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20 **UNITED STATES DISTRICT COURT**
21 **CENTRAL DISTRICT OF CALIFORNIA**

22 **CITY OF LOS ANGELES,**

23 *Plaintiff,*

24 v.

25 **JEFFERSON B. SESSIONS III,**
26 **Attorney General of the United States, et al.,**

27 *Defendants.*

28) Case No. 2:17-cv-7215-R-JCx

) **BRIEF OF AMICI CURIAE**
) **CURRENT AND FORMER**
) **PROSECUTORS AND LAW**
) **ENFORCEMENT LEADERS IN**
) **SUPPORT OF PLAINTIFF'S**
) **MOTION FOR PARTIAL**
) **SUMMARY JUDGMENT**

) Judge: Hon. Manuel L. Real
) Date: February 5, 2018
) Time: 10:00 a.m.

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INTEREST AND IDENTITY OF AMICI CURIAE

Amici Current and Former Prosecutors and Law Enforcement Leaders file this brief as Amici Curiae in support of Plaintiffs. Amici are criminal justice leaders who have extensive expertise in law enforcement, prosecution, and cooperative federal-state law enforcement activities. They are intimately familiar with the challenges of performing critical law enforcement and governance functions in communities where immigrants fear the police and are vulnerable to exploitation and crime. Amici represent jurisdictions from across the country that understand the challenges of balancing local community needs and public safety.

Amici’s experience in keeping their communities safe has underscored the critical importance of bringing immigrants and their families “out of the shadows.” Community trust and cooperation are essential to public safety, and sound police work as well as successful prosecutors’ efforts are undermined by undocumented immigrants’ fears of interacting with law enforcement and the justice system. This dynamic, moreover, leaves undocumented immigrants more vulnerable to crime and exploitation, and undocumented immigrant victims less likely to come forward or cooperate with investigations and prosecutions, leading to more violence in the communities amici are charged with protecting.

In deciding who will receive grants from its Office of Community Oriented Policing Services (COPS), the Department of Justice has recently begun rewarding jurisdictions that partner with federal immigration authorities. For fiscal year 2017, DOJ added a focus area called “Illegal Immigration,” and it encouraged COPS applicants to sign a “Certification of Illegal Immigration Cooperation.” To complete this certification, applicants must pledge to provide federal immigration agents unlimited access to detention facilities to inquire about immigration status, and to notify the Department of Homeland Security as soon as practicable before releasing an alien in the jurisdiction’s custody.

Amici believe that these inducements would dangerously impact local communities, by requiring jurisdictions to prioritize civil immigration enforcement over public safety or else lose funding for important public safety and community initiatives. These requirements would cause community members to distrust the police and justice system officials and thereby result in a

1 decrease in cooperation, hindering the ability of local law enforcement and local prosecutors to
2 keep their communities safe. The conditions would also drain scarce resources that would
3 otherwise be used to enhance public safety, depriving local law enforcement and justice system
4 leaders of the discretion necessary to determine how best to protect their communities. Local
5 officials are in the best position to know what policing and law enforcement policies work best
6 for their communities.

7 Jurisdictions across the country rely heavily on COPS grants to support programs related
8 to law enforcement. In particular, the COPS Hiring Program provides essential funding for
9 career law-enforcement officers hired to enhance community policing and crime prevention.
10 Amici believe that a permanent injunction is necessary to halt the Justice Department’s attempt
11 to force local law enforcement officers and agencies to engage in practices detrimental to public
12 safety.

13 A full list of amici is attached as Exhibit A.

14 **INTRODUCTION**

15 The lessons amici have learned in protecting their communities shed important light on
16 the issues raised in these cases. When community residents live in constant fear that interactions
17 with local law enforcement officials could result in deportation, there is a fundamental
18 breakdown in trust that threatens public safety and impedes justice system leaders from doing
19 their jobs. Extensive evidence shows that undocumented immigrants—and their lawfully present
20 family and neighbors—fear that turning to the police and cooperating with prosecutors could
21 bring adverse immigration consequences. As a result, immigrant communities are less willing to
22 report crimes and cooperate with criminal investigations and prosecutions. This fundamental
23 breakdown in trust poses a major challenge both to the investigation and prosecution of
24 individual crimes and to the proper allocation of public safety resources.

