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STATE OF CALIFORNIA, STATE OF MAINE,
STATE OF MARYLAND, and STATE OF
MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY; ELAINE C. DUKE, in her official
Capacity as Acting Secretary of Homeland
Security; and UNITED STATES OF AMERICA

Defendants.

Case No. 17-cv-05235-WHA

**ADMINISTRATIVE MOTION FOR
LEAVE TO FILE BRIEF AMICI
CURIAE OF CURRENT AND
FORMER LAW ENFORCEMENT
LEADERS IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PROVISIONAL RELIEF**

Hearing Date: December 20, 2017,
8:00am

CITY OF SAN JOSE, a municipal corporation,

Plaintiff,

v.

DONALD J. TRUMP, President of the United
States, in his official capacity, ELAINE C.
DUKE, in her official capacity, and the
UNITED STATES OF AMERICA,

Defendants.

Case No. 17-cv-05329-WHA

**ADMINISTRATIVE MOTION FOR
LEAVE TO FILE BRIEF AMICI
CURIAE OF CURRENT AND
FORMER LAW ENFORCEMENT
LEADERS IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PROVISIONAL RELIEF**

Hearing Date: December 20, 2017,
8:00am

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DULCE GARCIA, MIRIAM GONZALEZ
AVILA, SAUL JIMENEZ SUAREZ,
VIRIDIANA CHABOLLA MENDOZA,
NORMA RAMIREZ, and JIRAYUT
LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD
J. TRUMP, in his official capacity as President
of the United States, U.S. DEPARTMENT OF
HOMELAND SECURITY, and ELAINE
DUKE, in her official capacity as Acting
Secretary of Homeland Security,

Defendants.

Case No. 17-cv-05380-WHA

**ADMINISTRATIVE MOTION FOR
LEAVE TO FILE BRIEF AMICI
CURIAE OF CURRENT AND
FORMER LAW ENFORCEMENT
LEADERS IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PROVISIONAL RELIEF**

Hearing Date: December 20, 2017,
8:00am

COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE C. DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and the U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

Case No. 17-cv-05813-WHA

**ADMINISTRATIVE MOTION FOR
LEAVE TO FILE BRIEF AMICI
CURIAE OF CURRENT AND
FORMER LAW ENFORCEMENT
LEADERS IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PROVISIONAL RELIEF**

Hearing Date: December 20, 2017,
8:00am

1 Movants, Current and Former Law Enforcement Leaders, respectfully request leave to file
2 as *amici curiae* a brief in support of Plaintiffs' Motions in the above-referenced cases pursuant to
3 this Court's October 25, 2017 Order. (No. 17-cv-5211, Dkt. No. 102.) The proposed brief is
4 submitted with this motion. Counsel for Defendants has indicated to Counsel for Movants that
5 Defendants take no position on the present motion.
6

7 **A. Identity of Amici Curiae**

8 *Amici* are a leading national association of local law enforcement executives and current
9 and former individual police chiefs, sheriffs, and law enforcement leaders. *Amici* are:

- 10 • **The National Organization of Black Law Enforcement Executives (NOBLE)**, serving as the conscience of law enforcement by being
11 committed to Justice by Action, with nearly 60 chapters and representing
12 over 3,000 members worldwide, including chief executive officers and
13 command level law enforcement officials from federal, state, county, and
14 municipal law enforcement agencies, and other criminal justice
15 practitioners;
- 16 • **Sheriff Jerry L. Clayton**, Washtenaw County, Michigan, Sheriff's Office;
- 17 • **Ronald Davis**, Former Director, United States Department of Justice, The
18 Office of Community Oriented Policing Services (COPS Office); Chief
19 (Ret.), East Palo Alto, California, Police Department;
- 20 • **Sheriff Joe DiSalvo**, Pitkin County, Colorado, Sheriff's Office;
- 21 • **Chief James Hawkins (Ret.)**, Garden City, Kansas, Police Department;
- 22 • **Chief Chris Magnus**, Tucson, Arizona, Police Department;
- 23 • **Michael G. Masters**, Senior Vice President, The Soufan Group; Former
24 Executive Director, Department of Homeland Security and Emergency
25 Management for Cook County, Illinois;
- 26 • **Sheriff Bill McCarthy**, Polk County, Iowa, Sheriff's Office;
- 27 • **Chief Sylvia Moir**, Tempe, Arizona, Police Department;

- 1 • **Chief Michael Tupper**, Marshalltown, Iowa, Police Department;
- 2 • **Chief Jeri Williams**, Phoenix, Arizona, Police Department.

3 **B. Movants' Interest**

4 *Amici* have deep and wide-ranging expertise in local law enforcement and in cooperative
5 federal-state law enforcement activities. They are intimately familiar with the challenges of
6 performing critical law enforcement functions in communities where immigrants fear the police
7 and are vulnerable to exploitation and crime. *Amici* therefore have an interest in the present
8 litigation as it pertains to the members of their communities who live and work under the Deferred
9 Action for Childhood Arrivals (“DACA”) program.

10 *Amici's* experience in keeping their communities safe has taught the critical importance of
11 bringing immigrants and their families out of the shadows. Community trust and cooperation are
12 essential to public safety, and sound police work is undermined by undocumented immigrants'
13 fears of interacting with law enforcement. This fear, moreover, leaves undocumented immigrants
14 more vulnerable to crime and exploitation, leading to more violence in the communities *amici* are
15 charged with protecting.

