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FAIR is a nonprofit public interest organization working to end illegal immigration and to set levels of legal immigration that are consistent with the national interest.



February 26, 2021

The Honorable Luke Clippinger, Chairman
Maryland General Assembly House Office Building
Judiciary Committee
6 Bladen Street
Annapolis, MD 21401

Dear Chairman Clippinger and other distinguished members of the Committee:

My name is Shari Rendall and I am the Director of State and Local Engagement at the Federation for American Immigration Reform (FAIR). FAIR is a non-profit, non-partisan organization of concerned individuals who believe that our immigration laws must be reformed to serve our nation's interests.

FAIR advocates for immigration policies that reduce the harmful impact of illegal immigration on national security, public safety, the economy, jobs, education, healthcare and the environment.

Founded in 1979, FAIR has three million members and supporters nationwide including approximately 12,300 in Maryland. On behalf of our members and supporters, I am writing to express FAIR's strong opposition to House Bill (HB) 304. FAIR opposes the reckless lawlessness of sanctuary policies like those imposed by this bill.

Sanctuary policies place a greater emphasis on the welfare of illegal aliens than the well-being and safety of citizens and legal immigrants in their own communities by impeding the enforcement of federal immigration laws and blocking free communication between state and local officials and federal immigration officials.

HB 304 expresses that state and local officials should have no real involvement in immigration enforcement or detention matters. In practical terms, this bill would not only forbid local sheriffs from cooperating with federal agents in enforcing immigration laws, but more importantly, would prevent them from alerting U.S. Immigration and Customs Enforcement (ICE) if they become aware of that a suspected criminal in custody at the local jail might also be in this country illegally and thus removable by law. Instead of handing these convicted criminals over to ICE for removal, they are simply released back onto our streets, many to recommit more crimes.



After Montgomery County expanded its sanctuary policies, it experienced an illegal alien crime wave tied directly to its sanctuary policies. In just a little over a month, eight illegal aliens were charged with committing sex crimes in Montgomery County.

This is similar to what happened in California. California's sanctuary policies have led to more crimes and more innocent victims. In Orange County, California, two years after the state passed its sanctuary law, the Orange County sheriff's office was forced to release more than 1,500 aliens with ICE detainers back onto the streets. More than 400 of those aliens were rearrested with charges including rape, assault with a deadly weapon, child sex offenses, domestic violence and driving under the influence. Every single one of those crimes was preventable because none of those criminals should have still been in the U.S. State and local officials cooperate with the federal law enforcement in every other aspect, such as gun control and drug laws, and immigration enforcement should not be an exception.

Additionally, HB 304 conflicts with federal law. Specifically, Title 8 U.S.C. §1357(g)(10) states that a formal agreement with the federal government is *not* necessary for any officer or employee of a state or local agency to communicate with the Attorney General regarding the immigration status of any individual, including reporting knowledge that a particular alien is not lawfully present in the United States, or to cooperate with the Attorney General in the identification, apprehension, *detention*, or removal of aliens not lawfully present in the United States. shielding criminal aliens needlessly endangers innocent lives. There are roughly three million criminal aliens living in the United States, and nearly one million of these aliens have final orders of removal.¹ These criminals should not be able to continue to live in communities and engage in further criminal activity.

Many jurisdictions are bullied into adopting sanctuary policies by open-borders advocates who claim that honoring or complying with immigration detainers would be unconstitutional, primarily as a violation of the Fourth Amendment. Detainers are written requests issued on behalf of the U.S. Department of Homeland Security to another law enforcement agency to hold an individual based on an inquiry into their immigration status or an alleged violation of civil immigration law for up to 48 hours. Simply put, detainers constitute a reasonable request for state/local assistance in effectuating a civil arrest based on an administrative warrant, which ICE may issue, pursuant to explicit statutory authority.

Neither the U.S. Supreme Court nor the U.S. Court of Appeals for the 4th Circuit, which governs Maryland, has ever determined that honoring or complying with detainers is unconstitutional. The only federal appellate court that has ever directly ruled on the constitutionality of detainers, the Fifth

¹ The Washington Examiner, "ICE: 950,000 Illegals With 'Removal Orders', Raids Get Just A Sliver, Feb 20, 2017

Circuit in *El Cenizo v. Texas*² in 2018, held not only that detainers are constitutional, but that Texas in its 2017 anti-sanctuary law, SB 4, could constitutionally require its cities and counties to honor them.

HB 304 claims it will allow officials to comply with immigration detainer requests if they are accompanied by judicial warrants; however, this is simply not possible, since such warrants do not exist. The Immigration and Nationality Act provides authority for immigration officers to detain individuals. However, there is no provision whatsoever for judicial warrants or other court orders in that federal statute or any other. If judicial warrants were required, it would place an untenable workload upon U.S. District Court judges and magistrates who are already burdened by tremendous caseloads.

Moreover, it is no secret that Americans face serious threats from terrorist organizations. With the FBI pursuing hundreds of active extremist investigations, federal agents are stretched thin and depend heavily on intelligence provided by state and local law enforcement. By impeding cooperation with federal immigration officials, sanctuary policies create an environment where terrorists and other criminal aliens can go undetected and uninterrupted.

A recent report issued by the Departments of Justice and Homeland Security showed three out of every four individuals convicted of international terrorism-related charges in U.S. federal courts between September 11, 2001 and December 31, 2016 were foreign born.³

ICE has just 20,000 employees, only half of whom are dedicated to the apprehension and removal of illegal aliens. The cooperation of state and local law enforcement, which number about 900,000 strong, is a force multiplier vital to ferreting out those among us who wish to cause us harm. At least five of the 9/11 hijackers were illegal aliens, four of whom came into contact with state and local law enforcement several times before the attacks, in some cases just days prior to the attack.⁴ If those state and local law enforcement officers had worked with federal immigration officials, the 9/11 terrorist plot might have been thwarted.

Sanctuary policies tell individuals that despite violating federal laws, law enforcement and other government officials will ignore them. Just because the regulation of immigration is a federal issue does not mean that state and local law enforcement agencies must overlook immigration violations that harm their communities.

² No. 17-50762 (5th Cir. May 8, 2018).

³ Department of Justice Press Release, DOJ/DHS Report: Three Out of Four Individuals Convicted of International Terrorism and Terrorism-Related Offenses Were Foreign Born, January 16, 2018

⁴⁴ CNN, "Another Hijacker Was Stopped for Traffic Violation, January 9, 2002

To the contrary, the cost of illegal immigration disproportionately affects state and local governments, giving them even more incentive to cooperate with federal officials.

To ensure the safety of our communities, state and local law enforcement and governments should be encouraged—not discouraged—from cooperating with federal immigration authorities. For these reasons, FAIR opposes HB 304.

I thank you for the opportunity to provide my input. Please do not hesitate to reach out to me, if I may be of assistance. I may be reached by email at srendall@fairus.org or by phone at 202-328-7004.

Sincerely,

A handwritten signature in black ink that reads "Shari Rendall". The script is fluid and cursive, with the first letters of "Shari" and "Rendall" being capitalized and prominent.

Shari Rendall