

Nos. 20-2754 and 20-2755

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

COUNTY OF OCEAN, *et al.*,

Plaintiffs-Appellants

**ROBERT A. NOLAN, in his official capacity as
Cape May County Sheriff, *et al.*,**

Plaintiffs-Appellants,

v.

**GURBIR S. GREWAL, in his official capacity as
Attorney General of the State of New Jersey, *et al.*,**

Defendants-Appellees

On Appeal from the United States District Court for the
District of New Jersey (No. 3:19-CV-18083, Chief Judge Freda Wolfson)

**BRIEF OF 47 COMMUNITY ORGANIZATIONS AS *AMICI CURIAE*
IN SUPPORT OF APPELLEES, URGING AFFIRMANCE**

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PRELIMINARY STATEMENT

When New Jersey Attorney General Gurbir S. Grewal issued the Immigrant Trust Directive in 2018, he recognized a truth that *amici* and the communities they serve have long understood: all New Jerseyans are safer when the State uses its limited resources to keep communities safe, rather than using its authority and resources to help deport community members. This is especially true now, when New Jerseyans are facing a deadly pandemic. Below, drawing on both individual experiences and collective data, *amici* explain why this policy is so critical to the communities they represent and serve.

Amici next explain why the plaintiffs' preemption claims are foreclosed by the basic principles of federalism enshrined in the United States Constitution. New Jersey is a sovereign state with its own elected government, laws, and law enforcement entities. Any federal statute that would prevent the Attorney General from issuing the Immigrant Trust Directive, thus forcing this State to use its own officers to implement federal programs, would violate the Tenth Amendment's prohibition on federal commandeering of state authority and resources.

INTEREST OF AMICI CURIAE

Proposed *amici curiae* are 47 organizations that represent or advocate on behalf of a wide range of New Jersey communities, including immigrants, women, religious communities, law enforcement professionals, parents, youth, individuals

suffering from addiction, survivors of intimate partner, family violence, and sexual assault, people living with HIV, workers, people living in poverty, individuals identifying as LGBTQ+, formerly incarcerated people, and survivors of detention and isolated confinement. In the addendum to this brief, *amici* individually describe their work and interest in the issues presented in this case. *Amici* are united in their strong belief that the Immigrant Trust Directive is a lawful policy that benefits all New Jerseyans.

ARGUMENT

I. **The Immigrant Trust Directive Promotes Public Safety, Health, and Well-Being for All New Jerseyans.**

New Jersey is a state of immigrants. Nearly one in four New Jerseyans is foreign-born and one in every six state residents was born in the United States to at least one immigrant parent.¹ In 2016, 475,000 people in New Jersey were undocumented, while more than 600,000 New Jerseyans lived with an undocumented family member between 2010 and 2014. *Id.* at 2. No system intended to promote public safety in our state can afford to ignore the needs and experiences of immigrant communities.

¹ American Immigration Council, *Immigrants in New Jersey* (Aug. 6, 2020), at 1, https://www.americanimmigrationcouncil.org/sites/default/files/research/immigrants_in_new_jersey.pdf.

As advocates for communities across New Jersey, *amici* have learned that when state and local officers collaborate with federal immigration enforcement, immigrants and their loved ones avoid engaging with police and government services. *See infra* §§ I(A)-(B). This chilling effect threatens the safety and health of all New Jerseyans: local law enforcement agencies cannot investigate violence when people feel unsafe seeking assistance; individuals suffer abuse silently when they cannot trust social services; and public health agencies cannot address health crises when families fear that seeking basic healthcare could lead to deportation and family separation. State and local collaboration with federal immigration enforcement also burdens local budgets, while intensifying racial discrimination by law enforcement. *See infra* § I(C).

Law Enforcement Directive No. 2018-6, commonly known as the Immigrant Trust Directive (the “Directive”), protects public safety by minimizing the fear that accompanies local enforcement of federal immigration laws. The Directive draws clear lines “between state, county, and local law enforcement officers, who are responsible for enforcing *state criminal law*, and federal immigration authorities, who enforce *federal civil immigration law*.” State of New Jersey, Attorney General

Law Enforcement Directive No. 2018-6 v2.0 (hereinafter “Dir. No. 2018-6”), at 1 (emphasis in original).²

Prior to the Directive, the lines between local law enforcement and federal immigration authorities blurred; state and local agencies could provide substantial assistance to Immigration and Customs Enforcement (“ICE”), even though they were neither paid nor designed to do so. For instance, when arresting someone for any indictable offense, New Jersey officers were *required* to notify ICE if they found “reason to believe” the person was unlawfully present in the United States. *See* State of New Jersey, Attorney General Law Enforcement Directive No. 2007-3.³ The prior directive did not prevent New Jersey officers from acceding to ICE requests, known as “detainers,” to hold individuals in state prisons or local jails beyond their otherwise-applicable release times, nor did it prevent local officers from sharing New Jerseyans’ personal information with ICE. *See id.*

The Immigrant Trust Directive more clearly distinguishes between New Jersey’s law enforcement and federal immigration authorities. Under the Directive, New Jersey officers generally may not inquire about immigration status unless necessary and relevant to an ongoing criminal investigation. Dir. No. 2018-6

² Available at https://www.nj.gov/oag/dcj/agguide/directives/ag-directive-2018-6_v2.pdf.

³ Available at https://www.nj.gov/oag/dcj/agguide/directives/dir-le_dir-2007-3.pdf. This Directive repealed and superseded Directive 2007-3. Dir. No. 2018-6 at 3.

§ II(A)(2). The Directive permits law enforcement officers to honor ICE detainers *only* for individuals charged with certain crimes, *id.* § II(B)(6), prohibits local officers from granting ICE permission to interview someone in state or local custody without that individual’s consent, *id.* §§ (II)(B)(4), and, with limited exceptions, directs officers not to share individuals’ release dates and personally identifiable information with ICE, *id.* § II(B)(2), (5). The Directive expressly does not prohibit officers from “[s]ending to, maintaining, or receiving from federal immigration authorities information regarding . . . citizenship or immigration status” *Id.* § II(C)(10) (citing 8 U.S.C. §§ 1373, 1644).

Thus, while the Directive still allows for some cooperation with ICE, it instructs New Jersey law enforcement officers to focus their resources on enforcing state and local law. Attorney General Grewal issued the Directive to “protect the safety of all New Jersey residents” and to avoid “undermining the trust . . . built with the public.” *Id.* at 2. Moreover, although the Directive addresses law enforcement, its positive effects radiate far beyond policing because immigrants’ fear of local police also influences their trust toward other government services. *See infra* § I(B). For the reasons that follow, the Directive is a lawful and necessary policy to advance public health and safety.

A. The Directive Improves Public Safety by Promoting Trust between Immigrant New Jerseyans and Local Law Enforcement.

Data from across the country show that mixing local law enforcement with federal immigration enforcement destroys trust between immigrant communities and police. In one survey, when undocumented individuals living in the United States were told that their local law enforcement agency was working with ICE, 60.8 percent of respondents were less likely to report a crime they witnessed and 42.9 percent of respondents were less likely to report a crime in which they were a victim to the police.⁴ In another study conducted in four counties across the United States, 44 percent of Latino respondents and 70 percent of undocumented Latino respondents agreed with the statement that they were “less likely to contact local police” when they are the victim of a crime out of fear that officers would question their immigration status or the status of people they know.⁵ Another survey of undocumented individuals found that only 9.8 percent of respondents trust their local police “a lot” or “a great deal” when told that local law enforcement works with ICE

⁴ Tom K. Wong et al., *The Impact of Interior Immigration Enforcement on the Day-to-Day Behaviors of Undocumented Immigrants*, U.S. Immigration Policy Center, at 12–13 (April 3, 2019), <https://usipc.ucsd.edu/publications/usipc-working-paper-1.pdf>.