25 Current policies limiting local and state involvement in federal immigration enforcement
26 address this issue of trust. Though they take several different forms, these policies generally aim
27 to preserve local and state resources and improve public safety by promoting cooperation
28

1 between law enforcement and the communities they serve.¹ Many jurisdictions—whether via
2 ordinance, administrative policy, or state law—limit the degree to which their officials may, for
3 example, cooperate with ICE detainees.² The Justice Department’s newly devised considerations
4 for awarding COPS grants would upend these policies, to the detriment of community safety.
5 The access and notification requirements, in particular, seek to compel local jurisdictions to take
6 part in federal immigration enforcement. Cities and counties would be forced to choose between
7 building trust with immigrant communities and enhancing public safety on one hand, and
8 potentially losing vital federal funds on the other. The federal government cannot force local law
9 enforcement into such a Hobson’s choice.

10 ARGUMENT

11 I. Trust and Respect Between Communities and Law Enforcement Officials 12 Are Essential to Public Safety and Are Thwarted When Victims and 13 Witnesses Fear Deportation Consequences of Cooperating.

14 The experience of policing cities across the country has taught law enforcement officers
15 that “[t]o do our job, we must have the trust and respect of the communities we serve.”³ In order
16 to stop crime, police officers “need the full cooperation of victims and witnesses.”⁴

17 This common-sense philosophy is sometimes called “community policing.” Community
18 policing is an approach to policing whereby local law enforcement engage communities in a
19 working partnership to reduce crime and promote public safety.⁵ It thus requires police to

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21 ¹ See *Oversight of the Administration’s Misdirected Immigration Enforcement Policies: Examining the Impact of Public Safety and Honoring the Victims: Hearing Before the S. Comm. on the Judiciary*, at 2 (July 21, 2015) (statement of Tom Manger, Chief, Montgomery Cty., Md., Police Dep’t & President, Major Cities Chiefs Ass’n), available at <http://www.judiciary.senate.gov/imo/media/doc/07-21-15%20Manger%20Testimony.pdf>.

22 ² 8 C.F.R. § 287.7; see also Jasmine C. Lee, Rudy Omri, and Julia Preston, *What Are Sanctuary Cities?*, N.Y. Times, Feb. 6, 2017, <http://www.nytimes.com/interactive/2016/09/02/us/sanctuary-cities.html>; *Detainer Policies*, Immigrant Legal Res. Ctr. (Mar. 21, 2017), available at <https://www.ilrc.org/detainer-policies> [hereinafter *ILRC Detainer Policies*].

23 ³ Statement of Tom Manger, *supra* note 1, at 2.

24 ⁴ *Id.*

25 ⁵ See Anita Khashu, *The Role Of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties*, Police Found. (Apr. 2009), available at <https://www.policefoundation.org/wp-content/uploads/2015/06/The-Role-of-Local-Police-Narrative.pdf>.

1 interact with neighborhood residents in a manner that will build trust and improve the level of
2 cooperation with the police department.⁶ When that relationship of trust is missing—as it is
3 when people believe that contacting police or cooperating with prosecutors could lead to
4 deportation for themselves or others—community policing breaks down and the entire
5 community is harmed.

6 According to a recent Pew survey, 67% of Hispanic immigrants and 47% of all Hispanic
7 adults in the United States worry about deportation—of themselves, family members, or close
8 friends.⁷ This fear necessarily affects cooperation and communication with police and
9 prosecutors. Immigrants—and their family members and neighbors who may be U.S. citizens or
10 lawfully present—often assume that interaction with law enforcement officials could have
11 adverse consequences for themselves or a loved one.

