

No. 15-40238

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

STATE OF TEXAS, *et al.*

Plaintiffs-Appellees,

v.

UNITED STATES OF AMERICA, *et al.*

Defendants-Appellants.

On appeal from the United States District Court
Southern District of Texas Brownsville Division
No. 1:14-cv-00254 (Andrew S. Hanen, J.)

**BRIEF FOR AMICI CURIAE THE MAYORS OF NEW YORK AND
LOS ANGELES, SEVENTY-ONE ADDITIONAL MAYORS, CITIES,
COUNTY OFFICIALS, COUNTIES, VILLAGES, AND BOROUGHES, THE
UNITED STATES CONFERENCE OF MAYORS, AND THE NATIONAL
LEAGUE OF CITIES IN SUPPORT OF APPELLANTS**

Zachary W. Carter
Corporation Counsel
100 Church Street
New York, NY 10007
(212) 356-2500
(212) 356-2509 (f)
*Attorney for Bill de Blasio,
Mayor of New York*

Jeremy W. Shweder
New York Reg. No. 4687927
(*Pro hac vice* pending)
Attorney-in-charge

Michael N. Feuer
City Attorney
701 City Hall East
200 North Main Street
Los Angeles, CA 90012
*Attorney for the City of Los
Angeles, acting by and
through Los Angeles City
Mayor Eric Garcetti*

(Additional counsel listed on the signature page)

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CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

Defendants-Appellants

- United States of America
- Jeh Charles Johnson, Secretary of Homeland Security
- R. Gil Kerlikowske, Commissioner of U.S. Customs and Border Protection
- Ronald D. Vitiello, Deputy Chief of U.S. Border Patrol, U.S. Customs and Border of Protection
- Sarah R. Saldana, Director of U.S. Immigration and Customs Enforcement
- Leon Rodriguez, Director U.S. Citizenship and Immigration Services

Attorneys for Defendants-Appellants

- Scott R. McIntosh, U.S. Department of Justice
- Beth S. Brinkmann, U.S. Department of Justice
- Jeffrey A. Clair, U.S. Department of Justice
- Kyle R. Freeny, U.S. Department of Justice
- William Ernest Havemann, U.S. Department of Justice

Plaintiffs-Appellees

- State of Texas
- State of Alabama
- State of Georgia
- State of Idaho
- State of Kansas
- State of Louisiana
- State of Montana
- State of Nebraska
- State of South Carolina
- State of South Dakota
- State of Utah
- State of West Virginia
- State of Wisconsin
- State of North Dakota
- State of Ohio
- State of Oklahoma
- State of Florida
- State of Arizona
- State of Arkansas
- State of Tennessee
- State of Nevada
- Paul R. LePage, Governor, State of Maine
- Patrick L. McCrory, Governor, State of North Carolina
- C.L. “Butch” Otter, Governor, State of Idaho
- Phil Bryant, Governor, State of Mississippi
- Attorney General Bill Schuette

Attorneys for Plaintiffs-Appellees

- Scott A. Keller, Office of the Solicitor General for the State of Texas
- J. Campbell Barker, Office of the Solicitor General for the State of Texas
- April L. Farris, Office of the Solicitor General for the State of Texas
- Matthew Hamilton Frederick, Office of the Solicitor General for the State of Texas
- Alex Potapov, Office of the Solicitor General for the State of Texas

Amici Curiae

- Mayor Bill de Blasio of New York City
- Mayor Eric Garcetti of Los Angeles
- Mayor William D. Euille and the City of Alexandria, Virginia
- Mayor Ed Pawlowski of Allentown, Pennsylvania
- Mayor Kasim Reed of Atlanta
- Mayor Steve Adler of Austin, Texas
- Mayor Stephanie Rawlings-Blake and the City Council of Baltimore, Maryland
- The City of Bell, California
- Mayor Martin J. Walsh of Boston
- Mayor Bill Finch of Bridgeport, Connecticut
- Mayor Byron W. Brown of Buffalo, New York
- The City of Cambridge, Massachusetts
- Mayor James Diossa of Central Falls, Rhode Island
- Mayor Mark Kleinschmidt of Chapel Hill, North Carolina
- The City of Charleston, South Carolina
- Mayor Rahm Emanuel of Chicago
- The Board of Supervisors of Coconino County, Arizona
- Mayor Steven Benjamin of Columbia, South Carolina
- Mayor Michael B. Coleman of Columbus, Ohio
- Dallas County, Texas, and Clay Lewis Jenkins, County Judge of Dallas County
- Mayor Nan Whaley and the City of Dayton, Ohio
- Mayor Michael B. Hancock of Denver
- The Village of Dolton, Illinois
- El Paso County, Texas
- Mayor Carlo DeMaria of Everett, Massachusetts
- Mayor Karen Freeman-Wilson of Gary, Indiana
- Mayor Domenick Stampone of Haledon, New Jersey
- Mayor Pedro Segarra of Hartford, Connecticut
- Mayor Nancy R. Rotering of Highland Park, Illinois
- The City of Hoboken, New Jersey
- Mayor Alex B. Morse of Holyoke, Massachusetts
- Mayor Annise D. Parker of Houston
- Mayor Steven M. Fulop of Jersey City, New Jersey
- Mayor Sylvester “Sly” James of Kansas City, Missouri
- Mayor Mark Stodola of Little Rock, Arkansas
- The County of Los Angeles, California

- Tina Skeldon Wozniak, Pete Gerken, and Carol Contrada of the Board of Lucas County Commissioners, Lucas County, Ohio
- Mayor Paul R. Soglin of Madison, Wisconsin
- The City of Milwaukee
- Mayor Betsy Hodges and the City of Minneapolis, Minnesota
- Montgomery County, Maryland
- Mayor Ras J. Baraka of Newark, New Jersey
- Mayor Paul A. Dyster of Niagara Falls, New York
- The City of North Miami
- Mayor Libby Schaaf and the City of Oakland, California
- Mayor Jose “joey” Torres of Paterson, New Jersey
- Mayor Michael A. Nutter of Philadelphia
- Mayor William Peduto of Pittsburgh
- The City of Plainfield, New Jersey
- Mayor Charlie Hales and the City Council of Portland, Oregon
- Mayor Jorge O. Elorza of Providence, Rhode Island
- Mayor John T. Dickert of Racine, Wisconsin
- County Commissioners Toni Carter and Rafael Ortega of Ramsey County, Minnesota
- Mayor Lovely Warren of Rochester, New York
- Mayor Ralph Becker of Salt Lake City, Utah
- Mayor Edwin M. Lee and the City and County of San Francisco
- Mayor Sam Liccardo and the City of San Jose, California
- The City of Santa Ana, California
- The Board of Supervisors of Santa Cruz County, Arizona
- Mayor Javier M. Gonzales of Santa Fe, New Mexico
- The City of Santa Monica, California
- Mayor Gary R. McCarthy of Schenectady, New York
- Mayor Edward B. Murray of Seattle
- Mayor George Van Dusen of Skokie, Illinois
- Mayor Francis G. Slay of St. Louis, Missouri
- Mayor Elizabeth A. Goreham and the State College Borough Council, Pennsylvania
- Mayor Stephanie A. Miner of Syracuse, New York
- Mayor Marilyn Strickland of Tacoma, Washington
- Mayor Bob Buckhorn of Tampa, Florida
- Travis County, Texas
- Mayor Muriel Bowser of Washington, D.C.
- Mayor Fredrick Sykes of West Covina, California
- Mayor Mike Spano of Yonkers, New York

- The United States Conference of Mayors (USCM is a non-partisan organization of cities with populations of 30,000 or more. USCM has no parent corporation, and no publicly held company owns 10% or more of its stock.)
- The National League of Cities (NLC is the oldest and largest organization representing municipal governments throughout the United States. NLC works in partnership with 49 state municipal leagues and serves as a national advocate for the more than 19,000 cities, towns and villages it represents. NLC has no parent corporation,

and no publicly held company owns 10% or more of its stock.)

