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 15 **UNITED STATES DISTRICT COURT**  
 16 **NORTHERN DISTRICT OF CALIFORNIA**  
 17 **SAN FRANCISCO DIVISION**

18 CITY AND COUNTY OF SAN  
 19 FRANCISCO,

20 Plaintiffs

21 v.

22 DONALD J. TRUMP, et al.,

23 Defendants.

Case No. 17-cv-00485-WHO

The Honorable William H. Orrick

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

Date: April 14, 2017

Time: 2:00 p.m.

Dept.: Courtroom 2

Date Filed: January 31, 2017

Trial Date: Not yet set

1 Pursuant to Federal Rule of Civil Procedure 7, the Anti-Defamation League (“ADL”)  
2 respectfully moves for leave to file the concurrently-lodged brief as *amicus curiae* in support of  
3 Plaintiff’s Motion for Preliminary Injunction (ECF No. 21) (the “Motion”).

4 **I. IDENTITY OF AMICUS CURIAE**

5 ADL is a non-profit organization that fights anti-Semitism and all forms of bigotry,  
6 defends democratic ideals, and protects civil rights. ADL was founded in 1913 with a dual  
7 mission to stop the defamation of the Jewish people and to secure justice and fair treatment to all.  
8 ADL has 26 regional offices across the country and five offices in California alone, including an  
9 office in the San Francisco Bay Area.

10 **II. MOVANT’S INTEREST**

11 ADL works closely with federal, state and local law enforcement agencies on issues  
12 involving extremist and hate groups in the United States, and on the investigation and  
13 prosecution of hate crimes. Each year, it trains more than 14,000 officers on hate crimes, bias,  
14 extremism, and terrorism. *Law Enforcement Partnerships*, ADL, [https://www.adl.org/what-we-](https://www.adl.org/what-we-do/combat-hate/law-enforcement-partnerships)  
15 [do/](https://www.adl.org/what-we-do/combat-hate/law-enforcement-partnerships)[combat-hate/law-enforcement-partnerships](https://www.adl.org/what-we-do/combat-hate/law-enforcement-partnerships) (last visited Mar. 22, 2017). It provides training  
16 through a national network of regional offices that help law enforcement officers recognize and  
17 identify hate crimes and investigate them thoroughly and with the appropriate sensitivity. *Id.* In  
18 partnership with the United States Holocaust Memorial Museum, ADL also has trained more  
19 than 130,000 law enforcement professionals through its program *Law Enforcement and Society:*  
20 *Lessons of the Holocaust*, which draws on the lessons of the Holocaust to train law enforcement  
21 personnel to increase understanding of their role as guardians of the Constitution, our democratic  
22 principles and the people they serve. *Law Enforcement & Society: Lessons of the Holocaust*,  
23 ADL, [https://www.adl.org/who-we-are/our-organization/signature-programs/law-enforcement-](https://www.adl.org/who-we-are/our-organization/signature-programs/law-enforcement-training/law-enforcement-society)  
24 [training/law-enforcement-society](https://www.adl.org/who-we-are/our-organization/signature-programs/law-enforcement-training/law-enforcement-society) (last visited Mar. 22, 2017). This program is mandatory for  
25 FBI New Agents and has become standard protocol for several major metropolitan police forces,  
26 the Office of Homeland Security and the Bureau of Alcohol, Tobacco, Firearms and Explosives.  
27 *Id.*

