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11 IN THE UNITED STATES DISTRICT COURT
 12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

16 **STATE OF CALIFORNIA, ex rel, XAVIER
 17 BECERRA, in his official capacity as
 Attorney General of the State of California,**

18 Plaintiff,

19 v.

20 **JEFFERSON B. SESSIONS, in his official
 21 capacity as Attorney General of the United
 States; ALAN R. HANSON, in his official
 22 capacity as Acting Assistant Attorney
 General; UNITED STATES
 23 DEPARTMENT OF JUSTICE; and DOES
 1-100,**

24 Defendants.

3:17-cv-04701-WHO

**BRIEF OF THE DISTRICT OF
 COLUMBIA AND THE STATES OF
 CONNECTICUT, DELAWARE,
 HAWAII, ILLINOIS, MARYLAND,
 MASSACHUSETTS, NEW MEXICO,
 NEW YORK, OREGON, AND
 WASHINGTON AS AMICI CURIAE IN
 SUPPORT OF PLAINTIFF'S MOTION
 FOR A PRELIMINARY INJUNCTION**

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 Judge: The Honorable William H.
 Orrick
 Trial Date: December 10, 2018
 Action Filed: August 14, 2017

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STATEMENT OF INTEREST OF *AMICI CURIAE*

1
2 The District of Columbia and the States of Connecticut, Delaware, Hawaii, Illinois,
3 Maryland, Massachusetts, New Mexico, New York, Oregon, and Washington (collectively, “the
4 *Amici States*”) submit this brief as *amici curiae* in support of Plaintiff’s motion for a preliminary
5 injunction. The *Amici States* and their political subdivisions have each taken different approaches
6 to policing based on their own determinations about what measures will best meet the needs of
7 their residents. As relevant here, some jurisdictions have adopted—or are considering adopting—
8 lawful policies designed to improve public safety by focusing local law enforcement agencies on
9 crime prevention rather than the enforcement of federal immigration law. In so doing, these
10 jurisdictions seek to build and maintain relationships of trust between those communities and law
11 enforcement, thereby enhancing public safety for all.

12 The *Amici States* are concerned by the federal government’s attempt to coerce States and
13 their political subdivisions to abandon (or not adopt) policies they deem important to the safety
14 and well-being of their communities. Specifically, in letters sent to nine state and local
15 jurisdictions on April 21, 2017, and twenty-nine more on November 15, 2017, Defendants have
16 threatened to withhold or suspend millions of dollars in Edward Byrne Memorial Justice
17 Assistance Grant (“Byrne JAG”) funds based on nothing more than policy disagreements. States
18 and their political subdivisions use Byrne JAG funds to support a wide array of projects designed
19 to make their communities safer, and Defendants should not hold these awards hostage by
20 imposing conditions that bear no relation to the purpose of the program.

21 Together, the *Amici States* seek to protect their prerogative—indeed, their responsibility—
22 to enact and implement policies that promote public safety, prevent crime, and facilitate positive
23 and productive interactions between local law enforcement and all of their residents, regardless of
24 immigration status.

BACKGROUND

25
26 Given the rapidly evolving, multi-jurisdictional nature of the issues leading to the present
27 litigation, the *Amici States* provide the following overview of the executive action and federal
28 litigation to date.

1 The Byrne JAG program is “the primary provider of federal criminal justice funding to
2 States and units of local government.” Req. Judicial Notice (“RJN”), Ex. A at 5, ECF No. 27-1.
3 Congress has provided federal grants to State law enforcement agencies in some form since the
4 enactment of the Omnibus Crime Control and Safe Streets Act of 1968. *See* Pub. L. No. 90-351,
5 Title I, 82 Stat. 197 (authorizing a federal grant program “to encourage States and units of local
6 government to carry out programs and projects to improve and strengthen law enforcement”). In
7 2006, Congress consolidated two grant programs into what is now the Byrne JAG program to
8 “give State and local governments more flexibility to spend money for programs that work for
9 them rather than to impose a ‘one size fits all’ solution.” H.R. Rep. No. 109-233, at 89 (2005).
10 The expected total amount for Byrne JAG awards to States was \$188.5 million for Fiscal Year
11 2016 and \$174.4 million for Fiscal Year 2017. *See* Byrne JAG Program Fiscal Year (FY) 2016
12 State Solicitation (“FY 2016 State Solicitation”);¹ RJN, Ex. A at 13, ECF No. 27-1.

