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FACT SHEET

H.R. 3003, No Sanctuary for Criminals Act

H.R. 3003 is an anti-immigrant, enforcement-only proposal that represents another step in Trump's Mass Deportation plan. This bill (1) requires State and local involvement with Federal immigration enforcement; (2) expands DHS's authority to issue detainers in violation of the Fourth Amendment; (3) strips certain critical funds from jurisdictions that choose not to comply; (4) creates a private right of action against such jurisdictions; and (5) expressly authorizes indefinite detention for persons in immigration proceedings. Taken together, these provisions hurt victims and witnesses of crimes, undermine law enforcement's ability to keep our communities safe, and violate the U.S. constitution.

WHAT THE BILL DOES

Requires State and Local Cooperation with Federal Immigration Enforcement. The bill would effectively coerce States and localities to cooperate with immigration enforcement.

1. **No Community Trust Policies.** It prohibits policies designed to engender trust in law enforcement, including by preventing officials from: (a) asking about immigration status; (b) notifying DHS about encountered individuals; or (c) complying with DHS requests for custody information.
2. **Ban on Certain Federal Funds.** It bans certain Federal funds from jurisdictions that fail to comply with immigration enforcement. Affected funds include: COPS funding; Byrne Justice Assistance Grant (JAG) funding; SCAAP funding; and other DOJ or DHS grants that are substantially related to law enforcement.
3. **Ban on Inmate Transfers.** It authorizes DHS to decline transferring individuals to any jurisdiction that fails to comply with immigration enforcement, even if the jurisdiction has issued a writ or warrant for purposes of criminal prosecution.

Expands DHS Detainer Authority. The bill would codify and expand DHS's authority to issue detainers for the purpose of custody transfers from State and local law enforcement.

1. **Loosens Probable Cause Standard.** It expands upon current DHS detainer practice by broadening the ways in which DHS can determine it has probable cause to issue a detainer.
2. **Increases Length of Custody.** It significantly expands the period of time that an individual may be held by law enforcement pursuant to an immigration detainer, from 48 to 96 hours.
3. **Immunizes Jurisdictions.** It generally immunizes any State, locality, or contractor acting in compliance with a DHS detainer. Any suit would have to be brought against the Federal Government.
4. **Private Right of Action.** It provides a private cause of action against a State or locality if the subject of a detainer is released for any reason and then commits any felony against an individual.

Expands Detention Authority. The bill expands the authority to detain during removal proceedings:

1. **Authorizing Indefinite Detention and Expanding Mandatory Detention.** It authorizes DHS to detain individuals in removal proceedings “without time limitation,” and it expands the categories of individuals who would be subject to such detention on a mandatory basis (e.g., undocumented immigrants who have been arrested for or charged with crimes).
2. **Limiting Administrative Review.** It restricts the ability of certain detained individuals to have a neutral immigration judge review a DHS detention decision.
3. **Restricting Release on Bond.** It significantly heightens the standard for release on bond for those individuals who are not subject to mandatory detention.

H.R. 3003 Significantly Expands State and Local Involvement in Immigration Enforcement. The bill strips jurisdictions of the ability to enact common-sense trust policies that disentangle local law enforcement from federal immigration enforcement. It prohibits them from declining detainer requests even when compliance would put them in violation of binding court orders. And it likely violates the Tenth Amendment by “commandeering” states to comply with detainer requests that drain their resources.

H.R. 3003 Makes Communities Less Safe. The bill forces jurisdictions to choose between critical Federal law enforcement funding and common sense community trust policies designed to promote cooperation with law enforcement and ensure that victims of crime will seek protection and report crimes. Under H.R. 3003, localities that fail to comply with federal immigration efforts are penalized with the denial of federal funding for critical law enforcement, national security, drug treatment, and crime victim initiatives, including the State Criminal Alien Assistance Program (SCAAP), Community Oriented Policing Services (COPS), and Byrne JAG programs that provide hundreds of millions of dollars to localities nationwide.

H.R. 3003’s Expansion of Detention Authority Raises Fourth Amendment Concerns. The bill’s changes to DHS’s detainer authority exacerbate the current Fourth Amendment concerns associated with immigration detainees. The bill does not require any particularized finding about the individual that may form the basis of a probable cause determination and fails to provide for a prompt judicial determination of probable cause, either in the form of a warrant or a prompt hearing post-arrest. The Supreme Court has stated that the Fourth Amendment requires a judicial finding of probable cause, usually within 48 hours of arrest. But the bill allows law enforcement to hold a person for up to 96 hours before DHS even takes custody, and there is no mention of when the person will see an immigration judge. Finally, not only does the bill invite law enforcement to violate the Fourth Amendment, it provides them immunity for doing so.

H.R. 3003’s Authorization of Indefinite Detention is Constitutionally Suspect. The authorization of indefinite detention, as well as the expansion of such detention on a mandatory basis, also likely violates the Constitution. The bill further compounds these constitutional concerns by eliminating the ability for a detained individual to obtain an independent, individualized review of his or her bond determination by a neutral decision maker. Nowhere else in the United States do individuals endure imprisonment without any opportunity to ask a neutral decision-maker to weigh the individual factors in their cases to determine the appropriateness of detention. These provisions make it substantially more difficult for individuals to obtain release on bond during the pendency of their removal proceedings, thus increasing detention costs and needlessly separating families while they seek to litigate their immigration cases.