28

1 ADL also has unmatched expertise concerning the development of federal and state hate  
2 crimes legislation. In 1981, ADL drafted the nation’s first model hate crime law which provided  
3 for increased penalties for people who target their victims because of race, religion, national  
4 origin, gender, or sexual orientation. *Hate Crimes*, ADL, [https://www.adl.org/what-we-](https://www.adl.org/what-we-do/combat-hate/hate-crimes)  
5 [do/combat-hate/hate-crimes](https://www.adl.org/what-we-do/combat-hate/hate-crimes) (last visited Mar. 22, 2017). The District of Columbia and 45 states  
6 have enacted statutes based on, or similar to, ADL’s model. *Id.* ADL also led a large coalition  
7 advocating for the passage of the federal Matthew Shepard and James Byrd, Jr. Hate Crimes  
8 Prevention Act (“HCPA”), signed into law by President Obama on October 28, 2009 (codified at  
9 18 U.S.C. § 249). *Id.* HCPA is a comprehensive federal hate crimes statute that gives the United  
10 States Department of Justice the power to investigate and prosecute violent crimes where the  
11 perpetrator chooses the victim because of the person’s actual or perceived race, color, religion,  
12 national origin, gender, sexual orientation, gender identity, or disability. 18 U.S.C. § 249.

### 13 **III. DESIRABILITY OF AMICUS BRIEF**

14 Through its extensive work with law enforcement and its specialized expertise in hate  
15 crimes, ADL is uniquely situated to assist the Court in evaluating the impact of President Donald  
16 J. Trump’s January 25, 2017 executive order directing retaliation against state, local, and  
17 municipal governments that he deems to be “sanctuary jurisdictions.” Exec. Order 13,768, 82  
18 Fed. Reg. 8799 (Jan. 25, 2017) (the “Executive Order”). Specifically, ADL can provide  
19 perspective on the likely suppressive effect of the Executive Order on the reporting and  
20 prevention of crimes, including hate crimes. ADL’s proposed *amicus* brief provides additional  
21 context and information relating to the irreparable harm and public interest prongs of the  
22 preliminary injunction. The input and perspective of ADL into law enforcement and crime  
23 reporting is broader than that of the parties—and ADL’s expertise in this area surpasses that of  
24 the parties. ADL’s arguments regarding irreparable harm and public interest further  
25 demonstrate, beyond the parties’ briefing, why Plaintiff City and County of San Francisco’s  
26 Motion should be granted and the Executive Order should be enjoined.

27  
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1 For the foregoing reasons, the Motion for Leave to File Brief of *Amicus Curiae* Anti-  
2 Defamation League should be granted.

3  
4 DATED: March 29, 2017

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

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

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

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

## 20 **II. ARGUMENT**

### 21 **A. A Primary Purpose of San Francisco’s “Sanctuary” Policies Is to Foster** 22 **Community Policing and Enhance Public Safety.**

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

27 In Chapters 12H and 12I.2 of its Administrative Code, San Francisco sets forth its  
28 “sanctuary” polices. Broadly, these “sanctuary” polices prohibit law enforcement officials from

1 providing advance notification to federal immigration officers regarding the date and time of  
2 prisoner release; prohibit San Francisco employees from using its funds or resources to enforce  
3 federal immigration law; prohibit detention of an individual who is otherwise eligible for release  
4 on the basis of an ICE civil detainer request; and, prohibit the arrest or detention of an individual  
5 solely based on alleged violations of immigration law.<sup>1</sup>

6 The Board of Supervisors enacted these laws to serve a critical local purpose: “to foster  
7 respect and trust between law enforcement and residents, to protect limited local resources, to  
8 encourage cooperation between residents and San Francisco officials, including especially law  
9 enforcement and public health officers and employees, and to ensure community security, and  
10 due process for all.” S.F. Admin. Code § 12I.1. In enacting these “sanctuary” policies, the  
11 Board of Supervisors specifically noted the case of Pedro Figueroa, an immigrant father of an 8-  
12 year-old U.S. citizen. After Mr. Figueroa reported his stolen vehicle to San Francisco’s police  
13 department, police officers contacted ICE. Mr. Figueroa was detained and spent over two  
14 months in an immigration detention facility and was subjected to deportation proceedings.  
15 (Declaration of Sara J. Eisenberg in Support of Preliminary Injunction Motion, ECF No. 28  
16 (“Eisenberg Decl.,” Ex. B at 3.) The Board found that “[c]ommunity cooperation with local law  
17 enforcement is critical to investigating and prosecuting crimes. Without the cooperation of crime  
18 victims – like Mr. Figueroa – and witnesses, local law enforcement’s ability to investigate and  
19 prosecute crime, particularly in communities with large immigrant populations, will be seriously  
20 compromised.” (*Id.*)