12 As a result, immigrant communities in general, and undocumented immigrants in
13 particular, are less likely to trust and cooperate with local police and prosecutors. One survey of
14 Latinos in four major cities found that 70% of undocumented immigrants and 44% of all Latinos
15 would be less likely to contact law enforcement authorities if they were victims of a crime for
16 fear that the police would ask them or people they know about their immigration status; and 67%
17 of undocumented immigrants and 45% of all Latinos would be less likely to voluntarily offer
18 information about, or report, crimes because of the same fear.⁸

19 This study (among others) highlights that fears of immigration enforcement and the
20 resulting damage to law enforcement cooperation affect not just undocumented community
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24 ⁶ *Id.*

25 ⁷ *Latinos and the New Trump Administration*, Pew Research Ctr.: Hispanic Trends, Feb. 23,
2017, <http://www.pewhispanic.org/2017/02/23/latinos-and-the-new-trump-administration/>.

26 ⁸ Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in*
27 *Immigration Enforcement* 5-6 (May 2013), available at [www.policylink.org/sites/default/files/](http://www.policylink.org/sites/default/files/INSECURE_COMMUNITIES_REPORT_FINAL.PDF)
28 [INSECURE_COMMUNITIES_REPORT_FINAL.PDF](http://www.policylink.org/sites/default/files/INSECURE_COMMUNITIES_REPORT_FINAL.PDF); see also *id.* at 1 (“Survey results indicate that the greater involvement of police in immigration enforcement has significantly heightened the fears many Latinos have of the police, . . . exacerbating their mistrust of law enforcement authorities.”).

1 members but also individuals with citizenship or lawful status, particularly in “mixed-status”
2 households.⁹

3 This problematic atmosphere of mistrust is felt by police as well. In one study, two-thirds
4 of the law enforcement officers polled expressed the view that recent immigrants reported crimes
5 less frequently than others.¹⁰ Those surveyed also indicated that the crimes underreported by
6 immigrants are most often serious ones, with domestic violence and gang violence at the top.¹¹
7 These trends have only worsened in recent months. According to the Houston Police
8 Department, rape reporting by members of the Hispanic community has fallen over 40% from
9 the first quarter of 2016, despite an overall *increase* in city-wide crime reports.¹² Los Angeles,
10 San Francisco, and San Diego have also witnessed lagging sexual assault and domestic violence
11 reporting by Hispanic persons—but not other ethnic groups—in the first half of 2017.¹³
12 According to Los Angeles County Sheriff’s Deputy Marino Gonzalez, “[t]hey’re afraid of us.
13 And the reason they’re afraid of us is because they think we’re going to deport them.”¹⁴

14 Immigrants’ widely recognized fear of interacting with law enforcement and prosecutors
15 poses a fundamental challenge for community policing. Police cannot prevent or solve crimes if
16 victims or witnesses are unwilling to talk to them or prosecutors because of concerns that they or
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19 ⁹ An estimated 85% of immigrants live in mixed-status families. *See* Khashu, *supra* note 5, at 24;
20 *see also* Jill Theresa Messing et al., *Latinas’ Perceptions of Law Enforcement: Fear of*
21 *Deportation, Crime Reporting, and Trust in the System*, 30 J. Women & Soc. Work 328, 334
22 (2015) (“The results indicate that for each 1-point increase in fear of deportation [e.g., from ‘not
23 much’ to ‘some’ worry, or from ‘some’ to ‘a lot’], Latina participants were 15% less willing to
24 report being victim of a violent crime to police.”).

25 ¹⁰ Robert C. Davis, Edna Erez, & Nancy Avitabile, *Access to Justice for Immigrants Who Are*
26 *Victimized: The Perspectives of Police and Prosecutors*, 12 Crim. Just. Pol’y Rev. 183, 187
27 (2001).

28 ¹¹ *Id.* at 188-89.

¹² Michael Morris & Lauren Renee Sepulveda, *A New ICE Age*, Texas Dist. & Cty. Attorneys
Ass’n, *The Texas Prosecutor*, Vol. 47, No. 4 (July/Aug. 2017), <https://www.tdcaa.com/journal/new-ice-age>.

