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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

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

Plaintiff,

v.

JEFFERSON B. SESSIONS, in his official capacity as Attorney General of the United States, ALAN HANSON, Acting Assistant Attorney General, and United States Department of Justice,

Defendants.

CASE NO. 3:17-cv-04701-WHO

PROPOSED BRIEF OF AMICI CURIAE AMERICAN CIVIL LIBERTIES UNION FOUNDATION ET AL.

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INTRODUCTION

Amici are non-profit civil rights organizations that serve immigrant communities in California and across the country. Amici agree with California's claims. But before the Court addresses the State's constitutional and declaratory arguments, it may wish to first determine whether the relevant statute authorizes the challenged condition in the first place. If non-constitutional grounds resolve the case, the Court may not need to address some of the weighty Spending Clause and Tenth Amendment issues that this case raises. *See, e.g.*, *Dep't of Commerce v. U.S. House of Reps.*, 525 U.S. 316, 343-44 (1999) (preferring statutory resolution that made it "unnecessary to reach the constitutional question presented").

Amici submit this brief to offer an additional basis for granting California's motion: The Department of Justice lacks statutory authority to make 8 U.S.C. § 1373 a condition of receiving funds under the Byrne Justice Assistance Grant ("JAG") Program (the "1373 condition"). The provision on which the Department grounds its authority, 34 U.S.C. § 10153(a)(5)(D), neither imposes that condition itself, nor authorizes the Department to invent new conditions.

The JAG statute requires grantees to comply with "applicable" laws. *Id*. But it does not expressly specify what it means for a law to be "applicable." There are two sets of laws that this could refer to: (1) laws that apply to the *grant* (which include JAG requirements and other federal spending conditions), or (2) laws that apply to the *recipient* (which includes a much broader universe of laws unconnected to federal funds).

The first option is correct for a number of reasons. If "applicable Federal laws" meant *all* "Federal laws," the word "applicable" would be inoperative. Further, all the other conditions listed in § 10153 pertain to the grant itself; none regulate JAG recipients outside the context of grant administration. And the applicable-laws phrase appears in a provision that does not even attach any substantive conditions, but simply requires applicants to certify their compliance with *existing* grant

conditions. The Department itself (along with Congress) has adhered to these textual limits for the three decades that JAG and predecessor funds have existed. And nothing in § 10153 gives the Department any authority to create *new* substantive conditions.

Moreover, the second option would be an extreme outlier in the U.S. Code. Amici are aware of no grant programs that are conditioned on a grantee's compliance with every conceivable law that could apply to states, localities, and their employees.

If there were any doubt, background federalism imperatives require courts to narrowly construe both spending conditions and statutory intrusions into state sovereignty. The intrusion heralded by the Department's new interpretation is significant: It would allow the Department to use JAG funds as a weapon to force police across the country to comply with its increasingly dubious interpretations of § 1373. When an agency claims to discover such a consequential power lying dormant "in a long-extant statute," courts "typically greet its announcement with a measure of skepticism." *Util. Air Reg. Group v. EPA ("UARG")*, 134 S. Ct. 2427, 2444 (2014). The Court should enjoin the 1373 condition.

ARGUMENT

I. The 1373 Condition Is Not Authorized by Statute.

A. The Department's Position Requires an Unambiguous Statutory Statement.

Two canons of construction bear directly on the Department's statutory authority in this case. Both require a clear statement of congressional intent to impose a particular spending condition. The Court must therefore construe the Department's statutory authority narrowly.

First, "if Congress intends to impose a condition on the grant of federal moneys, it must do so unambiguously." *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 17 (1981). "Respecting this limitation is critical to ensuring that Spending Clause legislation does not undermine the status of the States as independent sovereigns in our federal system." *Nat'l Fed. of*

Indep. Business v. Sebelius, 567 U.S. 519, 577 (2012) (op. of Roberts, C.J.). Thus, unless the language of the statute makes a particular spending condition "explicitly obvious," the condition does not exist. *Mayweathers v. Newland*, 314 F.3d 1062, 1067 (9th Cir. 2002).