21 Thus the express goal of these “sanctuary” policies is to foster cooperation and  
22 communication between law enforcement and the public. That cooperation and open  
23 communication is a cornerstone of “community policing,” which is based on forging  
24 partnerships between law enforcement and community members and groups. The U.S.  
25 Department of Justice itself has affirmed that the value of community policing efforts depends in  
26 the first instance on establishing trust between the community and law enforcement: “One  
27

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28 <sup>1</sup> For a more fulsome summary of San Francisco’s “sanctuary” policies, see the  
Preliminary Injunction Motion at 2-4.

1 fundamental purpose of partnerships is to increase trust between law enforcement agencies and  
 2 the customers they serve. . . . Citizens who do not trust the police are less likely to report crime  
 3 and participate in developing solutions to problems. . . . Community policing encourages  
 4 agencies to build up accounts of trust and goodwill to call on when the inevitable crisis arises.”<sup>2</sup>  
 5 A critical element of developing this trust is creating an environment in which both victims and  
 6 witnesses are willing to come forward and actively participate in criminal investigations. San  
 7 Francisco’s “sanctuary” policies are designed to do just that, *i.e.*, to encourage community  
 8 members – regardless of their immigration or citizenship status – to contact and cooperate with  
 9 local police without fear of deportation or other immigration consequences. (Eisenberg Decl.  
 10 Ex. B at 3.) Public safety in San Francisco (and elsewhere) depends on *all* community members  
 11 having this trust.

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

13 1. **The Order Suppresses the Reporting of Crimes and Compromises**  
 14 **Community Safety.**

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

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27  
 28 <sup>2</sup> Matthew Scheider, *Community Policing Nugget*, COMMUNITY ORIENTED POLICING  
 SERVS., U.S. DEP’T OF JUSTICE, [https://cops.usdoj.gov/html/dispatch/february\\_2008/nugget.html](https://cops.usdoj.gov/html/dispatch/february_2008/nugget.html)  
 (last visited Mar. 16, 2017).

1 crimes absent an injunction. Instead, they will fear mistakenly being treated as undocumented  
 2 and/or the consequences of drawing additional law enforcement attention to their friends and  
 3 neighbors.<sup>3</sup>

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

17 \_\_\_\_\_  
 18 <sup>3</sup> Fears of being treated as undocumented are well-founded. At times, ICE civil detainer  
 19 requests have been directed towards U.S. Citizens. *See Mendia v. Garcia*, 768 F.3d 1009, 1010  
 20 (9th Cir. 2014) (U.S. citizen spent two years in pre-trial detention as a result of the detainer);  
 21 *Galarza v. Szalczyk*, 745 F.3d 634, 636-38 (3d Cir. 2014) (U.S. citizen held in jail for three days  
 22 pursuant to erroneous detainer); *Davila v. N. Reg’l Joint Police Bd.*, 979 F. Supp. 2d 612, 622-23  
 23 (W.D. Pa. 2013), *vacated in part on reconsideration*, No. 13-00070, 2014 WL 3735631 (W.D.  
 24 Pa. July 28, 2014) (U.S. citizen held in jail overnight pursuant to erroneous detainer); Eyder  
 25 Peralta, *You Say You’re An American, But What If You Had To Prove It Or Be Deported?*, NPR  
 26 (Dec. 22, 2016, 12:29 PM), [http://www.npr.org/sections/thetwo-](http://www.npr.org/sections/thetwo-way/2016/12/22/504031635/you-say-you-re-an-american-butwhat-if-you-had-to-prove-it-or-be-deported#foot1)  
 27 [way/2016/12/22/504031635/you-say-you-re-an-american-butwhat-if-you-had-to-prove-it-or-be-](http://www.npr.org/sections/thetwo-way/2016/12/22/504031635/you-say-you-re-an-american-butwhat-if-you-had-to-prove-it-or-be-deported#foot1)  
 28 [deported#foot1](http://www.npr.org/sections/thetwo-way/2016/12/22/504031635/you-say-you-re-an-american-butwhat-if-you-had-to-prove-it-or-be-deported#foot1) (Data obtained through a Freedom of Information Act Request showed that from  
 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 <sup>4</sup> *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](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2861091).