¹³ James Queally, *Fearing Deportation, Many Domestic Violence Victims Are Steering Clear of*
Police and Courts, L.A. Times, Oct. 9, 2017, <http://www.latimes.com/local/lanow/la-me-ln-undocumented-crime-reporting-20171009-story.html>.

¹⁴ *Id.*

1 their loved ones or neighbors will face adverse immigration consequences. As the president of
2 the Major Cities Chiefs Association has explained to Congress, “[c]ooperation is not
3 forthcoming from persons who see their police as immigration agents.”¹⁵ As cautioned by one
4 official, “immigrants will never help their local police to fight crime once they fear we have
5 become immigration officers.”¹⁶

6 The underreporting of crimes by recent immigrants is a problem for the entire criminal
7 justice system.¹⁷ The most immediate consequence, of course, is that serious crimes go
8 unreported and unpunished. As one official explained, when criminal behavior goes unreported,
9 “[c]rime multiplies” and “[u]nresolved resentments grow in the community.”¹⁸ Another added
10 that the underreporting of crime “keeps fear at very high levels and diminishes quality of life.”¹⁹
11 Even beyond the underreporting of crime, undocumented immigrant victims and witnesses may
12 refuse to come to court to testify in important criminal cases because of their fear of being
13 detained and deported.

14 These concerns are anything but hypothetical. Throughout this year, they have
15 manifested in ways that threaten long-term harm to criminal justice system operations. A
16 Department of Homeland Security official recently illustrated why many immigrants hesitate to
17 cooperate with law enforcement. In a briefing to reporters, he stated that “[j]ust because they’re a
18 victim in a certain case does not mean there’s not something in their background that could cause
19 them to be a removable alien.”²⁰ An immigrant woman living in Texas learned that lesson all too
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22 ¹⁵ Statement of Tom Manger, *supra* note 1, at 2.

23 ¹⁶ *Local Law Enforcement Leaders Oppose Mandates to Engage in Immigration Enforcement*,
24 Nat’l Immigration Law Ctr. (Aug. 2013), at 2 (statement of Chief Acevedo), available at
<https://www.nilc.org/wp-content/uploads/2017/02/Law-Enforcement-Opposition-to-Mandates-2013-08-30.pdf>.

25 ¹⁷ Davis et al., *supra* note 10, at 188.

26 ¹⁸ *Id.*

27 ¹⁹ *Id.*

28 ²⁰ Devlin Barrett, *DHS: Immigration Agents May Arrest Crime Victims, Witnesses at Courthouses*, Wash. Post, Apr. 4, 2017, https://www.washingtonpost.com/world/national-security/dhs-immigration-agents-may-arrest-crime-victims-witnesses-at-courthouses/2017/04/04/3956e6d8-196d-11e7-9887-1a5314b56a08_story.html.

1 perversely when she arrived at a courthouse seeking a protective order against her abusive
2 boyfriend, only to leave under arrest—likely due to a tip from her abuser.²¹ In August 2017,
3 federal agents detained an undocumented immigrant who had provided key testimony in two
4 homicide cases.²² And weeks later, ICE agents arrested a victim of domestic violence as he left a
5 county courthouse.²³ The Immigrant Defense Project reports that the number of arrests or
6 attempted arrests by ICE agents at courthouses throughout New York has risen by a staggering
7 900% in 2017.²⁴

8 Precisely because victims and witnesses fear similar treatment from immigration
9 authorities, some violent crimes have gone unreported, and pending prosecutions have
10 disappeared from courts' dockets. A Texas district attorney confirmed that a victim of domestic
11 violence had become uncooperative because she feared deportation.²⁵ Denver prosecutors were
12 forced to drop four domestic abuse cases when similar worries deterred the victims from
13 testifying;²⁶ in 2017, more than a dozen Latina women in Denver dropped their own civil cases
14 against domestic abusers, citing fear of deportation.²⁷ An immigrant mother in New Jersey,
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17 ²¹ Katie Mettler, *"This is Really Unprecedented": ICE Detains Woman Seeking Domestic Abuse*
18 *Protection at Texas Courthouse*, Wash. Post, Feb. 16, 2017, <https://www.washingtonpost.com/news/morning-mix/wp/2017/02/16/this-is-really-unprecedented-ice-detains-woman-seeking-domestic-abuse-protection-at-texas-courthouse/>.