Second, to ensure that federalism boundaries are not lightly crossed, courts will not interpret a statute to allow federal intrusion into core areas of state sovereignty unless that intention is "unmistakably clear in the language of the statute." *Gregory v. Ashcroft*, 501 U.S. 452, 460 (1991). This principle binds agencies as well: The Supreme Court has instructed courts to "assum[e] that Congress does not casually authorize administrative agencies to interpret a statute" in a way that "alters the federal-state framework by permitting federal encroachment upon a traditional state power." *Solid Waste of N. Cook Cty. v. U.S. Army Corps of Eng'rs*, 531 U.S. 159, 172-73 (2001). The *Gregory* principle has particular force when dealing with federal laws like § 1373 that impact the ordinary duties of state police. *See Bond v. United States*, 134 S. Ct. 2077, 2089 (2014) (limiting ostensibly broad federal statute because "the clearest example of traditional state authority is the punishment of local criminal activity").

Together, these background principles mean that JAG funds are only conditioned on compliance with § 1373 if the statute makes that intention clear. If there is any "ambiguity" in the statutory scheme, the Court should not "attribute to Congress an intent to intrude on state governmental functions," *Gregory*, 501 U.S. at 470, by permitting the Department to use JAG funds as "a weapon" to force state police to comply with its view of § 1373. *County of Santa Clara v. Trump*, 2017 WL 5569835, at *2 (N.D. Cal. Nov. 20, 2017); *see infra* Part I.C (discussing federalism impact).

B. The JAG Statute Does Not Authorize the 1373 Condition.

The Department cannot meet its heavy burden under *Pennhurst* and *Gregory*. The text, context, structure, and history of § 10153 foreclose the Department's position, and at the very least, fail to unambiguously support it.

1. The Text of § 10153 Forecloses the Department's Position.

The provision on which the Department bases its claim of authority appears in the JAG statute's application requirements. 34 U.S.C. § 10153(a). It provides that JAG applicants must certify compliance with both "all provisions of this part"[1] and with "all other applicable Federal laws." *Id.* § 10153(a)(5)(D). The phrase "applicable Federal laws" could mean two different things: It could mean laws applicable to the *grant*—i.e. conditions that are already attached to JAG funds specifically or federal funds generally.[2] Or it could mean the much wider set of laws that apply to *recipients*—i.e. every statute and regulation that applies to states, localities, and their employees, including all sorts of laws that have no connection to federal funds. The text "applicable Federal laws" does not, by itself, specify whether "applicable" attaches to grants or to recipients.

The surrounding context, however, provides a clear answer. *See Hibbs v. Winn*, 542 U.S. 88, 101 (2004) ("[C]ourts are to interpret the words of a statute in context."). Numerous aspects of § 10153 point to the same conclusion: "applicable" means applicable to the grant, not the recipient.

First, the applicable-laws provision must be read consistent with all the surrounding conditions listed in § 10153(a). *See Yates v. United States*, 135 S. Ct. 1074, 1085 (2015) ("[A] word is known by the company it keeps."). Without exception, all the other conditions in § 10153(a)

[1] "This part" refers to the JAG program, which is contained in Part A of Title 34, Ch. 101, Subch. V.

[2] Some requirements apply specifically to JAG funds. *See, e.g.*, 34 U.S.C. § 20927(a). Others apply to DOJ funds, 34 U.S.C. § 30307(e), or to federal funds more generally. *See, e.g.*, 42 U.S.C. § 2000d (no discrimination in "any program or activity receiving Federal financial assistance"); 29 U.S.C. § 794(a) (same); 42 U.S.C. § 4604(c) (similar).

apply narrowly to the grant itself.[3] None of them impose conditions beyond the context of grant administration. If "applicable" meant what the Department believes, § 10153(a)(5)(D) would be a major outlier—it would be the only provision in § 10153 to import requirements that do not by their terms apply to federal funds. And it would do so in sweeping fashion, adding thousands of new statutory and regulatory conditions. Courts typically do not interpret serial provisions like these to include such a glaring difference in kind. *See Gustafson v. Alloyd Co., Inc.*, 513 U.S. 561, 575 (1995) (applying this canon to avoid giving "unintended breadth" to a statutory term).

