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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COUNTY OF SANTA CLARA,

Plaintiffs

v.

DONALD J. TRUMP, et al.,

Defendants.

Case No. 17-cv-00574-WHO

The Honorable William H. Orrick

**BRIEF OF *AMICUS CURIAE* ANTI-
 DEFAMATION LEAGUE IN SUPPORT
 OF PLAINTIFF'S MOTION FOR
 PRELIMINARY INJUNCTION**

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TABLE OF CONTENTS

- I. INTRODUCTION 1
- II. ARGUMENT..... 2
 - A. A Primary Purpose of the County’s Protective Policies and Practices Is to Foster Community Policing and Enhance Public Safety. 2
 - B. The Order Undermines Law Enforcement and Threatens Public Safety. 4
 - 1. The Order Suppresses Reporting of Crimes and Compromises Community Safety. 4
 - 2. Law Enforcement Agencies Have Confirmed That the Order Endangers Public Safety..... 6
 - 3. The Order Hinders Counter-Terrorism Efforts..... 8
 - C. The Order Directly and Disproportionately Harms Immigrant Communities and Leaves Them More Vulnerable to Hate Crimes. 9
- III. CONCLUSION..... 12

1
2
3
4
5
6
7
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1 **I. INTRODUCTION**

2 Despite its title, President Donald J. Trump’s executive order on “sanctuary
3 jurisdictions,” “Enhancing Public Safety in the Interior of the United States” (Exec. Order
4 13,768, 82 Fed. Reg. 8799 (Jan. 25, 2017) (the “Order”)), has the exact opposite effect. By
5 coercing local law enforcement to carry out federal immigration laws, the Order undermines the
6 critical trust and cooperation between law enforcement officials and immigrant and minority
7 communities. This trust is crucial to overall public safety, and central to the success of
8 community policing efforts.

9 ADL’s long experience advocating for and training law enforcement on the
10 implementation of hate crime laws and counter-terrorism efforts makes it uniquely situated to
11 understand the importance of community cooperation for effective policing. (Motion for Leave
12 to File Brief of *Amicus Curiae* Anti-Defamation League in Support of Plaintiffs’ Motion for
13 Preliminary Injunction, concurrently filed, at 1-2.) Indeed, such cooperation is particularly
14 important in minority communities, where socioeconomic conditions – including immigration
15 issues – can lead to a fear of engaging law enforcement, thus rendering some of America’s most
16 vulnerable populations vulnerable to criminal attacks and especially hate crime.

17 Like many jurisdictions around the country, the County of Santa Clara (the “County”) has
18 enacted various protective policies and practices in order to ensure that an individual’s
19 citizenship status and any potential immigration issues do not interfere with that individual’s
20 ability to avail herself of local law enforcement’s protection and assistance. In addition to
21 conserving limited county resources, these policies and practices are designed to *assist* local law
22 enforcement – *i.e.*, to encourage community members to come forward to report crimes to local
23 police without the fear that their immigration or citizenship status will subject them to legal
24 action themselves. By threatening to eliminate all federal funding to jurisdictions that may be
25 deemed “sanctuary jurisdictions,” the Order seeks to force the County and jurisdictions across
26 the country to choose between compliance with the Order’s terms, or the immediate elimination
27 of other critical public safety programs because federal funding will be cut for non-compliant
28 jurisdictions. No one should be forced to make that choice.

1 As County officials and law enforcement leaders around the nation have attested, there is
 2 a demonstrable risk that – absent an injunction of the Order – undocumented immigrants and
 3 other non-citizens are being dissuaded from aiding local enforcement efforts, including efforts to
 4 combat terrorism and hate crime. Because of the Order, both undocumented and documented
 5 immigrants justifiably fear that the police will report their immigration information – or that of a
 6 family member or friend – to Immigration and Customs Enforcement (“ICE”), thereby resulting
 7 in detention and/or deportation. As a consequence, many individuals are avoiding contact with
 8 law enforcement, causing immediate irreparable harm to the County and communities across the
 9 country.