16 **C. Movants' Proposed Brief is Desirable and the Matters Asserted are Relevant**
17 **to the Disposition of the Issues Before the Court**

18 “[C]ourts frequently welcome amicus briefs from non-parties concerning legal issues that
19 have potential ramifications beyond the parties directly involved or if the amicus has unique
20 information or perspective that can help the court beyond the help that the lawyers for the parties
21 are able to provide.” *Infineon Techs. N. Am. Corp. v. Mosaid Techs., Inc.*, No. C 02-5772 JFRS,
22 2006 WL 3050849, at *3 (N.D. Cal. Oct. 23, 2006) (quotation marks and citation omitted).

1 As explained in the accompanying proposed brief, DACA protects from deportation nearly
2 800,000 individuals brought to this country as children. Under DACA, these individuals who have
3 undergone background checks and who have lived continuously in the United States since 2007,
4 were permitted to live, work and study in this country without fear of deportation. *Amici* have
5 concluded that the DACA program has helped law enforcement officers keep their communities
6 safe by taking the fear of removal away from these nearly 800,000 individuals who are active
7 members of their communities.
8

9 The proposed brief is desirable, and the matters asserted are relevant to the disposition of
10 the issues before the Court. Based on *amici's* expertise, they are able to assist this Court in
11 understanding that by eliminating an important reason for fear of law enforcement, providing work
12 authorization and access to identification, and building trust between police and immigrants with
13 longstanding ties to the United States, DACA aids community policing and makes recipients less
14 vulnerable to crime and exploitation. In doing so, DACA provides vital support to police and law
15 enforcement authorities charged with protecting everyone in their communities.
16
17

18 **CONCLUSION**

19 Proposed *amici* respectfully request that this Court grant this motion, allow them to
20 participate as *amici curiae*, and accept for filing the brief submitted with this motion in the above
21 actions.
22

23 November 1, 2017

Respectfully Submitted,

24 /s/ Matthew J. Piers

25 Matthew J. Piers
26 Chirag G. Badlani
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28 HUGHES SOCOL PIERS RESNICK & DYM, LTD.
70 West Madison St., Suite 4000

ADMINISTRATIVE MOTION FOR LEAVE TO FILE BRIEF *AMICI CURIAE*
IN SUPPORT OF PLAINTIFFS
ALL DACA CASES (NOS. 17-5211, 17-5235, 17-5329, 17-5380, 17-5813)

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Chicago, IL 60602
(312) 580-0100
Counsel for Amici

ADMINISTRATIVE MOTION FOR LEAVE TO FILE BRIEF *AMICI CURIAE*
IN SUPPORT OF PLAINTIFFS
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CERTIFICATE OF SERVICE

I hereby certify that service of the foregoing motion and proposed brief will be delivered electronically on November 1, 2017, to counsel for Plaintiff and Defendants through the District’s Electronic Case Filing system.

/s/ Matthew J. Piers

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10 *Attorneys for Amici Curiae Current and Former Law Enforcement Leaders*

11
12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**
14 **SAN FRANCISCO DIVISION**

15 _____)
16)
17 THE REGENTS OF THE UNIVERSITY OF)
18 CALIFORNIA and JANET NAPOLITANO,)
19 in her official capacity as President of the) Case No. 17-cv-05211-WHA
20 University of California,)
21) **BRIEF AMICI CURIAE OF**
22 *Plaintiffs,*) **CURRENT AND FORMER LAW**
23) **ENFORCEMENT LEADERS IN**
24) **SUPPORT OF PLAINTIFFS'**
25) **MOTION FOR PROVISIONAL**
26) **RELIEF**
27)
28 v.)
29 U.S. DEPARTMENT OF HOMELAND)
30 SECURITY and ELAINE DUKE, in her)
31 official capacity as Acting Secretary of the)
32 Department of Homeland Security,)
33)
34 *Defendants.*)
35 _____)

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STATE OF CALIFORNIA, STATE OF MAINE,
STATE OF MARYLAND, and STATE OF
MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY; ELAINE C. DUKE, in her official
Capacity as Acting Secretary of Homeland
Security; and UNITED STATES OF AMERICA

Defendants.

Case No. 17-cv-05235-WHA

**BRIEF AMICI CURIAE OF
CURRENT AND FORMER LAW
ENFORCEMENT LEADERS IN
SUPPORT OF PLAINTIFFS’
MOTION FOR PROVISIONAL
RELIEF**

CITY OF SAN JOSE, a municipal corporation,

Plaintiff,

v.

DONALD J. TRUMP, President of the United
States, in his official capacity, ELAINE C.
DUKE, in her official capacity, and the
UNITED STATES OF AMERICA,

Defendants.

Case No. 17-cv-05329-WHA

**BRIEF AMICI CURIAE OF
CURRENT AND FORMER LAW
ENFORCEMENT LEADERS IN
SUPPORT OF PLAINTIFFS’
MOTION FOR PROVISIONAL
RELIEF**

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DULCE GARCIA, MIRIAM GONZALEZ
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VIRIDIANA CHABOLLA MENDOZA,
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LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD
J. TRUMP, in his official capacity as President
of the United States, U.S. DEPARTMENT OF
HOMELAND SECURITY, and ELAINE
DUKE, in her official capacity as Acting
Secretary of Homeland Security,

Defendants.