⁵ Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement 5*, University of Illinois at Chicago (May 2013), https://greatcities.uic.edu/wp-content/uploads/2014/05/Insecure_Communities_Report_FINAL.pdf.

to enforce immigration law, while 44.6 percent of respondents who were told local law enforcement is not working with ICE would trust police “a lot” or “a great deal.”⁶

Collaboration between local police and federal immigration authorities forces survivors of domestic violence into the shadows. One study found that, in places that allow for or require local immigration enforcement,⁷ the rate of petitions submitted under the Violence Against Women Act (“VAWA”) – which enables immigrants to leave abusive relationships and apply for lawful permanent resident status independently – decreased.⁸ The researchers hypothesized that this decrease arose from a decrease in reporting of violence against women.⁹

Similarly, a 2017 national survey of prosecutors revealed that intensified federal immigration enforcement and anti-immigrant sentiment decreased cooperation with law enforcement by immigrant survivors of domestic violence, child abuse, and sexual assault.¹⁰ In a 2019 survey of advocates across the country

⁶ Tom K. Wong et al., *How Interior Immigration Enforcement Affects Trust in Law Enforcement*, Perspectives on Politics (2020) at 9, <https://usipc.ucsd.edu/publications/usipc-working-paper-2.pdf>.

⁷ See Catalina Amuedo-Dorantes and Esther Arenas-Arroyo, *Police Trust and Domestic Violence: Evidence from Immigration Policies*, IZA Institute of Labor Economics (Oct. 2019) at 8–10, 13–14, available at <http://ftp.iza.org/dp12721.pdf>.

⁸ See *id.* at 17, 27. This chilling effect on survivors of spousal abuse is particularly alarming because of the prevalence of domestic violence against immigrants, and the power that documented abusers hold over noncitizen spouses, which motivated Congress to create the VAWA. See *id.* at 2–3.

⁹ See *id.* at 17.

¹⁰ See Rafaela Rodrigues et al., *Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration*

who represent immigrant survivors of domestic and sexual violence, 76 percent of advocates reported that their clients had concerns about contacting the police, and 52 percent of advocates reported working with survivors who elected to drop their civil or criminal cases against a perpetrator for fear of immigration consequences, including separation from children.¹¹

The experiences of *amici* and their communities confirm that when local law enforcement collaborates with ICE, immigrants are less likely to seek police assistance. *Amicus* Make the Road New Jersey often receives inquiries from clients facing illegal evictions or unsafe conditions who are reluctant to contact the police for fear of immigration consequences.¹² One client found herself unable to remove a subletter who threatened to contact the police and expose the undocumented status of the sublessor's family members. After an attorney explained the Immigrant Trust Directive, the client sought police assistance.¹³

Enforcement: Initial Report from a 2017 National Survey at 71–73, National Immigrant Women's Advocacy Project (May 3, 2018), <http://library.niwap.org/wp-content/uploads/Immigrant-Access-to-Justice-National-Report.pdf>.

¹¹ Tahirih Justice Center, *Survey of Advocates Reveals Immigrant Survivors Fear Reporting Violence*, (June 4, 2019), available at <https://www.tahirih.org/news/survey-of-advocates-reveals-immigrant-survivors-fear-reporting-violence/>.

¹² Interview with Lauren Herman, Supervising Attorney, Make the Road New Jersey (Feb. 1, 2021). Notes on file with *amicus* ACLU-NJ.

¹³ Interview with Lauren Herman, Supervising Attorney, Make the Road New Jersey (Feb. 9, 2021). Notes on file with *amicus* ACLU-NJ.

Even routine traffic stops can result in serious immigration consequences. For example, in June 2018, Daniel Castro went out to pick up bottled water to prepare his baby's formula.¹⁴ Daniel, a 28-year-old New Jersey resident who fled political violence abroad as a teenager and had no criminal history, rode in the passenger seat while his fiancée's father drove. After an illegal U-turn, local police officers pulled the car over. *Id.* Daniel was not charged with a crime, and his interaction with law enforcement should have ended there. Instead, the police turned him over to ICE, which detained him, separating him from his fiancée and U.S. citizen son. *Id.*

Without the Immigrant Trust Directive, New Jersey's immigrant communities have more reason to fear that interactions with law enforcement – ranging from routine traffic stops to efforts to protect oneself from domestic violence – could result in deportations. In contrast, the Directive enables New Jerseyans to go about their daily lives without fear that every interaction with law enforcement could lead to permanent separation from their loved ones. By building a foundation of trust, the Directive makes New Jersey safer for everyone.

¹⁴ Thomas E. Franklin, *Despite Newark's Sanctuary City Status, Undocumented City Resident Turned Over to ICE*, TAP into Newark (Aug. 9, 2018), available at <https://www.tapinto.net/towns/newark/sections/government/articles/despite-newarks-sanctuary-city-status-undocumen>.

B. The Directive Promotes Immigrant Communities' Trust of Social Services and Health Programs, Improving Public Health.

Immigrant communities' level of trust in local law enforcement also affects community members' ability and willingness to seek out or accept public services, including child protection and health care. The fear of deportation and family separation deters both non-citizens and their family members from accessing essential services.

Karol Ruiz, a New Jersey attorney who was undocumented as a child, has recounted how the fear of immigration consequences prevented her from seeking protection from childhood sexual abuse. When Child Protective Services visited her family's home, she did not report the abuse, "fearing that [her] family would be deported."¹⁵ Today, she advises her clients about the Directive's protections. One of her young clients suffering abuse, for example, refused to cooperate with mental health providers, "fearing deportation consequences for her mother." *Id.* After Ms. Ruiz explained how the Directive could protect her mother, the child sought the help she needed. *Id.* *Amici* are aware of many community members who decline public

¹⁵ Karol Ruiz, *To End Hate in N.J. We Can't Ignore Policies that Support Immigrant Communities*, NJ.com (Aug. 18, 2019), available at <https://www.nj.com/opinion/2019/08/to-end-hate-in-nj-we-cant-ignore-policies-that-support-immigrant-communities.html>.

services despite serious need because they are afraid that their personal information will be shared with ICE.¹⁶

Local collaboration with federal immigration enforcement also affects immigrants' and their families' trust in health care providers and public health authorities, a particularly critical concern during the COVID-19 pandemic. A 2018 study found that ICE's controversial Secure Communities program, which expanded collaboration between local officers and ICE, decreased Latinos' trust toward "government-provided health information."¹⁷ "U.S.-born and immigrant Latinos who live in counties where immigration policing under the [Secure Communities] program is the most intense are less likely to trust health information from government agencies than their Latino counterparts living in counties with lower levels of immigrant policing." *Id.*

Arizona's infamous SB 1070 had a similar effect. The "show me your papers" law made it a state crime to be without immigration documents on one's person and expanded local police power to question and detain persons suspected to be without lawful status. As a result of the law, health providers reported a decrease in routine

¹⁶ See, e.g., Interview with Lauren Herman, Supervising Attorney, Make the Road New Jersey (Feb. 1, 2021).

¹⁷ Vanessa Cruz Nichols et al., *Spillover Effects: Immigrant Policing and Government Skepticism in Matters of Health for Latinos*, 78 Public Admin Rev. 432, 440 (May/June 2018).

care including vaccinations, HIV education, and prenatal care.¹⁸ Providers “noted dramatic changes in clinic intake and service use,” and public health services likewise observed a “definite change” that they attributed to fear of deportation. *Id.*

Immigrants’ fear of engaging with healthcare providers presents a major public health challenge during the COVID-19 pandemic, since a successful response requires a high level of trust. Indeed, the World Health Organization has emphasized the need to “maintain and build public trust in public health authorities before, during and after” a pandemic.¹⁹ Policies like the Immigrant Trust Directive are necessary to alleviate immigrant communities’ well-documented fears in seeking health care, protecting both community safety and public health.²⁰

¹⁸ Lisa J. Hardy et al., *A Call for Further Research on the Impact of State-Level Immigration Policies on Public Health*, 102 Am. J. of Pub. Health 1250, 1252 (2012), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3477996/pdf/AJPH.2011.300541.pdf>.