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

11 **2. Law Enforcement Agencies Have Confirmed That the Order**  
 12 **Endangers Public Safety.**

13 The Order reduces the reporting of crimes and the safety of San Francisco residents. As  
 14 San Francisco’s Police Department Commander has confirmed, the willingness of community  
 15 members to report crimes and serve as witnesses is essential to effective law enforcement.  
 16 (Declaration of Commander Peter Walsh in Support of Preliminary Injunction Motion, ECF No.  
 17 25 ¶ 6.) The Order directly impedes the ability of law enforcement to prevent and investigate  
 18 crimes in San Francisco because it limits the cooperation they receive from a large section of  
 19 residents. (*Id.* ¶ 7-8.) Absent an injunction, the resulting negative impact on public safety will  
 20 not be limited to already-underserved immigrant communities but *all* communities in San  
 21 Francisco and across the nation, and will compromise the police’s ability to investigate and  
 22 prosecute crime.

23 <sup>6</sup> 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).

24 <sup>7</sup> 8 C.F.R. § 245.24. U.S. Citizenship and Immigration Services is reporting a backlog of  
 25 over 150,000 pending applications. See USCIS, *Number of I-918 Petitions for U Nonimmigrant*  
 26 *Status (Victims of Certain Criminal Activities and Family Members) by Fiscal Year, Quarter,*  
 27 *and Case Status 2009-2016*,  
 28 [https://www.uscis.gov/sites/default/files/USCIS/Resources/Reports%20and%20Studies/Immigration%20Forms%20Data/Victims/I918u\\_visastatistics\\_fy2016\\_qtr4.pdf](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           These conclusions of San Francisco law enforcement officers are echoed by the broader  
2 law enforcement community. The Police Foundation, the International Association of Chiefs of  
3 Police, the Major Cities Chiefs Association, and the Law Enforcement Immigration Task Force  
4 all have expressed grave concern that deputizing local law enforcement officers to implement  
5 immigration law undermines the immigrant community’s trust in and cooperation with local law  
6 enforcement.<sup>8</sup> The Major Cities Chiefs Association wrote in a statement:

7           Cities that aim to build trusting and supportive relations with  
8 immigrant communities should not be punished because this is  
9 *essential to reducing crime and helping victims*, both stated goals  
10 of the new Administration in Washington. We must be able to  
11 continue to protect the safety of all of our residents while ensuring  
12 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.<sup>9</sup>

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

- 15           • Lake County, Illinois Sheriff Mark Curran: “Community policing is based on  
16 having relationships with people that live in those minority communities.”<sup>10</sup>
- 17           • Marshalltown, Iowa Police Chief Mike Tupper: “This [Order] is not going to help  
18 us build the relationships in our community that most people expect us to have.”<sup>11</sup>

21 <sup>8</sup> 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](https://www.washingtonpost.com/news/true-crime/wp/2017/03/01/police-chiefs-immigration-task-force-outlines-opposition-to-trump-policy/?utm_term=.4a1b2456fec8).

24 <sup>9</sup> 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](https://www.majorcitieschiefs.com/pdf/news/mcca_mayors_pr_on_eo_12517.pdf) (last visited  
26 Mar. 22, 2017) (emphasis added).