Case No. 17-cv-05380-WHA

**BRIEF AMICI CURIAE OF
CURRENT AND FORMER LAW
ENFORCEMENT LEADERS IN
SUPPORT OF PLAINTIFFS’
MOTION FOR PROVISIONAL
RELIEF**

COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE C. DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and the U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

Case No. 17-cv-05813-WHA

**BRIEF AMICI CURIAE OF
CURRENT AND FORMER LAW
ENFORCEMENT LEADERS IN
SUPPORT OF PLAINTIFFS’
MOTION FOR PROVISIONAL
RELIEF**

1 **INTEREST OF *AMICI CURIAE***

2 *Amici* Current and Former Law Enforcement Leaders file this brief as *Amici Curiae* in
3 support of Plaintiffs. *Amici* are a leading national association of local law enforcement executives
4 and current and former individual police chiefs, sheriffs, and law enforcement leaders. *Amici* have
5 deep and wide-ranging expertise in local law enforcement and in cooperative federal-state law
6 enforcement activities. They are intimately familiar with the challenges of performing critical law
7 enforcement functions in communities where immigrants fear the police and are vulnerable to
8 exploitation and crime.
9

10
11 *Amici's* experience in keeping their communities safe has taught the critical importance of
12 bringing immigrants and their families out of the shadows. Community trust and cooperation are
13 essential to public safety, and sound police work is undermined by undocumented immigrants'
14 fears of interacting with law enforcement. This fear, moreover, leaves undocumented immigrants
15 more vulnerable to crime and exploitation, leading to more violence in the communities *amici* are
16 charged with protecting.
17

18 The Deferred Action for Childhood Arrivals (“DACA”) program protects from deportation
19 nearly 800,000 individuals brought to this country as children. Under DACA, these individuals
20 who have undergone background checks and who have lived continuously in the United States
21 since 2007, were permitted to live, work and study in this country without fear of deportation.
22 *Amici* have concluded that the DACA program has helped law enforcement officers keep their
23 communities safe by taking the fear of removal away from these nearly 800,000 individuals who
24 are active members of their communities.
25

26 *Amici* are:
27
28

- 1 • **The National Organization of Black Law Enforcement Executives**
2 (NOBLE), serving as the conscience of law enforcement by being
3 committed to Justice by Action, with nearly 60 chapters and representing
4 over 3,000 members worldwide, including chief executive officers and
5 command level law enforcement officials from federal, state, county, and
6 municipal law enforcement agencies, and other criminal justice
7 practitioners;
- 8 • **Sheriff Jerry L. Clayton**, Washtenaw County, Michigan, Sheriff’s Office;
- 9 • **Ronald Davis**, Former Director, United States Department of Justice, The
10 Office of Community Oriented Policing Services (COPS Office); Chief
11 (Ret.), East Palo Alto, California, Police Department;
- 12 • **Sheriff Joe DiSalvo**, Pitkin County, Colorado, Sheriff’s Office;
- 13 • **Chief James Hawkins (Ret.)**, Garden City, Kansas, Police Department;
- 14 • **Chief Chris Magnus**, Tucson, Arizona, Police Department;
- 15 • **Michael G. Masters**, Senior Vice President, The Soufan Group; Former
16 Executive Director, Department of Homeland Security and Emergency
17 Management for Cook County, Illinois;
- 18 • **Sheriff Bill McCarthy**, Polk County, Iowa, Sheriff’s Office;
- 19 • **Chief Sylvia Moir**, Tempe, Arizona, Police Department;
- 20 • **Chief Michael Tupper**, Marshalltown, Iowa, Police Department;
- 21 • **Chief Jeri Williams**, Phoenix, Arizona, Police Department.

22 INTRODUCTION

23 The lessons *amici* have learned in protecting their communities shed important light on the
24 issues raised in these cases. Community policing, a philosophy that calls for trust and engagement
25 between law enforcement and the people they protect, is vital to effective police-work. That trust
26 is undermined when undocumented individuals fear interaction with the police, and law
27 enforcement suffers as a result. Extensive evidence shows that undocumented immigrants – and
28 their lawfully present family and neighbors – fear that turning to the police will bring adverse

1 immigration consequences. As a result, immigrant communities are less willing to report crime or
2 cooperate with police investigations. This fundamental breakdown in trust poses a major challenge
3 not just for police to investigate individual crimes, but also to properly allocate resources in the
4 interest of public safety.

5
6 DACA ameliorates these problems by addressing an important reason why many
7 individuals fear cooperating with law enforcement. As the experience of DACA has shown, when
8 immigrants are permitted to step out of the shadows, they are much more willing to work
9 cooperatively with police. As explained below, nearly two-thirds of DACA recipients reported
10 being less afraid of law enforcement, and fifty-nine percent say they would report a crime now in
11 a case when they would not before. DACA further aids law enforcement by facilitating access to
12 identification, such as federal employment authorization documents. Lack of identification in
13 immigrant communities often leads to undue burdens on police, potentially turning a simple traffic
14 stop into an hours-long detour to fingerprint someone at the police station. When police are able
15 to readily identify victims, witnesses, and potential suspects, valuable law enforcement resources
16 are spared.

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19 DACA also benefits public safety by helping law enforcement protect a population that is
20 uniquely vulnerable to exploitation and violent crime. Numerous studies show that undocumented
21 individuals' fear of interactions with law enforcement makes them attractive targets for many
22 forms of crime and abuse. Undocumented immigrants, for instance, face increased wage theft and
23 other forms of exploitation in the workplace. With limited access to bank accounts (in substantial
24 part because of their lack of identification), they have been dubbed "walking ATMs" and are
25 frequently targeted for robbery. Undocumented individuals are also especially vulnerable to
26 domestic abuse because they are afraid to turn to law enforcement to stop abusive partners.
27
28

1 By eliminating an important reason for fear of law enforcement, providing work
2 authorization and access to identification, and building trust between police and immigrants with
3 longstanding ties to the United States, DACA aids community policing and makes recipients less
4 vulnerable to crime and exploitation. In doing so, DACA provides vital support to police charged
5 with protecting everyone in their communities.
6