Second, the applicable-laws provision is a "residual clause" which is limited by "the enumerated categories . . . which are recited just before it." *Circuit City Stores, Inc. v. Adams*, 532 U.S. 105, 115 (2001). Section 10153(a)(5)(D) first asks applicants to certify that they comply with "all provisions of" the JAG statute. Those requirements are *already* tied to JAG funds, with or without § 10153(a)(5)(D). Accordingly, the statute's residual clause—"all *other* applicable Federal laws"—necessarily is limited to other "Federal laws" that likewise are already tied to federal funds. This residual clause, like others, must be limited by what proceeds it, because "there would have been no need for Congress to" enumerate compliance with the JAG statute if it was "subsumed within" an unlimited residual clause. *Id.* at 114-15 (calling this canon an "insurmountable textual obstacle" to a broad reading of a residual clause). The applicable-laws provision thus does not attach any new conditions to JAG funds; it simply requires JAG applicants to certify compliance with laws that independently condition the grant. The rest of subsection (a)(5) functions the same way, requiring applicants to certify that, for instance, the funded programs "meet all the

[3] *See, e.g.*, 34 U.S.C. § 10153(a)(1) (JAG funds cannot be used to supplant state or local funds); *id.* § 10153(a)(2), (3) (JAG project must be submitted for appropriate review); *id.* § 10153(a)(4) (requirement to report on administration of JAG grant); *id.* § 10153(a)(6) (plan for how JAG funds will be used).

requirements of this part." 34 U.S.C. § 10153(a)(5)(A); *see also id.* § 10152 (imposing some of those requirements).

The statutory context thus renders the Department's position untenable. Congress does not "alter the fundamental details of a regulatory scheme in vague terms or ancillary provisions." *Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 468 (2001). All of § 10153(a)'s other conditions are closely tied to recipients' administration of federal funds, and subsection (a)(5) is even narrower. It would be a dramatic departure for the second term in the fourth element of the fifth paragraph in that list to suddenly impose a limitless swath of conditions, which, unlike everything else in § 10153, are unconnected to JAG funds specifically or federal funds generally. Congress does not "hide elephants in mouseholes." *Id*.

Third, even viewing the applicable-laws provision in isolation, the rule against superfluity would compel the same result. *See Clark v. Rameker*, 134 S. Ct. 2242, 2248 (2014). Section 10153(a)(5)(D) only asks applicants to certify compliance with "*applicable* federal laws" (emphasis added). The word "applicable" would have no effect if "all applicable Federal laws" meant "all Federal laws." The word "applicable" must therefore have a limiting effect, which the Department's position would preclude. *See United States v. Hayes*, 555 U.S. 415, 425-26 (2009) (rejecting an interpretation that rendered a word inoperative). The Department has elsewhere posited that Congress might have used the word "applicable" to specify that grantees need only certify compliance with laws that "do apply" to them, as opposed to laws that, "by their terms," only "apply to private individuals." Opp. to Mot. for Prelim. Inj. at 19, *Philadelphia v. Sessions*, No. 17-3804, Dkt. No. 28 (E.D. Pa. *filed* Oct. 12, 2017). But Congress did not need the word "applicable" to avoid that bizarre interpretation. A mandate to comply with "all federal laws" would only reach ones that "do apply" to the recipient, not laws that, by their terms, are incapable of applying to States and localities. *See, e.g.*, 26 U.S.C. § 1 (individual income tax). The Department's strained effort to

avoid superfluity thus underscores that, of § 10153(a)(5)(D)'s two possible meanings, only one gives independent meaning to each statutory term.

Fourth, if any doubt remained, background federalism principles would resolve it. *See supra* Part I.A. Section 10153(a) contains no "unambiguously clear" or "explicitly obvious" statement that JAG funds come with an unlimited set of conditions hailing from far outside the grant context. *Gregory*, 501 U.S. at 460; *Mayweathers*, 314 F.3d at 1067. On the contrary, as explained above, the best reading of the provision is the narrow one; but at a bare minimum the provision is ambiguous. If Congress wanted to add financial penalties to laws that regulate the States and their police, or if it wanted to empower the Department to wield JAG funds as a coercive tool, it would have said so clearly, as *Pennhurst* and *Gregory* require. The Court should therefore construe § 10153(a)(5)(D)—in line with its text and context, and with the longtime understanding of the Department and Congress, *see infra* Part I.B.2—to only incorporate laws that already "appl[y]" to federal funds, which § 1373 does not.

