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## TRUMP'S 'SANCTUARY CITY' CRACKDOWN FACES RESISTANCE IN UNEXPECTED PLACES

*The case of a U.S. citizen mistaken for an illegal immigrant reverberates as Trump presses his immigration agenda*

By Laura Meckler  
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ALLENTOWN, Pa. – One of the chief strategies in [President Donald Trump's battle against illegal immigration](#) is being undercut by an unlikely figure: a New Jersey native named Ernesto Galarza.

In 2008, Mr. Galarza was doing construction work in this eastern Pennsylvania city when his boss allegedly sold drugs to an undercover police detective. Mr. Galarza was arrested along with the boss, and booked into the Lehigh County jail.

Mr. Galarza posted bond, but wasn't released because a federal immigration agent had asked the jail to hold him. He sat behind bars three extra days before anyone realized he was a U.S. citizen.

The American Civil Liberties Union later won \$95,000 from Lehigh County for violating Mr. Galarza's constitutional rights, laying the groundwork for today's high-profile battle between President Trump and what are often called "sanctuary cities."

The Galarza case, and two similar ones that followed, signaled that counties will be held accountable in court if they wrongly imprison someone, and that acting at the request of the Immigration and Customs Enforcement agency isn't a viable legal defense.

Many cities and counties nationwide, including Lehigh, no longer hold people just because ICE asks. So while [the president and his aides are at war with liberal enclaves like San Francisco and Chicago](#) that declare themselves sanctuaries, they also are on a collision course with places like Lehigh County, a middle-class region where Republicans control the county commission.

This spring, the Trump administration published a list of nearly 140 cities and counties it believed were refusing to honor "detainer" requests; 41 percent of them voted for Mr. Trump in 2016. On a separate list of noncompliant jurisdictions compiled by the Immigration Legal Resource Center, a pro-immigration advocacy group, 62 percent of counties listed favored Mr. Trump.

The fight over sanctuary policies is playing out in courtrooms, Congress, statehouses and city councils. At least 36 states are considering legislation regarding such policies, according to the National Conference of State Legislatures.

In recent months, the debates have unfolded in Nashville, Tenn., Howard County, Md., Poughkeepsie, N.Y., Libertyville, Ill., and other municipalities.

A bill in California's legislature would make the entire state a sanctuary, barring ICE officers from local jails unless they have a warrant. Texas, meantime, enacted legislation that compels counties to cooperate with ICE. The Texas debate was so heated that lawmakers broke into a brawl on the statehouse floor; the law is being challenged in court.

In Washington, the House approved legislation last month that would deny federal grant funding for jurisdictions that don't cooperate with ICE and offer legal protections for jails that do. And on Thursday, the Justice Department threatened to pull grant money from four cities, asserting its own authority.

Few people had ever heard of the issue back in 2008, when Mr. Galarza was arrested.

Born in 1974 in Perth Amboy, N.J., he spent part of his childhood in Puerto Rico, where his family is from. At 21, he moved to Allentown, a city of about 120,000 people some 60 miles north of Philadelphia.

Allentown was made famous by the Billy Joel song chronicling the breakdown of the postwar American economic compact, but today it is home to a gentrifying downtown and a growing Latino population, which topped 42 percent in 2010.

On Thursday Nov. 20, 2008, Mr. Galarza was on a job, pulling up worn floorboards from a house, while his boss allegedly sold 14 grams of cocaine to an undercover Allentown police detective. The detective concluded Mr. Galarza was acting as a lookout and arrested him too.

After posting bail, Mr. Galarza was on his way out of the county jail when an officer stopped him.

"I was about to go out the main door, and the main door was getting open and then it started closing," he said in an interview. "I'm like what's going, what's going on? They turned me back around."

Mr. Galarza had told the officer he was born in New Jersey but she didn't believe it and reported him to ICE, according to court documents.

An ICE officer then filed a "detainer" instructing the jail to hold Mr. Galarza. He spent the weekend in the jail. On Monday, he was peppered with questions by ICE officers and finally released that night. By then, he had lost a part-time job and wages from two other jobs, court documents show. Five months later, [he was acquitted of the drug charge](#).

