

## Trump Admin. Can't Deny DOJ Grants To 'Sanctuary' Cities

By **Kevin Penton**

*Law360 (April 12, 2018, 8:21 PM EDT)* -- A California federal judge granted a win to so-called sanctuary cities Wednesday by imposing a permanent, nationwide ban that would prevent the Trump administration from placing certain immigration-related conditions on community policing grants administered by the U.S. Department of Justice.

U.S. District Judge Manuel L. Real entered a permanent injunction against the restrictions that applied not only to the city of Los Angeles, which challenged them in the instant case, but for all communities competing for grants from the DOJ's Community Oriented Policing Services, or COPS, program.

The judge also granted Los Angeles' summary judgment bid that asked the court to find the conditions violate the Tenth Amendment, the Administrative Procedure Act and the separation of powers clause.

"This court cannot reasonably provide complete relief to Los Angeles without enjoining defendants from imposing the challenged considerations as to all competitors," Judge Real wrote. "Los Angeles is harmed not only because it cannot qualify for bonus points, but because other jurisdictions can."

The city alleged in its lawsuit that the DOJ's formula for awarding COPS grants unconstitutionally imposes terms that give municipalities an "untenable choice: Commit to participating in federal civil immigration investigation and enforcement efforts, or sacrifice funds for public safety and community policing."

"We will not be intimidated by hateful rhetoric and we refuse to politicize public safety," Los Angeles Mayor Eric Garcetti tweeted Thursday. "Not in Los Angeles and not on our watch."

The DOJ argued that it has broad discretion to prioritize certain areas of policing in pursuit of the crime prevention goals of community-oriented policing, noting during oral arguments last month that it awards municipalities extra points for violent crime prevention or homeland security efforts.

But Judge Real determined that the immigration-related conditions "upset the constitutional balance between state and federal power" by requiring local communities to take on activities typically handled by the federal government. The judge also questioned the "extraordinary implications" of the discretion that the DOJ contends it can use for awarding the grants.

"If the attorney general has complete discretion to favor certain applicants, Congress' ... directives are

meaningless," the order said. "Congress knew how to confer the broad power the attorney general seeks and chose not to here."

DOJ legally possesses the discretion to give greater weight to communities that promise to cooperate with federal efforts to locate unauthorized immigrants suspected of committing crimes, said Devin O'Malley, a spokesman for the department, to Law360 on Thursday.

"Unfortunately, the court not only rejected this common-sense conclusion, but it chose to issue a permanent nationwide injunction that is overbroad and inconsistent with the rule of law," O'Malley said. "We look forward to continuing the strong defense of our position."

The city of Los Angeles is represented by Michael N. Feuer, James P. Clark, Leela A. Kapur, Valerie L. Flores and Michael Dundas of the city attorney's office and Mitchell A. Kamin, Mónica Ramírez Almadani, David M. Zionts and Ivano M. Ventresca of Covington & Burling.

The federal government is represented by James Burnham, Chad Readler, Sandra R. Brown, John R. Tyler and W. Scott Simpson of the U.S. Department of Justice.

The case is City of Los Angeles v. Jefferson B. Sessions III et al., case number 2:17-cv-07215, in the U.S. District for the Central District of California.

--Editing by Alyssa Miller.