10 In the experience of the Anti-Defamation League (“ADL”) and numerous law
 11 enforcement agencies that already have spoken out, this break-down of trust and cooperation
 12 between police and minority communities invariably leads to an increase in crime – particularly
 13 hate crime – rather than “enhanced public safety.” Accordingly, the ADL submits this *amicus*
 14 brief in support of the County’s Motion for Preliminary Injunction. (ECF No. 26). An
 15 injunction will prevent the immediate and irreparable harm that will otherwise ensue because the
 16 Order undermines trust and cooperation between immigrant communities and law enforcement.
 17 *See Winter v. Nat. Res. Def. Council, Inc.*, 129 S. Ct. 365, 376 (2008).

18 **II. ARGUMENT**

19 **A. A Primary Purpose of the County’s Protective Policies and Practices Is to** 20 **Foster Community Policing and Enhance Public Safety.**

21 The Order explicitly threatens to eliminate all forms of federal funding to so-called
 22 “sanctuary jurisdictions.” Like numerous other communities in California, the County will likely
 23 be deemed a “sanctuary jurisdiction” because of its policies and practices that limit local law
 24 enforcement’s involvement in the implementation of federal immigration law.

25 One such policy is County Resolution No. 2010-316, “Advancing Public Safety and
 26 Affirming the Separation Between County Services and the Enforcement of Federal Civil
 27 Immigration Law,” which restricts the ability of County agencies and agents to share information
 28 about individual community members (including their immigration status) with ICE.

1 (Declaration of Santa Clara County Chief Operating Officer Miguel Márquez (“Márquez Decl.”)
2 Ex. G). The County also has adopted policies and practices instructing local law enforcement
3 agencies not to implement ICE detainer requests unless these requests concern people who have
4 committed serious felonies and ICE agrees to reimburse the County for the costs of detention.
5 (Declaration of Carl Neusel, Undersheriff of Santa Clara County, ECF No. 31 (“Neusel Decl.”) ¶
6 6.)

7 In enacting these policies, the County cited the importance to public safety of a strong
8 relationship between police and immigrant communities. In enacting Resolution No. 2010-316,
9 for instance, the County Board of Supervisors stated:

10 [T]he Board of Supervisors believes that laws [that require local
11 enforcement of immigration policies] erode the relationship of trust
12 between immigrant communities and local governments . . . [and]
13 discourage crime victims and witnesses from coming forward and
14 cooperating with local law enforcement officials . . . thereby
undermining the health, safety, and well-being of citizens and non-
citizens alike.¹

15 Similarly, when the County enacted its policy concerning ICE civil detainer requests in 2011, it
16 explicitly noted that the purpose was to “build back trust[] with law enforcement.”²

17 Thus the express goal of these and other protective policies and practices is to foster
18 cooperation and communication between law enforcement and the public. That cooperation and
19 open communication is a cornerstone of “community policing,” which is based on forging
20 partnerships between law enforcement and community members and groups. The U.S.
21 Department of Justice itself has affirmed that the value of community policing efforts depends in
22 the first instance on establishing trust between the community and law enforcement: “One
23 fundamental purpose of partnerships is to increase trust between law enforcement agencies and
24 the customers they serve. . . . Citizens who do not trust the police are less likely to report crime
25 and participate in developing solutions to problems. . . . Community policing encourages
26

27 ¹ Márquez Decl. Ex. G at 2.

28 ² Transcript of Santa Clara Board of Supervisors Regular Meeting (Oct. 18, 2011, 9:00 AM), http://sccgov.iqm2.com/Citizens/Detail_Transcript.aspx?ID=1035&CssClass=&Frame=.

1 agencies to build up accounts of trust and goodwill to call on when the inevitable crisis arises.”³
 2 A critical element of developing this trust is creating an environment in which both victims and
 3 witnesses are willing to come forward and actively participate in criminal investigations. The
 4 County’s policies are designed to do just that, *i.e.*, to encourage community members –
 5 regardless of their immigration or citizenship status – to contact and cooperate with local police
 6 without fear of deportation or other immigration consequences. (Declaration of Laurie Smith,
 7 Sheriff of Santa Clara County, ECF No. 35 (“Smith Decl.”) ¶ 7-8.) Public safety in the County
 8 (and elsewhere) depends on *all* community members having this trust.