¹⁹ World Health Organization, *Pandemic Influenza Preparedness and Response: A WHO Guidance Document* (2009), <https://www.ncbi.nlm.nih.gov/books/NBK143063/>.

²⁰ Evidence also suggests that local authorities’ engagement in immigration enforcement can lead to avoidance of other public services beyond health care. In one study, adults in immigrant families reported avoiding public services, including speaking with school employees and visiting public parks and libraries. Hispanic adults in immigrant families were significantly more likely than their white counterparts to avoid the everyday activities studied. Hamutal Bernstein et al., *Adults in Immigrant Families Report Avoiding Routine Activities Because of Immigration Concerns* (July 2019), https://www.urban.org/sites/default/files/publication/100626/2019.07.22_immigrants_avoiding_activities_final_v2_3.pdf.

C. The Directive Helps to Prevent Discriminatory Policing and Conserves Limited State Resources.

Local collaboration with immigration enforcement authorities also increases racially discriminatory policing. For example, in Davidson County, Tennessee, arrests of foreign-born people reached their highest level in over a decade shortly after a cooperative program with ICE was implemented.²¹ The “vast majority” of individuals processed under the cooperative agreement were charged with non-violent misdemeanors, like driving without a license, trespassing, or fishing without a license. *Id.* at 6.

Similarly, an analysis of arrests in Frederick County, Maryland, found “a significantly higher number of arrests of Hispanics by the Sheriff’s Office than would have occurred” had the office not entered a collaboration with ICE.²² Recently, a woman who was arrested by the same sheriff’s office after it entered into its agreement with ICE obtained a settlement of \$100,000 in a lawsuit addressing racial profiling and discrimination.²³

²¹ ACLU of Tennessee, *Consequences & Costs: Lessons Learned from Davidson County, Tennessee’s Jail Model 287(g) Program* at 11 (Dec. 2012), available at <https://www.aclu-tn.org/wp-content/uploads/2015/01/287gF.pdf>.

²² Michael Coon, *Local Immigration Enforcement and Arrests of the Hispanic Population*, J. Migration & Hum. Sec. (Aug. 8, 2018), <https://journals.sagepub.com/doi/10.1177/233150241700500305>.

²³ See Associated Press, *Salvadoran Woman Wins \$100K in Wrongful Arrest Lawsuit*, Associated Press (June 18, 2020), <https://apnews.com/article/5bfc648cc13f65d35fda19e9bdc7a5c9>; Third Amended Compl., *Santos v. Frederick*

Arizona's Maricopa County provides another prime example. After the sheriff's office implemented an immigration enforcement program, Latino drivers in Maricopa County were four to nine times more likely to be stopped by officers than non-Latino drivers.²⁴ A U.S. DOJ investigation of the county's practices concluded that its immigration enforcement program produced a "wall of distrust" between officers and the Latino population, which "compromised [officers'] ability to provide police protection" to all Latino residents, regardless of immigration status.²⁵

Beyond preventing further racial profiling, the Directive ensures that the State's limited resources support local services and public safety, rather than assisting the federal government with immigration enforcement. For instance, cooperation with ICE detainer requests can be extremely costly. Between 2007 and 2017 – roughly the period in which Directive 2007-3 was in effect – New Jersey

Cty. Bd. of Comm'rs, No. 09-CV-2978 (CCB) (D. Md. Sept. 25, 2015), ECF No. 150.

²⁴ See Thomas E. Perez, Assistant Attorney General, U.S. Dep't of Justice, Maricopa County Sheriff's Office Investigative Findings Announcement (Dec. 15, 2011), available at <https://www.justice.gov/opa/speech/assistant-attorney-general-thomas-e-perez-speaks-maricopa-county-sheriff-s-office>.

²⁵ See Thomas E. Perez, Assistant Attorney General, U.S. Dep't of Justice, United States' Investigation of the Maricopa County Sheriff's Office (Dec. 15, 2011), https://www.justice.gov/sites/default/files/crt/legacy/2011/12/15/mcso_findletter_12-15-11.pdf.

paid at least \$12 million, and possibly far more, to honor ICE's requests.²⁶ Because holding people on detainers routinely violates constitutional rights, it also exposes local governments to financial liability. *See, e.g., Galarza v. Szalczyk*, 745 F.3d 634, 643–45 (3d Cir. 2014); Prelim. Approval Order, *Roy v. County of Los Angeles*, 12-CV-9012 (AB) (FFM), (C.D. Cal. Nov. 25, 2020), ECF No. 610 (preliminarily approving \$14 million settlement against county that honored detainers).

For these reasons, the Immigrant Trust Directive conserves state and local resources and reduces racial profiling.

II. No Federal Law Validly Preempts the Immigrant Trust Directive.

Amici's reasons for supporting the Directive align with a core principle of federalism: the federal government may not commandeer state resources by forcing states to adopt particular policies or forcing them to enforce federally adopted policies. Appellants claim that federal law preempts the Directive. This claim relies on the notion that because the federal government exclusively controls immigration – that is, controls when non-citizens may enter or must leave the United States – New Jersey is obligated to deploy its limited law enforcement resources in a way that maximally supports the federal government's immigration policies. This is an

²⁶ Erika Nava, *Working with ICE: A Costly Choice for New Jersey*, New Jersey Policy Perspective (Nov. 2018), <http://www.njpp.org/wp-content/uploads/2018/11/NJPP-Working-With-ICE-Report-FINAL.pdf>.

extreme and erroneous view of the authority of the federal government over the States.

Rather, just as the federal government has exclusive authority to pass immigration laws, it also bears responsibility for deciding how to enforce these laws and for executing its own enforcement actions. Although Appellants may disagree with New Jersey's decision to limit its voluntary assistance to federal immigration authorities, the U.S. Constitution does not permit the federal government to force our state to devote New Jersey resources to federal immigration enforcement.

A. Valid Preemption Schemes Regulate Private Actors, Not States, and the Anti-Commandeering Doctrine Strictly Limits the Federal Government's Ability to Force States to Implement Federal Policies.

The U.S. Constitution creates a system of dual sovereignty. *See Murphy v. NCAA*, 138 S. Ct. 1461, 1475 (2018). Both the federal government and the States elect their own legislatures, create their own policies, and enforce their own laws. The Framers believed this dual system would result in more liberty, as the two levels of government – state and federal – would keep each other in check, preventing either from running roughshod over the rights of the people. *See Gregory v. Ashcroft*, 501 U.S. 452, 458–59 (1991).

Fundamental to this system and the liberty it helps to guarantee are two constitutional concepts: the principle of preemption enshrined in the Supremacy Clause, and the principle of anti-commandeering enshrined in both the Tenth

Amendment and the Constitution's basic structure. *See Murphy*, 138 S. Ct. at 1475–77. These two principles define the boundaries of what the state and federal governments may do in relation to one another and keep the dual system in balance.

The principle of preemption holds that where federal and state laws regulating private individuals clash, federal law prevails. Although courts have recognized various types of preemption, all “work in the same way: Congress enacts a law that imposes restrictions or confers rights on private actors; a state law confers rights or imposes restrictions that conflict with the federal law; and therefore the federal law takes precedence and the state law is preempted.” *Id.* at 1480. Thus, if a state attempts to counteract such a validly enacted federal law by enacting its own contradictory law, under the Supremacy Clause the state law will be preempted and federal law will govern.

