

Sanctuary Cities Endanger National Security and Public Safety

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Of late, immigration has become the hottest issue for the United States and its citizens. The perfect storm of the very vocal position of presidential candidate Donald Trump about the issue of illegal aliens and the crimes they commit and the senseless murder of Kathryn Steinle, just days after Trump went public about illegal immigration, thrust immigration onto the front page of newspapers across the United States and into the “A Block” of television news programs.

Leading the outrage was the discovery that the alleged killer of Kathryn Steinle, Francisco Lopez-Sanchez, is an illegal alien from Mexico, who had reportedly been previously deported five times and had multiple felony convictions in the United States. He had been in ICE (Immigration and Customs Enforcement) custody after serving four years in prison for unlawful re-entry.

The U.S. Marshals Service had turned him over to the custody of local law enforcement in San Francisco because of an old criminal charge of sale of marijuana, and that although a detainer had been lodged by ICE, local SF officials, because of existing sanctuary policies, ignored that detainer and set him free.

This case ignited a firestorm. However, this issue of “Sanctuary Cities” is decades old, and while the news media decided that this specific case warranted close scrutiny, similar crimes involving criminal aliens have been committed almost every day for many years.

For decades immigration has been a huge issue

with ramifications that profoundly impact virtually every challenge and threat confronting our nation and our citizens. The 9/11 Commission identified the multiple failures of the immigration system that enabled terrorists to not only enter the U.S. but embed themselves as they went about their deadly preparations.

This nexus between immigration and terrorism was my focus in my extensive analysis for *The Social Contract*, “The 9/11 Commission Report and Immigration: An Assessment, Fourteen Years after the Attacks” (Summer 2015), and in a number of additional articles.

Let us now go back to the concept of so-called Sanctuary Cities. The term “Sanctuary” is defined in online Merriam-Webster Dictionary, in part, as:

- a (1)* : a place of refuge and protection
- (2)* : a refuge for wildlife where predators are controlled and hunting is illegal
- b* : the immunity from law attached to a sanctuary

To the uninitiated, the term “Sanctuary City” creates the illusion of a tranquil city where local officials protect vulnerable people. The term *sanctuary* creates the impression of noble actions that harken back to those who sheltered Jews during the Holocaust or those who operated the “Underground Railroad” that enabled slaves to cast off their shackles.

It is time for a reality check.

The term “Sanctuary City” is yet another misused term that can be added to a list of other deceptive terms where immigration is concerned. The people who are being protected in those sanctuary cities are aliens whose mere presence in the U.S. is a violation of our immigration laws, which are completely neutral where race, religion, and ethnicity are concerned. Those laws are among our nation’s most fundamental laws and were enacted to protect national security and the safety and well-being of Americans.

Rather than protecting the hunted, all too often, Sanctuary Cities provide shelter for the predatory hunters, shielding them from detection and possible arrest by federal immigration authorities.

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Having used the term “Shielded,” let us consider the clear violation of the federal immigration law that Sanctuary Cities defy by their policies. The section of law in question is, Title 8 U.S.C. § 1324. Sanctuary Cities are in violation of this law, yet the Obama administration, and others that preceded it, never penalized those cities nor punished those responsible for those policies. Indeed, today, the Obama administration has essentially turned the U.S. into a “Sanctuary Country.”

Here are the relevant portions of this section of law:

Harboring—Subsection 1324(a)(1)(A)(iii) makes it an offense for any person who—knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation.

Encouraging/Inducing—Subsection 1324(a)(1)(A)(iv) makes it an offense for any person who—encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law.

Conspiracy/Aiding or Abetting—Subsection 1324(a)(1)(A)(v) expressly makes it an offense to engage in a conspiracy to commit or aid or abet the commission of the foregoing offenses.

Unit of Prosecution—With regard to offenses defined in subsections 1324(a)(1)(A)(i)-(v), (alien smuggling, domestic transporting, harboring, encouraging/inducing, or conspiracy/aiding or abetting) each alien with respect to whom a violation occurs constitutes a unit of prosecution. Prior to enactment of the IIRIRA, the unit of prosecution for violations of 8 U.S.C. § 1324(a)(2) was each transaction, regardless of the number of aliens involved. However, the unit of prosecution is now based on each alien in respect to whom a violation occurs.

Knowledge—Prosecutions for alien smuggling, 8 U.S.C. § 1324(a)(1)(A)(i) require proof that defendant knew that the person brought to the United States was an alien. With regard to the other violations in 8 U.S.C. § 1324(a), proof of knowledge or reckless disregard of alienage is sufficient.