9 **B. The Order Undermines Law Enforcement and Threatens Public Safety.**

10 1. **The Order Suppresses Reporting of Crimes and Compromises**
 11 **Community Safety.**

12 By coercing local law enforcement agencies to enforce federal immigration law, the
 13 Order drives a wedge between police officers and the residents they protect. Although the Order
 14 is vague, it appears to coerce state and local governments to carry out ICE civil detainer requests,
 15 and to prohibit state and local governments from restricting the release of information regarding
 16 an individual’s immigration status. Order § 9(a), 9(b). Immigrants and members of
 17 communities with large immigrant populations reasonably fear that their interaction with law
 18 enforcement will lead to unwanted interaction with ICE. As a result, absent an injunction,
 19 individuals who are undocumented, along with their families, will be unwilling to report crimes
 20 and to assist in police investigations out of fear that contact with local police will lead to their
 21 deportation. Nor will these effects be limited to those that are undocumented: U.S. citizens and
 22 lawful residents who live among immigrant communities and/or belong to ethnic groups that
 23 include many immigrants similarly will hesitate to report crimes or assist in the investigation of
 24 crimes absent an injunction. Instead, they will fear mistakenly being treated as undocumented
 25 and/or the consequences of drawing additional law enforcement attention to their friends and

26 _____
 27 ³ Matthew Scheider, *Community Policing Nugget*, COMMUNITY ORIENTED POLICING
 28 SERVICES, U.S. DEP’T OF JUSTICE,
https://cops.usdoj.gov/html/dispatch/february_2008/nugget.html (last visited Mar. 16, 2017)
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1 neighbors.⁴

2 Research has confirmed that the fear of retribution following interaction with law
 3 enforcement has serious practical implications for community safety. Empirical data and
 4 analysis show that undocumented immigrants are significantly less likely to report a crime
 5 committed against them.⁵ Under the Order, this natural reluctance is now being compounded
 6 exponentially by a federal requirement that local law enforcement effectively act as immigration
 7 agents. The effect is not a reduction in crime, but rather an increase in crime because the
 8 necessary trust and cooperation between the police and local communities is reduced. For
 9 example, one study completed earlier this year compared counties with a “sanctuary” policy –
 10 *i.e.*, counties that do not assist federal immigration enforcement officials by holding people in
 11 custody beyond their release date – with non-sanctuary counties that were similar on a broad
 12 range of demographic characteristics. The study concluded that “[t]here are, on average, 35.5
 13 fewer crimes committed per 10,000 people in sanctuary counties compared to nonsanctuary
 14 counties.”⁶

15 Recognizing this fact, the federal government itself previously acknowledged the
 16 importance of encouraging undocumented victims to report criminal activity and cooperate in the

17 ⁴ Fears of being treated as undocumented are well-founded. At times, ICE civil detainer
 18 requests have been directed towards U.S. Citizens. *See Mendia v. Garcia*, 768 F.3d 1009, 1010
 19 (9th Cir. 2014) (U.S. citizen spent two years in pre-trial detention as a result of the detainer);
 20 *Galarza v. Szalczyk*, 745 F.3d 634, 636-38 (3d Cir. 2014) (U.S. citizen held in jail for three days
 21 pursuant to erroneous detainer); *Davila v. N. Reg’l Joint Police Bd.*, 979 F. Supp. 2d 612, 622-23
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 28 October 2007 through July 2015, 693 detainers issued to local law enforcement agencies were
 lifted or resolved, with the outcome “United States Citizen Interviewed.”).

25 ⁵ *See, e.g.*, Sefano Camino, Giovanni Mastrobuoni, & Antonio Nicolo, *Silence of the*
 26 *Innocents: Illegal Immigrants’ Underreporting of Crime and their Victimization*, IZA (Oct.
 27 2016), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2861091.

28 ⁶ Tom K. Wong, *The Effects of Sanctuary Policies on Crime and the Economy*, CTR. FOR
 AM. PROGRESS (Jan. 26, 2017), [https://www.americanprogress.org/issues/immigration/
 reports/2017/01/26/297366/the-effects-of-sanctuary-policies-on-crime-and-the-economy](https://www.americanprogress.org/issues/immigration/reports/2017/01/26/297366/the-effects-of-sanctuary-policies-on-crime-and-the-economy).