7 ARGUMENT

8 I. DACA Fosters Effective Law Enforcement.

9 A. “Community Policing” Is Essential To Effective Law Enforcement.

10 The experience of policing cities across the country has taught law enforcement officers
11 that “[t]o do our job, we must have the trust and respect of the communities we serve.”¹ In order
12 to stop crime, police officers “need the full cooperation of victims and witnesses.”²
13

14 This common-sense philosophy has come to be called “community policing.” Community
15 policing is an approach to policing where police officers engage communities in a working
16 partnership to reduce crime and promote public safety.³ It thus requires police to interact with
17 neighborhood residents in a manner that will build trust and improve the level of cooperation with
18 the police department.⁴ When that relationship of trust is missing—as it is when people believe that
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22 ¹ *Oversight of the Administration’s Misdirected Immigration Enforcement Policies: Examining the*
23 *Impact of Public Safety and Honoring the Victims: Hearing Before the S. Comm. on the Judiciary,*
24 *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.](http://www.judiciary.senate.gov/imo/media/doc/07-21-15%20Manger%20Testimony.pdf)

25 ² *Id.*

26 ³ See Anita Khashu, *The Role Of Local Police: Striking a Balance Between Immigration*
27 *Enforcement and Civil Liberties*, POLICE FOUND., (Apr. 2009) (citing Mark H. Moore, “Problem-
28 *Solving and Community Policing,” MODERN POLICING (Michael Tonry & Norval Morris eds.,*
1992)), available at [https://www.policefoundation.org/wp-content/uploads/2015/06/The-Role-of-](https://www.policefoundation.org/wp-content/uploads/2015/06/The-Role-of-Local-Police-Narrative.pdf)

⁴ *Id.*

1 contacting police could lead to deportation for themselves or others—community policing breaks
2 down and the entire community is harmed.

3 **B. DACA Promotes Cooperation with Law Enforcement.**

4 The reality of millions of undocumented immigrants living in the United States poses
5 significant challenges to effective community policing.

6 According to a Pew survey, 57% percent of Latinos in the United States indicate that they
7 worry about deportation—of themselves, family members, or close friends—and 40% worry about
8 it “a lot.”⁵ This fear necessarily affects cooperation and communication with the police.
9 Immigrants—and their family members and neighbors who may be U.S. citizens or lawfully
10 present—often assume that interaction with police could have adverse consequences for themselves
11 or a loved one. Even when local authorities play no role in immigration enforcement, many
12 immigrants still associate police with immigration authorities, or expect police to inquire about
13 immigration status.⁶

14 As a result, immigrant communities in general, and undocumented immigrants in
15 particular, are less likely to trust and cooperate with local police. One study of Latinos in four
16 major cities found that 70% of undocumented immigrants and 44% of all Latinos are less likely to

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21 ⁵ Mark Hugo Lopez & Susan Minushkin, *2008 National Survey of Latinos: Hispanics See Their
22 Situation in U.S. Deteriorating; Oppose Key Immigration Enforcement Measures*, PEW HISPANIC
23 CENTER, (Sept. 18, 2008), at ii, available at <http://pewhispanic.org/reports/report.php?ReportID=93>.

24 ⁶ See, e.g., Police Executive Research Forum, *Voices from Across the Country: Local Law
25 Enforcement Officials Discuss the Challenges of Immigration Enforcement 2* (2012) (“[S]ome
26 members of the public . . . may have a misperception that because immigration is governed by
27 laws, all law enforcement agencies have responsibility for enforcing those laws. . . . Police chiefs
28 note that immigrants often have this misperception, which often makes them reluctant to contact
local police . . .”), available at
http://www.policeforum.org/assets/docs/Free_Online_Documents/Immigration/voices%20from%20across%20the%20country%20%20local%20law%20enforcement%20officials%20discuss%20the%20challenges%20of%20immigration%20enforcement%202012.pdf.

1 contact law enforcement authorities if they were victims of a crime for fear that the police will ask
2 them or people they know about their immigration status; and 67% of undocumented immigrants
3 and 45% of all Latinos are less likely to voluntarily offer information about, or report, crimes
4 because of the same fear.⁷

5
6 This problematic atmosphere of mistrust is felt by police as well. In one study, two-thirds
7 of the law enforcement officers polled held the view that recent immigrants reported crimes less
8 frequently than others.⁸ Those surveyed also indicated that the crimes that are underreported by
9 immigrants most often are serious ones, with domestic violence and gang violence at the top.⁹

10 The widely-recognized fear among immigrants of interacting with law enforcement poses a
11 fundamental challenge for community policing. Police cannot prevent or solve crimes if victims
12 or witnesses are unwilling to talk to them because of concerns that they or their loved ones or
13 neighbors will face adverse immigration consequences. As the president of the Major Cities Chiefs
14 Association has explained to Congress, “[c]ooperation is not forthcoming from persons who see
15 their police as immigration agents.”¹⁰ As cautioned by one official, “immigrants will never help
16 their local police to fight crime once they fear we have become immigration officers.”¹¹

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21 ⁷ Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration*
22 *Enforcement* 5-6 (May 2013), available at [www.policylink.org/sites/default/files/INSECURE](http://www.policylink.org/sites/default/files/INSECURE_COMMUNITIES_REPORT_FINAL.PDF)
23 [_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
24 greater involvement of police in immigration enforcement has significantly heightened the fears
25 many Latinos have of the police, . . . exacerbating their mistrust of law enforcement authorities.”).

26 ⁸ Robert C. Davis, Edna Erez & Nancy Avitabile, *Access to Justice for Immigrants Who Are*
27 *Victimized: The Perspectives of Police and Prosecutors*, 12 *Crim. Just. Pol’y Rev.* 183, 187 (Sept.
28 2001).