Attorneys for Amici Curiae

- Zachary Carter, Corporation Counsel, New York City Law Department
- Michael N. Feuer, City Attorney, City of Los Angeles
- Thomas Peters, Chief Assistant City Attorney, City of Los Angeles
- Richard Dearing, New York City Law Department
- Jeremy W. Shweder, New York City Law Department

 /s/
 Jeremy W. Shweder
Counsel for Amici

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IDENTITIES OF THE AMICI CURIAE

Amici are mayors, cities, elected county officials, counties, villages, and boroughs from 73 municipalities in 27 States and the District of Columbia, including Mayor Bill de Blasio of New York City; Mayor Eric Garcetti of Los Angeles; Mayor William D. Euille and the City of Alexandria, Virginia; Mayor Ed Pawlowski of Allentown, Pennsylvania; Mayor Kasim Reed of Atlanta; Mayor Steve Adler of Austin, Texas; Mayor Stephanie Rawlings-Blake and the City Council of Baltimore, Maryland; the City of Bell, California; Mayor Martin J. Walsh of Boston; Mayor Bill Finch of Bridgeport, Connecticut; Mayor Byron W. Brown of Buffalo, New York; the City of Cambridge, Massachusetts; Mayor James Diossa of Central Falls, Rhode Island; Mayor Mark Kleinschmidt of Chapel Hill, North Carolina; the City of Charleston, South Carolina; Mayor Rahm Emanuel of Chicago; the Board of Supervisors of Coconino County, Arizona; Mayor Steven Benjamin of Columbia, South Carolina; Mayor Michael B. Coleman of Columbus, Ohio; Dallas County, Texas, and Clay Lewis Jenkins, County Judge of Dallas County; Mayor Nan Whaley and the City of Dayton, Ohio; Mayor Michael B. Hancock of Denver; the Village of Dolton, Illinois; El Paso County, Texas; Mayor Carlo DeMaria of Everett, Massachusetts; Mayor Karen Freeman-Wilson of Gary, Indiana; Mayor Domenick Stampone of Haledon, New Jersey; Mayor Pedro Segarra of Hartford, Connecticut; Mayor Nancy R. Roterling of

Highland Park, Illinois; the City of Hoboken, New Jersey; Mayor Alex B. Morse of Holyoke, Massachusetts; Mayor Annise D. Parker of Houston; Mayor Steven M. Fulop of Jersey City, New Jersey; Mayor Sylvester “Sly” James of Kansas City, Missouri; Mayor Mark Stodola of Little Rock, Arkansas; the County of Los Angeles, California; Tina Skeldon Wozniak, Pete Gerken, and Carol Contrada of the Board of Lucas County Commissioners, Lucas County, Ohio; Mayor Paul R. Soglin of Madison, Wisconsin; the City of Milwaukee; Mayor Betsy Hodges and the City of Minneapolis, Minnesota; Montgomery County, Maryland; Mayor Ras J. Baraka of Newark, New Jersey; Mayor Paul A. Dyster of Niagara Falls, New York; the City of North Miami; Mayor Libby Schaaf and the City of Oakland, California; Mayor Jose “joey” Torres of Paterson, New Jersey; Mayor Michael A. Nutter of Philadelphia; Mayor William Peduto of Pittsburgh; the City of Plainfield, New Jersey; Mayor Charlie Hales and the City Council of Portland, Oregon; Mayor Jorge O. Elorza of Providence, Rhode Island; Mayor John T. Dickert of Racine, Wisconsin; County Commissioners Toni Carter and Rafael Ortega of Ramsey County, Minnesota; Mayor Lovely Warren of Rochester, New York; Mayor Ralph Becker of Salt Lake City, Utah; Mayor Edwin M. Lee and the City and County of San Francisco; Mayor Sam Liccardo and the City of San Jose, California; the City of Santa Ana, California; the Board of Supervisors of Santa Cruz County, Arizona; Mayor Javier M. Gonzales of Santa Fe, New Mexico; the

City of Santa Monica, California; Mayor Gary R. McCarthy of Schenectady, New York; Mayor Edward B. Murray of Seattle; Mayor George Van Dusen of Skokie, Illinois; Mayor Francis G. Slay of St. Louis, Missouri; Mayor Elizabeth A. Goreham and the State College Borough Council, Pennsylvania; Mayor Stephanie A. Miner of Syracuse, New York; Mayor Marilyn Strickland of Tacoma, Washington; Mayor Bob Buckhorn of Tampa, Florida; Travis County, Texas; Mayor Muriel Bowser of Washington, D.C.; Mayor Fredrick Sykes of West Covina, California; and Mayor Mike Spano of Yonkers, New York. Amici also include the National League of Cities and the United States Conference of Mayors.

INTEREST OF THE AMICI CURIAE

The amici—as mayors, county officials, and local governments from all across the Nation—have a compelling interest in demonstrating that the district court’s grant of a preliminary injunction is strongly contrary to the public interest. Local officials witness every day the contributions that immigrants make to their neighborhoods and communities, as well as the harms that result from keeping long-time residents of those neighborhoods and communities in the shadows due to their immigration status. Amici also see and must address the harms to families and children that an ongoing threat of deportation produces. A great number of the

estimated 11 million undocumented immigrants in the United States¹ have lived in amici's cities and counties for a decade or more.² So, the mayors, county officials, cities, counties, villages, and boroughs represented in this brief have a distinctive, on-the-ground perspective and understanding of how the proposals for temporary relief from deportation outlined in the Secretary of Homeland Security's November 20, 2014 Deferred Action Guidance Memorandum (*see* Attachment 3 to Appellants' Emergency Motion for Stay Pending Appeal, filed March 12, 2015) (hereinafter, the "Executive Action") will affect eligible individuals, their families, and, indeed, all residents within amici's jurisdictions.

Amici entirely support the Executive Action, which would allow eligible undocumented children and adults to apply for expanded "Deferred Action for Childhood Arrivals" ("expanded DACA") and eligible undocumented parents of U.S. citizen and lawful permanent resident children to apply for "Deferred Action for Parents of Americans and Lawful Permanent Residents" ("DAPA"). While amici recognize that others hold a different view about the Executive Action, it

¹ *See, e.g.*, Jens Manuel Krogstad & Jeffrey S. Passel, Pew Research Ctr., *5 facts about illegal immigration in the U.S.* (Nov. 18, 2014), *available at* <http://www.pewresearch.org/fact-tank/2014/11/18/5-facts-about-illegal-immigration-in-the-u-s> (estimating 11.2 million undocumented immigrants based on 2012 data).

² Pew Research Ctr., *A Nation of Immigrants*, (Jan. 29, 2013), *available at* <http://www.pewhispanic.org/2013/01/29/a-nation-of-immigrants> (noting that in 2010, nearly two-thirds of undocumented adult immigrants had lived in the United States for at least a decade).

cannot be disputed that undocumented immigrants live in, work in, and form part of local communities and neighborhoods across this country—and have done so for some time. The Executive Action recognizes a reality that amici have long known: communities are safer, economically stronger, and better places to live when undocumented immigrants who have substantial and longstanding ties to their communities and who pose no threat to public safety are able to come out of the shadows, engage more fully in civil society, better contribute to the economic growth of their communities, and interact with government officials without fear. The Executive Action is a practical and much-needed exercise of enforcement discretion that will allow those who qualify under expanded DACA and DAPA to participate more fully and safely in their cities, counties, and communities.

Amici demonstrate that a delay in implementing the Executive Action harms their cities and counties and all residents thereof by forestalling the critical benefits of that Action, which include increasing public safety and public engagement, fueling economic growth, and facilitating the full integration of immigrant residents by promoting family unity and limiting family separation. These benefits are real, and they will accrue day by day. By contrast, the plaintiffs have not identified any comparable concrete harm that would result from allowing the Executive Action to be implemented during the pendency of this case. The district court failed to consider the important and timely public interests weighing against

an injunction that affects the more than 43 million people within amici's jurisdictions, and this is one reason, among many, that the court's grant of a preliminary injunction should be reversed.

STATEMENT PURSUANT TO FED. R. APP. P. 29(c)(5)

No party to this proceeding authored any part of this brief. No party or counsel to any party to this proceeding, nor any other person other than amici, contributed money that was intended to fund preparing or submitting this brief.

ARGUMENT

The United States has well demonstrated the errors in the district court's holding that plaintiffs have a likelihood of success on the merits on their claim that the executive action is subject to the notice-and-comment procedures of the Administrative Procedure Act. Amici focus here on the district court's failure to give appropriate consideration to the harms to the public interest that its preliminary injunction will cause. The grant of the preliminary injunction and corresponding delay in the implementation of the Executive Action is strongly contrary to the public interest, because the Executive Action will (a) increase public safety by encouraging immigrant residents to trust and cooperate with law enforcement; (b) fuel economic growth through job creation and new tax revenue; and (c) facilitate the full integration of immigrants into their communities and promote family unity. These important interests affect every resident of the 73

cities, counties, villages, and boroughs that amici represent, day in and day out, and these interests must be taken into account when considering whether a preliminary injunction delaying implementation of the Executive Action pending the resolution of this case will serve, or disserve, the public interest. As amici demonstrate below, the Executive Action provides significant benefits to amici and the residents of amici's cities and counties, and a delay in its implementation causes concrete and potentially irreversible harms.