27 <sup>10</sup> Magen Wetmore, *Law Enforcement Leaders Condemn ‘Sanctuary Cities’ Executive*  
*Order*, NAT’L IMMIGRATION FORUM (Jan. 26, 2017), <http://immigrationforum.org/blog/law-enforcement-leaders-condemn-sanctuary-cities-executive-order>.

28 <sup>11</sup> *Id.*

- 1 • Chelsea, Massachusetts Police Chief Brian Kyes: “These individuals can be
- 2 targeted for committing crimes and we want these people to trust the police to
- 3 report crimes. If they’re in fear that we’re gonna enforce locally, civil federal
- 4 immigration law, we won’t have that trust.”<sup>12</sup>
- 5 • Tulsa, Oklahoma Police Chief Chuck Jordan: “I don’t want anyone to be a crime
- 6 victim in this city and be afraid to call the police.”<sup>13</sup>

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

### 11 3. The Order Hinders Counter-Terrorism Efforts.

12 In addition to hindering local police and law enforcement activities, the Order  
 13 immediately and irreparably harms national counter-terrorism efforts. Engagement with the  
 14 community is essential for effective homeland security. Since September 11th, law enforcement  
 15 agencies actively have sought to develop relationships with Arab, Middle Eastern, Muslim and  
 16 South Asian (AMEMSA) communities, which have been both targets in need of protection and  
 17 potential sources of information. These partnerships are analogous to community policing  
 18 efforts, and have led to numerous terrorism prosecutions.<sup>14</sup> Tips from Muslim-Americans have  
 19 helped thwart 27% of 126 known potential domestic terrorist attacks since 2001.<sup>15</sup> For example,

21 <sup>12</sup> Kathleen McNerney, *Chelsea Fights Trump’s Executive Order On Sanctuary Cities*,  
 22 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).

23 <sup>13</sup> Dylan Goforth & Kevin Canfield, *Mayor, Police Chief Reiterate Stances in Wake of*  
 24 *President’s Executive Order on Immigration*, THE FRONTIER (Jan. 27, 2017),  
<https://www.readfrontier.org/stories/mayor-police-chief-reiterate/>.

25 <sup>14</sup> David A. Harris, *Law Enforcement and Intelligence Gathering in Muslim and Immigrant*  
 26 *Communities After 9/11*, LEGAL STUDIES RESEARCH PAPER SERIES (Jan. 22, 2009),  
<https://poseidon01.ssrn.com/delivery.php?ID=372020070024102112007084073072026011030078052092059006029089126011022082031080004113102061051016000116101118089117006065087103001072061051050067075102084113006079056051000025115118078009081081114081068080084121110080127101016004014007120067013017064&EXT=pdf>.

28 <sup>15</sup> Charles Kurzman, *Muslim-American Terrorism: Declining Further*, TRIANGLE CTR. ON  
 TERRORISM AND HOMELAND SECURITY (Feb. 1, 2013),

1 an imam in Queens, New York provided tips that led to the arrest of Najibullah Zazi, who was  
2 sentenced to life in prison in 2010 for conspiring to bomb the New York subway system.<sup>16</sup>

3 For this reason, Homeland Security experts have spoken out against measures that create  
4 a loss of trust and cooperation between law enforcement and the community. For example, John  
5 Cohen, who worked for the Office of National Intelligence under President Bush and the  
6 Department of Homeland Security under President Obama has said about another anti-  
7 immigration measure, “[i]t may drive a wedge between law enforcement authorities and  
8 members of the Arab-American or Muslim-American community at the very time we need  
9 cooperation and partnership. It’s certainly going to impact the relationship with federal  
10 authorities as they seek to reach out to Muslim community leaders in an effort to have them work  
11 together.”<sup>17</sup> The Order will immediately and irreparably destroy the relationships that law  
12 enforcement has built with immigrant communities, removing an important layer of protection  
13 against terrorist attacks.