Penalties—The basic statutory maximum penalty for violating 8 U.S.C. § 1324(a)(1)

(i) and (v)(I) (alien smuggling and conspiracy) is a fine under title 18, imprisonment for not more than 10 years, or both. With regard to violations of 8 U.S.C. § 1324(a)(1)(ii)-(iv) and (v)(ii), domestic transportation, harboring, encouraging/inducing, or aiding/abetting, the basic statutory maximum term of imprisonment is 5 years, unless the offense was committed for commercial advantage or private financial gain, in which case the maximum term of imprisonment is 10 years. In addition, significant enhanced penalties are provided for in violations of 8 U.S.C. § 1324(a)(1) involving serious bodily injury or placing life in jeopardy. Moreover, if the violation results in the death of any person, the defendant may be punished by death or by imprisonment for any term of years. The basic penalty for a violation of subsection 1324(a)(2) is a fine under title 18, imprisonment for not more than one year, or both, 8 U.S.C. § 1324(a)(2)(A). Enhanced penalties are provided for violations involving bringing in criminal aliens, 8 U.S.C. § 1324(a)(2)(B)(i), offenses done for commercial advantage or private financial gain, 8 U.S.C. § 1324(a)(2)(B)(ii), and violations where the alien is not presented to an immigration officer immediately upon arrival, 8 U.S.C. § 1324(a)(2)(B)(iii). A mandatory minimum three year term of imprisonment applies to first or second violations of § 1324(a)(2)(B)(i) or (B)(ii). Further enhanced punishment is provided for third or subsequent offenses.

The term “Alien” was first censured by President Jimmy Carter, who demanded that INS (Immigration and Naturalization Service) employees refer to illegal aliens as being “Undocumented Immigrants.” The term “alien” is not pejorative. The Immigration and Nationality Act defines alien as, “Any person, not a citizen or national of the United States.” There is no insult in that term or its definition—only clarity. Con artists hate clarity just the way that magicians use mirrors, blue smoke, and other distractions to confuse and confound their audiences.

Some folks have mistakenly contributed to expunging the term “Alien” in discussing immigration because of concerns about Political Correctness. In reality, Political Correctness is about not using language that defames, insults, or embarrasses others. The dreaded “N word” is a classic example of the sort of language that should never be used. However, eliminating the term “Alien” from discussion is not about being politically correct. As we have seen, the term alien is not insulting. This is about an Orwellian strategy of employing *Newspeak* to alter perceptions.

The open borders/immigration anarchists have also used the tactic of accusing anyone who wants our borders secured and our immigration laws of being “Anti-Immigrant.” Of course the reality is that anyone who wants our law enforced is simply “Pro-enforcement.” Indeed, the pro-enforcement position is a pro-immigrant position. Our immigration laws not only deal with the exclusion and removal of aliens whose presence in the U.S. would be harmful to America, but also provide for the admission of lawful immigrants each and every year. Our immigration laws also provide for the naturalization of hundreds of thousands of new citizens each and every year. Enforcing our immigration laws supports this process as well.

Title 8 U.S. Code § 1182: (Inadmissible Aliens) enumerates various categories of aliens who are to be prevented from entering the U.S. There is nothing in this section of law that makes any distinction about such superficial issues as race, religion, or ethnicity. The list of excludible classes of aliens includes aliens who suffer from dangerous communicable diseases or from severe mental illness, are fugitives from justice, or are convicted felons, spies, terrorists, war criminals, human rights violators, or others whose presence would undermine national security and/or public safety. Finally that section of law deems aliens to be excludible if they would likely become public charges or provide unfair competition for American workers, thereby displacing them or adversely impacting wages and working conditions.

The inspections process is conducted by CBP (Customs and Border Protection) inspectors at ports of entry to prevent the admission of aliens whose presence would be harmful to America or Americans. Today CBP employs more than 20,000 officials who are engaged in the inspection of people and cargo at ports of entry. It is absurd to declare that aliens who evade that process are simply “undocumented” and entitled to lawful status or even United States citizenship. An alien who evades the inspections process is said to be an Entrant Without Inspection (EWI). This is comparable to an individual who trespasses.

This brings us to the wrong-headed notion that only aliens who have been arrested and successfully prosecuted for committing serious felonies should be arrested and deported by ICE. While it makes sense to take a triage approach to focus very limited resources available for the enforcement of our immigration laws on the most serious criminals, alien fugitives and alien sleepers who are affiliated with terror organizations, may keep a low profile to avoid detection. Arresting illegal aliens who are encountered during field investigations and seeking their deportation would be consistent with the strategy known as “randomness.” Think of this as being in the wrong place at the wrong time.

Michael Chertoff, a former Secretary of Homeland Security, mentioned the strategy of randomness in his book, *Homeland Security: Assessing the First Five Years*. Page 109 contains this paragraph:

Randomness is a second critical tool in helping detect dangerous individuals or items threatening the country and key infrastructure. Since terrorists are inveterate planners, we can thwart their ability to execute their plans by introducing an element of randomness in our detection techniques. We deploy hundreds of detection canine teams on a random basis. Combining select members of the Coast Guard, Transportation Security Administration, and other law enforcement groups we have formed Visual Intermodal Prevention and Response teams that can move suddenly into airports.

On February 16, 2006, the House Committee on Homeland Security, Subcommittee on Security, Infrastructure Protection and Cybersecurity, conducted a hearing on the topic, “The President’s FY 2007 Budget: Risk-Based Spending at the Transportation Security Administration.”

Kip Hawley, who was at the time of the hearing, the Administrator for Transportation Security, also noted the concept of randomness as a counterterrorism strategy in his prepared testimony, stating:

Randomness contributes to increased security by making it more difficult for potential terrorists to plan and carry out attacks.

