



October 19, 2015

Dear Senator:

Asian Americans Advancing Justice (Advancing Justice) is a national partnership of five non-profit, non-partisan organizations that work to advance the human and civil rights of Asian Americans and Pacific Islanders (AAPIs) through advocacy, public policy, public education, and litigation. We are based in Washington D.C., Atlanta, Chicago, Los Angeles, and San Francisco.

We write to urge you to vote NO on the Sanctuary Policies and Protect Americans Act (S. 2146). This bill threatens community trust policies and undermines public safety for all community members, including the more than 17 million Asian Americans in the United States—the majority of who are immigrants or the children of immigrants.

S. 2146 would strip federal funding for public safety and community housing from localities that exercise discretion in cooperating with federal immigration authorities, thereby punishing local law enforcement for attempting to balance public safety considerations to ensure the wellbeing of the entire community. The bill also would turn any local law enforcement officers who enforce federal immigration detainers into “agents” of the Department of Homeland Security, and limit the liability of those local officers (as well as states and localities) for arresting or holding someone on the basis of a federal detainer. Lastly, S. 2146 would further criminalize immigrants by adding mandatory minimum sentences for certain reentry offenses.

This bill is not only a poor attempt at serving as a stand-in for comprehensive immigration reform, but also is riddled with factually inaccurate assumptions. The emergence of “sanctuary cities” dates back to the 1980s, and was in response to the federal government’s denial of asylum claims from refugees fleeing war-torn countries in Central America. Because these policies have taken different forms, it is difficult to estimate how many sanctuary jurisdictions exist nationwide. In recent years, since the implementation of Immigration and Custom Enforcement’s (“ICE”) Secure Communities program, there have been over 360 jurisdictions—many of them counties with conservative political leaders—that have adopted “limited detainer” policies. These policies came about after record numbers of deportations that separated families, lacked due process, and were plagued by serious constitutional concerns. This bill places the onus on local jurisdictions to carry out civil immigration enforcement without addressing the serious concerns that led to hundreds of jurisdictions, including politically conservative municipalities and counties, from limiting cooperation with federal immigration authorities in the first place.

Moreover, mandating cooperation between local law enforcement and federal immigration officials will reduce confidence among immigrant communities in local law enforcement, thereby harming public safety overall. Such entanglement will discourage victims and witnesses of crime from coming forward to assist local law enforcement for fear of being questioned about their status or, even worse, being turned over to federal immigration authorities. In one instance in San Francisco, an immigrant woman in an abusive relationship summoned up the courage to call 911 after her partner had physically abused her. When the police arrived, they arrested both

the woman and her abuser, and the woman was turned over to ICE due to her immigration status. She remained in immigration custody for nearly 9 months, and ICE even transported her to a detention facility near the border to prepare for her deportation. Fortunately, due to intense community pressure, the woman finally was released and reunited with her U.S. citizen children. In another instance in San Francisco, an immigrant woman was out with her child and they witnessed a brutal beating of a man, who was wounded and lay bleeding on the concrete. The woman was too afraid to call the police and report the attack because she believed the police would question her about her immigration status. Sadly, scenarios like these are all too common, and requiring more entanglement between local law enforcement and immigration authorities will lead to a decrease in public safety for all, as immigrant community members will refuse to work with local law enforcement for fear of being deported.

In addition, community members who may have convictions and have long since rehabilitated will also be at risk of double punishment and separation from their families. There have been many examples of individuals with prior criminal convictions who have turned their lives around but face mandatory deportation once they are placed in the immigration detention system.

There also are significant constitutional concerns about requiring local law enforcement to make status inquiries and/or detain individuals in the absence of judicial warrants. In recent years, a number of federal courts have held that immigration detainer forms violate Fourth Amendment protections against unlawful seizure, as the forms lack probable cause. The warrantless detention provisions in this bill would likely face similar legal challenges.

Finally, adding mandatory minimum sentences for some reentry offenses is a reversal to the current criminal justice reform movement that aims to address the nationwide crisis of mass incarceration. Mandatory minimums also tie the hands of judges, who are in a better position to determine appropriate sentences by taking into account individual circumstances. Additionally, the mandatory minimum in this bill would waste hundreds of millions of taxpayer dollars, as reentry is the most common charge for immigrants in the federal prison system.

S. 2146 is a knee-jerk reaction to recent tragedies and attempts to scapegoat and criminalize entire immigrant communities. Advancing Justice urges you to reject this bill as shortsighted and deeply misguided.

Sincerely,
Asian Americans Advancing Justice