13 The Byrne JAG program has eight “purpose areas” for which the funding may be used,
14 including law enforcement, corrections programs, and drug treatment and enforcement programs.
15 34 U.S.C. § 10152(a)(1). Jurisdictions use the funds to support projects ranging from purchasing
16 critical law enforcement equipment to enhancing community outreach and engagement. For
17 example, California uses Byrne JAG funds to improve educational outcomes; provide gang
18 members with education, employment, treatment, and other support services; reduce recidivism
19 for juvenile probationers; provide a continuum of detention alternatives to juvenile offenders; and
20 fund diversion and reentry programs for minors and young adult offenders. First Am. Compl.
21 ¶ 71, ECF No. 11. The District of Columbia uses the funds to support innovative crime-reduction
22 initiatives, including a program that facilitates the smooth transition of women from correctional
23 treatment into the community, and a program that reduces youth “status” offenses by engaging
24 families, community partners, and government agencies in promoting positive behaviors and
25 reducing the court-processing and detention of youth. *See generally*, Bureau of Justice

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27
28 ¹ Available at <https://www.bja.gov/Funding/JAGState16.pdf>.

1 Assistance, “State and Territory Fact Sheets.”² Other States use their awards to develop crime-
 2 mapping capabilities; purchase audio/visual recording technology for interrogation rooms; train
 3 community corrections staff on effective interventions for probationers and parolees; enhance
 4 forensic services for processing ballistic evidence and DNA; create specialty court programs such
 5 as drug, family, and mental health courts; and combat the heroin epidemic. *See id*; *see also*
 6 Bureau of Justice Assistance, “Success Stories”³; Office of Justice Programs, “Awards Made for
 7 ‘Fiscal Year 2016 JAG.’”⁴

8 Applicants for Byrne JAG awards are required to certify compliance with all applicable
 9 federal laws at the time of application. FY 2016 State Solicitation at 12. In July 2016, the United
 10 States Department of Justice announced for the first time that 8 U.S.C. § 1373 is an “applicable
 11 federal law” for the program. RJN, Ex. H, ECF No. 27-2. That statute provides that “a Federal,
 12 State, or local government entity or official may not prohibit, or in any way restrict, any
 13 government entity or official from sending to, or receiving from, the Immigration and
 14 Naturalization Service information regarding the citizenship or immigration status, lawful or
 15 unlawful, of any individual.” 8 U.S.C. § 1373(a).

16 On January 25, 2017, President Donald J. Trump issued an Executive Order requiring the
 17 Attorney General of the United States to “ensure that jurisdictions that willfully refuse to comply
 18 with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants,” and
 19 ordering the Attorney General to “take appropriate enforcement action against any entity that
 20 violates 8 U.S.C. 1373.”⁵ Exec. Order No. 13768 § 9(a), 82 Fed. Reg. 8799, 8801 (Jan. 25,
 21 2017). The County of Santa Clara and the City and County of San Francisco both immediately
 22

23 ² Available at <https://bjafactsheets.iir.com>.

24 ³ Available at <https://www.bja.gov/SuccessStoryList.aspx>.

25 ⁴ Available at <https://external.ojp.usdoj.gov/selector/title?solicitationTitle=Fiscal%20Year%202016%20JAG&po=BJA>.

26 ⁵ As one federal judge aptly noted, the phrase “sanctuary jurisdiction” is a misnomer. *City*
 27 *of Philadelphia v. Sessions*, No. 17-CV-3894, 2017 WL 5489476, at *20 (E.D. Pa. Nov. 15,
 28 2017). None of the jurisdictions with policies targeted by the Attorney General provides “a
 sanctuary for anyone involved in criminal conduct, nor . . . a sanctuary as to any law enforcement
 investigation, prosecution, or imprisonment after having been found guilty of a crime.” *Id.*

1 challenged Section 9(a) of the Executive Order and, on April 25, 2017, this Honorable Court
 2 entered a nationwide preliminary injunction against it. *Cty. of Santa Clara v. Trump*, 250 F.
 3 Supp. 3d 497, 540 (N.D. Cal. 2017). On November 22, 2017, this Court found that Section 9(a)
 4 violated the separation of powers doctrine and the Fifth and Tenth Amendments and entered a
 5 nationwide permanent injunction against it. *Cty. of Santa Clara v. Trump*, Nos. 17-CV-574 & 17-
 6 CV-485, 2017 WL 5569835 (N.D. Cal. Nov. 22, 2017).