⁹ *Id.* at 188-9.

¹⁰ Statement of Tom Manger, *supra* note 1, at 2.

¹¹ *Local Law Enforcement Leaders Oppose Mandates to Engage in Immigration Enforcement*,
NATIONAL IMMIGRATION LAW CENTER, (Aug. 2013), at 2 (statement of Chief Acevedo), available
at [https://www.nilc.org/wp-content/uploads/2017/02/Law-Enforcement-Opposition-to-Mandates-](https://www.nilc.org/wp-content/uploads/2017/02/Law-Enforcement-Opposition-to-Mandates-2013-08-30.pdf)
2013-08-30.pdf.

1 The underreporting of crimes by recent immigrants is a problem for the criminal justice
 2 system.¹² The most immediate consequence, of course, is that serious crimes go unreported and
 3 unpunished. At a broader level, undercounting the incidence of crime in areas where immigrant
 4 communities live leads to the under-allocation of law enforcement resources to those
 5 communities.¹³ As one official explained, when criminal behavior goes unreported “[c]rime
 6 multiplies” and “[u]nresolved resentments grow in the community.”¹⁴ Another added that the
 7 under-reporting of crime “keeps fear at very high levels and diminishes quality of life.”¹⁵

9 DACA has helped to ameliorate these problems and improve public safety more broadly.
 10 Nearly eight in ten recipients of DACA relief reported that they are now less afraid of
 11 deportation,¹⁶ two-thirds reported being less afraid of law enforcement, and fifty-nine percent of
 12 DACA recipients surveyed said they would report a crime now in a case when they would not
 13 before.¹⁷ If continued, recipients of DACA would not have the same reason to fear ordinary
 14 encounters with law enforcement. Instead, they would retain greater freedom to cooperate in the
 15 protection of their community without worrying how their good deed might be punished – for
 16 example, by causing them to be separated from their family members, siblings, or loved ones.
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21 ¹² Davis et al., *supra* note 8, at 188.

22 ¹³ *Id.*

23 ¹⁴ *Id.*

24 ¹⁵ *Id.*

25 ¹⁶ Zenén Jaimes Pérez, *A Portrait of Deferred Action for Childhood Arrivals Recipients: Challenges and Opportunities Three-Years Later* 23 (June 2015), available at <http://unitedwedream.org/wp-content/uploads/2015/10/DACA-report-final-1.pdf>.

26 ¹⁷ Roberto G. Gonzales & Angie M. Bautista-Chavez, *Two Years and Counting: Assessing the Growing Power of DACA* 9 (June 2014), available at <http://www.immigrationpolicy.org/special-reports/two-years-and-counting-assessing-growing-power-daca>; Roberto G. Gonzales, *DACA’s beneficiaries landed good jobs, enrolled in college, and contributed to society*, Vox Media (Sept. 5, 2017), <https://www.vox.com/2017/9/2/16244380/daca-benefits-trump-undocumented-immigrants-jobs>.

1 Similarly, in the Violence Against Women Act of 2000,¹⁸ Congress created the U visa to
 2 provide immigration relief to undocumented victims of certain crimes.¹⁹ Like DACA, a U visa
 3 allows recipients to identify themselves, receive temporary relief from removal, and obtain verified
 4 government identification.²⁰ The consequences for law enforcement have been striking. A recent
 5 study indicated that U visa applicants and recipients, freed of the need to remain in the shadows,
 6 became far more likely to cooperate with law enforcement in the detection, investigation, and
 7 prosecution of crimes.²¹ Indeed, more than 99% stated that they were willing to cooperate with the
 8 police, and 70% were in fact asked to – and did – provide assistance related to crimes committed
 9 against them.²² Another study revealed that three-quarters of law enforcement officers view U
 10 visas as beneficial in encouraging victims to come forward and report crimes.²³

13 **C. DACA Aids Law Enforcement by Facilitating Access to Identification.**

14 A further benefit of DACA for effective policing follows from the greater availability of
 15 identification. Because most states do not issue driver’s licenses or other identification to
 16 undocumented immigrants, law enforcement often face serious difficulty securely identifying
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18 _____
 19 ¹⁸ Pub. L. No. 106-386, 114 Stat. 1491 (2000).

20 ¹⁹ See Dep’t of Homeland Sec., U.S. Citizenship & Immigration Servs., *Victims of Criminal*
 21 *Activity: U Nonimmigrant Status*, available at [https://www.uscis.gov/humanitarian/victims-](https://www.uscis.gov/humanitarian/victims-human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-criminal-activity-u-nonimmigrant-status)
 22 *human-trafficking-other-crimes/victims-criminal-activity-u-nonimmigrant-status/victims-*
 23 *criminal-activity-u-nonimmigrant-status* (last updated Feb. 11, 2016).

24 ²⁰ See *id.*

25 ²¹ See Leslye Orloff, Levi Wolberg & Benish Anver, *U-Visa Victims & Lawful Permanent*
 26 *Residency* 5-6 (Sept. 6, 2012), available at [http://www.ncdsv.org/images/NIWAP_U-](http://www.ncdsv.org/images/NIWAP_U-VisaVictimsAndLawfulPermanentResidency_9-6-12.pdf)
 27 *VisaVictimsAndLawfulPermanentResidency_9-6-12.pdf*.

28 ²² *Id.* The fact that U-visa applicants are expected to provide “reasonably requested information
 and assistance” to law enforcement in connection with the crimes that qualify them for
 immigration relief may help explain these especially high numbers for cooperation. See *id.* at 5
 (internal quotation marks omitted). But the evidence shows a similar result from the DACA
 program, which involves no expectation of law enforcement cooperation.