I. The District Court Failed to Adequately Consider the Public Interest.

It is well established that plaintiffs are entitled to the extraordinary remedy of a preliminary injunction only if they can show (1) a likelihood of success on the merits; (2) a substantial threat of irreparable injury; (3) that the threatened injury outweighs any harm that will result if the injunction is granted; and (4) that the injunction will not disserve the public interest. *See Sells v. Livingston*, 750 F.3d 478, 480 (5th Cir. 2014). This Court reviews the district court's analysis of these factors under an abuse of discretion standard, *see House the Homeless, Inc. v. Widnall*, 94 F.3d 176, 180 (5th Cir. 1996), but the Supreme Court has repeatedly confirmed that "[i]n exercising their sound discretion, courts of equity should pay particular regard for the public consequences in employing the extraordinary remedy of injunction." *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 312 (1982); *see also Winter v. Natural Res. Defense Council, Inc.*, 555 U.S. 7, 24 (2008).

Here, however, the district court failed to “pay particular regard”—or, indeed, anything more than a superficial regard—for the harm that an injunction would cause to the public interest. *See* February 16, 2015 Mem. Op. and Order, Dkt. 145-2 at 120-121. Rather, based almost entirely on its finding that a single plaintiff State—Texas—would suffer irreparable harm because of the purported financial cost of processing additional driver’s license applications, the district court issued a nationwide injunction that has the direct effect of harming the public interest across this country. In particular, the nationwide injunction runs counter to the interests expressed by the amici local governments that are represented here, as well as the expressed interests of 14 States and the District of Columbia, which filed their own amicus curiae brief in support of appellants.³

The district court erred in elevating the rather narrow economic interests of one plaintiff State over the countervailing and far broader public interests that the grant of the preliminary injunction will dramatically impair. This Court has stressed that when considering whether to issue a preliminary injunction, courts must look beyond “the immediate interests of the named litigants” and consider the widespread public interest that would be affected by granting or withholding the injunction. *Mississippi Power & Light Co. v. United Gas Pipe Line Co.*, 760 F.2d

³ *See Texas v. United States*, No. 15-40238, Brief of the Amicus States of Washington, California, Connecticut, Delaware, Hawai’i, Illinois, Iowa, Maryland, Massachusetts, New Mexico, New York, Oregon, Rhode Island, and Vermont, and the District of Columbia, in Support of Motion to Stay District Court Preliminary Injunction, dated March 17, 2015.

618, 626 (5th Cir. 1985) (enjoining gas supplier from charging power company certain rates because of the “vital public interest involved in protecting the consumers of [the power company] against the harmful effect of overcharges”). But the district court failed to take into account any of the important benefits to amici and their residents that are discussed here and in the briefs of other amici.⁴ The district court’s disregard of the broader interests at play was improper, particularly since the public interest factor “primarily addresses impact on non-parties.” *Hunter v. Hamilton County Bd. of Elections*, 635 F.3d 219, 244 (6th Cir. 2011) (internal quotation marks and citation omitted).

The district court’s failure to properly consider the harm to the public interest was error, and its grant of a preliminary injunction should be reversed. *See, e.g., eBay Inc. v. MercExchange, LLC*, 547 U.S. 388, 394 (2006) (vacating judgment of court of appeals where “neither court below correctly applied the traditional four-factor framework that governs the award of injunctive relief”); *Edmisten v. Werholtz*, 287 F. App’x 728, 734-35 (10th Cir. 2008) (reversing and

⁴ *See Texas v. United States*, 1:14-cv-00254, Dkt. No. 81 (States’ Motion for Leave to Participate as Amici Curiae and Brief in Opposition to Plaintiffs’ Motion for Preliminary Injunction), Dkt. No. 83-1 (Amici Curiae Brief of Major Cities Chiefs Association, Police Executive Research Forum, and Individual Sheriffs and Police Chiefs in Opposition to Plaintiffs’ Motion for Preliminary Injunction), Dkt. No. 121 (Brief for Amici Curiae the Mayors of New York and Los Angeles, the Mayors of Thirty-One Additional Cities, The United States Conference of Mayors, and the National League of Cities in Opposition to Plaintiffs’ Motion for Preliminary Injunction).

remanding the denial of a preliminary injunction due to the district court's failure to adequately analyze the public-interest prong).

II. Delaying the Implementation of the Executive Action Harms the Public Interest.

A. The Executive Action Will Increase Public Safety by Encouraging More Immigrant Residents to Cooperate With Law Enforcement.

The district court ignored the important interest of amici and the residents of amici's cities and counties in increasing public safety, and further ignored that communities and their residents are harmed every day when benefits to the public safety are deferred. This Court has recognized that injunctions which limit the police's ability to conduct good-faith law enforcement efforts can cause "considerable potential harm to the public interest." *Spiegel v. Houston*, 636 F.2d 997, 1002 (5th Cir. 1981) (reversing as overbroad a preliminary injunction that prevented law enforcement from taking personal information from adult movie theater patrons under any circumstance). The district court's grant of a preliminary injunction preventing the implementation of the Executive Action will have just that effect, as it is likely to hinder the ability of local law enforcement to gain the trust and cooperation of many members of immigrant communities in reporting and investigating crimes.

It is beyond question that law enforcement officers and representatives of local government require the trust, support, and cooperation of their communities

to be effective. To further the police-community bond, local law enforcement agencies have increasingly turned to “community policing,” an approach to policing where officers engage the community as partners in the effort to reduce crime.⁵ However, as local leaders are keenly aware, undocumented immigrants often fear interactions with law enforcement and government officials because of concerns that government representatives will inquire about their immigration status or the status of a family member or friend.⁶ The concern that interactions with police will lead to the identification and deportation of a family member affects a large number of immigrants: it is estimated that 85 percent of immigrants are part of mixed-status families containing a combination of U.S. citizens, undocumented immigrants, and documented immigrants.⁷ Any delay in the implementation of the Executive Action directly harms the ability of local law

⁵ Anita Khashu, Police Foundation, *The Role of Local Police: Striking a Balance Between Immigration Enforcement and Civil Liberties* vii, 24 (April 2009), available at <http://www.policefoundation.org/content/role-of-local-police>; see also Robert Wasserman, U.S. Department of Justice, Office of Community Oriented Policing Services, *Guidance for Building Communities of Trust* (2010), available at http://nsi.ncirc.gov/documents/e071021293_BuildingCommTrust_v2-August%2016.pdf (emphasizing the importance for communities and law enforcement to build and maintain trusting relationships to prevent acts of crime and terrorism).

⁶ Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement* i-ii, 5-6 (May 2013), available at http://www.academia.edu/4738588/Insecure_Communities_Latino_Perceptions_of_Police_Involvement_in_Immigration_Enforcement (presenting findings from survey of approximately 2,000 Latinos that indicates heightening of fears among Latinos of local law enforcement and impact on crime reporting by immigrants and U.S.-born Latinos).

⁷ Khashu, *supra* note 5, at vii, 24.

enforcement to protect the community because such delay maintains a major barrier—fear of deportation—preventing undocumented immigrants from contacting and working with police.

Trust in law enforcement among immigrant communities is particularly important when immigrants are victims or witnesses of crimes. The Major Cities Chiefs Association, a professional association of chiefs and sheriffs from the country’s largest cities, has powerfully expressed the vital need to encourage immigrants’ cooperation with law enforcement efforts:

Assistance and cooperation from immigrant communities is especially important when an immigrant, whether documented or undocumented, is the victim of or witness to a crime. These persons must be encouraged to file reports and come forward with information. Their cooperation is needed to prevent and solve crimes and maintain public order, safety, and security in the whole community.⁸

Studies have shown that a large percentage of undocumented immigrants avoid law enforcement out of fear that contact with police could lead to deportation. For instance, a 2013 survey of Latinos living in Chicago, Houston, Los Angeles, and Phoenix—cities with large immigrant populations—found that among undocumented immigrants, 70 percent were less likely to contact police

⁸ Major Cities Chiefs Immigration Committee, *Recommendations: For Enforcement of Immigration Laws by Local Police Agencies* 5 (June 2006), available at http://www.houstontx.gov/police/pdfs/mcc_position.pdf (noting also that “[l]ocal police contacts in immigrant communities are important as well in the area of intelligence gathering to prevent future terroristic attacks and strengthen homeland security”).

officers if they were victims of a crime for fear police would ask about the immigrant's immigration status, and nearly the same number were less likely to voluntarily offer information about crimes or report a crime to police officers due to the same concerns.⁹

All residents of amici's cities and counties are harmed each time that a person fails to report a crime or is in fear of working with police officers investigating a crime. Unfortunately, immigrants are particularly susceptible as victims. Criminals know that many immigrants are reluctant to report crimes out of a concern that police officers will question them about their immigration status or the immigration status of a friend or family member.¹⁰

When perpetrators of crime remain free, the victim of the crime remains vulnerable and afraid of further harm, and criminals are able to target other innocent and unsuspecting victims.¹¹ This cycle of crime, victimization, and fear of cooperation with police harms all of amici's constituents. And once suffered, these harms cannot be reversed: each time that a victim is afraid to report a crime or

⁹ Theodore, *supra* note 6, at 5-6.