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

16 By reducing the trust between law enforcement and immigrant and minority  
17 communities, the Order leaves a large segment of the population particularly vulnerable to  
18 crimes targeting immigrants. ADL has monitored and exposed the increasingly hateful anti-  
19 immigrant, anti-Latino, and anti-Muslim rhetoric that has surrounded the national debate on  
20 immigration reform.<sup>18</sup> Studies have shown that hate crimes have been on the rise in recent  
21

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22 [https://kurzman.unc.edu/files/2011/06/Kurzman\\_Muslim-](https://kurzman.unc.edu/files/2011/06/Kurzman_Muslim-American_Terrorism_February_1_2013.pdf)  
23 [American\\_Terrorism\\_February\\_1\\_2013.pdf](https://kurzman.unc.edu/files/2011/06/Kurzman_Muslim-American_Terrorism_February_1_2013.pdf).

24 <sup>16</sup> *Id.*

25 <sup>17</sup> 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>.

26 <sup>18</sup> *Executive Order on So-Called “Sanctuary Cities” Puts All Communities at Risk*, ADL  
27 *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),  
28 <https://lasvegassun.com/news/2016/dec/22/qa-adl-leader-says-that-as-trump-surged-so-did-hat>.

1 years.<sup>19</sup> People within immigrant populations are especially vulnerable to hate crime.<sup>20</sup> Indeed,  
 2 one study found that “[i]n a national survey of 464 immigration service providers conducted in  
 3 2012 [], advocates reported that 73% of hate crime victims they had served were targeted on the  
 4 basis of immigration status/nationality.”<sup>21</sup> Documented and undocumented immigrants, as well  
 5 as members of minority communities that may be perceived as immigrants, are in danger of  
 6 increased rates of hate crimes.

7 People within immigrant communities also are especially susceptible to wage theft and  
 8 other employer abuses.<sup>22</sup> Day laborers in particular are easy targets for unscrupulous employers,  
 9 who hire them and then disappear before paying their day’s wages.<sup>23</sup> Workers who are robbed of  
 10 their wages are often afraid to report the theft because of their immigration status. As Professor  
 11 Stephen Lee of the University of California, Irvine School of Law stated, “[D]istrust of the  
 12 police effectively neutralizes the potential of wage theft statutes when enforced against  
 13 employers who hire unauthorized immigrant workers.”<sup>24</sup>

14 <sup>19</sup> See, e.g., L.A. Cty. Comm’n on Human Relations, *2015 Hate Crime Report*,  
 15 [http://www.lahumanrelations.org/hatecrime/reports/2015%20Hate%20Crime%20Report%20PD  
 16 F%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  
 17 Los Angeles County in 2015); Michael Shively, et al., *Understanding Trends in Hate Crimes  
 18 Against Immigrants and Hispanic-Americans: Final Report*, NAT’L INST. OF JUSTICE (Dec. 27,  
 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 <sup>20</sup> 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 <sup>21</sup> Jeanine Braud, Criselda Haro, Olga Tomchin, & Jeffrey Selbin, *U Visas for Immigrant  
 21 Victims of Hate Crimes: A Practice Guide for Advocates* (June 26, 2014), U.C. BERKELEY PUB.  
 L. Research Paper No. 2459315, <https://ssrn.com/abstract=2459315>.

22 <sup>22</sup> 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 <sup>23</sup> Stephen Lee, *Policing Wage Theft in the Day Labor Market*, 4 U.C. IRVINE L. REV. 655  
 25 (2014).