In this brief, *amici* do not examine in detail the question of whether the Directive and federal law clash for purposes of preemption analysis, although *amici* agree with the Attorney General that they do not conflict. Rather, *amici* address a constitutional point tied to their concern that forcing state and local police to carry out federal immigration law harms public safety, public health, and community well-being. Namely, even if there were a clash between federal law and the Directive, as Appellants argue, federal law could not preempt the Directive because such preemption would violate constitutional anti-commandeering principles.

A federal law crosses the line from a valid preemption statute to an unconstitutional attempt to commandeer state authority when, rather than regulating *private actors*, it instead attempts to directly regulate *state governments themselves*. *Id.* at 1481. This is because “the Framers explicitly chose a Constitution that confers upon Congress the power to regulate individuals, not States.” *New York v. United States*, 505 U.S. 144, 166 (1992). As the Supreme Court explained, “even where Congress has the authority under the Constitution to pass laws requiring or prohibiting certain acts, it lacks the power directly to *compel the States* to require or prohibit those acts.” *Id.* (emphasis added) (collecting cases). When the federal government attempts to control state governments in this way, it challenges the fundamental notion of state sovereignty, and runs up against the principle of anti-commandeering.

Anti-commandeering is “the expression of a fundamental structural decision” the Framers made to “withhold from Congress the power to issue orders directly to the States.” *Murphy*, 138 S. Ct. at 1475. The Supreme Court has found that several different methods of compelling state action amount to unconstitutional commandeering. These include commanding a state legislature to pass a law, commanding a state legislature *not* to pass a law, and commanding officers of state or local government to implement a federal law. *See New York*, 505 U.S. at 161–63;

Murphy, 138 S. Ct. at 1478; *Printz v. United States*, 521 U.S. 898, 926–30 (1997).²⁷

Because none of these actions are compatible with the fundamental notion of state sovereignty, none are constitutionally permissible. *See Printz*, 521 U.S. at 932 (a law whose object “is to direct the functioning of the state executive . . . compromise[s] the structural framework of dual sovereignty”).

Appellants in this case argue that the Directive is not valid because federal law preempts it. But the anti-commandeering doctrine forecloses this argument. The federal statutes that Appellants cite are not valid preemption provisions that regulate private actors. Rather, if interpreted to prohibit the Attorney General’s adoption of the Directive, they would be unconstitutional attempts to commandeer the officers and authority of the State of New Jersey. *See United States v. California*, 921 F.3d 865, 891 (9th Cir. 2019) (“California has the right, pursuant to the anticommandeering rule, to refrain from assisting with federal efforts.”), *cert. denied*, 141 S. Ct. 124 (June 15, 2020).

²⁷ These cases have addressed areas as diverse as gun control, the disposal of nuclear waste, sports gambling, and health care. *See Printz*, 521 U.S. at 902; *New York*, 505 U.S. at 149; *Murphy*, 138 S. Ct. at 1478; *NFIB v. Sebelius*, 567 U.S. 519, 577-80 (2012). Moreover, the Federal Courts of Appeal, including this Circuit, have applied the anti-commandeering doctrine to questions of state involvement in the enforcement of federal immigration law. *See, e.g., Galarza*, 745 F.3d at 643–45; *United States v. California*, 921 F.3d 865, 888–91 (9th Cir. 2019), *cert. denied*, 141 S. Ct. 124 (June 15, 2020).

B. Federal Information-Sharing Statutes Cannot Preempt the Immigrant Trust Directive Because Congress Cannot Command New Jersey Not to Adopt a Particular Policy.

Among the federal laws that Appellants suggest may preempt the Immigrant Trust Directive is 8 U.S.C. § 1373 (hereinafter “Section 1373”).²⁸ Section 1373 states that no state or local governmental entity may prohibit the sharing of “information regarding the citizenship or immigration status, lawful or unlawful, of any individual” with federal authorities.

As noted above, *amici* agree with the Attorney General and the District Court²⁹ that no conflict exists between Section 1373 and the Immigrant Trust Directive.³⁰ Even if a conflict did exist, however, Section 1373 cannot preempt the

²⁸ Appellants also cite 8 U.S.C. § 1644, the text of which is nearly identical to 8 U.S.C. § 1373(a). All of the arguments made by *amici* with regard to 8 U.S.C. § 1373 apply equally to 8 U.S.C. § 1644.

²⁹ JA 77. *See also United States v. New Jersey*, No. 20-CV-1364 (FLW) (TJB), 2021 WL 252270, at *1 n.1 (D.N.J. Jan. 26, 2021) (incorporating opinion in *Ocean County* by reference and dismissing challenge to the Directive for similar reasons).

³⁰ While *Amici* do not explore those arguments in depth, they note that *Ocean County*’s argument that Section 1373 prohibits restrictions on sharing social security and driver’s license numbers ignores the statutory text and state law. “The phrase ‘information regarding the citizenship or immigration status, lawful or unlawful, of any individual’ is naturally understood as a reference to a person’s legal classification under federal law,” and has been construed narrowly to exclude other personal information, including social security numbers and other identifiers. *California*, 921 F.3d at 891-93 (quoting 8 U.S.C. § 1373 and holding that California’s SB 54 did not conflict with Section 1373); *see California Values Act*, 2017 Cal. Legis. Serv. Ch. 495 (S.B. 54) (West) (prohibiting California law enforcement agencies from sharing “personal information” for immigration enforcement purposes) (defining “personal information” as “any information . . . maintained by an agency that identifies or describes an individual, including, but

Directive without running afoul of the anti-commandeering doctrine for two closely related reasons. First, Section 1373 is explicitly directed at state and local governments, not private actors. *See* 8 U.S.C. § 1373(a) (“[A] Federal, state, or local government entity or official may not prohibit . . . any government entity or official . . .”). For a federal statute to preempt a state policy, it must regulate private actors. *See Murphy*, 138 S. Ct. at 1480–81. As the District Court held below, this alone is a “death knell” to Appellants’ preemption arguments. JA 58.

Section 1373’s regulation of state and local government is, furthermore, distinct from the federal statute upheld in *Reno v. Condon*, 528 U.S. 141 (2000). In *Reno*, the Supreme Court upheld the federal Driver Privacy Protection Act’s (“DPPA”) restrictions against disclosure of personal information by private and government actors. *Id.* at 143, 146. “The anticommandeering doctrine does not apply when Congress evenhandedly regulates an activity in which both States and private actors engage.” *Murphy*, 138 S. Ct. at 1478–79 (noting this principle “formed the basis for the Court’s decision in *Reno v. Condon*”). By contrast, Section

not limited to, his or her . . . social security number . . .”). Moreover, the New Jersey Legislature recently removed the immigration status requirement for standard drivers’ licenses, providing that “[p]ossession of a standard basic driver’s license . . . shall not be considered evidence of an individual’s citizenship or immigration status.” N.J. Stat. Ann. § 39:3-10.

1373 regulates the states in their capacities as sovereigns, not as marketplace participants, and does not regulate private actors.