7 On April 21, 2017, Defendants sent letters to nine jurisdictions that received Byrne JAG
 8 awards for Fiscal Year 2016, including the California Board of State and Community Corrections
 9 (“BSCC”), and directed that each provide an official legal opinion verifying compliance with
 10 Section 1373. RJN, Exs. I, M, ECF Nos. 27-2, 27-3.⁶ After receiving responses from each of the
 11 jurisdictions, Defendants found that three of them were in compliance with Section 1373,⁷ but
 12 made preliminary assessments that five were not.⁸ RJN, Ex. Q, ECF No. 27-3. Defendants
 13 subsequently issued a preliminary assessment to BSCC that certain provisions of California’s
 14 “Values Act,” Cal. Gov’t Code § 7284.6, may violate Section 1373. RJN, Ex. Q, ECF No. 27-3.

15 In July 2017, just before the Byrne JAG grant process for Fiscal Year 2017 was to begin,
 16 Defendants announced sweeping changes to the program. First, they expressly conditioned Fiscal
 17 Year 2017 JAG awards on compliance with Section 1373, requiring both the State’s chief
 18 executive officer and chief legal officer to execute certifications of compliance (the “Certification
 19 Condition”). RJN, Ex. A at 23-24 & App. II, ECF No. 27-1. Defendants also imposed two novel
 20 conditions on the Fiscal Year 2017 Byrne JAG awards, requiring as conditions of acceptance that
 21

22 ⁶ The eight other jurisdictions were Chicago, Illinois; New Orleans, Louisiana;
 23 Philadelphia, Pennsylvania; Clark County, Nevada; Miami-Dade County, Florida; Milwaukee
 24 County, Wisconsin; New York, New York; and Cook County, Illinois. *See* U.S. Dep’t of Justice,
 25 Office of Pub. Affairs, “Department of Justice Sends Letters to Nine Jurisdictions Requiring
 26 Proof of Compliance with 8 U.S.C. § 1373” (Apr. 21, 2017), *available at* <https://www.justice.gov/opa/press-release/file/959431/download>.

27 ⁷ The three compliant jurisdictions are Milwaukee County, Wisconsin; Clark County,
 28 Nevada; and Miami-Dade County, Florida. Defendants also found the State of Connecticut in
 compliance, though it had not received one of the April letters.

⁸ The five allegedly non-compliant jurisdictions are Cook County, Illinois; Chicago,
 Illinois; New Orleans, Louisiana; New York, New York; and Philadelphia, Pennsylvania.

1 recipients (1) permit U.S. Department of Homeland Security (“DHS”) personnel to access
2 detention facilities to interview “aliens” or those “believed to be aliens” (the “Access Condition”)
3 and (2) provide 48 hours’ notice to DHS regarding the scheduled release of an “alien” upon
4 DHS’s request (the “Notice Condition”). RJN, Ex. A at 32, ECF No. 27-1.⁹

5 In August 2017, the State of California brought the instant suit, and the Cities of Chicago
6 and Philadelphia brought suits in their respective jurisdictions, seeking declarative and injunctive
7 relief regarding Section 1373 and the new conditions on the Byrne JAG program. *See* Compl.,
8 ECF No. 1 (filed Aug. 14, 2017); Compl., *City of Chicago v. Sessions*, N.D. Ill. No. 17-CV-5720,
9 ECF No. 1 (filed Aug. 7, 2017); Compl., *City of Philadelphia v. Sessions*, E.D. Pa. No. 17-CV-
10 3894, ECF No. 1 (filed Aug. 30, 2017). The suits sought to enjoin Defendants from imposing the
11 Certification, Access, and Notice Conditions on the Byrne JAG program and to secure declaratory
12 judgments that, to the extent the conditions were lawfully imposed, the State’s and cities’ policies
13 complied with them. *See* Am. Compl. ¶ 16, ECF No. 11; Compl. ¶ 1, *City of Chicago*, N.D. Ill.
14 No. 17-CV-5720, ECF No. 1; Compl. ¶ 1, *City of Philadelphia*, E.D. Pa. No. 17-CV-3894, ECF
15 No. 1.