²³ Natalia Lee et al., *National Survey of Service Providers on Police Response to Immigrant Crime*
Victims, U Visa Certification and Language Access 21 (Apr. 16, 2013), available at
<http://www.niwap.org/reports/Police-Response-U-Visas-Language-Access-Report-4.6.13.pdf>.

1 undocumented community members. Ready access to identification aids law enforcement in the
2 most basic of ways: if the police cannot verify who someone is, it becomes much harder to identify
3 witnesses and victims, investigate potential suspects, and perform critical tasks like searching a
4 criminal history, investigating outstanding warrants, and deciding whether someone poses a
5 threat.²⁴

7 Even the simplest traffic stop can lead to an unnecessary waste of valuable law enforcement
8 resources if an individual cannot be identified. If an officer stops a motorist who does not have a
9 license or other verifiable identification, the officer may have no other option than to arrest the
10 individual, bring him to the station, and obtain fingerprint information in order to identify the
11 individual. As one police chief has explained, “[w]hen we stop cars and the driver doesn’t have a
12 driver’s license, there are very few options for the officers and troopers.”²⁵ The only way to reliably
13 identify the individual may be through fingerprints, requiring a detour to “jail so we can find out
14 who they are.”²⁶ Another former police chief lamented the “manpower” required and time lost –
15 “up to two to three hours to determine who an arrestee is” – which could be devoted to more
16 pressing law enforcement concerns.²⁷

19 Recipients of DACA are eligible to apply for a federal employment authorization document
20 (“EAD”). The EAD comes in the form of a card issued by U.S. Citizenship and Immigration
21 Services, and includes the recipient’s photograph.²⁸ Individuals who receive employment
22

24 ²⁴ Police Executive Research Forum, *supra* note 6, at 15.

25 ²⁵ *See id.* at 15-16.

26 ²⁶ *Id.* at 16.

26 ²⁷ *Id.* at 15.

27 ²⁸ *See* 8 U.S.C. § 1324a(h)(3); 8 C.F.R. § 274a.12(c)(14); *see also* Dep’t Homeland Sec., U.S.
28 Citizenship & Immigration Servs., OMB No. 1615-0040, Instructions for I-765 Application for
Employment Authorization (Nov. 2015) (describing EAD as a “card” and requiring two passport-
style photos), *available at* <https://www.uscis.gov/sites/default/files/files/form/i-765instr.pdf>.

1 authorization also are eligible to obtain a Social Security number and card.²⁹ Because DACA has
 2 expanded availability of identification, it has assisted law enforcement officers' ability to identify
 3 the people they encounter.³⁰ Instead of time-consuming, wasteful, and potentially antagonistic
 4 encounters with individuals who pose no public safety concern, police have more time to focus on
 5 higher priorities in keeping their communities safe.

7 **II. DACA Helps Law Enforcement Protect Vulnerable Individuals From Crime**
 8 **and Exploitation.**

9 DACA has another vital public safety benefit: protecting individuals who are attractive
 10 targets for criminals.

11 As discussed above, undocumented immigrants as well as their families fear interactions
 12 with police and are reluctant to report crimes. No one knows this better than the predators who
 13 seek to take advantage of their vulnerabilities. These individuals face a range of misconduct, from
 14 abuse by unscrupulous employers to domestic and gang violence.³¹ "When immigrants come to
 15 view their local police and sheriffs with distrust because they fear deportation, it creates conditions
 16 that encourage criminals to prey upon victims and witnesses alike."³²

18 This phenomenon has been termed the "deportation threat dynamic."³³ The logic is
 19 straightforward: "(1) an unauthorized migrant seeks, and finds, employment; (2) a person, such as
 20 an employer or criminal, identifies the migrant as unauthorized; (3) that person commits a crime
 21

22 _____
 23 ²⁹ See Soc. Sec. Admin., SSA Publ'n No. 05-10096, Social Security Numbers For Noncitizens,
 (June. 2015), available at <http://www.ssa.gov/pubs/EN-05-10096.pdf>.

24 ³⁰ More than 90% of recipients of relief under DACA report that they have acquired a driver's
 license or other identification. Pérez, *supra* note 16, at 20.

25 ³¹ See U.S. Dep't of Justice, Office of Cmty. Oriented Policing Servs., *Enhancing Community*
 26 *Policing with Immigrant Populations: Recommendations from a Roundtable Meeting of Immigrant*
Advocates and Law Enforcement Leaders 16 (Apr. 2010).

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

28 ³³ Elizabeth Fussell, *The Deportation Threat Dynamic & Victimization of Latino Migrants: Wage*
Theft & Robbery, 52 Soc. Q. 593 (2011).

1 against the migrant, such as wage theft, another workplace violation, or robbery; and (4) the
2 migrant does not report the crime to law enforcement,” fearing immigration consequences.³⁴

3 This phenomenon is widespread in the workplace. In a number of studies, between 40%
4 and 80% of mostly undocumented immigrants reported being victims of wage theft.³⁵ Many
5 immigrants also reported other types of worksite abuse.³⁶ In one study, 32% of respondents said
6 they had suffered on-the-job injuries – and most of these individuals were either fired, not paid
7 lost wages, or denied medical care by their employers.³⁷

8 The deportation threat dynamic fuels not just exploitation but outright violence. An
9 advocate reported that, when one worker attempted to collect wages his employer owed him, “[t]he
10 contractor raised his shirt and showed he had a gun — and that was enough. . . . He didn’t have to
11 say any more. The worker left.”³⁸ DACA recipients are currently eligible to receive work
12 authorization, and many are currently working or pursuing higher educational opportunities.
13 Revocation of their work authorization will leave them more vulnerable to exploitations and crime.
14

15 This same lawlessness plaguing undocumented communities extends well beyond the
16 workplace. Nearly two-thirds of undocumented migrant workers participating in a Memphis study
17 reported being the victim of at least one crime, with the most common being theft and robbery.³⁹
18

19
20
21 ³⁴ *Id.* at 610.