¹⁰ Matthew Lysakowski, *et al.*, U.S. Dep't of Justice, *Policing in New Immigrant Communities* 3 (June 2009), available at <http://vera.org/sites/default/files/resources/downloads/e060924209-NewImmigrantCommunities.pdf>.

¹¹ See Amy Braunschweiger, Human Rights Watch, *Nashville Immigrants Too Scared to Call the Police* (May 19, 2014), available at <http://www.hrw.org/news/2014/05/19/nashville-immigrants-too-scared-call-police> (describing experience of a Nashville immigrant mother's fear of calling police after her daughter was assaulted).

work with police may prevent or delay the arrest and prosecution of a violent criminal, who is then enabled to commit further crimes.

While the Executive Action will not eliminate completely the concerns that many immigrants express in cooperating with law enforcement, by allowing a larger number of otherwise law-abiding immigrants to obtain temporary lawful status, the Executive Action will increase trust and reduce trepidation about engaging with law enforcement. The Executive Action is expected to make up to 4 million people eligible for deferred action.¹² To qualify, immigrants will have to come forward and interact with government officials in ways that they may have been hesitant to do previously. For instance, immigrants applying for deferred action and work authorization under the Executive Action would have to register, submit biometric data, pass background checks, and pay fees, among other requirements.¹³

By allowing a larger number of immigrants to obtain a temporary lawful presence, secure work authorization, and experience that interactions with

¹² Press Release, Migration Policy Institute, As Many as 3.7 Million Unauthorized Immigrants Could Get Relief from Deportation under Anticipated New Deferred Action Program (Nov. 19, 2014), *available at* <http://migrationpolicy.org/news/mpi-many-37-million-unauthorized-immigrants-could-get-relief-deportation-under-anticipated-new> (estimating 3.7 million DAPA-eligible immigrants and 290,000 additional DACA-eligible immigrants under the expansion of the program).

¹³ *Executive Actions on Immigration*, U.S. Citizenship and Immigration Services, <http://www.uscis.gov/immigrationaction> (last visited Mar. 30, 2015).

government are not events to be feared, the Executive Action will increase trust and eliminate barriers between law enforcement and members of immigrant communities, some of whom have lived in their communities for many years and would be valuable resources to law enforcement. A preliminary injunction directly and immediately harms the interest of amici and their constituents because it prevents the implementation of an important immigration enforcement policy that would lead to improved public safety for the entire community.

B. The Executive Action Will Stimulate Economic Growth in Cities and Counties Nationwide.

The preliminary injunction entered below will also forestall substantial economic benefits that the Executive Action will yield for communities and neighborhoods across the country. Although the district court considered the purported economic harm to Texas that would result from processing additional driver's license applications while this action was pending, that asserted harm is dwarfed by the significant economic benefits that will accrue day by day once the Executive Action is implemented. The government leaders represented in this brief have seen first-hand that their cities, counties, villages, and boroughs receive a significant economic boost from the presence of immigrants in the work force. By allowing a greater number of qualifying undocumented workers to obtain authorization to work, as the Executive Action is expected to do, the Executive Action furthers the economic interest of amici and the public.

As part of its consideration of the public interest prong of the preliminary injunction standard, the district court should have accounted for how the Executive Action affects the public's economic interests. *See, e.g., Amoco Prod. Co. v. Vill. of Gambell*, 480 U.S. 531, 545-46 (1987) (rejecting balancing test that elevated environmental subsistence concerns over public's interest in development of energy resources); *Productos Carnic, S.A. v. Central Am. Beef & Seafood Trading Co.*, 621 F.2d 683, 687 (5th Cir. 1980) (noting that public interest favors economic efficiency); *Springer v. United States Marshal*, 137 F. App'x. 657, 658 (5th Cir. 2005) (noting that appellants' request for an injunction barring federal funding for a local detention center "is completely at odds with the public interest, inasmuch as it would create serious economic problems for [the local county]").

Cities have long benefitted economically from growth in their immigrant populations. In New York City, for instance, following lean economic years and a decline in population in the 1970s, the city's focus on building up its service industries attracted an influx of immigrants, whose "relative youth and economic activity" ushered in an "era of renewal and growth."¹⁴ Similarly, in Los Angeles County, a "wave of new foreign-born residents" between 1970 and 2010 is credited

¹⁴ N.Y. City Dep't of City Planning, *The Newest New Yorkers: Characteristics of the City's Newest Foreign-born Population 1* (2013), available at <http://www.nyc.gov/html/dcp/pdf/census/nny2013/chapter1.pdf>.

with helping the area maintain its status as the largest major manufacturing center in the United States.¹⁵

Many other localities have also recognized that immigrants—including undocumented immigrants—are a source of economic vitality, as is evident from the creation of dedicated city-funded offices supporting immigrants' well-being, regardless of the immigrants' federal immigration status.¹⁶ Further, in some cities and counties that have experienced recent economic struggles, organizations have launched immigrant-integration initiatives “as a means to produce jobs and

¹⁵ Jacob L. Vigdor, *Immigration and the Revival of American Cities* 8 (Sept. 2013), available at <http://www.renewoureconomy.org/wp-content/uploads/2013/09/revival-of-american-cities.pdf> (concluding that the influx of almost three million immigrants to Los Angeles County between 1970 and 2010 helps explain why Los Angeles lost fewer manufacturing jobs during those years than Chicago, the United States' second-largest manufacturing center, which added only 600,000 immigrants over the same period).

¹⁶ For example, Boston, Baltimore, Chicago, New York City, Philadelphia, Houston, Los Angeles, San Francisco, and Seattle all have offices and staff dedicated to supporting immigrants. See City of Baltimore, *Mayor's Office of Immigrant and Multicultural Affairs*, <http://mayor.baltimorecity.gov/node/2229> (last visited Mar. 30, 2015); City of Boston, *Mayor's Office of New Bostonians*, <http://www.cityofboston.gov/newbostonians> (last visited Mar. 30, 2015); City of Chicago, *Office of New Americans*, http://www.cityofchicago.org/city/en/depts/mayor/provdrs/office_of_new_americans.html (last visited Mar. 30, 2015); City of Houston, *Office of International Communities*, <http://www.houstontx.gov/oic> (last visited Mar. 30, 2015); Office of Los Angeles Mayor Eric Garcetti, *Mayor's Office of Immigrant Affairs*, <http://www.lamayor.org/immigrants> (last visited Mar. 30, 2015); New York City Mayor's Office of Immigrant Affairs, <http://www.nyc.gov/html/imm/html/home/home.shtml> (last visited Mar. 30, 2015); City of Philadelphia, *Immigrant and Multicultural Affairs*, <http://www.phila.gov/ima/Pages/default.aspx> (last visited Mar. 30, 2015); City of San Francisco, *Office of Civic Engagement & Immigrant Affairs*, <http://sfgsa.org/index.aspx?page=957> (last visited Mar. 30, 2015); City of Seattle, *Office of Immigrant and Refugee Affairs*, <http://www.seattle.gov/office-of-immigrant-and-refugee-affairs> (last visited Mar. 30, 2015).

regional economic growth,”¹⁷ and government officials have lauded how immigrant populations have “renovated and revitalized whole neighborhoods.”¹⁸

A major reason that cities and counties have taken these steps to support the integration of immigrants in their communities is the proven lift that increases in immigrant population provide to local economies and local labor markets. For instance, a 2012 report by the Partnership for a New American Economy estimated that immigrants started nearly 30 percent of all new businesses in the country in 2011, and that immigrant-owned businesses employ one out of 10 workers in the United States, generating more than \$775 billion in revenue, \$125 billion in payroll, and \$100 billion in income in 2010 alone.¹⁹ Immigrants play a particularly large role in creating and managing the retail and service businesses that make up the “backbone” of local communities; a recent report showed that in 2013, immigrants make up the majority of owners of gas stations, dry cleaners, and

¹⁷ See Global Detroit, *About*, <http://www.globaldetroit.com/about> (describing Global Detroit as a non-profit that focuses on revitalizing “Michigan’s economy by pursuing strategies that strengthen Detroit’s connections to the world to make the region more attractive and welcoming to immigrants, internationals, and foreign trade and investment as a means to produce jobs and regional economic growth”) (last visited Mar. 30, 2015).