16 On September 15, 2017, a district judge in the Northern District of Illinois issued a
17 nationwide preliminary injunction against the Access and Notice Conditions. *See City of Chicago*
18 *v. Sessions*, No. 17-CV-5720, 2017 WL 4081821, at *14 (N.D. Ill. Sept. 15, 2017). The U.S.
19 Court of Appeals for the Seventh Circuit subsequently declined to stay the preliminary injunction.
20 *See* Order Denying Motion for Partial Stay of Preliminary Injunction, *City of Chicago v. Sessions*,
21 No. 17-2991 (7th Cir. Nov. 21, 2017). On November 15, 2017, a district judge in the Eastern
22 District of Pennsylvania found that Philadelphia could properly certify compliance with Section
23 1373 and enjoined Defendants from denying the city’s Byrne JAG grant for Fiscal Year 2017.

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26 ⁹ To date, Defendants have not issued a Fiscal Year 2017 Byrne JAG award to any State,
27 but Defendants have included these conditions in awards to localities, *see City of Chicago*, N.D.
28 Ill. No. 17-CV-5720, ECF R.D. 32-1; thus, the *Amici* States reasonably expect that the Fiscal
Year 2017 State awards will be subject to these conditions as well.

1 *City of Philadelphia v. Sessions*, 2017 WL 5489476, at *62 (E.D. Pa. Nov. 15, 2017). Plaintiff's
2 motion for a preliminary injunction in the instant suit is presently before this Court.

3 On November 15, 2017, Defendants issued letters to 29 additional jurisdictions identifying
4 policies they believed to be in violation of Section 1373.¹⁰ See U.S. Dep't of Justice, Office of
5 Pub. Affairs, "Justice Department Sends Letters to 29 Jurisdictions Regarding Their Compliance
6 with 8 U.S.C. 1373" (Nov. 15, 2017).¹¹ Defendants requested that these jurisdictions respond by
7 December 8, 2017.

8 ARGUMENT

9 States and local jurisdictions have the primary responsibility for ensuring the safety of their
10 communities and preventing crime. See *United States v. Morrison*, 529 U.S. 598, 618 (2000)
11 ("[W]e can think of no better example of the police power . . . reposed in the States[] than the
12 suppression of violent crime and vindication of its victims."). In exercising their sovereign duty
13 to ensure public safety, jurisdictions across the United States have adopted laws or policies that
14 place lawful limits on the extent to which local law enforcement agencies become involved in the
15 enforcement of federal civil immigration laws. See N.Y. State Office of the Attorney General, et
16 al., *Setting the Record Straight on Local Involvement in Federal Civil Immigration Enforcement:
17 The Facts and The Laws* 3 (May 2017) ("Local Involvement").¹² These limitations "reflect [the
18 jurisdiction's] local judgment of what policies and practices are most effective for maintaining
19 public safety and community health." *Cty. of Santa Clara*, 250 F. Supp. 3d at 525-26. As States
20

21 ¹⁰ These jurisdictions are Albany, New York; Berkley, California; Bernalillo County, New
22 Mexico; Burlington, Vermont; Contra Costa County, California; City and County of Denver,
23 Colorado; Fremont, California; Jackson, Mississippi; King County, Washington; Lawrence,
24 Massachusetts; Los Angeles, California; Louisville, Kentucky; Middlesex, New Jersey; Monterey
25 County, California; Multnomah County, Oregon; Newark, New Jersey; Riverside County,
26 California; Sacramento County, California; City and County of San Francisco, California; Santa
27 Ana, California; Santa Clara County, California; Seattle, Washington; Sonoma County,
28 California; Washington, District of Columbia; Watsonville, California; West Palm Beach,
Florida; and the States of Illinois, Oregon, and Vermont.

¹¹ Available at <https://www.justice.gov/opa/pr/justice-department-sends-letters-29-jurisdictions-regarding-their-compliance-8-usc-1373>.

¹² Available at https://oag.ca.gov/system/files/attachments/press_releases/setting_the_record_straight.pdf, and attached to this brief as Exhibit A.

1 and local jurisdictions assess and address the unique public safety needs of their communities,
2 “the theory and utility of our federalism are revealed, for the States may perform their role as
3 laboratories for experimentation to devise various solutions where the best solution is far from
4 clear.” *United States v. Lopez*, 514 U.S. 549, 581 (1995) (Kennedy, J., concurring).

