

Memorandum

November 2010

Subsidizing Sanctuaries The State Criminal Alien Assistance Program

By Jessica M. Vaughan and Russ Doubleday

The Department of Justice annually awards millions of dollars in grants to local governments to compensate for the cost of jailing illegal aliens, even when those governments have policies obstructing immigration law enforcement or encouraging illegal settlement. In 2010, the grant program, known as the State Criminal Alien Assistance Program (SCAAP), doled out a total of roughly \$400 million to about 850 cities, counties, and states.¹ Among them were 27 jurisdictions widely considered to be sanctuary jurisdictions, which together received more than \$62.6 million, or 15.6 percent of the total (see Table 1, next page). For example, the 2010 SCAAP grantees include some jurisdictions — such as San Francisco, Chicago, Santa Clara County, Calif., and Arlington, Va. — that are trying to opt-out of Secure Communities, the program that automatically flags criminal aliens for Immigration and Customs Enforcement (ICE) attention at the time they are booked into jail.²

This is a nonsensical situation. These jurisdictions, some of which are home to the largest concentrations of illegal aliens in their state, have policies in place designed to impede federal immigration law enforcement — and yet year after year they ask the federal government to reimburse them for costs associated with a problem that their own policies make worse. And the Department of Justice, the nation's chief law enforcement agency, is making cash grants to jurisdictions that deliberately inhibit a sister agency, ICE, from doing its top-priority job of finding and removing illegal alien criminals. Since the total amount of grant funding is limited, this practice of subsidizing sanctuary jurisdictions reduces the amount of money available to those jurisdictions that are helping ICE find criminal aliens. As Table 2 (next page) illustrates, five of the top 10 SCAAP grants to localities and two of the top ten grants to states went to jurisdictions that are considered sanctuaries.

There is an easy fix. Congress should restrict eligibility for SCAAP funding to those jurisdictions that actively participate in immigration law enforcement programs such as Secure Communities, the Criminal Alien Program, or the 287(g) program. These three programs enable ICE, or designated specially trained local officials, to identify and process illegal aliens who have committed local crimes, thus ensuring that at least criminal aliens are not shielded by the local sanctuary policy. Language to this effect has been proposed several times over the years, but was never enacted.³ It was most recently included in a new bill introduced by Sen. Orrin Hatch (R-Utah).⁴ Such a restriction might deter some jurisdictions from opting out of ICE programs, or at least prevent the sanctuaries from grabbing a share of scarce SCAAP funding with one hand while blocking ICE access to criminal aliens with the other.

Background. The SCAAP program was launched in 1994 as a provision of the Violent Crime Control and Law Enforcement Act (PL 103-322). The goal is to help offset one of the significant fiscal costs that illegal immigration imposes on local governments — the cost of jailing illegal aliens who commit crimes. ICE estimates that there are 300,000-450,000 removable aliens incarcerated in local jails and prisons each year.⁵ According to ICE data, roughly 10 percent of all inmates who have been screened under the new Secure Communities program were potentially removable aliens.⁶

SCAAP grants reimburse states and localities for a portion of the correctional costs associated with illegal alien criminals — specifically, correctional officers' salaries. Law enforcement agencies apply for the grants on an

Jessica M. Vaughan is Director of Policy Studies and Russ Doubleday is a research assistant at the Center for Immigration Studies.

Center for Immigration Studies

Table 1. Sanctuary Jurisdictions Receiving SCAAP Funding, FY 2010

Jurisdiction	Amount
Alaska	116,873
California	
Fresno County	816,128
Los Angeles County	14,292,913
San Diego County	2,218,643
San Francisco (county and city)	754,853
Santa Clara County	1,591,662
Sonoma County	865,420
Colorado	
Denver	769,680
District of Columbia	426,104
Hawaii	387,457
Illinois	
Cook County	3,382,266
Maine	
State Dept. of Corrections	115,616
Cumberland County (Portland)	178,057
Maryland	
Montgomery County	1,575,426
Massachusetts	
All jurisdictions	6,660,249
Minnesota	
Ramsey County (St. Paul)	176,317
Montana	26,092
New Mexico	
All jurisdictions	1,142,814
New York	
New York City	13,450,977
Oregon	
All jurisdictions	5,940,720
Texas	
El Paso County	819,712
Harris County (Houston)	2,656,448
Travis County (Austin)	915,571
Utah	
All jurisdictions	1,903,596
Virginia	
Alexandria	155,604
Arlington County	234,362
Washington	
King County	1,003,050
Total	62,576,610

Source: Department of Justice, List of FY2010 SCAAP Awards, http://www.ojp.usdoj.gov/BJA/grant/10_SCAAPAward.pdf.