¹⁸ Susan Hartman, *A New Life for Refugees, and the City They Adopted*, N.Y. Times, Aug. 10, 2014, http://www.nytimes.com/2014/08/11/nyregion/a-new-life-for-refugees-and-the-city-they-adopted.html?_r=0 (quoting Oneida county executive Anthony J. Picente Jr.); cf. Julia Preston, *Ailing Midwestern Cities Extend a Welcoming Hand to Immigrants*, N.Y. Times, Oct. 6, 2013, at <http://www.nytimes.com/2013/10/07/us/ailing-cities-extend-hand-to-immigrants.html> (noting welcoming attitudes among local officials in Dayton towards undocumented immigrants).

¹⁹ Robert W. Fairlie, Partnership for a New American Economy, *Open for Business: How Immigrants are Driving Small Business Creation in the United States* 3 (August 2012), available at <http://www.renewoureconomy.org/sites/all/themes/pnae/openforbusiness.pdf>.

grocery stores in the United States, and are nearly as well represented among owners of restaurants, nail salons, and jewelry and clothing stores.²⁰ And research shows that the employment opportunities created by immigrant-owned businesses and immigration in general have a long-term beneficial effect on all U.S. workers, including U.S.-born wage earners.²¹

While immigration in general provides long-term economic benefits for cities, counties, and wage-earners, the implementation of the Executive Action also would create an immediate economic spark for those groups. On a national level, one study has found that the Executive Action will lead to a labor income increase of \$7.1 billion for the covered population, which will result in more than \$2.6 billion in new tax revenue and the creation of more than 167,000 new jobs in the first year.²² Another study estimates increased payroll tax revenues of \$2.87 billion

²⁰ Americas Society/Council of the Americas & Fiscal Policy Institute, *Bringing Vitality to Main Street: How Immigrant Small Businesses Help Local Economies Grow 2* (January 2015), available at <http://fiscalpolicy.org/wp-content/uploads/2015/01/Bringing-Vitality-to-Main-Street.pdf>.

²¹ Heidi Shierholz, Econ. Policy Inst. Briefing Paper No. 255, *Immigration and Wages: Methodological Advancements Confirm Modest Gains for Native Workers* 19-20 (Feb. 4, 2010), available at <http://www.epi.org/files/page/-/bp255/bp255.pdf> (finding that between 1994 and 2007, immigration caused a 0.4 percent increase in wages for U.S.-born workers, relative to foreign-born workers); see also Gianmarco I.P. Ottaviano & Giovanni Peri, Nat'l Bureau of Econ. Research, *Rethinking the Effects of Immigration on Wages* 4 (2006, revised 2008), available at <http://www.nber.org/papers/w12497> (finding that U.S.-born workers' wages increased 0.7 percent due to immigration between 1990 to 2004).

²² Raul Hinojosa-Ojeda and Maksim Wynn, North American Integration and Development Center, UCLA, *From the Shadows to the Mainstream: Estimating the Economic Impact of Presidential Administrative Action and Comprehensive Immigration Reform* 32 (Nov. 21, 2014), available at http://naid.ucla.edu/uploads/4/2/1/9/4219226/ucla_naid_center_report_-

in the first year and \$21.24 billion in the first five years of the program.²³

Moreover, providing work authorization to individuals covered by the Executive Action is certain to improve worker protections, minimizing wage theft and the loss in tax revenue from the wage theft.²⁴

The economic benefit of the Executive Action can be quantified on a local level as well. Taking New York City as an example, if, as some studies have found, an undocumented worker's wages increase by seven percent when he or she obtains authorization to work,²⁵ then an undocumented worker in New York City currently making \$3,200 a month (the average monthly wage for undocumented workers in New York State²⁶) is missing out on an average of \$224 every month in marginal wage gains that he or she would earn if the Executive Action were in

_estimating_the_economic_impact_of_presidential_administrative_action_and_comprehensive_i
mmigration_reform.pdf.

²³ Patrick Oakford, Center for American Progress, *Administrative Action on Immigration Reform: The Fiscal Benefits of Temporary Work Permits* 9 (2014), available at <http://cdn.americanprogress.org/wp-content/uploads/2014/09/OakfordAdminRelief.pdf>.

²⁴ *Id.* at 5.

²⁵ Raul Hinojosa-Ojeda and Maksim Wynn, *supra* n. 20, at 12 (table comparing income impact by legal status); see also Silva Mathema, Center for American Progress, *The High Costs of Delaying Executive Action on Immigration* (March 13, 2015), available at <https://www.americanprogress.org/issues/immigration/news/2015/03/13/108768/the-high-costs-of-delaying-executive-action-on-immigration> (estimating that work authorization increases earnings of an undocumented worker by nearly 8.5 percent).

²⁶ Institute on Taxation and Economic Policy, *Undocumented Immigrants' State and Local Tax Contributions* 9 (July 2013), available at <http://www.itep.org/pdf/undocumentedtaxes.pdf> (estimating \$38,400 in annual income for average undocumented worker in New York state).

place. If even only 100,000 undocumented workers in New York City who obtained temporary work authorization were taxed on those additional earnings (at the 7.1 percent estimated effective tax rate for undocumented workers in New York State²⁷), then the State and the city would reap more than \$1.5 million *monthly* in additional state and local tax revenue.²⁸ In Los Angeles County, where more than 450,000 undocumented immigrants could be eligible for deferred action under the Executive Action, DACA- and DAPA-eligible workers could see wages grow by a combined \$1.6 billion, which is estimated to generate more than \$1.1 billion in new tax revenue between personal, sales, and business taxes.²⁹ Certainly, a delay in the Executive Action’s implementation directly harms local economies and residents by reducing the potential tax revenues for cities and counties, reducing the subsequent public spending and benefits that would come from that tax revenue, and limiting the increased economic activity that would result from

²⁷ *Id.* at 7.

²⁸ The number of individuals in New York City likely to be eligible for temporary work authorization under the Executive Action is likely to be far greater than 100,000 and is perhaps as high as 179,000. See Migration Policy Institute, *Unauthorized Immigrant Population Profiles: County Profiles* (2015), available at <http://www.migrationpolicy.org/programs/us-immigration-policy-program-data-hub/unauthorized-immigrant-population-profiles> (follow link to “County-Level Estimates on DACA & DAPA Populations,” estimating population eligible for expanded DACA and DAPA in New York City’s five counties—New York, Kings, Queens, the Bronx, and Richmond) (last visited Apr. 2, 2015).

²⁹ Raul Hinojosa-Ojeda, North American Integration and Development Center, UCLA, *The Economic Benefit of Expanding the Dream: DAPA and DACA Impacts on Los Angeles and California* 1 (Jan. 26, 2015), available at http://www.naid.ucla.edu/uploads/4/2/1/9/4219226/la_ca_final_draft_v2.pdf.

additional income among immigrant households. The harms resulting from these lost revenues outweigh any purported harms alleged by Texas and the plaintiff States.

Past experience also suggests that the Executive Action will rapidly improve the economic outlook for many of the currently undocumented workers living in amici's cities and counties. Studies tracking how the 2012 Deferred Action for Childhood Arrivals Program ("2012 DACA") affected young adults show marked progress for those individuals in several economic indicators. For instance, a survey of individuals who received 2012 DACA showed that within two years, almost 60 percent of beneficiaries obtained a new job, and 45 percent increased their salaries.³⁰ Further, within two years after receiving 2012 DACA, nearly half of those surveyed opened their first bank accounts, and a third of them obtained their first credit card.³¹

The Executive Action will similarly benefit a broad group of immigrants who already have significant ties to amici's cities and counties and who already contribute economically in various ways. By formalizing the work status of hundreds of thousands of wage-earners, the Executive Action will increase wage

³⁰ Roberto Gonzales & Angie M. Bautista-Chavez, American Immigration Council, *Two Years and Counting: Assessing the Growing Power of DACA* 3 (June 2014), available at <http://www.immigrationpolicy.org/special-reports/two-years-and-counting-assessing-growing-power-daca>.

³¹ *Id.*

levels and tax revenues in the amici’s jurisdictions. Preventing the immediate implementation of the Executive Action will have the opposite effect, depriving local governments and residents of these proven economic benefits with each passing day. This result would be contrary to the public interest.

C. The Executive Action Will Promote Family Unity and Facilitate the Integration of Immigrant Residents in Cities and Counties Nationwide.

The amici mayors, county officials, and local governments also have a strong interest in benefits that the Executive Action will yield for family unity, because a rupture in the family unit results in many potentially harmful outcomes that often fall to local governments to address, such as reduced household income, increased reliance on public benefits and services, increased occurrences of negative health consequences for children, and a greater likelihood of educational problems for children. Further, amici have a strong interest in the full integration of all residents, including immigrants, into the fabric of the community. The district court wrongly failed to consider any of these important public interests.