2. The 1373 Condition Contradicts the Department's Longstanding Practice.

The Department's own practice reflects the same interpretation of § 10153(a)(5)(D). Its current certification form, *see* Dep't of Justice, Certified Standard Assurances, OMB No. 1121-0140,[4] asks grant applicants to certify compliance with "all applicable federal statutes and regulations," but makes clear that this refers to federal laws that are "applicable *to the award*," not the applicant, *compare id.* § 3(b), *with id.* § 3(a) (emphasis added).[5] The Department has long adhered to that interpretation: Its "previous conditions have all been tethered to statutes that by their terms" impose conditions on federal funds. *Chicago v. Sessions*, 2017 WL 4081821, at *9 (N.D. Ill.

[4] *Available at* https://www.bja.gov/Jag/pdfs/OJP-Certified-Standard-Assurances.pdf.

[5] "(3) I assure that, through the period of performance for the award (if any) made by OJP based on the application—(a) the Applicant will comply with all award requirements and all federal statutes and regulations applicable to the award; (b) the Applicant will require all subrecipients to comply with all applicable award requirements and all applicable federal statutes and regulations." *Id.*

Sept. 15, 2017). The JAG program and its predecessors have existed since 1988, and § 1373 was enacted in 1996. *See* Pub. L. No. 100-690, § 503, Nov. 18, 1988. And yet, before the 1373 condition, the Department has never asserted that it could tie JAG funds to § 1373 or any other law that is not already a grant condition. The agency's claim to discover this broad new authority lying dormant in the JAG statute warrants "a measure of skepticism." *UARG*, 134 S. Ct. at 2444.

Congress has also understood § 10153(a)(5)(D) not to impose conditions like § 1373. In the two decades since it enacted § 1373, "Congress has repeatedly, and frequently," considered making § 1373 a condition of receiving JAG funds, but has "declined" each time. *Cty. of Santa Clara v. Trump*, 250 F. Supp. 3d 497, 531 (N.D. Cal. 2017) (collecting bills). Such amendments would have been wholly unnecessary if § 10153(a)(5)(D) *already* required compliance with § 1373 as a condition of JAG funds. By declining these proposals, Congress has rejected exactly what the Department has now unilaterally done. *See Heckler v. Day*, 467 U.S. 104, 119 n.33 (1984) (doubting the legality of imposing "limitations that Congress repeatedly has declined to enact"); *Flood v. Kuhn*, 407 U.S. 258, 283 (1972) (relying on rejected legislative proposals); *Yott v. N. Am. Rockwell Corp.*, 501 F.2d 398, 400 n.4 (9th Cir. 1974) (same). The Department's imposition of a condition that Congress has rejected is also arbitrary and capricious. *See* 5 U.S.C. § 706(2)(A); *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto Ins. Co.*, 463 U.S. 29, 43 (1983) (holding that action is arbitrary and capricious when "the agency has relied on factors which Congress has not intended it to consider").

3. The Government May Not Add New Conditions to JAG Funds.

Finally, just as the JAG statute itself does not impose the 1373 condition, it also forecloses any suggestion that the Department has authority to invent *new* substantive grant conditions. Section 10153 confers no such authority. It simply lists assurances that recipients must give in their grant applications, *see* 34 U.S.C. § 10153(a)(1)-(6), without any indication that the Department may add to

them. The one authority it gives the Department is to specify the "form" of grant applications and certifications—i.e. the documents that applicants must fill out. *Id.* § 10153(a), (a)(5). But that narrow authority to specify form is the *opposite* of authority to dictate substance. Indeed, when Congress confers authority to impose substantive conditions—as it does elsewhere in the Department's authorizing statutes—it does so explicitly. *See* 34 U.S.C. § 10446(e)(3) (authorizing Attorney General to "impose reasonable conditions on grant awards" for a different program); *see also* 20 U.S.C. § 1682.

Thus, the most the Department can do is interpret the statutory conditions listed in § 10153, not establish new ones. Its interpretation of § 10153(a)(5)(D) clearly does not "carr[y] the force of law" or warrant any particular deference. *See Ketchikan Drywall Servs., Inc. v. ICE*, 725 F.3d 1103, 1112 (9th Cir. 2013). And in any event, as explained above, its interpretation of § 10153 is untenable, as it conflicts with the statute's text and structure, the Department's and Congress's consistent understanding, and the *Pennhurst* and *Gregory* presumptions.