H.R. 3004 is Part of a Larger Mass Deportation Plan: This bill contains portions of the mass deportation bill known as the “Davis Oliver Act” (H.R. 2431), which has been cited as a priority for the Trump Administration. Anti-immigrant groups such as Numbers USA and the Center for Immigration Studies support the Davis Oliver Act because it would lead to mass incarceration and deportation of millions of immigrants.

H.R. 3003 Makes Communities Less Safe

H.R. 3003 forces communities into a lose/lose dilemma—either abandon “community trust” policies essential to public safety or forego critical law enforcement funding. Both choices leave communities and their residents less safe.

- **This bill requires local law enforcement officials to abandon community trust practices essential to local safety.**
 - States and localities have long adopted “community trust” policies designed to increase trust in local law enforcement and decrease crime by disassociating local policing from federal immigration enforcement.
 - Community trust policies are proven to work. Communities grow safer when immigrant victims or witnesses of crimes can report those crimes to the local authorities without fear of immigration consequences. That’s why over 600 jurisdictions across the country use some form of this model.¹
 - Proponents include the police chiefs of the major cities in Texas: Dallas, Houston, Austin, Arlington, Fort Worth, and San Antonio. They warned that SB4, a Texas bill that similarly compels localities to abandon community trust policies, would render their cities “more dangerous,” not less.²
 - Studies have shown that jurisdictions with community trust policies are significantly safer than other jurisdictions.³
 - When individuals feel unable to report crimes, those criminals are empowered to commit other offenses against immigrants and U.S. citizens alike.
 - This bill thereby makes communities less safe by compelling jurisdictions to jettison safety-enhancing practices in favor of policies that will deter crime reporting and embolden criminals.
- **Trump’s policies are already damaging trust and reducing crime reporting, a preview of the much broader erosion of safety that H.R. 3004 would produce.**
 - The Trump Administration has dramatically enhanced immigration enforcement against undocumented, but otherwise law-abiding, immigrants.
 - Due to the fear provoked by these changes, immigrant communities have seen stark reductions in the level of crime reporting. For example:
 - In Los Angeles, reports in Latino communities of sexual assault through March 2017 fell by approximately 25% relative to the same period in the previous year.⁴
 - Likewise, in Houston, reports among Latinos of sexual assault through March 2017 plunged by almost 43% compared to the same period in 2016.⁵

¹ *US Attorney General Threatens to Cut Funds from Sanctuary Jurisdictions*, VOA, (Mar. 27, 2017); available at:

<https://www.voanews.com/a/top-us-law-enforcement-official-threatens-to-cut-funds-from-sanctuary-jurisdictions/3784129.html>.

² David Hughes and Art Acevedo, *Texas police chiefs: Do not burden local officers with federal immigration enforcement*, *Dallas News* (Apr. 28, 2017); available at: <https://www.dallasnews.com/opinion/commentary/2017/04/28/texas-police-chiefs-burden-local-officers-federal-immigration-enforcement>.

³ *RELEASE: In Sanctuary Counties, Crime is Significantly Lower and Economies are Stronger Than in Comparable Nonsanctuary Ones*, Says New CAP-NILC Report, Center for American Progress, (Jan. 26, 2017); available at: <https://www.americanprogress.org/press/release/2017/01/26/297292/release-in-sanctuary-counties-crime-is-significantly-lower-and-economies-are-stronger-than-in-comparable-nonsanctuary-ones-says-new-cap-nilc-report/>.

⁴ *Latinos are reporting fewer sexual assaults amid a climate of fear in immigrant communities* (Mr 2, 2017); available at: <http://www.latimes.com/local/lanow/la-me-in-immigrant-crime-reporting-drops-20170321-story.html>.

- Crime reporting in other communities did not experience such decreases.
- **This bill would strip 600 jurisdictions of essential law enforcement funding.**
 - This bill would eliminate a range of critical law enforcement funding currently relied upon by local communities, including:
 - DOJ Justice Assistance Grant (JAG) funding, used for general law enforcement purposes;
 - Community Oriented Policing Services (COPS) funding, used for law enforcement programs related to community policing;
 - State Criminal Alien Assistance Program (SCAAP), which reimburses states and localities for costs associated with incarcerating certain undocumented individuals;
 - Taken together, the loss of this funding would undermine communities' capacity to prevent crime, train law enforcement personnel, hire community policing officials, and jail criminals.
- **The National Fraternal Order of Police, representing over 330,000 police officers nationwide, opposes this bill.**
 - These police officers criticized the loss of law enforcement funding that would result from this bill and declared H.R. 3004 “punitive” towards local jurisdictions.⁶

⁵ *New Immigration Crackdowns Creating 'Chilling Effect' On Crime Reporting*, NPR (May 25, 2017); available at: <http://www.npr.org/2017/05/25/529513771/new-immigration-crackdowns-creating-chilling-effect-on-crime-reporting>.

⁶ National Fraternal Order of Police, *Letter re: H.R. 3004*, (Jun. 27, 2017) (on file with Committee staff).