrne JAG) to require grantees to certify under oath that they are in compliance with section 1373 of title 8 of the United States Code. A statutory requirement of the Byrne JAG program is for applicants to certify that they are in compliance with “applicable Federal laws”. The Byrne JAG program was created to help protect public safety, and section 1373 of title 8 of the United States Code was created to protect public safety by ensuring the free flow of information between Federal, State, and local law enforcement. Therefore, section 1373 of title 8 of the United States Code is clearly “an applicable Federal law” for purposes of awarding Byrne JAG funding.
3. In addition to amending the Byrne JAG grant process, I also believe you should apply the same standard to the Community Oriented Policing Services (COPS) program, and the State Criminal Alien Assistance Program (SCAAP) to require grantees to certify under oath that they are in compliance with section 1373 of title 8 of the United States Code.
4. For these self-evident reasons, I expect the Department to deny the award of law enforcement grants (Byrne JAG, COPS, and SCAAP) to jurisdictions that refuse to comply with section 1373 of title 8 of the United States Code.

I expect you to work with the Department of Homeland Security to ensure that the Federal government is not using the SCAAP program to send Federal dollars to jurisdictions that refuse to cooperate with the Federal government. The fact that a jurisdiction can prohibit sharing immigration related information with the Department of Homeland Security in violation of Federal law but can be compensated by the Department of Justice for incarceration costs of criminal aliens is nonsensical.

I also ask you to examine whether jurisdictions that knowingly release criminal aliens into their communities are in violation of section 1324 of title 8 of the United States Code. This section of law prohibits a person from shielding from detection an alien who remains in the United States in violation of law. I believe sanctuary jurisdictions that refuse to honor Federal detainers and that release criminal illegal aliens onto our streets are clearly in violation of this Federal law and have also rendered themselves ineligible for Federal law enforcement grant funding until they change their policies to enforce Federal law.

The bottom line is very simple, State or local law enforcement agencies are expected to work cooperatively with Federal law enforcement agencies. Communities that do not work with Federal law enforcement officials, in violation of Federal law, should not expect to receive Federal grant funding from the Department of Justice.

I appreciate the hard work and dedication of Federal law enforcement and look forward to reviewing a fiscal year 2016 spending plan and fiscal year 2017 budget request that enforce existing Federal law.

Sincerely,



John A. Culberson
Chairman
Subcommittee on Commerce, Justice,
Science and Related Agencies