C. The Government's Interpretation Would Have Troubling Federalism Consequences.

The Department's position would allow a huge expansion of its own authority over state and local governments. Under its interpretation of § 10153(a)(5)(D), it can now attach financial penalties to any federal law it chooses, as long as the law is sufficiently "germane[]" to meet constitutional standards. *See South Dakota v. Dole*, 483 U.S. 203, 207-08 (1987). That would be a remarkable new power—amici are not aware of any provision in the U.S. Code granting such sweeping authority, and the Department has cited none in this or any other litigation concerning the 1373 condition. This would alter the federal-state balance in at least two troubling ways.

First, the claimed authority would allow the Department to subject States to a more intrusive enforcement scheme than Congress has chosen. In § 1373, Congress provided for injunctive

enforcement only, repeatedly declining to attach financial penalties. *See supra* Part I.B.2. But in the Department's view, it can now enforce § 1373 by cutting off important criminal justice funds, thereby ending state and local programs that support drug rehabilitation, mental health, and community policing. *See* ECF No. 31 ¶¶ 5F, 10; ECF No. 30 ¶ 12; ECF No. 29 ¶¶ 10, 29. Agencies may not escalate the sanctions inflicted on sovereign States and their subdivisions without clear permission from Congress.

Second, and more importantly, the Department's interpretation would allow it to go beyond attaching new penalties to old laws: It could also coerce compliance with new *interpretations* of existing laws, however tenuous, because many grant recipients will not have the resources, time, or expertise to resist.

That is exactly what the government has done with § 1373. In recent months, it has advanced at least two dubious new interpretations: that § 1373 prohibits anti-detainer policies, *see Santa Clara*, 2017 WL 5569835, at *14, and that it requires States to allow their officers to notify ICE about inmates' release dates and home addresses, *see* PI Opp. 20-22; *but see Steinle v. City & Cty. of San Francisco*, 230 F. Supp. 3d 994, 1015 (N.D. Cal. 2017) ("[N]o plausible reading of [§ 1373] encompasses the release date of an undocumented inmate."). But despite the fact that many jurisdictions across the country have both kinds of policies, the Department has not filed any lawsuits to enjoin them, in which its interpretation could be definitively considered and rejected. *Cf.* PI Opp. 14-18 (arguing that this Court should not review the Department's new atextual § 1373 interpretations). Instead, it has put the onus on grantees, by threatening to withhold critical funding—which it can do without any judicial involvement—if grantees do not acquiesce. No matter how far-fetched the interpretation, grantees cannot avoid complying unless they are willing to either forego funds or bring litigation—an expensive and high-stakes choice, especially for smaller jurisdictions that depend on federal funds.

This is a major departure from Congress's scheme, which requires the Department to bring enforcement actions one at a time, and to establish the validity of its § 1373 interpretation in each case. In the Department's view, it can now coerce compliance en masse, simply by announcing a new interpretation of § 1373, no matter how implausible.[6] Even if some recipients sue, others may acquiesce for fear of losing crucial funds.

The Department's new position thus alters the power dynamics between itself and the States. Section 10153 forecloses this dramatic new power, undiscovered until now, and at the very least, contains no clear statement that Congress intended the Department to enforce the entire U.S. Code and Code of Federal Regulations through JAG.

D. The District Court in *Chicago* Was Wrong Not to Enjoin the 1373 Condition.

The district court in *Chicago* held that the 1373 condition was likely consistent with § 10153(a)(5)(D). 2017 WL 4081821, at *7-9. Amici respectfully disagree with that decision. The court's analysis did not consider the possibility that "applicable" textually refers to the grant, not the recipient, and therefore only asked whether an *atextual* limiting construction was warranted; it did not consider the limiting effects of adjacent provisions in § 10153(a)(5)(D) specifically or § 10153 generally; it did not address the surplussage created by reading "all applicable Federal laws" to mean "all Federal laws"; it did not discuss Congress's repeated rejection of the very policy the Department has imposed; and it did not consider that the *Gregory* and *Pennhurst* canons required it to adopt the less intrusive interpretation of § 10153(a)(5)(D) where two "positions are plausible." *Id.* at *7.[7] Needless to say, this Court is not bound by the *Chicago* opinion.

[6] Indeed, the Department recently sent letters to local governments across the country threatening to cut off JAG funds if the localities do not allow their employees to share release-dates and home addresses with ICE, which the Department claims is required by § 1373. https://www.justice.gov/opa/press-release/file/1011571/download.