1 prosecution of crimes. For example, 8 C.F.R. § 245.24 provides an incentive for undocumented
 2 immigrants who are victims of certain enumerated crimes to report those crimes, and thereby
 3 become eligible to apply for lawful immigration status. The United States Citizenship and
 4 Immigration Services has said that the purpose of this provision is to “strengthen the ability of
 5 law enforcement agencies to investigate and prosecute cases of domestic violence, sexual assault,
 6 trafficking of aliens and other crimes, while also protecting victims of crimes.”⁷ This is an open
 7 acknowledgement by the federal government that the participation of immigrant communities in
 8 law enforcement practices is essential to public safety.⁸

9 **2. Law Enforcement Agencies Have Confirmed That the Order**
 10 **Endangers Public Safety.**

11 The Order reduces the reporting of crimes and the safety of County residents. As various
 12 County law enforcement officials have confirmed, the willingness of community members to
 13 report crimes and serve as witnesses is essential to effective law enforcement. (Neusel Decl. ¶ 8;
 14 Declaration of Santa Clara County District Attorney Jeffrey F. Rosen, ECF No. 33 ¶ 4, 8, 11;
 15 Smith Decl. ¶ 4, 7.) The Order directly impedes the ability of law enforcement to prevent and
 16 investigate crimes in the County because it limits the cooperation they receive from a large
 17 section of County residents. (Neusel Decl. ¶ 8; Smith Decl. ¶ 9.) Absent an injunction, the
 18 resulting negative impact on public safety will not be limited to already-underserved immigrant
 19 communities, but *all* communities in the County and across the nation, and will compromise the
 20 police’s ability to investigate and prosecute crime.

21 These conclusions of County law enforcement officers are echoed by the broader law
 22 enforcement community. The Police Foundation, the International Association of Chiefs of
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24 ⁷ USCIS, *Victims of Criminal Activity: U Nonimmigrant Status*, <https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status> (last visited Mar. 8, 2017).

26 ⁸ 8 C.F.R. § 245.24. U.S. Citizenship and Immigration Services is reporting a backlog of
 27 over 150,000 pending applications. *See*
 28 https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u_visastatistics_fy2016_qtr4.pdf (last visited Mar. 22, 2017).

1 Police, the Major Cities Chiefs Association, and the Law Enforcement Immigration Task Force
 2 all have expressed grave concern that deputizing local law enforcement officers to implement
 3 immigration law undermines the immigrant community's trust in and cooperation with local law
 4 enforcement.⁹ The Major Cities Chiefs Association wrote in a statement:

5 Cities that aim to build trusting and supportive relations with
 6 immigrant communities should not be punished because this is
 7 *essential to reducing crime and helping victims*, both stated goals
 8 of the new Administration in Washington. We must be able to
 9 continue to protect the safety of all of our residents while ensuring
 10 that local law enforcement is focused on community policing. . . .
 Local police departments work hard to build and preserve trust
 with all of the communities they serve, including immigrant
 communities. Immigrants residing in our cities must be able to
 trust the police and all of city government.¹⁰

11 Similarly, many local law enforcement leaders in different states have spoken out against
 12 the Order and have specifically cited its detrimental effect on crime reporting:

- 13 • Lake County, Illinois Sheriff Mark Curran: “Community policing is based on
 14 having relationships with people that live in those minority communities.”¹¹
- 15 • Marshalltown, Iowa Police Chief Mike Tupper: “This [Order] is not going to help
 16 us build the relationships in our community that most people expect us to have.”¹²
- 17 • Chelsea, Massachusetts Police Chief Brian Kyes: “These individuals can be
 18 targeted for committing crimes and we want these people to trust the police to
 19

21 ⁹ See, e.g., Tom Jackson, *Police chiefs' immigration task force outlines opposition to*
 22 *Trump policy*, WASHINGTON POST (Mar. 1, 2017), https://www.washingtonpost.com/news/true-crime/wp/2017/03/01/police-chiefs-immigration-task-force-outlines-opposition-to-trump-policy/?utm_term=.4a1b2456fec8.
 23

24 ¹⁰ U.S. Conf. of Mayors & Major Cities Chiefs Ass'n, *Joint Statement Regarding President*
 25 *Trump's Executive Order, Enhancing Public Safety in the Interior of the United States*,
https://www.majorcitieschiefs.com/pdf/news/mcca_mayors_pr_on_eo_12517.pdf (last visited
 Mar. 22, 2017) (emphasis added).