More than a year later, the legal director of the ACLU in Pennsylvania, Witold Walczak, was passing through Allentown to give a speech and had lunch with a local attorney he knew.

Mr. Walczak asked the lawyer, David Viada, if he knew of any American citizens who had been wrongly held on an ICE detainer. Mr. Viada had represented Mr. Galarza in his drug trial and made the introduction.

For the ACLU, Mr. Galarza was an ideal plaintiff. The group wanted to challenge the Obama administration's stepped-up use of detainees. "We had come up with a legal framework, and we needed a plaintiff," said Mr. Walczak.

In November 2010, the ACLU filed a federal lawsuit on Mr. Galarza's behalf against the Allentown detective, the ICE agents, the city of Allentown and Lehigh County. It alleged that

Mr. Galarza's constitutional rights were violated and noted that no probable cause to hold him had been established.

"This case is quite straightforward," attorney Jonathan H. Feinberg argued in court on Mr. Galarza's behalf. "Ernesto Galarza is a United States citizen. As a result of the actions of these defendants, he was held on an immigration detainer. That is wrong."

All four defendants moved to dismiss the case. The officers and the city lost and each settled out of court.

The judge let the county off the hook, but Mr. Galarza appealed to the Third U.S. Circuit Court of Appeals. Lehigh County, which operates the jail, defended itself by saying it was simply following orders from a federal agency.

That argument was undermined by statements from ICE that detainers were "requests" and compliance couldn't be compelled.

In 2014, the appellate court ruled, 2-1, that the federal government had no right to require agencies to comply with detainers, under Supreme Court precedent preventing Washington from "commandeering" state and local agencies for federal purposes.

Lehigh County settled the case for \$95,000 and by agreeing to a new policy whereby it no longer holds people because of an ICE request. The vote by the county commission was 9-0.

The ACLU then wrote to officials in every Pennsylvania county, informing them of the Galarza opinion and urging them to follow Lehigh County's lead.

Lehigh County officials also spread the word. Edward Sweeney, then-director of corrections for the county, wrote an essay in the trade journal *Corrections Managers' Report*, warning his colleagues of legal peril if they honored ICE detainers. He also made the point on an email distribution list used by jail officials.

Mr. Sweeney, a registered Republican, said in an interview he was happy to help ICE before the court ruling but not after: "If the federal circuit court of appeals told me what I was doing was improper, you don't have to hold a gun to my head to get me to make a change in policy."

Other counties followed suit. A report from the Temple University law school found that by 2015, about half of Pennsylvania counties had adopted policies of not routinely cooperating with ICE detainers. Of the 32 such counties, 25 went for Mr. Trump in the 2016 election.

Many of the local officials involved say they were motivated by the Galarza case, or by two similar court rulings that followed, from cases originating in Rhode Island and in Oregon.

So many counties were resisting ICE that in 2014, the Obama administration stopped pressuring local jails to comply in every case, instead negotiating terms of cooperation.

Now, under Mr. Trump, the issue is being freshly debated across the country.

In March, after Lehigh County was put on a Trump administration list of noncompliant counties, the president of a local tea party group, Tom Campione, asked the commissioners to change their policy, saying federal funds were on the line. Others at the meeting urged commissioners to stand firm.

This spring, it became an issue in a Republican primary for county executive, with Commissioner Brad Osborne under fire for supporting the new policy in 2014.

"Osborne allowed Lehigh to be a Sanctuary County for illegal immigrants targeted by President Trump," read a flier distributed by his opponent, Glenn Eckhart.

Mr. Osborne, who won the primary, replied by noting that the county still cooperates with ICE in other ways, such as informing them when someone is being released. "I don't consider Lehigh County to be a sanctuary county by any means, before or after this resolution," he said.

Undeterred, the local tea party group is working to keep the issue alive. In June, about a dozen members of the group's immigration committee met to plot strategy to persuade the commissioners to overturn the policy.

Dean Browning, who heads the committee, is also hunting for people who were released from the jail despite detainers to see if they subsequently committed any crimes. And he hopes to be appointed to the board of commissioners if Mr. Osborne is elected county executive. If he is, he says he will push for a policy shift from within.

*- Jim Oberman contributed to this article.*