19 ²² James Fanelli, *Father of Two Who Testified in Brooklyn Homicide Cases and Is Married to a*
20 *U.S. Citizen Detained by ICE*, N.Y. Daily News, Aug. 2, 2017, <http://www.nydailynews.com/new-york/dad-2-testified-brooklyn-murder-cases-detained-ice-article-1.3378899>.

21 ²³ Steve Coll, *When a Day in Court is a Trap for Immigrants*, New Yorker, Nov. 8, 2017,
22 <https://www.newyorker.com/news/daily-comment/when-a-day-in-court-is-a-trap-for-immigrants>.

23 ²⁴ Stephen Rex Brown, *Courthouse Arrests of Immigrants by ICE Agents Have Risen 900% in*
24 *New York This Year: Immigrant Defense Project*, N.Y. Daily News, Nov. 15, 2017, <http://www.nydailynews.com/new-york/ice-courthouse-arrests-immigrants-900-n-y-2017-article-1.3633463>.

25 ²⁵ Philip Jankowski, *Deportation Fears Keep Victim from Cooperating in Domestic Violence*
26 *Case, Travis DA Says*, The Statesman (Austin), Mar. 8, 2017, <http://www.statesman.com/news/local/deportation-fears-keep-victim-from-cooperating-domestic-violence-case-travis-says/rdZAJFEAxjHWnxXV1LlpjM/>.

27 ²⁶ Heidi Glenn, *Fear of Deportation Spurs 4 Women to Drop Domestic Abuse Cases in Denver*,
28 NPR, Mar. 21, 2017, <http://www.npr.org/2017/03/21/520841332/fear-of-deportation-spurs-4-women-to-drop-domestic-abuse-cases-in-denver>.

²⁷ Sarah Stillman, *When Deportation Is a Death Sentence*, New Yorker, Jan. 15, 2018, <https://www.newyorker.com/magazine/2018/01/15/when-deportation-is-a-death-sentence>.

1 fearing that interaction with the court system could trigger removal, declined to report that her
2 son had been assaulted on his way to school.²⁸ And a victim of domestic violence in New York
3 City “did not think it was in her best interest” to pursue a protective order.²⁹ In addition to their
4 particular deportation concerns, undocumented immigrant victims and witnesses may
5 understandably recoil more generally from a system that allows participants to walk freely into a
6 courthouse to fulfill a civic responsibility to testify, only to be detained by immigration
7 authorities and prevented from returning to their lives.

8 In response to these incidents, the chief justices of three state supreme courts have written
9 top federal authorities to emphasize that preserving trust with immigrant communities is essential
10 to the administration of justice.³⁰ As Massachusetts Attorney General Maura Healey has
11 explained, using local court systems as levers for federal immigration enforcement “undercuts
12 local law enforcement’s ability to develop the critical trust needed to keep communities safe.”³¹

13 Distrust between immigrants and law enforcement also results in greater victimization of
14 immigrants. “When immigrants come to view their local police and sheriffs with distrust because
15 they fear deportation, it creates conditions that encourage criminals to prey upon victims and
16 witnesses alike.”³² This phenomenon has been termed the “deportation threat dynamic,” whereby
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19 ²⁸ S.P. Sullivan, *Advocates Say ICE Courthouse Arrests in N.J. Are Hurting Immigrant Crime*
20 *Victims*, NJ, June 5, 2017, http://www.nj.com/politics/index.ssf/2017/06/advocates_say_ice_courthouse_arrests_are_hurting_i.html.

21 ²⁹ Emma Whitford, *Courthouse ICE Arrests Are Making Immigrants ‘Sitting Ducks,’ Lawyers Warn*,
22 *GOTHAMIST*, June 22, 2017, http://gothamist.com/2017/06/22/ice_immigrants_courts.php.