26 ¹¹ Megan Wetmore, *Law Enforcement Leaders Condemn 'Sanctuary Cities' Executive*
 27 *Order*, NAT'L IMMIGRATION FORUM (Jan. 26, 2017), <http://immigrationforum.org/blog/law-enforcement-leaders-condemn-sanctuary-cities-executive-order/>.

28 ¹² *Id.*

1 report crimes. If they're in fear that we're gonna enforce locally, civil federal
2 immigration law, we won't have that trust."¹³

- 3 • Tulsa, Oklahoma Police Chief Chuck Jordan: "I don't want anyone to be a crime
4 victim in this city and be afraid to call the police."¹⁴

5 Absent an injunction, the harms that will occur from the breakdown of community
6 policing will be immediate and irreparable. Once local police effectively become federal
7 immigration agents, it will be difficult – if not impossible – for them to rebuild the bonds of trust
8 and cooperation with immigrant communities.

9 3. The Order Hinders Counter-Terrorism Efforts.

10 In addition to hindering local police and law enforcement activities, the Order
11 immediately and irreparably harms national counter-terrorism efforts. Engagement with the
12 community is essential for effective homeland security. Since September 11th, law enforcement
13 agencies actively have sought to develop relationships with Arab, Middle Eastern, Muslim and
14 South Asian (AMEMSA) communities, which have been both targets in need of protection and
15 potential sources of information. These partnerships are analogous to community policing
16 efforts, and have led to numerous terrorism prosecutions.¹⁵ Tips from Muslim-Americans have
17 helped thwart 27% of 126 known potential domestic terrorist attacks since 2001.¹⁶ For example,
18 an imam in Queens, New York provided tips that led to the arrest of Najibullah Zazi, who was
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20 ¹³ Kathleen Mc Nerney, *Chelsea Fights Trump's Executive Order On Sanctuary Cities*,
21 RADIO BOSTON (Feb. 16, 2017), [http://www.wbur.org/radioboston/2017/02/16/
chelsea-sanctuary-lawsuit](http://www.wbur.org/radioboston/2017/02/16/chelsea-sanctuary-lawsuit).

22 ¹⁴ Dylan Goforth & Kevin Canfield, *Mayor, Police Chief Reiterate Stances in Wake of*
23 *President's Executive Order on Immigration*, THE FRONTIER (Jan. 27, 2017),
<https://www.readfrontier.org/stories/mayor-police-chief-reiterate/>.

24 ¹⁵ David A. Harris, *Law Enforcement and Intelligence Gathering in Muslim and Immigrant*
25 *Communities After 9/11*, LEGAL STUDIES RESEARCH PAPER SERIES (Jan. 22, 2009),
<https://poseidon01.ssrn.com/delivery.php?ID=372020070024102112007084073072026011030078052092059006029089126011022082031080004113102061051016000116101118089117006065087103001072061051050067075102084113006079056051000025115118078009081081114081068080084121110080127101016004014007120067013017064&EXT=pdf>.

27 ¹⁶ Charles Kurzman, *Muslim-American Terrorism: Declining Further*, TRIANGLE CENTER
28 ON TERRORISM AND HOMELAND SECURITY (Feb. 1, 2013),
[https://kurzman.unc.edu/files/2011/06/Kurzman_Muslim-
American_Terrorism_February_1_2013.pdf](https://kurzman.unc.edu/files/2011/06/Kurzman_Muslim-American_Terrorism_February_1_2013.pdf).

1 sentenced to life in prison in 2010 for conspiring to bomb the New York subway system.¹⁷

2 For this reason, Homeland Security experts have spoken out against measures that create
3 a loss of trust and cooperation between law enforcement and the community. For example, John
4 Cohen, who worked for the Office of National Intelligence under President Bush and the
5 Department of Homeland Security under President Obama has said about another anti-
6 immigration measure, “[i]t may drive a wedge between law enforcement authorities and
7 members of the Arab-American or Muslim-American community at the very time we need
8 cooperation and partnership. It’s certainly going to impact the relationship with federal
9 authorities as they seek to reach out to Muslim community leaders in an effort to have them work
10 together.”¹⁸ The Order will immediately and irreparably destroy the relationships that law
11 enforcement has built with immigrant communities, removing an important layer of protection
12 against terrorist attacks.