Table 2. Top 10 Localities and States Receiving SCAAP Grants, 2010

	Amount
1. Los Angeles County*	\$14,292,913
2. New York City*	\$13,450,977
3. Orange County, Calif.	\$5,287,229
4. Cook County, Ill.*	\$3,382,266
5. Maricopa County, Ariz.	\$2,819,911
6. Harris County, Texas*	\$2,656,448
7. San Diego County*	\$2,218,643
8. Suffolk County, N.Y.	\$2,176,899
9. Clark County, Nev.	\$2,127,110
10. Nassau County, N.Y.	\$1,971,434
1. California	\$88,106,548
2. New York	\$17,927,031
3. Texas	\$16,049,239
4. Florida	\$13,842,030
5. Arizona	\$9,775,269
6. Illinois	\$5,357,246
7. New Jersey	\$4,990,601
8. Oregon*	\$4,939,427
9. North Carolina	\$4,515,838
10. Massachusetts*	\$4,257,629

Source: Department of Justice, Bureau of Justice Assistance.

* Denotes sanctuary jurisdiction.

annual basis, providing lists of illegal aliens who were convicted of a felony or two misdemeanors and who were incarcerated for at least four consecutive days. Reimbursement is provided according to a formula that calculates the number of illegal aliens reported (and verified by immigration records), the duration of their incarceration, and the cost of incarceration and then divides the funding proportionately among all those jurisdictions that apply.

Congress has authorized funding for the SCAAP program through FY 2011, which ends September 30, 2011.⁷ The Obama Administration has proposed a budget of \$330 million for the program in 2011, a decrease of about \$70 million from the previous year. During its tenure, the Bush Administration sought to end SCAAP, but Congress restored it to the budget every year.

Costs vary by jurisdiction, but it is generally agreed that the grants reimburse only a fraction of the actual costs of incarcerating illegal alien criminals. The number of applicants has been growing each year, even as the appropriations have remained level. Senator Diane Feinstein of California, the state that receives the largest share of SCAAP funding (and has the most sanctuary

jurisdictions), has introduced a reauthorization bill to provide \$950 million per year through 2015.⁸

List of Sanctuary Jurisdictions. The cities, counties, and states listed in Table 1 were identified in a variety of reliable sources, including reports from the Congressional Research Service, the National Immigration Law Center,⁹ news media accounts, and the authors' review of jurisdictions' policies. There are many other cities that have sanctuary, or "don't ask, don't tell" policies, such as Hartford, Conn., Santa Cruz, Calif., and Cambridge, Mass., that are located within a larger county or state correctional jurisdiction that receives SCAAP funds, but are not bound by those policies. Some sanctuary cities, like Baltimore, Md., do not receive SCAAP funding at all, and are not listed. Grantee counties in which a sanctuary city (or cities) comprises 40 percent or more of the county population are included in Table 1. Some states have policies that restrict only state law enforcement officers (such as state troopers) from involvement in immigration law enforcement; others seek to restrict all law enforcement officers in the state from working with ICE, and the grant totals in the table reflect this distinction.

End Notes

¹ <http://www.ojp.usdoj.gov/BJA/grant/scaap.html>.

² Jessica Vaughan, "But We Like Our Criminals, Or, It Depends on What the Meaning of Patchwork Is," <http://www.cis.org/vaughan/secure-communities-opt-out>.

³ See Yule Kim and Michael John Garcia, "*Sanctuary Cities: Legal Issues*, Congressional Research Service Report RS22773, January 9, 2008, http://assets.opencrs.com/rpts/RS22773_20080109.pdf.

⁴ <http://www.cis.org/articles/2010/Strengthening-our-Commitment-to-Legal%20Immigration-and%20Americas-Security-Act.pdf>.

⁵ Steven A. Camarota and Jessica M. Vaughan, "Immigration and Crime: Assessing a Conflicted Issue," Center for Immigration Studies, November 2009, Table 4, <http://www.cis.org/ImmigrantCrime>.

⁶ Jessica Vaughan, "ICE Program Finds 11 percent of Inmates Screened Are Removable," <http://cis.org/vaughan/secure-communities-stats>.

⁷ Karma Ester, *Immigration: Frequently Asked Questions on the State Criminal Alien Assistance Program (SCAAP)*, Congressional Research Service Report RL33431, January 27, 2007, <http://www.ilw.com/immigrationdaily/news/2007/0906-crs.pdf>.

⁸ <http://www.govtrack.us/congress/billtext.xpd?bill=s111-3376>.

⁹ "Laws, Regulations, and Policies Instituted Across the U.S. Limiting Enforcement of Immigration Laws by State and Local Authorities," National Immigration Law Center, December, 2008, <http://www.nilc.org/immlawpolicy/LocalLaw/locallaw-limitingtbl-2008-12-03.pdf>.