22 ³⁵ *See id.* (finding that 2 of 5 respondents reported wage theft since arriving in New Orleans, and
23 citing Nik Theodore, Abel Valenzuela, Jr. & Edwin Meléndez, *La Esquina (The Corner): Day
24 Laborers on the Margins of New York’s Formal Economy*, 9 WorkingUSA: J. Labor & Soc. 407
25 (Dec. 2006), finding a wage theft rate of approximately 50% in New York); S. Poverty Law Ctr.,
Under Siege: Life for Low-Income Latinos in the South 6 (Apr. 2009) (finding that 41% of those
26 surveyed across the South had experienced wage theft, and 80% had in New Orleans), available
27 at <http://www.splcenter.org/sites/default/files/downloads/UnderSiege.pdf>.

28 ³⁶ Fussell, *supra* note 33, at 604.

³⁷ S. Poverty Law Ctr., *supra* note 35, at 6.

³⁸ *Id.* at 7 (internal quotation marks omitted).

³⁹ Jacob Bucher, Michelle Manasse & Beth Tarasawa, *Undocumented Victims: An Examination of
Crimes Against Undocumented Male Migrant Workers*, 7 Sw. J. Crim. Just. 159, 164, 166 (2010).

1 Respondents indicated that fewer than a quarter of these crimes were reported to the police, and
2 *only one* was reported by the victim himself.⁴⁰

3
4 As this study suggests, robbery and similar crimes are a particular problem. Undocumented
5 individuals typically do not have bank accounts, in part because of their inability to obtain
6 government-issued identification.⁴¹ Moreover, many of these immigrants live in group apartments
7 and are unable to store valuables in a safe place at home.⁴² As a result, undocumented immigrants
8 are known to carry large amounts of cash, making robbing them an especially lucrative
9 proposition. The risk to the perpetrators, meanwhile, is minimal because the victims are too afraid
10 to report the crime to the police.

11
12 The targeting of undocumented immigrants for robbery has become so widespread that
13 these individuals have been labeled “walking ATMs” – or the subjects of “amigo shopping.”⁴³ In
14 a study of largely undocumented immigrants helping to rebuild New Orleans in the wake of
15 Hurricane Katrina, the immigrants reported robbery and physical assault at more than *ten times* the
16 rate experienced by the general population.⁴⁴ In another survey, 53% of law enforcement officers
17 held the view that undocumented immigrants were especially likely to be victims of robbery and
18 theft.⁴⁵

19
20 There is also evidence that undocumented immigrants are especially vulnerable to domestic
21 violence. A number of studies have shown that abusive partners may utilize the threat of
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23 ⁴⁰ *Id.* at 165.

24 ⁴¹ Fussell, *supra* note 33, at 604; S. Poverty Law Ctr., *supra* note 35, at 6, 25.

25 ⁴² Khashu, *supra* note 3, at 25; *see also* Bucher, Manasse & Tarasawa, *supra* note 39, at 164, 167-
26 68 (finding that a large majority of surveyed undocumented migrants workers lived with at least
27 three others and finding a strong relationship between number of cohabitants and crime).

28 ⁴³ *See* Fussell, *supra* note 33, at 604-05; S. Poverty Law Ctr., *supra* note 35, at 25; Khashu, *supra*
note 3, at 25.

⁴⁴ *See* Fussell, *supra* note 33, at 604.

⁴⁵ *Id.*

1 deportation in order to maintain power and control.⁴⁶ When the abusing partner has lawful status,
 2 financial dependence on a partner with stable immigration status may similarly facilitate
 3 violence.⁴⁷

4
 5 Seventy percent of participants in one study of domestic abuse victims said that
 6 immigration status was a major reason keeping them from seeking help or reporting their abuse to
 7 the authorities – and thereby permitting the violence to continue.⁴⁸ In another study, the single
 8 largest factor independently affecting the rate at which battered immigrant Latina women called
 9 the police was identified as immigration status.⁴⁹

10
 11 The unique vulnerability of undocumented individuals to crime is summed up well by a
 12 tragic incident in Nashville. A woman posing as an immigration official tried to force her way into
 13 an undocumented woman’s home, and, in the struggle, stabbed the victim 12 times, and then
 14 kidnapped her baby.⁵⁰ Despite this extraordinary assault, the woman resisted her neighbors’ cries
 15 to call 9-1-1.⁵¹ She explained that she was too “concerned about my legal status.”⁵² “Even when I
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19 ⁴⁶ See, e.g., Jill Theresa Messing, et al., *Latinas’ Perceptions of Law Enforcement: Fear of*
 20 *Deportation, Crime Reporting, and Trust in the System*, 30 J. Women & Soc. Work 328, 330
 21 (2015) (citing several studies); Angelica S. Reina, Brenda J. Lohman & Marta María Maldonado,
 22 *“He Said They’d Deport Me”’: Factors Influencing Domestic Violence Help-Seeking Practices*
 23 *Among Latina Immigrants*, 29 J. Interpersonal Violence 593, 601 (2013). The latter study cited a
 24 participant who explained that a partner “beat me up and I could have called the police because
 25 that was what I thought to do . . . but he threatened me . . . he told me that if I called the police I
 26 was going to lose out . . . because they [police officers] . . . would . . . take me, because I didn’t
 27 have legal documents.” Reina, Lohman & Maldonado at 601.