5 State and local government officials are in the best position to make judgments about how
6 to allocate scarce resources to serve the particular public safety needs of their local communities.
7 Those officials frequently recognize that using state and local law enforcement agencies to
8 enforce federal civil immigration laws can divert critical resources—including the time and
9 attention of officers—away from other pressing needs. For example, the chief of police of a New
10 York town observed that “[o]ur department is set up to do basic law enforcement . . . and really
11 not to specialize in immigration work We’re leaving that up to the people that are being paid
12 to do immigration work.” Local Involvement, *supra*, at 14. Similarly, the Law Enforcement
13 Immigration Task Force, comprised of sheriffs, police chiefs, and police commissioners from
14 across the country, recently noted that:

15 State and local law enforcement agencies face tight budgets and often do not have the
16 capacity or resources to duplicate the federal government’s work in enforcing federal
17 immigration laws. Rather than apprehending and removing immigrants who have no
18 criminal background or affiliation and are merely seeking to work or reunite with
19 family, it is more important for state and local law enforcement to focus limited
20 resources and funding on true threats to public safety and security.

21 *Id.* at 13. That is especially so given that immigrants are generally less likely to engage in
22 criminal conduct than other members of the community. *See, e.g.*, Bianca E. Bersani & Alex R.
23 Piquero, *Examining Systematic Crime Reporting Bias Across Three Immigrant Generations*,
24 *Journal of Quantitative Criminology*, July 16, 2016, at 4 (“[R]esearch dating back more than a
25 century documents a pattern whereby the foreign-born are involved in crime at significantly lower
26 rates than their peers.”); Alex Mowrasteh, *Immigration Myths – Crime and the Number of Illegal
27 Immigrants* (Mar. 20, 2017) (finding that the incarceration rates of immigrants—both legal and
28 undocumented—are far below those of native-born Americans”).¹³

27 ¹³ Available at [https://www.cato.org/blog/immigration-myths-crime-number-illegal-](https://www.cato.org/blog/immigration-myths-crime-number-illegal-immigrants)
28 immigrants.

1 State and local governments also have the best perspective on what policies will encourage
2 trust and cooperation between law enforcement officers and the communities they serve.
3 Hundreds of jurisdictions have concluded that public safety is promoted by adopting lawful
4 policies that avoid excessive entanglement between local police and enforcement of federal
5 immigration laws. *See* Local Involvement, *supra*, at 3. That is because these jurisdictions have
6 concluded that the safety of a community increases when all residents—regardless of immigration
7 status—feel comfortable reporting crimes and interacting with local police without fear of
8 immigration consequences. In contrast, the perception that local law enforcement officials serve
9 as agents of federal immigration authorities can undermine the trust between law enforcement and
10 the community. In a preliminary-injunction hearing challenging the same Byrne JAG grant
11 conditions at issue here, Philadelphia’s Police Commissioner testified that effective crime
12 prevention is based on two interconnected approaches: smart policing, which uses intelligence to
13 react to and proactively anticipate crime as quickly as possible; and community policing, which
14 views citizens as partners in fighting crime and deliberately fosters community relationships to
15 promote this view. *City of Philadelphia*, 2017 WL 5489476, at *13. He explained that the
16 greatest source of police intelligence comes from people, not technology, which requires a
17 trusting relationship between police officers and the community they serve.¹⁴ *Id.* And, a police
18 chief in Maryland has explained that “the reluctance of folks to come forward because they are
19 undocumented and fear deportation is a much greater public safety problem than having people
20 here who may be undocumented but are not committing other crimes.” Local Involvement,
21 *supra*, at 15.

22
23 ¹⁴ The trust of immigrant communities also is essential for the effective provision of other
24 programs that promote the public health and welfare. According to Philadelphia’s Health
25 Commissioner, public health is best served when individuals freely seek preventive care and do
26 not stave off care until they need emergency room treatment in the midst of a health crisis, but
27 immigrant communities are less likely to seek preventive services—such as vaccinations—if they
28 fear immigration consequences. *City of Philadelphia*, 2017 WL 5489476, at *19. And
Philadelphia’s Deputy Managing Director of Health and Human Services explained that
numerous public services will be compromised if the immigrant community loses its trust in local
government, including city-funded services for mental illness and substance abuse, emergency
shelters, transitional housing, the domestic violence hotline, and domestic violence shelters. *Id.* at
*16.

