



Jeff Landry  
Attorney General

**State of Louisiana**  
DEPARTMENT OF JUSTICE  
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October 18, 2017

The Honorable Mitchell Landrieu  
Mayor – City of New Orleans  
1300 Perdido Street, 2<sup>nd</sup> Floor  
New Orleans, LA 70112

Dear Mayor Landrieu,

On May 12, 2016 (copy enclosed), I wrote to you concerning issues with the New Orleans Police Department (NOPD) policy as it relates to sanctuary city status. In doing so, I reminded you of your responsibility to follow federal law and warned of the potential loss of federal funds as a result of failing to do so.

After placing you on notice of this problem, the Inspector General for the U.S. Department of Justice (USDOJ) issued a report echoing my concerns. Unfortunately, neither the USDOJ Inspector General nor I have been able to persuade you to abandon your illegal policy.

When I went to Congress and testified on this issue, it was again made clear that this policy was problematic by even the then Obama Administration. But your office's half-hearted and last-minute attempt at a technical change to calm concerns still failed to fully comply with the law.

Let me be clear once again: federal law requires that you not, in any way, restrict the sharing or inquiring of information regarding a person's immigration status.

Your requirement for NOPD officers to obey your own personal political objectives, rather than federal law, is illegal.

The NOPD has received millions of taxpayer dollars over the past few years. With a violent crime epidemic sweeping the city, I would encourage you to abandon your political aspirations in this regard that not only hamper public safety but also now jeopardize crucial public safety funding.

This is not about politics, but public safety. Take, for example, Lafayette Parish Sheriff Mark Garber's action after he was made aware of the issues with his policy. Sheriff Garber proactively made the necessary changes to comply with federal law and protect his jurisdiction's federal funding. As a result, Lafayette Parish has not received a final notice like the City of New Orleans.

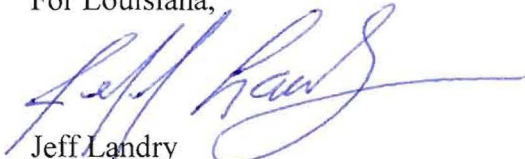
The most recent letter from our U.S. Attorney General should make it clear to you that the Trump Administration and the USDOJ will use all means necessary to uphold the rule of law, as should be the case with any Administration.

I am once again reaching out to you and offering the assistance of my office to help mitigate this issue for the citizens of New Orleans. My office stands ready and available to work with your legal counsel in drafting a policy that conforms to federal law and ensures continued financial support by the USDOJ.

I urge you to accept our assistance. The safety of citizens who live, work, and visit New Orleans is too important to ignore.

Change course, protect critical funds, and improve public safety.

For Louisiana,



Jeff Landry  
Attorney General

enc: Landry Letter to Landrieu 051216

cc: U.S. Attorney General Jeff Sessions



Jeff Landry  
Attorney General

May 12, 2016

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The Honorable Mitchell Landrieu  
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Dear Mayor Landrieu,

During my recent appearance in support of HB 1148 and HB 453 – two bills dealing with Sanctuary City policies, I had the opportunity to listen to the concerns of New Orleans city officials who testified during committee hearings. One of the major expressed concerns was the Consent Decree and its effect on New Orleans Police Department (NOPD) policy.

Several officials, in addition to several legislators, have stated the language of the Consent Decree requires the policies at issue. I am writing to assure you that this is absolutely not the case.

The pertinent part of the Consent Decree referred to by City Officials states:

As part of this plan:

- a) Officer shall not take law enforcement action on the basis of actual or perceived immigration status, including the initiation of stops or other field contacts;
- b) Officers shall not question victims of, or witnesses to, crime regarding their immigration status...

This language simply restates current federal jurisprudence. It tracks the language of *Arizona v. United States*, 132 S.Ct. 2492 (2012), which garnered national attention in 2012. Current jurisprudence prohibits state and local law enforcement from stopping and holding a person on the basis of actual or perceived immigration status. In effect, law enforcement may not stop or detain an individual for the sole purpose of determining the individual's immigration status.

Courts have repeatedly said this function – stopping individuals solely for immigration status checks – is immigration enforcement, which is a federal prerogative that may not be pursued independently by the states.

Furthermore, courts have raised serious concerns that these types of immigration status checks when by state and local law enforcement could lead to wide spread “ethnic profiling.” I agree with this concern.

Individuals should never be stopped solely on the basis of race or ethnicity and the courts have clearly dealt with those issues. Certainly, no one is advocating such a practice.

The courts, however, have also been very clear about the rights and responsibilities of state and local law enforcement once an individual has been legally stopped for violations of state and local laws.

In the Arizona case, the Supreme Court made clear that “[c]onsultation between federal and state officials is an important feature of the immigration system. In fact, Congress has encouraged the sharing of information about possible immigration violations. The federal scheme thus leaves room for a policy requiring state officials to contact ICE as a routine matter.”

Therefore, once a state or local law enforcement officer has lawfully stopped and detained an individual for a violation of state or local law, he has the right to identify that individual and, where appropriate, cooperate with federal immigration enforcement efforts. Article 215.1 of the Code of Criminal Procedure authorizes Louisiana law enforcement officers to do exactly that. This law is constitutionally sound and comports with federal jurisprudence, including that stated in *Arizona v. U.S.* and its progeny.

The policies detailed in the NOPD Operations Manual, Chapter 41.6.1, go well beyond the parameters of the Consent Decree and current jurisprudence. This policy is in direct contradiction to the federal scheme and the courts’ interpretation thereof. The NOPD policy specifically states:

3. NOPD members **shall not make inquiries into an individual’s immigration status**, except as authorized by this Chapter.
  
5. The NOPD **shall not engage in, assist, or support immigration enforcement** except as follows:
  - (a) In response to an articulate, direct threat to life or public safety; or
  - (b) When such services are required to safely execute a criminal warrant or court order issued by a federal or state judge.
  
6. Unless authorized by Paragraph 5, **members are not permitted to accept requests by ICE or other agencies to support or assist in immigration enforcement operations**, including but not limited to request to establish traffic perimeters related to immigration enforcement. In the event a member receives a request to support or assist in a civil immigration enforcement action he or she shall report the request to his or her supervisor, who shall decline the request and document the declination in an interoffice memorandum to the Superintendent through the chain of command.

These policies are inconsistent with federal jurisprudence, as well as federal and state law.

As I stated during my testimony – Title 8, Sections 1324 and 1373 of the United States Code clearly state it is unlawful for any governmental agency to prohibit or restrict its personnel from cooperating with federal immigration efforts in any way. The NOPD policy directly conflicts with these federal laws.

The City of New Orleans has received over \$2 million dollars annually in federal law enforcement grants, therefore I feel obligated to advise you the application for these grants required NOPD to certify it is in compliance with federal law – including federal immigration law.

The USDOJ is clear that falsifying such certifications may result in both criminal and civil penalties. In

addition, these vital law enforcement funds could be forfeited. This would be a terrible outcome in light of the challenges already facing the NOPD and the rate of crime in the City of New Orleans.

The purpose of this letter is to reach out to you and give you an opportunity to make the necessary changes to your policy so that the City and NOPD are in compliance with federal law.

I am deeply concerned that the policies found in Chapter 41.6.1 put the City in a very tenuous position and expose it to serious liabilities. I would welcome the opportunity to work with you in this regard.

If you would like to speak with me about these concerns, I am willing to meet at your convenience.

Sincerely,



Jeff Landry  
Attorney General