23 ³⁰ Letter from Tani G. Cantil-Sakauye, Chief Justice of the Supreme Court of California, to Jeff Sessions,
24 Att’y Gen. of the U.S., and John F. Kelly, Sec’y of Dep’t of Homeland Sec. (Mar. 16, 2017), *available at*
25 <http://newsroom.courts.ca.gov/news/chief-justice-cantil-sakauye-objects-to-immigration-enforcement-tactics-at-california-courthouses>; Letter from Mary E. Fairhurst, Chief Justice of the Supreme Court of
26 Washington, to John F. Kelly, Sec’y of Dep’t of Homeland Sec. (Mar. 22, 2017), *available at*
27 <https://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20News/KellyJohnDHSICE032217.pdf>; Letter from Stuart Rabner, Chief Justice of the Supreme Court of New Jersey, to John F. Kelly,
28 Sec’y of Dep’t of Homeland Sec. (Apr. 19, 2017), *available at* <https://www.documentcloud.org/documents/3673664-Letter-from-Chief-Justice-Rabner-to-Homeland.html#document/p1>.

³¹ Maria Cramer, *ICE Courthouse Arrests Worry Attorneys, Prosecutors*, *Boston Globe*, June 16, 2017, <https://www.bostonglobe.com/metro/2017/06/15/ice-arrests-and-around-local-courthouses-worry-lawyers-prosecutors/xxFH5vVJnMeggQa0NMi8gI/story.html>.

³² Statement of Tom Manger, *supra* note 1, at 2.

1 individuals who fear removal from the United States do not report the crimes they suffer.³³
2 Nearly two-thirds of undocumented migrant workers participating in a study in Memphis,
3 Tennessee, reported being the victim of at least one crime, with the most common being theft
4 and robbery.³⁴ Respondents indicated that fewer than a quarter of these crimes were reported to
5 the police, and *only one* was reported by the victim himself.³⁵

6 Undocumented immigrants are especially vulnerable to domestic violence. A number of
7 studies have shown that abusive partners may exploit the threat of deportation in order to
8 maintain power and control.³⁶ Financial dependence on an abusive partner with stable
9 immigration status may facilitate violence in this way.³⁷ Seventy percent of participants in one
10 study of domestic abuse victims said that immigration status was a major factor keeping them
11 from seeking help or reporting their abuse to the authorities—and thereby permitting the
12 violence to continue.³⁸ In another study, immigration status was identified as the single largest
13 factor independently affecting the rate at which battered Latina immigrants called the police.³⁹
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18 ³³ Elizabeth Fussell, *The Deportation Threat Dynamic & Victimization of Latino Migrants: Wage*
19 *Theft & Robbery*, 52 Soc. Q. 593, 610 (2011).

20 ³⁴ Jacob Bucher, Michelle Manasse, & Beth Tarasawa, *Undocumented Victims: An Examination*
21 *of Crimes Against Undocumented Male Migrant Workers*, 7 Sw. J. Crim. Just. 159, 164, 166
(2010).

22 ³⁵ *Id.* at 165.

23 ³⁶ See, e.g., Messing, *supra* note 9, at 330 (citing several studies); Angelica S. Reina, Brenda J.
24 Lohman, & Marta María Maldonado, “*He Said They’d Deport Me*”: *Factors Influencing*
25 *Domestic Violence Help-Seeking Practices Among Latina Immigrants*, 29 J. Interpersonal
26 *Violence* 593, 601 (2013). The latter study cited a participant who explained that a partner “beat
me up and I could have called the police because that was what I thought to do . . . but he
threatened me [H]e told me that if I called the police I was going to lose out . . . because
[police officers] . . . would . . . take me, because I didn’t have legal documents.” Reina, Lohman,
& Maldonado at 601.

27 ³⁷ See, e.g., Messing, *supra* note 9, at 330.

28 ³⁸ Reina, Lohman, & Maldonado, *supra* note 36, at 600.

³⁹ Nawal H. Ammar et al., *Calls to Police and Police Response: A Case Study of Latina*
Immigrant Women in the USA, 7 Int’l J. Police Sci. & Mgmt. 230, 237 (2005).