Second, Appellants' reading of Section 1373 would violate the anti-commandeering doctrine because it would command the states not to issue certain regulations. Appellant Ocean County characterizes Section 1373 as "requir[ing] that State and local governments refrain from enacting statutes or regulations that impede or restrict the conduit of information related to the citizenship or immigration status of an individual." Ocean Cty. Br. at 29. Ocean County's formulation of Section 1373 would directly command the Attorney General not to adopt certain provisions in the Directive; that qualifies it as a direct command to the government of New Jersey that it cannot adopt a particular policy. This is exactly the kind of command that violates the anti-commandeering doctrine, and which the Supreme Court has held that Congress cannot issue to a state legislature. *See Murphy*, 138 S. Ct. at 1481–82.³¹

Unsurprisingly, then, courts that have recently considered the constitutionality of Section 1373 have consistently found the statute unconstitutional under the anti-commandeering doctrine. *See City of Philadelphia v. Sessions*, 309 F. Supp. 3d 289,

³¹ Because the anti-commandeering doctrine applies equally to both the legislative and executive branches of state governments, the fact that the Directive was issued by the Attorney General (rather than adopted by the New Jersey Legislature) is irrelevant. *See Printz* at 521 U.S. at 907-08, 925-26.

329–30 (E.D. Pa. 2018), *aff'd in part and vacated in part sub nom. City of Philadelphia v. Att'y Gen. of U.S.*, 916 F.3d 276 (3d Cir. 2019); *City of San Francisco v. Sessions*, 349 F. Supp. 3d 924, 953 (N.D. Cal. 2018), *aff'd in part and vacated in part sub nom. City of San Francisco v. Barr*, 965 F.3d 753 (9th Cir. 2020), *petition for cert. filed*, No. 20-666 (U.S. Nov. 13, 2020); *City of Chicago v. Sessions*, 321 F. Supp. 3d 855, 866–73 (N.D. Ill. 2018), *aff'd sub nom. on other grounds, City of Chicago v. Barr*, 961 F.3d 882, 908–09 (7th Cir. 2020) (not reaching the constitutional question but noting that, under *Murphy*, “it does not matter that § 1373 prohibits the state from taking an action, as opposed to requiring an action” because “either situation involves the exercise of control over the state”).³²

The two Second Circuit decisions that have addressed this issue do not require a different conclusion. The holding in *City of New York v. United States* was based on the reasoning that Section 1373 did not compel the state to administer a federal regulatory program, relying on an understanding of the line between preemption and anti-commandeering as the distinction between ordering state governments *not* to take an action, rather than to take one. 179 F.3d 29, 34–35 (2d Cir. 1999). In 2018,

³² Appellant Cape May’s reliance on *Delaware County v. Federal Housing Financial Agency*, 747 F.3d 214 (3d Cir. 2014), *see* Cape May Br. at 19-20, is problematic for the same reason. In concluding that a federal statute exempting certain corporations from state and local taxation did not violate the anti-commandeering doctrine, the Third Circuit relied on the pre-*Murphy* distinction between affirmative and prohibitive legislation. *Id.* at 228 (citing *NCAA v. Governor of N.J.*, 730 F.3d 208, 229 (3d Cir. 2013), *abrogated by Murphy*, 138 S. Ct. 1461).

however, the Supreme Court clarified in *Murphy* that such a distinction is not meaningful, and that anti-commandeering principles forbid both affirmative and negative commands. 138 S. Ct. at 1481–82.

Notably and appropriately, the appellants do not rely on *State of New York v. DOJ*, 951 F.3d 84, 113–14 (2d Cir. 2020). Although it questioned a lower court finding of facial unconstitutionality, the Second Circuit expressly declined to decide this issue, analyzing section 1373’s constitutionality solely “as applied to clarify a federal funding requirement.” *Id.* at 111. Moreover, as discussed below, the federal government’s authority to regulate immigration does not empower it to force the states to carry out enforcement. *See infra* § II(C).

Appellant Cape May suggests that the information-sharing restrictions at issue here do not violate the Tenth Amendment because they fall within a “reporting requirement” exception that prevents states from forbidding certain information-sharing with the federal government. Cape May Br. at 18-19. *Murphy* made no mention of such an exception when it categorically held that Congress cannot command the states not to enact certain regulations. But even if this exception existed, it would not permit what Appellants seek to do here: require states to permit their officers to assist in the “actual administration of a federal program.” *Printz*, 521 U.S. at 918; *see also California*, 921 F.3d at 889–90 (upholding on anti-

commandeering grounds state information-sharing restrictions similar to the ones at issue in this case).

C. Immigration Statutes Cannot Preempt the Trust Directive Because the Federal Government Cannot Force State Entities to Bear the Burden of Enforcing Federal Law.

Appellants also claim that because the Directive limits the assistance that state and local law enforcement authorities can provide to federal immigration enforcement efforts, it poses an obstacle to the enforcement of various federal immigration laws regarding the detention and deportation of immigrants. Cape May Br. at 1–2, 11–15; Ocean Cty. Br. at 28–29. This argument fails under a well-established principle underlying the anti-commandeering doctrine: the federal government may not command state entities to enforce federal laws, because states cannot be forced to bear the political or economic costs of federal policies.

In *Printz v. United States*, the Supreme Court considered the constitutionality of a federal law that “direct[ed] state law enforcement officers to participate . . . in the administration of a federally enacted regulatory scheme” by conducting background checks on individuals who sought to buy firearms. 521 U.S. at 904. The Supreme Court held that the law was unconstitutional under anti-commandeering principles. *Id.* at 933. As the Court explained, “it is no more compatible with [states’] independence and autonomy that their officers be dragooned . . . into administering federal law, than it would be compatible with the

independence and sovereignty of the United States that its officers be impressed into service for the execution of state laws.” *Id.* at 928 (internal quotation marks and citation omitted). This was so even though the measure was meant to be a mere stopgap while the federal government set up its own background check system. *Id.* at 902. Under the anti-commandeering doctrine, any demand Congress makes of state officers – even one, like that in *Printz*, that requires officers to perform arguably ministerial tasks – is a command “fundamentally incompatible with our constitutional system of dual sovereignty.” *Id.* at 935; *see also id.* at 927–29.

The Constitution does not permit such commands, for good reason. As the Supreme Court has explained, anti-commandeering principles promote democratic accountability by clarifying to voters which governments are responsible for different policies.³³ *Murphy*, 138 S. Ct. at 1477. They also ensure that the federal government cannot pass the cost of expensive programs onto unwilling states. *Id.*

³³ The treatment of immigrants by state and local authorities tends to be a significant issue in New Jersey elections. *See, e.g.,* Daniel Nichanian, *Why New Jersey’s Sheriff Elections Matter*, *The Appeal* (Apr. 11, 2019), <https://theappeal.org/politicalreport/new-jersey-elections-sheriff-in-2019/> (arguing that New Jersey’s sheriff candidates should address their views on enforcing federal immigration laws); Colleen O’Dea, *Has Murphy Made Good on His Promises? Taking Stock at the 1-Year Mark*, *N.J. Spotlight News* (Jan. 15, 2019), <https://www.njspotlight.com/2019/01/19-01-15-has-murphy-made-good-on-his-promises-taking-stock-at-the-1-year-mark/>; Dustin Racioppi, *Phil Murphy Campaign Promise Tracker: On Minimum Wage, PARCC Testing, NJ Transit and More*, *NorthJersey.com* (Feb. 8, 2018), <https://www.northjersey.com/story/news/new-jersey/governor/2018/02/08/phil-murphy-promise-tracker-minimum-wage-nj-transit-and-more/1034208001/>.

Rather, under the anti-commandeering doctrine, “[i]f state residents would prefer their government to devote its attention and resources to problems other than those deemed important by Congress, they may choose to have the Federal Government rather than the State bear the expense” of federally mandated programs. *New York*, 505 U.S. at 168. And as the District Court recognized, “New Jersey has made the decision not to cooperate with the enforcement of federal immigration law in an effort to strengthen the relationship between its communities and police, and shore up more effective enforcement of state criminal law.” JA 75. *Amici* and the New Jerseyans with whom they work have exactly such a preference, and the Immigrant Trust Directive validly follows that preference.

