Professor Gulasekaram began by reminding participants that there is no formal definition of a sanctuary city. Rather it is a self-designation that may be important to an individual community. What is important are the actual policies put in place. Portland uses the term “City of Inclusiveness”; San Francisco uses the term “City of Refuge”; some cities have polices but do not use the title “Sanctuary City”.

Timeline for immigration policy in the United States (I added some specific information for better understanding)

**1882 Chinese Exclusion Act** – provided an absolute 10 year moratorium on Chinese labor immigration

The Immigration Act of 1924 (Johnson-Reed Act) limited the number of immigrants allowed entry into the United States through a national origins quota. The quota provided immigration visas to two percent of the total number of people of each nationality in the United States as of the 1890 national census. It completely excluded immigrants from Asia.

**1965 – Immigration and Nationality (Hart-Celler Act)** – changed the way quotas were allocated by ending the Nation Origins Formula that had been in place since the Emergency Quota Act of 1921. Previous immigration was based on national origin, race, and ancestry. This was replaced with a preference system focusing on skills and family relationships with citizens or residents of the US. There was a restriction on 170,000 per year (with some exceptions) This change in policy was a result of the Civil Rights Movement.

**1979 LA Police Department Special Order #40** – Los Angeles Police Department Officers shall not initiate police action with the objective of discovering the alien status of a person. Officers shall not arrest nor book persons for violation of title 8, section 1325 of the United States Immigration code (Illegal Entry).

**1980’s saw an increase in immigration from Central America and Caribbean nations due to civil unrest there.**

**1986 - Immigration Reform and Control Act (Simpson–Mazzoli Act)**

- required employers to attest to their employees' immigration status;
- made it illegal to hire or recruit illegal immigrants knowingly;
• legalized certain seasonal agricultural illegal immigrants, and;
• legalized illegal immigrants who entered the United States before January 1, 1982 and had resided there continuously with the penalty of a fine, back taxes due, and admission of guilt; candidates were required to prove that they were not guilty of crimes, that they were in the country before January 1, 1982, and that they possessed minimal knowledge about U.S. history, government, and the English language.

Many churches began to offer physical sanctuary to immigrants. The federal government responded saying this violated "anti-harboring" laws, 8 U.S. Code § 1324

1984 – San Francisco Mayor’s Office through administrative policy declared there would be no inquiry regarding immigration status

1989 – San Francisco became a City and County of Refuge SEC. 12H.1. CITY AND COUNTY OF REFUGE. It is hereby affirmed that the City and County of San Francisco is a City and County of Refuge (Added by Ord. 375-89, App. 10/24/89)

1996 – Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 was designed to improve border control by imposing criminal penalties for racketeering, alien smuggling and the use or creation of fraudulent immigration-related documents and increasing interior enforcement by agencies charged with monitoring visa applications and visa abusers. Employment eligibility verification guidelines are also incorporated into the Act, including sanctions for employers who fail to comply with the regulations and restrictions on unfair immigration-related employment practices, as well as provisions governing the dispersing of government aid to aliens.

8 USC 1373 codified as part of IIRIRA in 1996

(a) IN GENERAL
Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

(b) ADDITIONAL AUTHORITY OF GOVERNMENT ENTITIES Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

(1) Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.
(2) Maintaining such information.
(3) Exchanging such information with any other Federal, State, or local government entity.

(c) OBLIGATION TO RESPOND TO INQUIRIES
The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or
immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.

There are questions regarding the constitutionality of 8 USC 1373. The 10th Amendment states that “powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people”.

287(g) was also included in IIRIRA. This authorizes the Director of ICE to enter into agreements with state and local law enforcement agencies, permitting designated officers to perform immigration law enforcement functions, provided that the local law enforcement officers receive appropriate training and function under the supervision of ICE officers.

After 9/11 National Security became the focus of immigration reform.

2002 - Enhanced Border Security and Visa Entry Reform Act of 2002. The main provisions include

- A requirement that the Immigration and Naturalization Service (INS) make interoperable all its internal databases, so that all information about a particular alien may be accessed with a single search;

- A requirement that federal law enforcement and intelligence agencies share data on aliens with the INS and the State Department; and

- A requirement that all travel and entry documents, including visas, issued to aliens by the United States be machine-readable and tamper-resistant and include a standard biometric identifier.

2008 – 2014 Secure Communities relies on partnership among federal, state, and local law enforcement agencies using an integrated data base. President Obama eliminated the program after immigrants and civil rights groups as well as local police officials said Secure Communities made policing more difficult because immigrants fearful or resentful of the cooperation with federal immigration authorities would not come forward to report crimes or assist with information or witness accounts that might be helpful in investigations.

Priority Enforcement Program replaced the Secure Communities Program in November 2014. This program enables the Department of Homeland Security to work with state and local law enforcement to take custody of individuals who pose a danger to public safety before those individuals are released into the community.

President Trump reinstated the Secure Communities program in February 2017 through Executive Order.
On January 25, 2017 an Executive Order was signed by President Trump which will "strip federal grant money from the sanctuary states and cities that harbor illegal immigrants," according to White House press secretary Sean Spicer.

It is doubtful that the President has the legal authority to withhold funds from Sanctuary Cities. However, there is currently a bill in committee, H.R. 83: Mobilizing Against Sanctuary Cities Act which would withhold federal funding to any Sanctuary City.

The federal funds which can potentially be withheld are:

- Health care funds
- Education funding
- Community Development Block Grants

The Department of Justice says they have the authority to withhold law enforcement funds to Sanctuary Cities.

The County of Santa Clara has filed suit contending that Trump’s threat to revoke federal funding is unconstitutional because it infringes on local government control and calls for a unilateral change to the terms of long-standing funding agreements.

“Congress cannot impose a condition that is so coercive that it amounts to ‘a gun to the head,’ leaving the state or local government with no real choice but to buckle to a federal demand,” the lawsuit reads.

The City of San Francisco filed a similar suit alleging the executive order is unconstitutional and exceeds the President's power. It claims the city already complies with applicable federal law and seeks to prevent the government from cutting off funding.

Past court rulings have weighed in on the government stripping funds from states and cities to enforce policies and have found the measures must relate to the policy in question, must promote the general welfare and cannot be coercive. . Unless conditions on grants are unambiguously stated in the text of the law, state and local governments are not required to meet the condition in question. Few federal grants are conditioned on cooperation with federal deportation efforts.

**SB 54 De Leon California Values Act.** This bill would, among other things, prohibit state and local law enforcement agencies and school police and security departments from using resources to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes. Bill is currently in committee.

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**Recommended resources:**

League of California Cities

National Immigration Law Center (NILC)