1 Moreover, according to the Chief of the Los Angeles Police Department, fear of local law
2 enforcement can “create [a] whole population of victims” who “become prey for human predators
3 who extort them or abuse them because they know they won’t contact the police.” *Id.* This
4 concern is not theoretical but very real. Since the beginning of 2017, communities with large
5 immigrant populations have experienced significant declines in rates of reporting crime. In Los
6 Angeles, for example, reports of sexual assault among the Latino population dropped by 25% in
7 early 2017. James Queally, *Latinos are reporting fewer sexual assaults amid a climate of fear in*
8 *immigrant communities, LAPD says*, L.A. Times (Mar. 21, 2017).¹⁵ In Houston, the number of
9 Latino victims reporting sexual assault dropped by a staggering 42% from the previous year,
10 while reporting rates among non-Latinos increased by 8.2%. Brooke A. Lewis, *HPD chief*
11 *announces decrease in Hispanics reporting rape and violent crimes compared to last year*,
12 *Houston Chron.* (Apr. 6, 2017).¹⁶ Reports of domestic violence among the Latino population are
13 similarly suppressed. During the first six months of 2017, reports by Latinos of spousal abuse
14 dropped by 3.5% in Los Angeles, 13% in San Diego, and 18% in San Francisco, while reporting
15 rates by non-Latinos remained stable. James Queally, *Fearing deportation, many domestic*
16 *violence victims are steering clear of police and courts*, L.A. Times (Oct. 9, 2017).¹⁷

17 Many prominent law enforcement organizations have also taken the position that it is best
18 to avoid conscripting local agencies into enforcing federal civil immigration laws. The Major
19 Cities Chiefs Association, which represents the 68 largest law enforcement agencies in the United
20 States, has voiced concern that the enforcement of federal civil immigration laws by local police
21 “undermines the trust and cooperation with immigrant communities which are essential elements
22 of community oriented policing.” Major Cities Chiefs Ass’n, *Immigration Policy*.¹⁸ As recently

23 ¹⁵ Available at [http://beta.latimes.com/local/lanow/la-me-ln-immigrant-crime-reporting-](http://beta.latimes.com/local/lanow/la-me-ln-immigrant-crime-reporting-drops-20170321-story.html)
24 [drops-20170321-story.html](http://beta.latimes.com/local/lanow/la-me-ln-immigrant-crime-reporting-drops-20170321-story.html).

25 ¹⁶ Available at [http://www.chron.com/news/houston-texas/houston/article/HPD-chief-](http://www.chron.com/news/houston-texas/houston/article/HPD-chief-announces-decrease-in-Hispanics-11053829.php)
26 [announces-decrease-in-Hispanics-11053829.php](http://www.chron.com/news/houston-texas/houston/article/HPD-chief-announces-decrease-in-Hispanics-11053829.php).

27 ¹⁷ Available at [http://beta.latimes.com/local/lanow/la-me-ln-undocumented-crime-](http://beta.latimes.com/local/lanow/la-me-ln-undocumented-crime-reporting-20171009-story.html)
28 [reporting-20171009-story.html](http://beta.latimes.com/local/lanow/la-me-ln-undocumented-crime-reporting-20171009-story.html).

¹⁸ Available at [https://www.majorcitieschiefs.com/pdf/news/2013_immigration_](https://www.majorcitieschiefs.com/pdf/news/2013_immigration_policy.pdf)
[policy.pdf](https://www.majorcitieschiefs.com/pdf/news/2013_immigration_policy.pdf).

1 as June 2017, the Association impressed upon members of Congress that “[t]he role of local
2 police officers relating to immigration enforcement should be left to local government.” Ltr.
3 from Chief J. Thomas Manager, President, Major Cities Chiefs Ass’n, to U.S. Reps. Goodlatte &
4 Conyers (June 16, 2017);¹⁹ *see also* Major Cities Chiefs Ass’n, “U.S. Mayors, Police Chiefs
5 Concerned with Sanctuary Cities Executive Order” (Jan. 25, 2017) (“We must be able to continue
6 to protect the safety of all of our residents while ensuring that local law enforcement is focused on
7 community policing.”).²⁰