The profound importance of family unity is codified in the nation’s immigration laws³² and recognized as a protected liberty interest under the U.S.

³² See, e.g., 8 U.S.C. § 1254a(c)(2)(A)(ii) (allowing the Attorney General to find certain individuals eligible for Temporary Protected Status “for humanitarian purposes, to assure family unity, or when it is otherwise in the public interest”); 8 U.S.C. § 1182(d)(11) (providing Attorney General with discretionary waiver of exclusion in certain circumstances, including to “assure family unity”); *Holder v. Martinez Gutierrez*, ___ U.S. ___, 132 S. Ct. 2011, 2019 (2012) (noting

Constitution. *See, e.g., Moore v. City of East Cleveland*, 431 U.S. 494, 503 (1977) (“[O]ur decisions establish that the Constitution protects the sanctity of the family precisely because it is deeply rooted in the Nation’s history and tradition.”); *Stanley v. Illinois*, 405 U.S. 645, 651 (1972) (noting that “[t]he Court has frequently emphasized the importance of the family”). Delayed implementation of the Executive Action frustrates the important public interest in family unity by forcing immigrant families in mixed-status households to live under an ongoing fear of deportation and separation from their loved ones.³³ The plain reality is that families are routinely torn apart through deportations. For instance, in New York City from 2005 to 2010, 87 percent of the parents of U.S. citizen children that federal immigration authorities apprehended were deported,³⁴ and nationally

that “promoting family unity” is one of the goals that “underlie or inform many provisions of immigration law”).

³³ An estimated 5.5 million U.S. citizen children live with an undocumented parent who is eligible for DAPA. *See* Manuel Pastor, *et al.*, University of Southern California Dornsife Center for the Study of Immigrant Integration, *The Kids Aren’t Alright – But They Could Be: The Impact of Deferred Action for Parents of Americans and Lawful Permanent Residents (DAPA) on Children* (March 2015), available at http://dornsife.usc.edu/assets/sites/731/docs/DAPA_Impact_on_Children_CSII_Brief_Final_01.pdf; *see also* Paul Taylor, *et al.*, Pew Research Center, *Unauthorized immigrants: Length of Residency, Patterns of Parenthood* (Dec. 1, 2011), available at <http://www.pewhispanic.org/2011/12/01/unauthorized-immigrants-length-of-residency-patterns-of-parenthood> (estimating that 9 million people live in mixed-status families that include at least one undocumented adult and one U.S.-born child).

³⁴ N.Y. Univ. School of Law Immigrant Rights Clinic, *Insecure Communities, Devastated Families: New Data on Immigrant Detention and Deportation Practices in New York City* 18 (2012), available at <http://immigrantdefenseproject.org/wp-content/uploads/2012/07/NYC-FOIA-Report-2012-FINAL.pdf>.

46,000 parents of citizen children were deported in the first six months of 2011 alone.³⁵

The broader community and local government, as well as immigrant families themselves, are harmed when deportation ruptures family unity. From a community and government perspective, the splitting of families through deportation results in direct financial costs. Children in single-parent households are over four times more likely to live in poverty than are children with married parents,³⁶ and households that lose the family breadwinner due to detention or deportation must face “steep declines” in income, housing instability, and food insufficiency, resulting in increased reliance on public benefits.³⁷ Deportations that split up families also cause increased stress upon already busy public service systems, such as the foster care system. One study estimates that in 2011 there were 5,100 children in foster care nationwide whose parents had been either

³⁵ Seth Freed Wessler, *U.S. Deports 46K Parents with Citizen Kids in Just Six Months*, Colorlines, Nov. 3, 2011, available at http://colorlines.com/archives/2011/11/shocking_data_on_parents_deported_with_citizen_children.html.

³⁶ Joanna Dreby, Center for American Progress, *How Today's Immigration Enforcement Policies Impact Children, Families, and Communities* 9 (August 2012), available at <http://cdn.americanprogress.org/wp-content/uploads/2012/08/DrebyImmigrationFamiliesFINAL.pdf>.

³⁷ Ajay Chaudry, *et al.*, Urban Institute, *Facing Our Future: Children in the Aftermath of Immigration Enforcement* viii-ix (February 2010), available at http://www.urban.org/uploadedpdf/412020_FacingOurFuture_final.pdf at viii-ix (examining consequences of parental arrest, detention, and deportation on 190 children in 85 families in six locations in the U.S.).

detained or deported,³⁸ placing increased strain upon local governments' foster care systems and on the children whose parents could no longer provide them with care and comfort.

Research has also shown that children left behind after the deportation of a family member may experience a number of significant health setbacks and have a greater likelihood of struggling in school and even dropping out completely. For instance, interviews with a sample of children who had experienced separation from a parent within the last six months due to immigration detention found that about two-thirds of the children had trouble eating and sleeping, more than 40 percent were considered "anxious" or "withdrawn," and only a slightly lower percentage were "angry or aggressive."³⁹ The same study also reported instances where non-arrested parents were afraid to return their children to school after the arrest of one parent on immigration-related charges, while older students occasionally dropped out of school entirely to assist non-arrested parents or

³⁸ Seth Freed Wessler, Applied Research Center, *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System* 6 (November 2011), available at http://www.atlanticphilanthropies.org/sites/default/files/uploads/ARC_Report_Shattered_Families_FULL_REPORT_Nov2011Release.pdf.

³⁹ Chaudry, *et al.*, *supra* n. 37, at 41-42; *see also id.* at 41-53 (detailing short-term and long-term behavior changes among children who experienced separation from parents due to immigration enforcement); Kalina Brabeck, *et al.*, Report for the Inter-American Human Rights Court, *The Psychosocial Impact of Detention and Deportation on U.S. Migrant Children and Families* 5 (August 2013), available at <http://www.bc.edu/content/dam/files/centers/humanrights/doc/IACHR%20Report%20on%20Psychosocial%20Impact%20of%20Detention%20%20Deportation-FINAL%208-16-13.pdf>.

siblings.⁴⁰ The public interest is best served when all children in our communities—children of undocumented immigrants included—are healthy, educated, and able to participate in community life.

The implementation of the Executive Action will promote family well-being and children's health by offering stability and reassurance to the millions of children whose parents can apply for temporary relief from deportation through DAPA. This is a key benefit because studies show that children's health is impaired simply by the *threat* that a close family member will be detained or deported. As the nation's immigration issues and policies are frequently discussed in the media and in immigrant communities, immigrant children and adults develop understandable fears about visiting public spaces and engaging with government and law enforcement officials.⁴¹ Children of immigrants also begin to associate all immigrants with illegality and link their own immigrant heritage with feelings of shame.⁴² The Executive Action will help address these ongoing harms to family well-being and children's health; delay in implementation obstructs these

⁴⁰ Chaudry, *et al.*, *supra* n. 37, at 49-50.

⁴¹ Dreby, *supra* n. 36, at 21.

⁴² *Id.* at 27-28; *see also* Max Ehrenfreund, *How having an undocumented parent hurts American children*, Wash. Post, March 4, 2015, <http://www.washingtonpost.com/blogs/wonkblog/wp/2015/03/04/how-having-an-undocumented-parent-hurts-american-children> (reporting on survey of Los Angeles households that determined even young children of undocumented parents are aware of the risks of family separation and feel shame about their family's immigration status).

much-needed social benefits, to the detriment of cities and counties and their residents.⁴³

The public interest is benefitted when all members of the community feel comfortable getting involved in local issues and community affairs, whether by volunteering in local schools, participating in community board meetings, or simply interacting with their local governments. The Executive Action will increase civic engagement because, for those that qualify, it will remove the threat that interactions with school officials, law enforcement, and other local government officials will result in arrest or deportation.

Allowing the federal government to implement the Executive Action now will help to prevent the splitting of families due to deportation and directly encourage greater immigrant participation in community life while this action is pending. For this reason, too, the preliminary injunction blocking implementation of the Executive Action is contrary to the public interest.

⁴³ See Joanna Dreby, Center for American Progress, *Executive Action on Immigration will Help Children and Families* (March 3, 2015), available at <https://www.americanprogress.org/issues/immigration/news/2015/03/03/107769/executive-action-on-immigration-will-help-children-and-families/?elqTrackId=1728770977694509a243555a81ef9d2e&elqaid=24822&elqat=1> (emphasizing the toll that immigration system has on American families and the potential for improvement due to the Executive Action).

CONCLUSION

For the reasons set forth in this Brief, as well as those set forth by appellants and their other supporting amici, the district court's grant of a preliminary injunction should be reversed.