Thus, binding Supreme Court precedent demonstrates that Congress cannot require New Jersey officers to assist with the enforcement of immigration law. Yet, in arguing that the Directive is preempted, Appellants plainly suggest the opposite. If federal immigration laws barred any state government from declining to help with immigration enforcement, state officers and resources would be effectively conscripted into federal government service, as detailed further *supra* § I(C).

In *Printz*, the Supreme Court made clear that the federal government simply cannot press state and local officers into its service. Under this precedent, Appellants’ claim that the Directive is preempted by the mere existence of federal immigration law simply does not hold water.

CONCLUSION

Because the Directive is a lawful policy that benefits all New Jerseyans, this Court should affirm the District Court's decision.

Dated: February 16, 2020

Respectfully submitted,

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** Application for admission forthcoming*

CERTIFICATE OF BAR MEMBERSHIP

I hereby certify that I am counsel of record and I am a member in good standing of the Bar of the United States Court of Appeals for the Third Circuit.

February 16, 2021

/s/Farrin R. Anello
Farrin R. Anello

CERTIFICATION OF IDENTICAL COMPLIANCE OF BRIEFS

I hereby certify that the text of the electronic and hard copies of this brief are identical.

February 16, 2021

/s/Farrin R. Anello
Farrin R. Anello

CERTIFICATION CONCERNING VIRUS CHECK

I certify that the electronic file of this brief were scanned with Sophos AntiVirus software.

February 16, 2021

/s/Farrin R. Anello
Farrin R. Anello

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with the type-volume limitations of Federal Rules of Appellate Procedure 29(a)(5) and 32(a)(7)(B) because the brief (as indicated by the word processing program Microsoft Word for Mac, Version 16.45 (21011103)) contains 6,300 words, exclusive of the portions excluded by Rule 32(f). I further certify that this brief complies with the typeface requirements of Rule 32(a)(5) and type style requirements of Rule 32(a)(6) because this brief has been prepared in the proportionally spaced typeface of 14-point Times New Roman.

February 16, 2021

/s/Farrin R. Anello
Farrin R. Anello

CERTIFICATE OF SERVICE

I hereby certify that I am filing the foregoing Brief of *Amici Curiae* and accompanying Motion for Leave to File electronically via this Court's ECF system and am serving the same Brief and Motion, via this Court's ECF, upon all counsel of record for the Appellants and Appellees.

February 16, 2021

/s/Farrin R. Anello
Farrin R. Anello

ADDENDUM – LIST OF AMICI

The **American Civil Liberties Union of New Jersey** (“ACLU-NJ”) is a private, non-profit, non-partisan membership organization dedicated to the principle of individual liberty embodied in the Constitution. Founded in 1960, the ACLU-NJ has approximately 35,000 members and supporters throughout New Jersey. The ACLU-NJ is the state affiliate of the American Civil Liberties Union, which was founded in 1920 for identical purposes, and is composed of more than 1,500,000 members nationwide. The ACLU-NJ regularly works with community-based organizations and coalitions in New Jersey to defend and advance immigrants’ rights, reform the state’s criminal justice system, and increase police accountability.

The **American Friends Service Committee** (“AFSC”) is a Quaker organization that includes people of various faiths who are committed to social justice, peace and humanitarian service. Its work is based on the belief in the worth of every person and faith in the power of love to overcome violence and injustice. For over 25 years, AFSC’s Immigrant Rights Program in New Jersey has integrated legal services, advocacy, and organizing, providing legal representation in challenging immigration cases and also ensuring that immigrant voices in New Jersey and beyond are heard in policy debates.

By providing supportive housing, a cooperative job program, training, and counseling, the **Asbury Park Transformative Justice Project** (“APTJP”) aims to support individuals upon release from prison while uncovering and addressing systemic oppression that pervades the criminal justice system. An abolitionist organization, APTJP seeks to transform the way people view crime and rehabilitation, and advocates against profit interests in detention.

The **Bangladeshi American Women’s Development Initiative** (“BAWDI”) promotes, supports, and addresses the unmet needs of Bangladeshi women and children in the Paterson community and throughout New Jersey through grassroots organizing, connecting community members to services, and building a space for sisterhood. BAWDI has worked with families living in fear of family separation and deportation as a result of state and local collaboration with federal immigration authorities. Many of BAWDI’s community members live in mixed status households, causing all members of the household to avoid interactions with local law enforcement out of fear that a family member could be referred to federal immigration authorities.

The **Bayard Rustin Center for Social Justice** (“BRCSJ”), located in Princeton but with a national outreach virtually, is a community activist center,

educational enclave, and safe space for LGBTQIA kids, intersectional families, and all marginalized individuals. The BRCSJ organized Princeton NJ's first-ever Pride Parade, offers free therapy and counseling in-house for our LGBTQIA youth, and holds rallies, events, and other happenings, both in response to current events and as dedicated, planned programming in support of political, environmental, gender, and identity issues. Since the pandemic started they have broadcast their "Social Justice Power Hour" every weeknight at 7pm creating a virtual community-building & remote fellowship through inspirational conversations with nationally-known figures on a variety of topics facing our communities in this extraordinary moment.

Casa de Esperanza is an immigrants' rights support network and community service organization specializing in providing low-cost legal services to low-income immigrants from Ocean County. Casa de Esperanza has a special interest in the present case because it serves immigrants who were directly impacted by Ocean County's 287(g) agreement with federal immigration authorities, which put the organization's clients at risk, particularly those who are victims of crimes.

Casa Freehold assists immigrants in Freehold Township, connecting members of Freehold's immigrant community to education, medical care, food, legal assistance, and housing. Casa Freehold also operates a job center to ensure that day laborers receive fair wages and work in proper conditions. Casa Freehold seeks to empower Freehold's immigrant community and therefore has a keen interest in ensuring that members of its community are not afraid to interact with local law enforcement.

The **Central Conference of American Rabbis** ("CCAR"), whose membership includes more than 2000 Reform rabbis, comes to this issue inspired by faith and a history as immigrants through the centuries. CCAR is active in New Jersey, with approximately 75 current or emeritus member rabbis serving 45 congregations in the state.

Cherry Hill Women's Center ("CHWC") is a health care provider located in Cherry Hill, New Jersey. CHWC has become a trusted community source for compassionate and dignified abortion care for almost forty years. CHWC's clients travel from all over New Jersey, including Cape May and Ocean Counties, to access their services. CHWC recognizes that people seeking care often face numerous logistical, financial, and social barriers to care. Undocumented patients face the additional risk of detention during travel to the clinic, providing another roadblock to care. Given the many barriers, CHWC has an interest in ensuring that its

immigrant patients do not also have to fear the risk of interacting with local law enforcement during travel to their medical appointments at CHWC.

The **Ethical Culture Society of Bergen County** (“Ethical Society”) is a humanistic religious community in Bergen County and is a chapter of the American Ethical Union founded in 1876. The Ethical Society, under the former leadership of Dr. Joseph Chuman, became active in immigrants’ rights causes, and is currently a member organization of several immigrants’ rights coalitions in New Jersey, and supports the immigrant community of Bergen County. The Ethical Society founded the Northern New Jersey Sanctuary Coalition, a non-profit organization providing a comprehensive range of humanitarian services, including housing, for asylum seekers.

The **Fair and Welcoming Communities Coalition of Somerset County** (“FWCC”) is an organization of Somerset County residents and community and religious leaders working to ensure that the county and its townships are fair and welcoming for all residents regardless of race, religion, sexual orientation, national origin or immigration status. FWCC has expanded and supported efforts to ensure that Somerset County's immigrant communities are aware of the Immigrant Trust Directive and are able to safely and confidently access county social services.