13 **C. The Order Directly and Disproportionately Harms Immigrant Communities**
14 **and Leaves Them More Vulnerable to Hate Crimes.**

15 By reducing the trust between law enforcement and immigrant and minority
16 communities, the Order leaves a large segment of the population particularly vulnerable to
17 crimes targeting immigrants. ADL has monitored and exposed the increasingly hateful anti-
18 immigrant, anti-Latino, and anti-Muslim rhetoric that has surrounded the national debate on
19 immigration reform.¹⁹ Studies have shown that hate crimes have been on the rise in recent
20 years.²⁰ People within immigrant populations are especially vulnerable to hate crime.²¹ Indeed,
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22 ¹⁷ *Id.*

23 ¹⁸ Josh Sanburn, *President Trump’s Immigration Order Could Harm the Fight Against Domestic Terror Some Experts Warn*, TIME (Jan. 31, 2017) <http://time.com/4655229/president-trump-immigration-executive-order-muslims-terrorism-police>.

24 ¹⁹ *Executive Order on So-Called “Sanctuary Cities” Puts All Communities at Risk, ADL Says*, ADL (Jan. 25, 2017) <https://www.adl.org/news/press-releases/executive-order-on-so-called-sanctuary-cities-puts-all-communities-at-risk-adl>; Ric Anderson, *Q+A: ADL Leader says that as Trump surged, so did hate crimes*, LAS VEGAS SUN (Dec. 22, 2016), <https://lasvegassun.com/news/2016/dec/22/qa-adl-leader-says-that-as-trump-surged-so-did-hat>.

25 ²⁰ *See, e.g., L.A. Cty. Comm’n on Human Relations, 2015 Hate Crime Report*, [http://www.lahumanrelations.org/hatecrime/reports/2015%20Hate%20Crime%20Report%20PDF%20\(1\).pdf](http://www.lahumanrelations.org/hatecrime/reports/2015%20Hate%20Crime%20Report%20PDF%20(1).pdf) (last visited Mar. 22, 2017) (finding that crimes targeting Latino/as jumped 69% in

1 one study found that “[i]n a national survey of 464 immigration service providers conducted in
 2 2012 [], advocates reported that 73% of hate crime victims they had served were targeted on the
 3 basis of immigration status/nationality.”²² Documented and undocumented immigrants, as well
 4 as members of minority communities that may be perceived as immigrants, are in danger of
 5 increased rates of hate crimes.

6 People within immigrant communities also are especially susceptible to wage theft and
 7 other employer abuses.²³ Day laborers in particular are easy targets for unscrupulous employers,
 8 who hire them and then disappear before paying their day’s wages.²⁴ Workers who are robbed of
 9 their wages are often afraid to report the theft because of their immigration status. As Professor
 10 Stephen Lee of the University of California, Irvine School of Law stated, “[D]istrust of the
 11 police effectively neutralizes the potential of wage theft statutes when enforced against
 12 employers who hire unauthorized immigrant workers.”²⁵

13 In this climate, it is critically important that County law enforcement officers are able to
 14 effectively investigate and prosecute crime, particularly hate crimes. Absent an injunction,
 15

16 Los Angeles County in 2015); Michael Shively, *et al.*, *Understanding Trends in Hate Crimes*
 17 *Against Immigrants and Hispanic-Americans: Final Report*, NAT’L INST. OF JUSTICE (Dec. 27,
 18 2013), <https://www.ncjrs.gov/pdffiles1/nij/grants/244755.pdf> (“From 2010 to 2011, there was a
 statistically significant increase in the prevalence of harassment or bullying targeting Hispanics
 because of their ethnicity.”).

19 ²¹ Int’l Ass’n of Chiefs of Police, *Police Chiefs Guide to Immigration Issues* 28 (2007),
<http://www.theiacp.org/Portals/0/pdfs/Publications/PoliceChiefsGuidetoImmigration.pdf>.

20 ²² Jeanine Braud, Criselda Haro, Olga Tomchin, and Jeffrey Selbin, *U Visas for Immigrant*
 21 *Victims of Hate Crimes: A Practice Guide for Advocates* (June 26, 2014), UC BERKELEY PUB. L.
 Research Paper No. 2459315, <https://ssrn.com/abstract=2459315>.