The 9/11 Commission noted that terrorists, who attacked the United States or sought to attack the U.S., first needed to enter the country and then needed to embed themselves in the country. They exploited vulnerabilities in the immigration system to achieve both goals.

Consequently any alien found to be illegally present in the U.S. during routine field investigations, should be taken into custody and deported (removed). This would help to create a clear understanding that illegal aliens—including criminals and terrorists “maintaining a low profile”—cannot discount the potential that they may be arrested for violating our immigration laws regardless of whether or not they have violated other laws.

This would also deter illegal immigration in general to help create integrity to the immigration system, reducing the huge haystack in which some extremely deadly “needles” are hiding.

It is noteworthy that Senator Chuck Schumer (D-NY), one of the “Gang of Eight” and a key architect of the Senate Comprehensive Immigration Reform legislation, S.744, has insisted that a federal law should be enacted that would make trespassing on landmarks and

critical infrastructures a federal crime with a maximum penalty of 5 years in prison to deter such dangerous conduct.

Schumer's statements were included in an October 14, 2014, CBS News report, "Mayor De Blasio Heads to D.C. for Meetings on NYC Security and Counter-Terrorism."

Here is an excerpt from that article which focuses on Schumer's proposed new federal law:

"While individuals like this (trespassers) may have meant no harm, their acts put commuters and first responders at risk," Schumer said. "They also inspire copycats who may have much more evil plans in mind."

Critical infrastructure is defined by the Patriot Act as systems and assets so vital to the U.S., that the incapacity or destruction of them would have a debilitating effect.

"That would be a bridge, a power plant, the air vents to one of our tunnels," NYPD Deputy Commissioner of Intelligence and Counter-Terrorism John Miller said.

Miller and Schumer said the new legislation will help serve as a deterrent.

"When stunts like this occur, the New York City trespassing law has a maximum of one year and it's often three months," Schumer said. "That's not enough punishment to deter this behavior. It's time to change that." Schumer said this legislation is based on another federal law protecting railroads.

Schumer has often declared that aliens who evade the inspections process have "earned" a pathway to citizenship, but individuals who trespass on bridges and other landmarks have "earned" a right to receiving five years of "free room and board" in a prison cell!

I have come to refer to Schumer's contradictory positions on the issue of trespassing as a lack of mouth/ear coordination—his own ears are unable to hear the words that come out of his own mouth!

Let us consider another lie repeatedly invoked by the advocates for the eradication of America's borders and implementation of immigration anarchy.

Duplicious politicians, who have made their cities and states into sanctuaries for illegal aliens, often invoke the utterly fatuous claim that if local police cooperate with federal immigration authorities, illegal aliens will fear to report crime, and criminals will easily prey upon them and thus undermine community policing. They paint ICE agents as villains who would arrest innocent illegal alien victims of violent crimes.

In reality, aliens who fall victim to criminals are eligible to receive visas that will enable them to remain in the U.S. if they cooperate with the law enforcement authorities to help capture and convict those criminals.

Sanctuary Cities create powerful magnets that attract some of the most pernicious transnational criminals who seek to evade law enforcement authorities. The safest place for an international fugitive to live and ply his/her criminal trades is within Sanctuary Cities that will not cooperate with ICE.

Often, in fact, the victims of those transnational criminals are the members of the same ethnic immigrant communities where the criminals live and set up shop. This is not only the case where the Latino immigrant communities are concerned, but also where all immigrant communities are concerned—whether we are talking about the Russian, Asian, European, African or Middle Eastern communities.

This is not a matter of conjecture. My career with the former INS (Immigration and Naturalization Service) spanned some 30 years. For 26 of those years I was an INS special agent. For four years I was assigned as the first INS agent detailed to the Unified Intelligence Division of the DEA (Drug Enforcement Administration) in New York City. Following that assignment I was promoted to the position of Senior Special Agent and assigned to the Organized Crime, Drug Enforcement Task Force. In those assignments I worked in close cooperation with local and state police as well as with the DEA, FBI, ATF, U.S. Marshal Service, and other federal law enforcement agencies and with law enforcement agencies of foreign governments.

One of my key responsibilities was to help identify and cultivate informants and cooperators. There is no greater example of community policing than the ability to convince local residents—often illegal aliens—to step forward to provide essential evidence and information about aliens engaged in serious criminal or even terror-related activities.

One of the strongest tools I had in my tool box as a member of the Task Force, was my unique authority, as an INS agent, to provide illegal aliens who came forward with a compelling incentive—lawful authority to work in the United States. When the quality of their information and level of cooperation were of particular value, I could help them to acquire lawful status in the U.S. My colleagues in other law enforcement agencies were envious of my authority and ability as an INS agent to cultivate those informants and cooperating witnesses. They all believed that immigration benefits and visas were far more persuasive than the money that they would provide such cooperators.

It is long past time that all cities become sanctuaries for law-abiding Americans and all legal visitors to our nation and comply with our most fundamental laws, which were enacted simply to protect our nation, innocent lives, and the jobs of Americans. Effective and fair enforcement of our immigration laws would make it happen. ■