Fair Share Housing Center (“FSHC”), founded in 1975, is the only public interest organization entirely devoted to defending the housing rights of New Jersey’s poor through enforcement of the *Mount Laurel* Doctrine, the landmark decision that prohibits economic discrimination through exclusionary zoning and requires all towns to provide their “fair share” of their region’s need for affordable housing. The mission of FSHC is to end discriminatory or exclusionary housing patterns which have deprived the poor, particularly those presently living in inner cities, of the opportunity to reside in an environment which offers safe, decent, and sanitary housing near employment and educational opportunities. FSHC has long advocated for transparent and accountable governance and the need for a comprehensive approach to addressing racial disparities, which are necessary for ensuring access to safe, equitable housing.

Faith in New Jersey (“FINJ”) is a statewide multi-faith and multi-racial network of faith leaders and faith communities working together to advance a racial, immigrant, and economic justice agenda at the local, state and federal level. Faith in New Jersey’s mission is to develop grassroots community leaders, analyze the policies that shape our communities, and mobilize faith voices and faith voters to effectively act on the prophetic call to build the Beloved Community. FINJ consists of more than 200,000 families across the state of New Jersey, many of which are

FINJ leaders that are directly impacted by the immigration system. FINJ has offices in Rahway and Camden.

First Friends of New Jersey and New York (“First Friends”), based in Hudson County, supports and advocates on behalf of immigrant detainees housed in the four New Jersey immigration detention centers. First Friends provides detention visitation and post-release support services to hundreds of ICE detainees on a yearly basis, and is therefore familiar with the challenges facing current and former immigrant detainees and their families, including detainees who were first transferred to ICE custody through cooperative agreements between ICE and local law enforcement.

The **Ironbound Community Corporation** (“ICC”), founded in 1969, works to create a just, vibrant and sustainable community by engaging and empowering individuals, families, and groups in the Ironbound area of Newark. ICC provides education, health, housing, and community development services.

The **Latin American Legal Defense and Education Fund** (“LALDEF”) is a grassroots non-profit organization that promotes the rights of all immigrants, with a focus on the Latin American community in the Mercer County area. LALDEF facilitates access to health care, education, and legal representation, advocates for the empowerment of immigrants, and fosters intercultural communication that strengthens New Jersey’s communities. LALDEF has served Mercer County’s immigrant communities since 2004, working toward its overarching goal to dismantle barriers that stand in the way of a more fair and just society, and to support the incorporation of immigrants in a way that strengthens New Jersey’s social fabric.

Latino Action Network (“LAN”) is a grassroots organization composed of individuals and organizations that are committed to engaging in collective action at the local, state and national levels in order to advance the equitable inclusion of the diverse Latino communities in all aspects of United States society. LAN was founded in 2009 by a group of Latino leaders from across New Jersey. LAN members testify at public hearings, write opinion pieces for publications, and meet with legislators to champion various causes, including fair housing, criminal justice reform, equitable health care delivery, desegregation of New Jersey schools, and electoral integrity in New Jersey.

Latino Coalition of New Jersey (“LCNJ”), based in Monmouth and Ocean counties, is a civil rights organization dedicated to the political empowerment of communities of color and the working poor. LCNJ is a founding organization of the Latino Action Network.

The **Latino Action Network Foundation** (“LANF”), founded in 2010 and based in Freehold, New Jersey, is a charitable organization aimed at uniting and advancing New Jersey's diverse Latino communities. LANF supports research of the issues impacting Latino communities in New Jersey, develop policy proposals, and conduct outreach among Latino communities throughout New Jersey, including lower-income and immigrant communities.

LatinoJustice PRLDEF ("LatinoJustice"), founded in 1972 as the Puerto Rican Legal Defense and Education Fund, is a national non-profit civil rights legal defense fund that has advocated for and defended the constitutional rights of all Latinos to ensure their equal protection under the law. LatinoJustice champions an equitable society through advancing Latino civil engagement, cultivating leadership, and protecting civil rights and equality. LatinoJustice has long been engaged in New Jersey criminal justice and rights restoration policy advocacy in addition to engaging in law reform litigation challenging discriminatory federal immigration enforcement policies and practices that adversely infringe upon Latino civil and constitutional rights.

Lazos América Unida is a non-profit organization in Central New Jersey that advocates on behalf of the Mexican American community and works to strengthen the relationship between the Hispanic and broader community through grassroots projects that seek to enhance and foster individual and collective prosperity. Lazos América Unida regularly works with Mexican immigrant families and youth.

Make the Road New Jersey (“MRNJ”), founded in 2014, is a community-based organization that provides services in Elizabeth, Passaic, and Perth Amboy. MRNJ builds the power of immigrant, working-class, and Latinx communities to achieve dignity and respect through community organizing, legal and support services, policy innovation and transformative education. In the past year, MRNJ has provided legal services and educational programming to 7,000 immigrant families in New Jersey. Among its membership, MRNJ counts several individuals and families who have been directly impacted by 287(g) agreements in New Jersey.

MomsRising is a national movement of over a million moms who mobilize to stand up for the policies that impact their families and communities, including many members in New Jersey. As a part of the organization’s work with immigrant mothers and communities, MomsRising recognizes the importance of keeping state and local law enforcement systems separate from ICE to keep communities safe and prevent family separation.

The **National Organization for Women** of New Jersey ("NOW-NJ") operates 8 local chapters across the state. NOW-NJ works as an ally in immigrant communities, helping to uplift the voices of immigrants and supporting legislation that protects their rights while also providing a clearly defined path to citizenship. In particular, NOW-NJ is committed to raising awareness about the unique abuses suffered by immigrant women in the political, economic, labor, and social spheres.

NeighborCorps Re-Entry Services is a community-based program that works with people with a history of involvement with the Middlesex County carceral system. NeighborCorps supports and encourages participants as they navigate the various pillars of successful re-entry into society: finding gainful employment and housing, pursuing personal development including counseling or drug/alcohol treatment, and regaining the trust of others through communication and accountability. In addition to their main focus on re-entry, NeighborCorps also advocates for the rights of all marginalized populations and calls for police accountability and transparency.

The **New Jersey Alliance for Immigrant Justice** ("NJAIJ") is a statewide membership-based coalition of 43 faith, labor, policy, and community organizations that creates and achieves policies in New Jersey that welcome and support immigrants to become rooted economically, politically and socially within the state. NJAIJ strongly advocated for the Immigrant Trust Directive and continues to push for stronger policies that prevent collaboration and cooperation with immigration enforcement agencies.

New Jersey Citizen Action ("NJCA") is a statewide advocacy and social service grassroots organization that fights for social, racial and economic justice for all regardless of race, income, or immigration status. NJCA provides free direct services to low- and moderate-income individuals, including immigrants, across the state to empower people to take control of their economic futures. NJCA has offices in Newark, Highland Park, and Cherry Hill.

The **New Jersey Consortium for Immigrant Children** is a collaboration of advocates for immigrant children from nonprofit organizations, New Jersey's two law schools, private legal practice, and healthcare institutions. Since its inception in May 2015, the Consortium has maintained a tripartite initiative focused on (1) high-quality direct representation; (2) mentoring to facilitate enhanced pro bono participation by the private bar; and (3) advocacy and policy work to effectuate systemic change with and for immigrant children in New Jersey. The Consortium is dedicated to expanding access to representation for immigrant children and youth in New Jersey, and our clients rely on the Immigrant Trust Directive to enable them to

interact without fear with the health, education, and social service providers on whom they rely.

The **New Jersey Harm Reduction Coalition** (“NJHRC”) is a coalition of advocates and organizers advancing equitable drug policy reform in New Jersey. NJHRC is committed to the philosophy and practice of harm reduction, and works to address the overdose crisis and dismantle the War on Drugs, which have disproportionately harmed Black, Latinx, and immigrant communities and those living in poverty in New Jersey.