22 ²³ Liz Robbins, *New Weapon in Day Laborers’ Fight Against Wage Theft: A Smartphone*
 23 *App*, NEW YORK TIMES (Mar. 1, 2016) [https://www.nytimes.com/2016/03/02/nyregion/new-
 weapon-in-day-laborers-fight-against-wage-theft-a-smartphone-app.html](https://www.nytimes.com/2016/03/02/nyregion/new-weapon-in-day-laborers-fight-against-wage-theft-a-smartphone-app.html).

24 ²⁴ Stephen Lee, *Policing Wage Theft in the Day Labor Market*, 4 U.C. IRVINE L. REV. 655
 25 (2014).

26 ²⁵ *Id.* at 665. Day laborers are also especially vulnerable to robberies and anti-immigration
 27 vigilantes. *See, e.g.*, Jason McGahan, *Day Laborers Have Become an Easy Target for Anti-*
 28 *Immigrant Vigilantes*, LA WEEKLY (Jan. 10, 2017), [http://www.laweekly.com/news/day-
 laborers-have-become-an-easy-target-for-anti-immigrant-vigilantes-7803494](http://www.laweekly.com/news/day-laborers-have-become-an-easy-target-for-anti-immigrant-vigilantes-7803494); Megan Casidy,
Phoenix Police: Armed robber targets day laborers with promise of work, THE REPUBLIC (July
 30, 2015), [http://www.azcentral.com/story/news/local/phoenix/2015/07/30/phoenix-police-
 armed-robber-lobo-bandit-targets-day-laborers-promise-work/30918721](http://www.azcentral.com/story/news/local/phoenix/2015/07/30/phoenix-police-armed-robber-lobo-bandit-targets-day-laborers-promise-work/30918721).

1 victims and witnesses will hesitate to contact law enforcement when doing so may subject them
 2 to possible detention or deportation. Combined with the current atmosphere surrounding the
 3 immigration debate, this lack of community engagement will leave vast portions of the
 4 population especially vulnerable to hate crimes and other criminal attacks. Offenders will
 5 specifically target victims in immigrant communities without fear of prosecution. Indeed, unless
 6 the Order's enforcement is enjoined, it will effectively create an underclass of people –
 7 primarily, although by no means exclusively, in the Latino community – who have no
 8 meaningful access to police services. Absent an injunction, these effects of the Order are
 9 immediate and irreparable – law enforcement officials around the nation have spent countless
 10 hours building relationships with immigrant communities that now are being threatened or
 11 destroyed.

12 The federal government and 45 states plus the District of Columbia have demonstrated
 13 their commitment to protecting minority groups by enacting hate crime legislation modeled after
 14 a version drafted by the ADL.²⁶ Recently, the landmark Matthew Shepard and James Byrd, Jr.
 15 Hate Crimes Prevention Act of 2009 (“Hate Crimes Prevention Act”) created a new federal law
 16 that criminalized willfully causing bodily injury when the crime was committed because of the
 17 actual or perceived race, color, religion, national origin, gender, sexual orientation, gender
 18 identity, or disability of the victim. 18 U.S.C. § 249. The purpose of the Hate Crime Prevention
 19 Act is to decrease the rate of hate crimes, which “are disturbingly prevalent and pose a
 20 significant threat to the full participation of all Americans in our democratic society.”²⁷ When
 21 passing the bill, the House of Representatives noted that “violent hate crimes are significantly
 22 under-reported.”²⁸ Absent an injunction, this Congressional commitment to protecting the most
 23 vulnerable communities in our society will be directly undermined, and irreparably harmed, by
 24 enforcement of the Order as framed.

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 26 ²⁶ *Hate Crimes*, ADL, <https://www.adl.org/what-we-do/combat-hate/hate-crimes> (last
 27 visited Mar. 22, 2017).

28 ²⁷ H.R. REP. NO. 111-86, at 5 (2009).

²⁸ *Id.*

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III. CONCLUSION

For the foregoing reasons, the Order will inflict irreparable harm if its enforcement is not enjoined, and the public interest dictates entry of a preliminary injunction.

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