1 **II. Policies Limiting Local and State Involvement in Federal Immigration**
 2 **Enforcement Are Critical to Building and Maintaining Trust Between the**
 3 **Community and Law Enforcement While Preserving Local Resources.**

4 In limiting local and state involvement in federal immigration enforcement, many
 5 jurisdictions aim to enhance community trust and preserve local resources. These policies
 6 improve public safety by promoting cooperation between law enforcement and the communities
 7 they serve.

8 Some administrative policies or laws include formal restrictions on local law
 9 enforcement’s ability to apprehend or arrest an individual for federal immigration violations,
 10 including restrictions on arrests for civil violations of federal immigration law.⁴⁰ Other policies
 11 include restrictions on local law enforcement inquiries or investigations into a person’s
 12 immigration status or the gathering of such information at the local level.⁴¹ Additionally, many
 13 jurisdictions have adopted policies against continued detention of an individual based on
 14 immigration detainer requests for at least some categories of noncitizens.⁴² Several states,
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 17 ⁴⁰ See Michael John Garcia & Kate M. Manuel, Cong. Research Serv., R43457, State and Local
 18 “Sanctuary” Policies Limiting Participation in Immigration Enforcement 9 (July 10, 2015),
 19 available at <https://www.fas.org/sgp/crs/homesec/R43457.pdf>; see also OR. REV. STAT. ANN. §
 20 181A.820 (“No law enforcement agency of the State of Oregon or of any political subdivision of
 21 the state shall use agency moneys, equipment or personnel for the purpose of detecting or
 22 apprehending persons whose only violation of law is that they are persons of foreign citizenship
 23 present in the United States in violation of federal immigration laws.”); Washington, DC,
 24 Mayor’s Order 2011-174: Disclosure of Status of Individuals: Policies and Procedures of District
 25 of Columbia Agencies, at 2 (Oct. 19, 2011) (“No person shall be detained solely on the belief
 26 that he or she is not present legally in the United States or that he or she has committed a civil
 27 immigration violation.”), available at [https://www.scribd.com/document/69470234/Disclosure-
 28 Status-of-Individuals-D-C](https://www.scribd.com/document/69470234/Disclosure-Status-of-Individuals-D-C) [hereinafter DC Order]; Phoenix, AZ, Police Dep’t Operations Order
 Manual, at 1.4 (Jan. 2011) (“The investigation and enforcement of federal laws relating to illegal
 entry and residence in the United States is specifically assigned to [Immigration and Customs
 Enforcement within DHS].”), available at [https://www.phoenix.gov/policesite/Documents/
 089035.pdf](https://www.phoenix.gov/policesite/Documents/089035.pdf); see also *Melendres v. Arpaio*, 695 F.3d 990, 1001 (9th Cir. 2012) (“[The sheriff]
 may not detain individuals solely because of unlawful presence.”).

⁴¹ See, e.g., DC Order, *supra* note 40 (public safety employees “shall not inquire about a person’s
 immigration status . . . for the purpose of initiating civil enforcement of immigration proceedings
 that have no nexus to a criminal investigation”).

⁴² Garcia & Manuel, *supra* note 40, at 14.

1 including California, limit the extent to which local police can cooperate with detainer requests,
2 and more than 400 counties have policies limiting cooperation with detainers.⁴³

3 These policies also play an important role in preserving local law enforcement resources.
4 For example, complying with ICE detainer requests can add staggering costs—in some cases,
5 tens of millions of dollars annually.⁴⁴ Requiring localities to provide notice of release and access
6 to ICE officials to all facilities where any individual is detained would have similar effects.
7 Communities carefully allocate resources such as funds, training, and officer duties to best serve
8 local law enforcement needs; forced redistribution to immigration enforcement would siphon
9 limited resources away from where they are most needed while simultaneously damaging
10 community engagement and protection.⁴⁵