8 As the Major Cities Chiefs Association has explained, when undocumented immigrants’
9 “primary concern is that they will be deported or subjected to an immigration status investigation,
10 then they will not come forward and provide needed assistance and cooperation.” Craig E.
11 Ferrell, Jr., et al., M.C.C. Immigration Committee Recommendations For Enforcement of
12 Immigration Laws by Local Police Agencies 6 (June 2006).²¹ This can “result in increased crime
13 against immigrants and in the broader community, create a class of silent victims and eliminate
14 the potential for assistance from immigrants in solving crimes or preventing future terroristic
15 acts.” *Id.* The Law Enforcement Immigration Task Force has voiced similar concerns, warning
16 that “[c]riminals can use the fear of deportation to coerce these immigrants into silence, making
17 our communities less safe for everybody,” and that undocumented immigrants who are “victims
18 or witnesses of crime . . . might be afraid to call authorities when criminal activity is happening in
19 their neighborhoods” or even “when someone is sick or injured.” Local Involvement, *supra*, at
20 15.

21 Indeed, the federal government’s own 21st Century Policing Task Force reached the same
22 conclusion in 2015. After explaining that building relationships with immigrant communities
23 based on trust “is central to overall public safety,” it recommended “[d]ecoupl[ing] federal
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25 ¹⁹ Available at [https://www.nilc.org/wp-content/uploads/2017/07/MC-Chiefs-Oppose-
26 HR3003-2017-06-26.pdf](https://www.nilc.org/wp-content/uploads/2017/07/MC-Chiefs-Oppose-HR3003-2017-06-26.pdf).

27 ²⁰ Available at [https://www.majorcitieschiefs.com/pdf/news/mcca_mayors_pr_on_eo_
28 12517.pdf](https://www.majorcitieschiefs.com/pdf/news/mcca_mayors_pr_on_eo_12517.pdf).

²¹ Available at https://www.majorcitieschiefs.com/pdf/MCC_Position_Statement.pdf.

1 immigration enforcement from routine local policing for civil enforcement and nonserious
2 crime.” Final Report of The President’s Task Force on 21st Century Policing 18 (May 2015)²²;
3 *see also id.* (“[W]henever possible, state and local law enforcement should not be involved in
4 immigration enforcement.”). The Task Force also recommended that DHS “terminate the use of
5 the state and local criminal justice system, including through detention, notification, and transfer
6 requests, to enforce civil immigration laws against civil and non-serious criminal offenders.” *Id.*

7 These veteran law enforcement officials and experts have concluded that policies
8 prioritizing local issues over enforcement of federal civil immigration law enhance public safety.
9 As they have explained, such policies can help to ensure that local law enforcement agencies have
10 the resources they need to protect against genuine threats to public safety and maintain the trust
11 and support of their communities in doing so. This Court should not countenance Defendants’
12 attempts to curtail jurisdictions “from experimenting and exercising their own judgment in an
13 area to which States lay claim by right of history and expertise.” *Lopez*, 514 U.S. at 583
14 (Kennedy, J., concurring).

15 Because State and local governments have primary responsibility for ensuring the safety of
16 their communities and preventing crime, *see Morrison*, 529 U.S. at 618, they should be allowed
17 to exercise their own discretion in the matters at issue in this case. No matter what a State or
18 local jurisdiction decides—whether to communicate and/or cooperate with federal immigration
19 officials or not—it should be the State or local jurisdiction that determines those policies. They
20 are the ones that know their communities’ needs and how best to address them.

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²² Available at https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf.

CONCLUSION

This Court should grant Plaintiff's motion.

Dated: November 29, 2017

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ATTORNEY ATTESTATION

I, Jimmy R. Rock, am the ECF user whose ID and password are being used to file this Brief of the District of Columbia and the States of Connecticut, Delaware, Hawaii, Illinois, Maryland, Massachusetts, New Mexico, New York, Oregon, and Washington as *Amici Curiae* in Support of Plaintiff’s Motion for a Preliminary Injunction. In compliance with N.D. Cal. Civil L.R. 5-1(i)(3), I hereby attest that I have the authority to file this document and its related exhibits and attachments on behalf of each of the signatories.

/s/ Jimmy R. Rock
JIMMY R. ROCK

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CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2017, I electronically filed the above document with the Clerk of Court using CM/ECF, which will send electronic notification of such filing to all registered counsel.

/s/ Jimmy R. Rock
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