[7] The court in *Chicago* also brushed aside the real-world consequences of the Department's position. *See* 2017 WL 4081821, at *8 (calling that position "rational" because "the default assumption is that

The *Chicago* court also cited several cases, but acknowledged that each one arose "in a different context" from the JAG statute. *Id.* at *8. Indeed, those cases illustrate that the meaning of "applicable laws" depends entirely on context and is often quite limited. *See Dep't of Treasury v. FLRA*, 494 U.S. 922, 931-32 (1990) (holding "applicable laws" was narrower than "*all*" laws); *HHS v. FLRA*, 844 F.2d 1087, 1098 (4th Cir. 1988) (holding that "applicable law" did not include a particular law, which would have rendered a different provision superfluous); *Bennett Enters., Inc. v. Domino's Pizza, Inc.*, 45 F.3d 493, 497 (D.C. Cir. 1995) (holding that "all applicable laws" included tax laws in the context of a business contract, but doubting that it reached "every law"); *United States v. Odneal*, 565 F.2d 598, 600 (9th Cir. 1977) (noting that the Coast Guard has "very broad statutory authority" to enforce all federal laws "applicable" "upon the high seas"). None of those cases speak to the meaning of "applicable Federal laws" in § 10153.

CONCLUSION

For the foregoing reasons, amici respectfully ask this Court to enjoin the 1373 condition.

Dated: November 29, 2017

Respectfully submitted,

/s/ Spencer E. Amdur

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states and localities *do* comply with all federal laws"). This misses the context of repeated threats tied to increasingly aggressive interpretations of § 1373, and it discounts the change in power dynamics when the Department can initially withhold funds without judicial review.

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ADDENDUM: LIST OF AMICI CURIAE

The American Civil Liberties Union (ACLU) is a nationwide, nonprofit, nonpartisan organization dedicated to the principles of liberty and equality embodied in the Constitution and this nation's civil rights laws. The ACLU, through its Immigrants' Rights Project and state affiliates, engages in a nationwide program of litigation, advocacy, and public education to enforce and protect the constitutional and civil rights of noncitizens. In particular, the ACLU has a longstanding interest in enforcing the constitutional and statutory constraints on the federal government's use of state and local police to enforce civil immigration laws. The ACLU has been counsel and amicus in a variety of cases involving these issues, including *Morales v. Chadbourne*, 793 F.3d 208 (1st Cir. 2015); *Galarza v. Szalczyk*, 745 F.3d 634 (3d Cir. 2014); *Gonzalez v. ICE*, No. 13-cv-4416 (C.D. Cal. filed June 19, 2013); *City of Chicago v. Sessions*, No. 17-cv-5720 (N.D. Ill.); and *City of Philadelphia v. Sessions*, No. 17-cv-3894 (E.D. Pa.).

The ACLU of Northern California Foundation, Inc. (ACLU-NC), founded in 1934 and based in San Francisco, is the largest affiliate of the national ACLU. ACLU-NC engages in litigation and advocacy in support of immigrants' rights, among other issues. ACLU-NC has participated in local and state legislative advocacy in support of policies limiting local police and sheriff participation in immigration enforcement—including the California TRUST Act and California Values Act—and brought one of the first actions seeking injunctive relief against the use of immigration detainers to arrest and detain individuals in violation of their statutory and constitutional rights. *See Committee for Immigrant Rights of Sonoma County v. Cogbill*, 644 F. Supp. 2d 1177 (N.D. Cal. 2009).

The National Immigrant Justice Center (NIJC) is a program of Heartland Alliance, which provides resettlement services to refugees and mental health services for immigrants and refugees. NIJC, through its staff of attorneys, paralegals, and a network of over 1,500 *pro bono* attorneys, provides free or low-cost legal services to immigrants, including detained non-citizens. NIJC's

direct representation, as well as its immigration advisals to criminal defense attorneys, has informed its strategic policy and litigation work around the myriad legal and policy problems of entangling local law enforcement in civil immigration enforcement. NIJC is counsel on a host of immigration detainer-related cases including *Jimenez Moreno v. Napolitano*, 11-5452 (N.D. Ill.) and *Makowski v. United States*, 12-5265 (N.D. Ill.). NIJC also advocated for the amendments to Chicago's Welcoming City Ordinance (Ch 2-173) in 2012, the Cook County detainer ordinance (11-O-73) in 2011, and the recently-enacted Illinois TRUST Act (S.B. 31).