Respectfully submitted,

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Zachary W. Carter
Corporation Counsel
100 Church Street
New York, New York 10007
(212) 356-2500
(212) 356-2509 (f)
*Attorney for Bill de Blasio,
Mayor of New York*

By: /s/
Jeremy W. Shweder
jshweder@law.nyc.gov
(212) 356-2611
New York Registration No. 4687927
(Pro hac vice admission pending)
Attorney-in-charge

Michael N. Feuer
City Attorney
Thomas Peters
Chief Assistant City Attorney
701 City Hall East
200 North Main Street
Los Angeles, California 90012
*Attorneys for the City of Los Angeles,
acting by and through
Los Angeles City Mayor Eric Garcetti*

James L. Banks, Jr.
City Attorney
Christopher P. Spera
Deputy City Attorney
Office of the City Attorney
for the City of Alexandria
301 King Street, Suite 1300
Alexandria, Virginia 22314
*Attorneys for the City of Alexandria,
Virginia, and Mayor William D.
Euille*

Susan Ellis Wild
City Solicitor
435 Hamilton Street
Allentown, Pennsylvania 18101
*Attorney for Ed Pawlowski,
Mayor of Allentown*

Cathy Hampton
City Attorney
City of Atlanta Law Department
55 Trinity Avenue, SW, Suite 5000
Atlanta, Georgia 30303
*Attorney for Kasim Reed,
Mayor of Atlanta*

Anne L. Morgan
Interim City Attorney
P.O. Box 1088
Austin, Texas 78767
*Attorney for City of Austin
Mayor Steve Adler*

George A. Nilson
Baltimore City Solicitor
100 N. Holliday St.
City Hall - Suite 115
Baltimore, Maryland 21202
*Attorney for Stephanie Rawlings-
Blake, Mayor of Baltimore City, and
City Council of Baltimore City*

David J. Aleshire
City Attorney
18881 Von Karman Avenue,
Suite 1700
Irvine, California 92612
Attorney for the City of Bell

Eugene L. O'Flaherty
Corporation Counsel
City of Boston Law Department
Room 615/City Hall
Boston, MA 02201
*Attorney for Martin J. Walsh
Mayor, City of Boston*

Mark T. Anastasi, Esq.
City Attorney
Margaret Morton Government Center
999 Broad Street
Bridgeport, Connecticut 06604
*Attorney for Bill Finch,
Mayor of Bridgeport, Connecticut*

Timothy A. Ball
Corporation Counsel of the
City of Buffalo
65 Niagara Sq. Room 1101
Buffalo, New York 14202
*Attorney for Byron W. Brown,
Mayor of the City of Buffalo*

Nancy E. Glowa
City Solicitor
City Hall
795 Massachusetts Avenue
Cambridge, Massachusetts 02139
*Attorney for the City of
Cambridge Massachusetts*

Matthew T. Jerzyk
City Solicitor
City of Central Falls
580 Broad St.
Central Falls, Rhode Island 02863
*Attorney for James Diossa,
Mayor of the City of Central Falls*

Ralph D. Karpinos
Chapel Hill Town Attorney
405 Martin Luther King Jr. Blvd.
Chapel Hill, North Carolina 27514
*Attorney for Mark Kleinschmidt
Mayor of Chapel Hill, North
Carolina*

Frances I. Cantwell
Assistant Corporation Counsel
City of Charleston, SC
50 Broad Street
Charleston, South Carolina 29401
*Attorney for the City of Charleston,
South Carolina*

Stephen R. Patton
Corporation Counsel
City of Chicago Department of Law
30 N. LaSalle Street, Suite 800
Chicago, Illinois 60602
*Attorney for Rahm Emanuel,
Mayor of Chicago*

William P. Ring
Senior Civil Attorney
Coconino County Attorneys Office
110 E. Cherry Avenue
Flagstaff, Arizona 86001
*Attorney for the Coconino County
Board of Supervisors*

Teresa A. Knox
City Attorney
City of Columbia
1136 Washington Street
Columbia, South Carolina 29201
*Attorney for Steven Benjamin,
Mayor of the City of Columbia*

Richard C. Pfeiffer, Jr.
City Attorney
City of Columbus
Department of Law
77 North Front Street, 4th Floor
Columbus, Ohio 43215
*Counsel for Michael B. Coleman,
Mayor of the City of Columbus, Ohio*

Monica Lira Bravo
Lira Bravo Law, PLLC
8344 E. RL Thornton Fwy, Suite 100
Dallas, Texas 75228
*Attorney for Dallas County, Texas,
and Clay Lewis Jenkins, County
Judge of Dallas County*

** As approved by the Dallas County
Commissioners Court on March 31,
2015*

John C. Musto
Assistant City Attorney
City of Dayton, Ohio
Department of Law
101 W. Third St.
P.O. Box 22
Dayton, Ohio 45401
*Attorney for City of Dayton, Ohio,
and Nan Whaley, Mayor of the City
of Dayton, Ohio*

D. Scott Martinez
City Attorney for the
City and County of Denver
1437 Bannock Street, Room 353
Denver, Colorado 80202
*Attorney for Michael B. Hancock,
Mayor of the City and County of
Denver*

John B. Murphey
Rosenthal, Murphey, Coblenz &
Donahue
30 N. LaSalle Street, Suite 1624
Chicago, Illinois 60602
*Attorney for the Village of
Dolton, Illinois*

Jo Anne Bernal
El Paso County Attorney
500 East San Antonio, Room 503
El Paso, Texas 79901
Attorney for El Paso County, Texas

Colleen M. Mejia, Esq.
City Solicitor
City of Everett
484 Broadway
Everett, Massachusetts 02149
*Attorney for Carlo DeMaria,
Mayor of Everett*

Niquelle Allen Winfrey
Corporation Counsel
401 Broadway, Suite 101 A
Gary, Indiana 46402
*Attorney for Karen Freeman-Wilson,
Mayor of Gary*

Andrew P. Oddo, Esq.
Municipal Attorney
Borough of Haledon
510 Belmont Avenue
Haledon, New Jersey 07508
*Attorney for Domenick Stampone,
Mayor of Haledon, New Jersey*

Henri Alexander
Corporation Counsel
550 Main Street
Hartford, Connecticut 06103
*Attorney for Pedro Segarra,
Mayor of the City of Hartford*

Benjamin E. Gehrt
Partner
Clark Baird Smith LLP
6133 N. River Road, Suite 1120
Rosemont, Illinois 60018
*Attorney for Nancy R. Roterling,
Mayor of the City of Highland Park,
Illinois*

Mellissa L. Longo, Esq.
Corporation Counsel
94 Washington Street
Hoboken, New Jersey 07030
*Attorney for the Mayor
and City of Hoboken*

Kara Lamb Cunha
Assistant City Solicitor
20 Korean Veterans Plaza
Holyoke, Massachusetts 01040
*Attorney for Alex B. Morse,
Mayor of Holyoke*

Judith Ramsey
Section Chief
General Litigation Section
City of Houston Legal Department
901 Bagby
Houston, Texas 77002
*Attorney for Annise D. Parker,
Mayor of Houston*

Jeremy Farrell
Corporation Counsel
City of Jersey City
280 Grove Street
Jersey City, New Jersey 07302
*Attorney for Steven M. Fulop,
Mayor of the City of Jersey City*

William D. Geary
City Attorney
28th Floor City Hall
414 E. 12th Street
Kansas City, Missouri 64106
*Attorney for Sylvester "Sly" James,
Mayor of the City of Kansas City,
Missouri*

Thomas M. Carpenter
Office of the City Attorney
500 West Markham, Ste. 310
Little Rock, Arkansas 72201
*City Attorney for Mark Stodola
Mayor of Little Rock, Arkansas*

Mark J. Saladino
County Counsel
County of Los Angeles
500 W. Temple Street, 6th Floor
Los Angeles, California 90012
Attorney for Los Angeles County

Julia R. Bates
Lucas County Prosecutor
Steven J. Papadimos, First Assistant
Lucas County Prosecutor's Office
711 Adams, 2nd Floor
Toledo, Ohio 43604
*Attorneys for Board of Lucas County
Commissioners, Tina Skeldon
Wozniak, Pete Gerken,
and Carol Contrada*

Michael P. May
City Attorney
210 Martin Luther King Jr. Blvd.,
Room 401
Madison, Wisconsin 53703
*Attorney for Paul R. Soglin,
Mayor of Madison*

Grant F. Langley
City Attorney
City of Milwaukee
200 East Wells Street
Milwaukee, Wisconsin 53202
Attorney for the City of Milwaukee

Susan L. Segal
Minneapolis City Attorney
350 South 5th Street, Room 210
Minneapolis, Minnesota 55415
*Attorney for Betsy Hodges,
Mayor of Minneapolis,
and the City of Minneapolis*