26 <sup>24</sup> *Id.* at 665. Day laborers are also especially vulnerable to robberies and anti-immigration  
 vigilantes. See, e.g., Jason McGahan, *Day Laborers Have Become an Easy Target for Anti-  
 27 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 Cassidy,  
 28 *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           In this climate, it is critically important that San Francisco law enforcement officers are  
 2 able to effectively investigate and prosecute crime, particularly hate crimes. Absent an  
 3 injunction, victims and witnesses will hesitate to contact law enforcement when doing so may  
 4 subject them to possible detention or deportation. Combined with the current atmosphere  
 5 surrounding the immigration debate, this lack of community engagement will leave vast portions  
 6 of the population especially vulnerable to hate crimes and other criminal attacks. Offenders will  
 7 specifically target victims in immigrant communities without fear of prosecution. Indeed, unless  
 8 the Order’s enforcement is enjoined, it will effectively create an underclass of people –  
 9 primarily, although by no means exclusively, in the Latino community – who have no  
 10 meaningful access to police services. Absent an injunction, these effects of the Order are  
 11 immediate and irreparable – law enforcement officials around the nation have spent countless  
 12 hours building relationships with immigrant communities that now are being threatened or  
 13 destroyed.

14           The federal government and 45 states plus the District of Columbia have demonstrated  
 15 their commitment to protecting minority groups by enacting hate crime legislation modeled after  
 16 a version drafted by the ADL.<sup>25</sup> The landmark Matthew Shepard and James Byrd, Jr. Hate  
 17 Crimes Prevention Act of 2009 (“Hate Crimes Prevention Act”) created a new federal law that  
 18 criminalized willfully causing bodily injury when the crime was committed because of the actual  
 19 or perceived race, color, religion, national origin, gender, sexual orientation, gender identity, or  
 20 disability of the victim. 18 U.S.C. § 249. The purpose of the Hate Crime Prevention Act is to  
 21 decrease the rate of hate crimes, which “are disturbingly prevalent and pose a significant threat to  
 22 the full participation of all Americans in our democratic society.”<sup>26</sup> When passing the bill, the  
 23 House of Representatives noted that “violent hate crimes are significantly under-reported.”<sup>27</sup>  
 24 Absent an injunction, this Congressional commitment to protecting the most vulnerable  
 25

26 <sup>25</sup> *Hate Crimes*, ADL, <https://www.adl.org/what-we-do/combat-hate/hate-crimes> (last  
 27 visited Mar. 22, 2017).

28 <sup>26</sup> H.R. REP. NO. 111-86, at 5 (2009).

<sup>27</sup> *Id.*

1 communities in our society will be directly undermined, and irreparably harmed, by enforcement  
2 of the Order as framed.

3 **III. CONCLUSION**

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

6

7 DATED: March 29, 2017

LATHAM & WATKINS LLP

8

By           /s/ Robert W. Perrin          

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14  
 15 **UNITED STATES DISTRICT COURT**  
 16 **NORTHERN DISTRICT OF CALIFORNIA**  
 17 **SAN FRANCISCO DIVISION**

18 CITY AND COUNTY OF SAN  
 19 FRANCISCO,

20 Plaintiffs

21 v.

22 DONALD J. TRUMP, et al.,

23 Defendants.

Case No. 17-cv-00485-WHO

The Honorable William H. Orrick

**[PROPOSED] ORDER GRANTING  
 MOTION FOR LEAVE TO FILE BRIEF  
 OF AMICUS CURIAE ANTI-  
 DEFAMATION LEAGUE IN SUPPORT  
 OF PLAINTIFF'S MOTION FOR  
 PRELIMINARY INJUNCTION**

Date: April 14, 2017

Time: 2:00 p.m.

Dept.: Courtroom 2

Date Filed: January 31, 2017

Trial Date: Not yet set

1           *Amicus Curiae* Anti-Defamation League filed a Motion for Leave to File Brief in Support  
2 of Plaintiff’s Motion for Preliminary Injunction (the “Motion”) on March 29, 2017. After  
3 considering the papers filed in support of the Motion and other papers filed in this action, the  
4 Court hereby **GRANTS** the Motion and **ORDERS** that the brief submitted by the Anti-  
5 Defamation League be filed.

6  
7           **IT IS SO ORDERED.**

8  
9  
10 Dated: \_\_\_\_\_

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HON. WILLIAM H. ORRICK  
United States District Judge