11 Recent incidents in localities with policies limiting local involvement in federal
12 immigration enforcement demonstrate the public safety benefits of such policies. For example, in
13 2016, Los Angeles Police Department officers had an encounter with a suspected gang member
14 that resulted in a vehicle chase, a foot pursuit, and shots fired. An undocumented immigrant
15 helped police locate the suspect by providing a description and vehicle information.⁴⁶ In Tucson,
16 Arizona, an undocumented man confronted and struggled with a man who tried to steal a car
17 with children inside. The immigrant held the individual until police arrived, then cooperated with
18 detectives in the follow-up investigation, resulting in charges of kidnapping, auto theft, and
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21 ⁴³ See Cal. Gov't Code § 7284.6(a)(1)(B) (prohibiting local law enforcement agencies from
22 “[u]sing agency or department moneys or personnel to . . . [d]etain an individual on the basis of a
23 hold request”); see also Omri and Preston, *supra* note 2; *ILRC Detainer Policies*, *supra* note 2.

24 ⁴⁴ See *Legislative Threats to Undermine Community Safety Policies: The Costs of Entangling*
25 *Local Policing and Immigration Law*, Nat'l Immigrant Justice Ctr. & Nat'l Immigration Law
26 Ctr. (Aug. 2015), available at [http://immigrantjustice.org/sites/immigrantjustice.org/files/
27 201508_05_NIJC_NILC_EnforcementCosts.pdf](http://immigrantjustice.org/sites/immigrantjustice.org/files/201508_05_NIJC_NILC_EnforcementCosts.pdf).

28 ⁴⁵ See Letter from Law Enforcement Task Force to Hon. Trey Gowdy and Hon. Zoe Lofgren
(July 20, 2015), available at [https://immigrationforum.org/wp-content/uploads/2015/07/072015-
LEITF-Letter-House.pdf](https://immigrationforum.org/wp-content/uploads/2015/07/072015-LEITF-Letter-House.pdf).

⁴⁶ Chuck Wexler, *Commentary: Why Police Support Sanctuaries*, *Phila. Inquirer*, Mar. 10, 2017,
[http://www.philly.com/philly/opinion/20170310_Commentary__Why_police_support_
sanctuaries.html](http://www.philly.com/philly/opinion/20170310_Commentary__Why_police_support_sanctuaries.html).

1 burglary.⁴⁷ These examples show why crime is lower in statistically significant ways in counties
2 that limit local involvement in federal immigration enforcement, as by declining to hold
3 individuals in local custody simply because ICE requests it.⁴⁸

4 Redirecting COPS funds toward civil immigration enforcement would threaten both to
5 disrupt many communities' efforts to ensure that immigrants do not fear interactions with local
6 law enforcement, and to divert jurisdictions' resources from effective public safety efforts.
7 Awarding COPS grants in this way would also deter other communities from adopting trust-
8 enhancing policies in the future. In short, forcing grantee jurisdictions to entangle themselves
9 further with federal immigration enforcement would send a dangerous signal to witnesses and
10 victims within immigrant communities: cooperate with local law enforcement at your own risk.

11 **CONCLUSION**

12 For the foregoing reasons, as well as the reasons set forth in Plaintiff's Motion, this Court
13 should grant the motion for partial summary judgment.
14

15 January 29, 2018

16 Respectfully Submitted,

17 /s/ Joshua Geltzer

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26 Caryn C. Lederer

27 ⁴⁷ *Id.*

28 ⁴⁸ Tom K. Wong, "The Effects of Sanctuary Policies on Crime and the Economy," Center for American Progress (Jan. 26, 2017), *available at* <https://www.americanprogress.org/issues/immigration/reports/2017/01/26/297366/the-effects-of-sanctuary-policies-on-crime-and-the-economy/> ("The results of the CEM analysis show that there are, on average, 35.5 fewer crimes per 10,000 people in sanctuary counties—a result that is highly statistically significant.").

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of BRIEF OF AMICI CURIAE CURRENT AND FORMER LAW ENFORCEMENT LEADERS was served on January 29, 2018 via this Court’s ECF filing system, whereupon all counsel of record were served.

/s/ Joshua Geltzer

Exhibit A

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