The **New Jersey Parents’ Caucus, Inc.** (“NJPC”) is a statewide advocacy coalition of parents, caregivers, and young adults whose mission is to ensure that families raising children with mental health and/or co-occurring disorders and are involved in the children's mental health, juvenile justice or child welfare systems, have the opportunity to play a strong and active role in all levels of decision-making. NJPC seeks to advance racial equity and justice, recognizing racism as a public health issue, and aims to eliminate the disparities in mental health care experienced by races and ethnicities disenfranchised by our current system. As an organization seeking to ensure that children remain with their families, in their homes and in their communities, NJPC supports the Immigrant Trust Directive. For over two decades, NJPC has witnessed firsthand the devastating effects that immigration enforcement has on families and children, exacerbating emotional, behavioral, and mental health challenges in children, families and communities.

Established in 2000, **New Labor** is a community-based organization dedicated to amplifying workers’ voices in New Jersey. With offices in New Brunswick, Lakewood, and Newark, New Labor fights wage theft, organizes for equitable wages and working conditions, and educates New Jersey residents about workers’ and immigrants’ rights.

Newark Communities for Accountable Policing (“N-CAP”) is a coalition of Newark based organizations that build a respectful, accountable, and transparent Newark Police Department. N-CAP works for reforms that promote community safety and lead to community policing practices that uphold and respect the human and constitutional rights of all Newarkers.

New Jersey Prison Justice Watch (“NJ-PJW”) is a coalition of New Jersey survivors and advocates committed to educating, legislating, and organizing to call for an end to all forms of prolonged or unnecessary prisoner isolation. Formed in 2012 and formerly known as the New Jersey Campaign for Alternatives to Isolated Confinement, NJ-PJW advocates against isolated confinement for all, including

immigrant detainees. NJ-PJW recognizes that cooperative agreements between local law enforcement and federal immigration authorities have the potential to increase the numbers of persons held in immigration detention, where they may be subject to traumatic and dehumanizing treatment, including, but not limited to, prolonged isolation, medical neglect, physical violence, and sexual abuse.

Since its founding in 2003, **Partners for Women and Justice** (“Partners”) has been dedicated to assisting survivors of domestic violence escape abuse. Partners provides free legal assistance to low-income victims who seek domestic violence and sexual assault restraining orders, child custody, and child support, without regard to their immigration status. Partners operates in Essex, Union, Middlesex, Hudson, and Passaic Counties. In addition to direct legal services, Partners also engages in advocacy, seeking systemic changes in the court system for the benefit of domestic violence victims. Partners work with the courts to ensure equal access to justice for all, including litigants who do not speak English.

People’s Organization for Progress (“POP”) is a New Jersey grassroots organization of residents working for racial, social, and economic justice, peace, and greater unity in the community. POP was founded in 1983 and is based in Newark.

The Pride Center of New Jersey (“The Pride Center”) is an LGBTQ+ community center located in Highland Park. The mission of The Pride Center is to provide a safe and welcoming space for all individuals who identify as LGBTQ to find support, educational tools, health and education resources, and social opportunities within a community of acceptance. Comprehensive programming in support of this mission includes lesbian, gay, trans and family resources, social groups and free HIV testing.

The **Reformed Church of Highland Park** (“RCHP”), founded 129 years ago, is a religious community of more than five hundred people. RCHP founded and headquarters organizations that provide direct services to immigrant community members, coordinate rapid response deportation prevention, serve recently resettled refugees and asylees, and advocate for victims of human trafficking; and RCHP has twice provided sanctuary for individuals and families targeted by ICE.

The **Service Employees International Union Local 32BJ** (“SEIU 32BJ”) is a branch of Service Employees International Union headquartered in New York City representing over 175,000 members in 11 states and Washington, D.C. New Jersey is one of the fastest growing districts in our union with over 13,000 members. SEIU 32BJ members live in every county of the state and include commercial office and school cleaners, school maintenance specialists, school food servers, Newark

Liberty International Airport (EWR) workers, armed and unarmed security officers. SEIU 32BJ's mission is to build and grow a diverse, effective, politically independent and democratic organization of workers to change our lives for the better, improve our communities, and build a more just society for present and future generations. As a union with tens of thousands of immigrant members, protecting immigrant families is one of its key duties.

Solidarity 22 is a movement organization dedicated to impacting solitary confinement legislation in New Jersey. The organization works to protect human rights including representing the interests and values of a robust and diverse state of immigrants. Solidarity 22 is a member organization of New Jersey Prison Justice Watch.

SPAN Parent Advocacy Network (“SPAN”) has provided information, training, and support to families of children and youth from birth to age 26, including immigrant families, since 1987. SPAN staff have worked with families where family members have been deported or detained, and SPAN has witnessed the deleterious and traumatic impacts of immigration enforcement on the family. SPAN has found that cooperative agreements between local law enforcement and federal immigration enforcement can interfere with the healthy development and education of children and youth in affected families.

T’ruah: The Rabbinic Call for Human Rights (“T’ruah”) organizes Jewish clergy across North America to fight for social justice causes, including immigrants’ rights. T’ruah’s member clergy, including nearly one hundred rabbis in New Jersey, have been very active in the state, organizing against local engagement with ICE and opening synagogues to immigrants seeking sanctuary.

The **Union for Reform Judaism** (“URJ”) is made up of 900 congregations across North America, including 1.8 million Reform Jews. Guided by the repeated biblical injunction to love the stranger, URJ has long been committed to fixing our fractured immigration system and ensuring just and compassionate immigration policies are enacted. URJ is active in New Jersey, with 45 URJ member congregations that collectively include approximately 15,000 Reform Jewish families.

Unitarian Universalist FaithAction of New Jersey (“UU FaithAction”) is a community of member congregations of Unitarian Universalists working to establish just and compassionate public policy. UU FaithAction engages in public education, research, legal advocacy, and policy advocacy. UU FaithAction has been committed

to immigration justice in New Jersey for ten years, seeking to achieve immigration policy that recognizes the inherent worth and dignity of every person.

Unitarian Universalist Princeton (“UU Princeton”) is a Unitarian Universalist Congregation in Princeton with nearly 300 members from Central New Jersey. UU Princeton is committed to providing physical sanctuary to undocumented immigrants at risk of deportation and advocates for fair, just, and compassionate immigration policies.

VietLead, founded in 2015, is a grassroots organization serving the Vietnamese and Southeast Asian communities in South Jersey and Philadelphia. Staffed and led by community members, VietLead provides direct services and education, and advocates and organizes at both the local and national level for social change. VietLead’s programs include intergenerational farming, youth organizing, health navigation and healing, civic engagement, and community defense against detention and deportation.

Volunteer Lawyers for Justice (“VLJ”) is a non-profit legal services office that provides free legal assistance to low-income people, including undocumented individuals, throughout the state of New Jersey. Headquartered in Newark for 20 years, VLJ provides legal services in a variety of civil legal issues including, tenancy, consumer law, bankruptcy, re-entry, family law, education law, and estate issues. VLJ also provides holistic legal services to survivors of human trafficking, veterans, and families in Newark's South Ward.

Wind of the Spirit Immigrant Resource Center (“Wind of the Spirit”) is a faith-based, grassroots, non-profit organization founded in 2000. Wind of the Spirit works to create a dignified existence for all immigrants through organizing and advocacy, youth programs, legal services, and health and safety trainings. The organization’s mission is to educate, organize, and mobilize immigrant communities and allies for humane immigration policy and social change using the human rights framework. Wind of the Spirit supports communities in Morris County and Moonachie, Orange, Plainfield, and Ridgefield Park, New Jersey.