28 ⁴⁷ See, e.g., Messing, *supra* note 46, at 330.

⁴⁸ Reina, Lohman & Maldonado, *supra* note 46, at 600.

⁴⁹ Nawal H. Ammar et al., *Calls to Police and Police Response: A Case Study of Latina Immigrant*
 26 *Women in the USA*, 7 Int’l J. Police Sci. & Mgmt. 230, 237 (2005).

⁵⁰ Amy Braunschweiger, Human Rights Watch, *Nashville Immigrants Too Scared to Call the*
 27 *Police* (May 19, 2014).

⁵¹ *Id.*

⁵² *Id.*

1 was in the ambulance, bleeding, the thing I kept thinking was ‘[w]ho will take care of my children
2 when I am deported?’”⁵³

3
4 In short, should DACA recipients lose their work authorization and once again fear
5 removal from the United States, their lack of status will embolden exploitative employers and
6 criminals alike, and diminish the safety of entire communities. By permitting these young
7 individuals to live and work openly, DACA eliminates a significant barrier to an open and trusting
8 relationship with law enforcement. As a result, the police will be better able to fight crime and
9 serve everyone they are charged with protecting.

10
11 **CONCLUSION**

12 For the foregoing reasons, as well as the reasons set forth in Plaintiffs’ Motions, this
13 Court should grant the relief sought by the Plaintiffs.

14
15 November 1, 2017

Respectfully Submitted,

16
17 /s/ Matthew J. Piers

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28

⁵³ *Id.*

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10 *Attorneys for Amici Curiae Current and Former Law Enforcement Leaders*

11
12
13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**
15 **SAN FRANCISCO DIVISION**

16 THE REGENTS OF THE UNIVERSITY OF)
17 CALIFORNIA and JANET NAPOLITANO,)
18 in her official capacity as President of the)
19 University of California,)

20 *Plaintiffs,*)

21 v.)

22 U.S. DEPARTMENT OF HOMELAND)
23 SECURITY and ELAINE DUKE, in her)
24 official capacity as Acting Secretary of the)
25 Department of Homeland Security,)

26 *Defendants.*)
27)
28)

Case No. 17-cv-05211-WHA

[PROPOSED] ORDER ON
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE BRIEF AMICI
CURIAE OF CURRENT AND
FORMER LAW ENFORCEMENT
LEADERS IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PROVISIONAL RELIEF

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STATE OF CALIFORNIA, STATE OF MAINE,
STATE OF MARYLAND, and STATE OF
MINNESOTA,

Plaintiffs,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY; ELAINE C. DUKE, in her official
Capacity as Acting Secretary of Homeland
Security; and UNITED STATES OF AMERICA

Defendants.

Case No. 17-cv-05235-WHA

**[PROPOSED] ORDER ON
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE BRIEF AMICI
CURIAE OF CURRENT AND
FORMER LAW ENFORCEMENT
LEADERS IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PROVISIONAL RELIEF**

CITY OF SAN JOSE, a municipal corporation,

Plaintiff,

v.

DONALD J. TRUMP, President of the United
States, in his official capacity, ELAINE C.
DUKE, in her official capacity, and the
UNITED STATES OF AMERICA,

Defendants.

Case No. 17-cv-05329-WHA

**[PROPOSED] ORDER ON
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE BRIEF AMICI
CURIAE OF CURRENT AND
FORMER LAW ENFORCEMENT
LEADERS IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PROVISIONAL RELIEF**

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DULCE GARCIA, MIRIAM GONZALEZ
AVILA, SAUL JIMENEZ SUAREZ,
VIRIDIANA CHABOLLA MENDOZA,
NORMA RAMIREZ, and JIRAYUT
LATTHIVONGSKORN,

Plaintiffs,

v.

UNITED STATES OF AMERICA, DONALD
J. TRUMP, in his official capacity as President
of the United States, U.S. DEPARTMENT OF
HOMELAND SECURITY, and ELAINE
DUKE, in her official capacity as Acting
Secretary of Homeland Security,

Defendants.

Case No. 17-cv-05380-WHA

**[PROPOSED] ORDER ON
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE BRIEF AMICI
CURIAE OF CURRENT AND
FORMER LAW ENFORCEMENT
LEADERS IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PROVISIONAL RELIEF**

COUNTY OF SANTA CLARA and
SERVICE EMPLOYEES INTERNATIONAL
UNION LOCAL 521,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, JEFFERSON
BEAUREGARD SESSIONS, in his official
capacity as Attorney General of the United
States; ELAINE C. DUKE, in her official
capacity as Acting Secretary of the Department
of Homeland Security; and the U.S.
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

Case No. 17-cv-05813-WHA

**[PROPOSED] ORDER ON
ADMINISTRATIVE MOTION FOR
LEAVE TO FILE BRIEF AMICI
CURIAE OF CURRENT AND
FORMER LAW ENFORCEMENT
LEADERS IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PROVISIONAL RELIEF**

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[PROPOSED] ORDER

On November 1, 2017, proposed *amici*, Current and Former Law Enforcement Leaders, filed a motion seeking leave to file an amici curiae brief in support of Plaintiffs. Having considered the papers and pleadings on file, the Court GRANTS the Motion for Leave to File Amici Curiae Brief in Support of Plaintiffs by Current and Former Law Enforcement Leaders and ORDERS that the brief submitted by these amici be filed.

IT IS SO ORDERED.

Dated: _____, 2017

HONORABLE WILLIAM ALSUP
JUDGE, UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA