

The ACLU (American Civil Liberties Union) has created an organization called People Power. Their first program is called Freedom Cities and is focused on defending our friends, families, and neighbors from an overly aggressive deportation program. Part of that program involves 9 "model" policies and rules. The 6 'model' policies/rules are below. (#1, #2 and #9 have been removed from the Yachats list because we have no police or jail.)

**MODEL RESOLUTION**

Whereas the City of Yachats has long embraced and welcomed individuals of diverse racial, ethnic, religious, and national backgrounds, including a large immigrant population;

Whereas the City of Yachats welcomes, honors, and respects the contributions of all its residents, regardless of their immigration status;

Whereas immigrants and their families in the City of Yachats contribute to the economic and social fabric of The City of Yachats by establishing and patronizing businesses, participating in the arts and culture, and achieving significant educational accomplishments;

Whereas fostering a relationship of trust, respect, and open communication between City of Yachats officials and residents is essential to The City of Yachats's mission of delivering efficient public services in partnership with our community, which ensures public safety, a prosperous economic environment, opportunities for our youth, and a high quality of life for residents;

Whereas the City of Yachats seeks to foster trust between City of Yachats officials and residents to protect limited local resources, to encourage cooperation between residents and City of Yachats officials and to ensure public safety and due process for all;

In recognition of the City of Yachats's continued commitment to the equal, respectful, and dignified treatment of all people, the City of Yachats wishes to enact specific policies and rules as follows:

#1) Defined Access/Interview Rule: Unless acting pursuant to a court order or a legitimate law enforcement purpose that is unrelated to the enforcement of a civil immigration law, no City of Yachats official shall permit ICE or CBP agents access to City of Yachats facilities for investigative interviews or other investigative purposes.

#2) Clear Identification Rule: To the extent ICE or CBP has been granted access to City of Yachats facilities, individuals with whom ICE or CBP engages will be notified that they are speaking with ICE or CBP, and ICE or CBP agents shall be required to wear duty jackets and make their badges visible at all times while in City of Yachats facilities.

#3) Don't Ask Rule: City of Yachats officials shall not inquire into the immigration or citizenship status of an individual, except where the inquiry relates to a legitimate law enforcement purpose that is unrelated to the enforcement of a civil immigration law, or where required by state or federal law to verify eligibility for a benefit, service, or license conditioned on verification of status.

#4) Privacy Protection Rule: No City of Yachats official shall voluntarily release personally identifiable data or information to ICE or CBP regarding home address, or information that may be used to ascertain an individual's religion, ethnicity or race, unless for a law enforcement purpose unrelated to the enforcement of a civil immigration law.

#5) Discriminatory Surveillance Prohibition Rule: No City of Yachats agency or official shall authorize or engage in the human or technological surveillance of a person or group based solely or primarily upon a person or group's actual or perceived religion, ethnicity, race, or immigration status.

#6) Redress Rule: Any person who alleges a violation of this policy may file a written complaint for investigation with [oversight entity TBD].

1373 Rule: Under 8 U.S.C. § 1373 and 8 U.S.C. § 1644, federal law prohibits City of Yachats officials from imposing limits on maintaining, exchanging, sending, or receiving information regarding citizenship and immigration status with any Federal, State, or local government entity. Nothing in City of Yachats policies is intended to violate 8 U.S.C. § 1373 and 8 U.S.C. § 1644.

Additional information on the purposes of the Rules:

Rule #1: Is meant to stop immigration agents from interfering in local public safety. When immigration agents can come to a local facility and do whatever they want, it blurs the line between local government and federal immigration agents, and local communities lose trust in the local government, which harms public safety.

Rule #2: Is meant to ensure ICE officers clearly identify themselves. Sometimes people think they are talking to someone neutral – instead, they find out they are talking to an immigration agent. Everyone has the right to remain silent or seek an attorney. Local law enforcement agencies should not assist immigration agents in deceiving immigrants and deprive them of their ability to effectively use their rights.

Rule #3 and Rule #4: Are meant to safeguard privacy. People deserve to have their private information protected to the maximum extent permitted by law. The rule also protects against targeting people in discriminatory ways - for example, because they are Muslim or Latino.

Rule #5: Is meant to prevent the discriminatory targeting of groups, including using false or weak justifications for doing so. For instance, it would prevent local involvement in the surveillance of a worksite for immigration reasons, solely because people of Latino background work there in large numbers

Rule #6: Is meant to ensure that the City of Yachats has a complaint and redress process for people who have been harmed because of failures to comply with these protections. It allows your city to make clear that rules are not just on paper, and something will be done if they are broken.

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# FAQ ON 8 USC § 1373 AND FEDERAL FUNDING THREATS TO “SANCTUARY CITIES”

*Explanation of what 8 USC § 1373 actually requires*

President Trump has threatened to prohibit “sanctuary cities” from receiving federal funding. In an Executive Order on January 25, 2017, the President directed that jurisdictions that wilfully refuse to comply with 8 U.S.C. § 1373, a federal statute, shall not be eligible to receive federal grants.<sup>1</sup> 8 USC § 1373 is already federal law and already binding on all states and local governments.

So what does 8 USC § 1373 actually require, and how does it affect federal grant distribution?

## 1. What is 8 USC § 1373?

8 USC § 1373(a) is a federal statute that prohibits local and state governments and agencies from enacting laws or policies that limit communication with DHS about “information regarding the immigration or citizenship status” of individuals. The statute prohibits such policies, but does not contain any requirement for anyone to take any action. The full text of 8 USC § 1373 is attached at the end of this FAQ.

## 2. What does 8 USC § 1373 require?

- 8 USC § 1373 does not require any action from local or state agencies, officers, or governments. It does not require asking about immigration status.
- 8 USC § 1373 does not prohibit policies against asking about immigration status. It only prohibits the enactment of certain policies limiting sharing immigration status information.
- 8 USC § 1373 does not compel compliance with ICE detainers. Such a statute would be unconstitutional.<sup>2</sup>
- 8 USC § 1373 does not address policies limiting other information sharing with ICE. Nothing in the statute mentions or includes criminal case information, contact information, custody status, or release dates of individuals from custody.<sup>3</sup>
- 8 USC § 1373 does not impose any affirmative obligation to collect information. Nor does it require sharing information in any particular instance.

## 3. Do Sanctuary Policies violate 8 USC § 1373?

No, sanctuary policies are entirely consistent with federal laws.<sup>4</sup> There are many varieties of local policies that might be considered “sanctuary policies.” 8 USC § 1373 only governs restrictions on communication with DHS about individuals’ citizenship or immigration status, not other policies limiting the expenditure of state and local resources on immigration enforcement or detention. Cities and counties around the country have policies against local officials questioning individuals about their immigration status; such rules do not conflict with 8 USC § 1373 because they do not address communication with DHS. Many jurisdictions have policies against holding people on immigration detainers or notifying ICE of the date when someone will be released from custody; these policies do not conflict with 8 USC § 1373 because

<sup>1</sup> Executive Order: Enhancing Public Safety in the Interior of the United States, President Donald Trump, January 25, 2017, available at [www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united](http://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united).

<sup>2</sup> See *Galarza v. Szalczyk*, 745 F.3d 634 (3d Cir. 2014) (The federal government cannot commandeer state and local resources to enforce a federal regulatory program such as immigration, therefore ICE detainers cannot be mandatory).

<sup>3</sup> See *Steinle v. City and County of San Francisco, et. al*, No. 3:16-cv-02859 (N.D. Cal. filed Jan. 6, 2017) (“[N]o plausible reading of [the statute] encompasses the release date of an undocumented inmate.”); *Sturgeon v. Bratton*, 95 Cal.Rptr.3d 718 (Cal.App.4th 2009) (upholding Los Angeles policy against initiating any police action on the basis of suspected immigration violations).

<sup>4</sup> We are not aware of any ‘sanctuary’ policies that violate 8 USC § 1373 or other federal law.

## Appendix

### 8 U.S. Code § 1373 – Communication between government agencies and the Immigration and Naturalization Service

#### (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.



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#### About the Immigrant Legal Resource Center

The Immigrant Legal Resource Center (ILRC) works with immigrants, community organizations, legal professionals, law enforcement, and policy makers to build a democratic society that values diversity and the rights of all people. Through community education programs, legal training and technical assistance, and policy development and advocacy, the ILRC's mission is to protect and defend the fundamental rights of immigrant families and communities.

## 2015 ORS 162.247<sup>1</sup>

### Interfering with a peace officer or parole and probation officer

- (1) A person commits the crime of interfering with a peace officer or parole and probation officer if the person, knowing that another person is a peace officer or a parole and probation officer as defined in ORS 181A.355 (Definitions for ORS 181A.355 to 181A.670):
  - (a) Intentionally acts in a manner that prevents, or attempts to prevent, a peace officer or parole and probation officer from performing the lawful duties of the officer with regards to another person; or
  - (b) Refuses to obey a lawful order by the peace officer or parole and probation officer.
- (2) Interfering with a peace officer or parole and probation officer is a Class A misdemeanor.
- (3) This section does not apply in situations in which the person is engaging in:
  - (a) Activity that would constitute resisting arrest under ORS 162.315 (Resisting arrest); or
  - (b) Passive resistance. [1997 c.719 §1; 1999 c.1040 §7; 2005 c.668 §1]

Note: 162.247 (Interfering with a peace officer or parole and probation officer) was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 162 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

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<sup>1</sup> Legislative Counsel Committee, *CHAPTER 162—Offenses Against the State and Public Justice*, [https://www.oregonlegislature.gov/bills\\_laws/ors/ors162.html](https://www.oregonlegislature.gov/bills_laws/ors/ors162.html) (2015) (last accessed Jul. 16, 2016).

## 2015 ORS 162.235<sup>1</sup>

### Obstructing governmental or judicial administration



This section is amended

Effective January 1, 2017

Chapter 47 Oregon Laws 2016 (HB 4128)

Relating to notario fraud; creating new provisions; and amending ORS 131.125, 131.602, 162.235, 164.015, 164.025, 164.035, 164.075, 194.315, 194.340 and 701.098.

- (1) A person commits the crime of obstructing governmental or judicial administration if the person intentionally obstructs, impairs or hinders the administration of law or other governmental or judicial function by means of intimidation, force, physical or economic interference or obstacle.
- (2) This section shall not apply to the obstruction of unlawful governmental or judicial action or interference with the making of an arrest.
- (3) Obstructing governmental or judicial administration is a Class A misdemeanor.  
[1971 c.743 §198; 1981 c.902 §1]

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<sup>1</sup> Legislative Counsel Committee, *CHAPTER 162—Offenses Against the State and Public Justice*, [https://www.oregonlegislature.gov/bills\\_laws/ors/ors162.html](https://www.oregonlegislature.gov/bills_laws/ors/ors162.html) (2015) (last accessed Jul. 16, 2016).

## 2015 ORS 162.325<sup>1</sup>

### Hindering prosecution

- (1) A person commits the crime of hindering prosecution if, with intent to hinder the apprehension, prosecution, conviction or punishment of a person who has committed a crime punishable as a felony, or with the intent to assist a person who has committed a crime punishable as a felony in profiting or benefiting from the commission of the crime, the person:
- (a) Harbors or conceals such person; or
  - (b) Warns such person of impending discovery or apprehension; or
  - (c) Provides or aids in providing such person with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension; or
  - (d) Prevents or obstructs, by means of force, intimidation or deception, anyone from performing an act which might aid in the discovery or apprehension of such person; or
  - (e) Suppresses by any act of concealment, alteration or destruction physical evidence which might aid in the discovery or apprehension of such person; or
  - (f) Aids such person in securing or protecting the proceeds of the crime.
- (2) Hindering prosecution is a Class C felony. [1971 c.743 §207]

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<sup>1</sup> Legislative Counsel Committee, *CHAPTER 162—Offenses Against the State and Public Justice*, [https://www.oregonlegislature.gov/bills\\_laws/ors/ors162.html](https://www.oregonlegislature.gov/bills_laws/ors/ors162.html) (2015) (last accessed Jul. 16, 2016).



## DECLARATION OF SUPPORT

WHEREAS, the Yachats City Council strives to maintain a Vision Statement that our village is a place where natural resources are valued and protected; where diversity is celebrated; and where a vibrant economy and sense of community pride create and recreate a living spirit; and

WHEREAS the Yachats City Council cares not just for its citizens' basic needs, but also supports them in their efforts to excel mentally, physically, artistically and spiritually, as a community with an enduring sense of itself; therefore

NOW, THEREFORE, The Yachats City Council hereby additionally declares:

- 1) City of Yachats does not maintain any information on immigration or citizen status of any resident or other individual.
- 2) City of Yachats does not release personal data or information from utility accounts to anyone, for any reason, without court order.
- 3) City of Yachats does not authorize or engage in the human or technological surveillance of any person or group, for any reason.

DATED this 10th day of May, 2017.

CITY OF YACHATS

By: \_\_\_\_\_  
Gerald Stanley, Mayor

Affirmed:

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Joan Davies, City Manager