Marc P. Hansen
County Attorney
101 Monroe St., 3rd Floor
Rockville, Maryland 20850
*Attorney for Montgomery County,
Maryland*

Willie L. Parker, Esq.
Corporation Counsel
City of Newark, Department of Law
920 Broad Street
Newark, New Jersey 07102
*Attorney for Ras J. Baraka,
Mayor of the City of Newark*

Craig H. Johnson
Corporation Counsel
745 Main Street
PO Box 69
Niagara Falls, New York 14302
*Attorney for Paul A. Dyster,
Mayor of Niagara Falls*

Regine M. Monestime
City Attorney
Office of the City Attorney
776 NE 125 Street
North Miami, Florida 33161
305-895-9810
Attorney for the City of North Miami

Barbara J. Parker
City Attorney for the
City of Oakland
One Frank Ogawa Plaza, Sixth Floor
Oakland, California 95612
*Attorney for Mayor Libby Schaaf and
the City of Oakland*

Domenick Stampone
Corporation Counsel
155 Market Street
City of Paterson, New Jersey 07505
*Attorney for Jose "joey" Torres,
Mayor of Paterson*

Shelley R. Smith
City Solicitor
City of Philadelphia Law Department
1515 Arch Street
Philadelphia Pennsylvania 19102
*Attorney for Michael A. Nutter,
Mayor of Philadelphia*

Lourdes Sanchez Ridge
City Solicitor
Chief Legal Officer
414 Grant Street
Third Floor
Pittsburgh, Pennsylvania 15219
*Attorney for William Peduto,
Mayor of Pittsburgh*

Vernita E. Sias-Hill, Esq.
Corporation Counsel
City of Plainfield - Office of
Corporation Counsel
515 Watchung Avenue
Plainfield, New Jersey 07061
*Attorney for the City of Plainfield,
New Jersey*

Tracy Reeve
City Attorney
Harry Auerbach
Chief Deputy City Attorney
430 City Hall
1221 SW Fourth Avenue
Portland, Oregon 97204
*Attorneys for Charlie Hales,
Mayor of Portland, on behalf of the
City Council of the City of Portland,
Oregon*

Jeff Dana
City Solicitor
444 Westminster Street, Suite 200
Providence, Rhode Island 02903
*Attorney for Jorge O. Elorza,
Mayor of the City of Providence*

Robert K. Weber
City Attorney
730 Washington Ave.
Racine, Wisconsin 53403
*Attorney for John T. Dickert,
Mayor of Racine*

John J. Choi
Ramsey County Attorney
345 Wabash Street North, Suite 120
Saint Paul, Minnesota 55102
*Attorney for Ramsey County,
Minnesota Commissioners Toni
Carter and Rafael Ortega, solely in
their respective capacities as elected
County Commissioners*

T. Andrew Brown
Corporation Counsel
Law Department
City of Rochester
30 Church Street, Room 400A
Rochester, New York 14614
*Attorney for Lovely Warren,
Mayor of the City of Rochester*

Margaret D. Plane
Salt Lake City Attorney
Salt Lake City Corporation
P.O. Box 145478
Salt Lake City, Utah 84114
*Attorney for Ralph Becker,
Mayor of Salt Lake City*

Dennis J. Herrera
San Francisco City Attorney
City Attorney's Office
City Hall Room 234
One Dr. Carlton B. Goodlett Pl.
San Francisco, California 94102
*Attorney for the City and County of
San Francisco and Mayor Edwin M.
Lee*

Richard Doyle
City Attorney
200 E. Santa Clara St.
San Jose, California 95113
*Attorney for Sam Liccardo,
Mayor of San Jose, California,
and the City of San Jose*

Sonia R. Carvalho
City Attorney
City of Santa Ana
20 Civic Center Plaza, M29
Santa Ana, California 92702
*City Attorney for the
City of Santa Ana*

Charlene Laplante
Chief Civil Deputy
Santa Cruz County Attorney
2150 N. Congress Dr. Suite 201
Nogales, Arizona 85621
*Attorney for the Board of Supervisors
Santa Cruz County Arizona*

Kelley A. Brennan
City Attorney
City of Santa Fe
200 Lincoln Avenue
Santa Fe, New Mexico 87504
*Attorney for the City of Santa Fe
Javier M. Gonzales, Mayor*

Marsha Jones Moutrie
City Attorney
City of Santa Monica
1685 Main St., Room 310
Santa Monica, California 90401
Attorney for the City of Santa Monica

Carl G. Falotico
Corporation Counsel
105 Jay Street
Schenectady, New York 12305
*Attorney for Gary R. McCarthy,
Mayor of Schenectady*

M. Lorena González
General Counsel to the Mayor of
Seattle
600 Fourth Avenue, 7th Floor
Seattle, WA 98124
*Attorney for Edward B. Murray,
Mayor of Seattle*

Michael M. Lorge
Corporation Counsel
Village of Skokie
5127 Oakton Ave.
Skokie, Illinois 60077
*Attorney for George Van Dusen,
Mayor of Skokie*

Winston E. Calvert
City Counselor
1200 Market Street
City Hall, Room 314
St. Louis, Missouri 63103
*Attorney for Francis G. Slay,
Mayor of the City of St. Louis*

Terry J. Williams
Solicitor
720 S. Atherton St., Suite 201
State College, Pennsylvania 16801
*Attorney for State College Borough
Council and Mayor Elizabeth A.
Goreham*

Robert P. Stamey
Corporation Counsel
300 City Hall
233 E. Washington Street
Syracuse, New York 13202
*Attorney for Stephanie A. Miner
Mayor of Syracuse*

Elizabeth A. Pauli
City of Tacoma
City Attorney
747 Market Street, Room 1120
Tacoma, Washington 98402
*Attorney for Marilyn Strickland,
Mayor of the City of Tacoma*

Julia C. Mandell, Esq.
City Attorney
315 E. Kennedy Boulevard, 8th Floor
Tampa, Florida 33602
*City of Tampa Attorney for Bob
Buckhorn, Mayor of the City of
Tampa*

David A. Escamilla
Travis County Attorney
Sherine E. Thomas,
Assistant County Attorney
Anthony J. Nelson,
Assistant County Attorney
P.O. Box 1748
Austin, Texas 78767
Attorneys for Travis County, Texas

** As approved by the Travis County
Commissioners Court on March 24,
2015*

Elizabeth A. Cavendish
General Counsel
Mayor Muriel Bowser
John A. Wilson Building
1350 Pennsylvania Avenue, N.W.,
Suite 300
Washington, DC 20004
*Attorney for Muriel Bowser,
Mayor, Washington, D.C.*

Elizabeth L. Martyn
Cota Cole
3401 Centrelake Drive, Suite 670
Ontario, California 91761
*Special Counsel for Mayor Fredrick
Sykes, City of West Covina,
California*

Michael V. Curti, Esq.
Corporation Counsel
City of Yonkers
City Hall
40 South Broadway, Suite 300
Yonkers, New York 10701
*Attorney for Mike Spano,
Mayor of the City of Yonkers*

Carolyn Coleman, Esq.
Director, Federal Advocacy
National League of Cities
1301 Pennsylvania Avenue NW,
Suite 550
Washington, DC 20004
Attorney for National League of Cities

John Daniel Reaves
General Counsel
The United States
Conference of Mayors
1200 New Hampshire Ave.,
Northwest, Third Floor
Washington, DC 20036
*Attorney for The United States
Conference of Mayors*

CERTIFICATE OF SERVICE

I certify that on April 6, 2015, the foregoing amicus curiae brief was filed with the Clerk of the Court of the United States Court of Appeals for the Fifth Circuit by emailing it to the Court, as instructed by Angelique Batiste in the Office of the Clerk of the Court. Service was accomplished by email and by overnight mail to:

Scott A. Keller, Solicitor
Office of the Solicitor General
for the State of Texas
209 W. 14th Street
Austin, TX 78701
scott.keller@texasattorneygeneral.gov

Scott R. McIntosh
U.S. Department of Justice
Civil Division, Appellate Staff
Room 7259
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
scott.mcintosh@usdoj.gov

By: /s/
Jeremy W. Shweder
New York City Law Department
jshweder@law.nyc.gov
(212) 356-2611
New York Registration No. 4687927
(*Pro hac vice* admission pending)
Attorneys for Amici

CERTIFICATE OF COMPLIANCE

I certify that this brief has been prepared in Microsoft Word using a 14-point, proportionally spaced font, and that based on word processing software, the brief contains 6,922 words.

By: _____/s/_____
Jeremy W. Shweder
New York City Law Department
jshweder@law.nyc.gov
(212) 356-2611
New York Registration No. 4687927
(*Pro hac vice* admission pending)
Attorneys for Amici