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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

COUNTY OF SANTA CLARA,

Plaintiff,

v.

DONALD J. TRUMP, President of the United States of America, JOHN F. KELLY, in his official capacity as Secretary of the United States Department of Homeland Security, JEFFERSON B. SESSIONS, in his official capacity as Attorney General of the United States, JOHN MICHAEL "MICK" MULVANEY, in his official capacity as Director of the Office of Management and Budget, and DOES 1-50,

Defendants.

Case No. 17-cv-00574-WHO

**BRIEF OF SILICON VALLEY COUNCIL OF
NONPROFITS, NONPROFIT
ASSOCIATIONS, AND NONPROFIT
ORGANIZATIONS AS AMICI CURIAE IN
SUPPORT OF PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

Date: April 5, 2017
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Dept. Courtroom 2
Judge: Hon. William H. Orrick

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Trial Date: Not Yet Set

TABLE OF CONTENTS

	Page
I. SUMMARY OF ARGUMENT & INTEREST OF <i>AMICI CURIAE</i>	1
II. ARGUMENT.....	2
A. LEGAL CONTEXT.....	2
B. THE EXECUTIVE ORDER CAUSES IRREPARABLE HARM TO NONPROFIT ORGANIZATIONS AND THOSE THEY SERVE BECAUSE OF THE SUBSTANTIAL BUDGETARY UNCERTAINTY IT CREATES.....	3
1. NONPROFITS RELY ON FEDERAL AND LOCAL FUNDING THAT IS NOW IN JEOPARDY.	4
2. NONPROFITS ARE CONSIDERING CUTTING SERVICES DUE TO THE SEVERE BUDGET UNCERTAINTY CAUSED BY THE EXECUTIVE ORDER.....	5
3. NONPROFITS WILL FACE MORE DEMAND FOR THEIR SERVICES AND FOR NEW SERVICES AS GOVERNMENT SERVICES ARE CUT.....	7
C. THE EXECUTIVE ORDER CAUSES FEAR IN THE COMMUNITY ABOUT ACCESSING PUBLIC SERVICES, WHICH IS NOT IN THE PUBLIC INTEREST.	8
III. CONCLUSION.....	12

TABLE OF AUTHORITIES

Page

Cases

<i>Angotti v. Rexam, Inc.</i> , No. C 05-5264 CW, 2006 WL 1646135 (N.D. Cal. June 14, 2006).....	2
<i>California Ass’n of Health Care Facilities v. Dep’t of Health Servs.</i> , No. Civ. S-90-1086 RAR GGH, 1990 WL 282598 (E.D. Cal. Oct. 1, 1990).....	2
<i>League of United Latin Am. Citizens v. Wilson</i> , Nos. 94-7569 MRP, 94-7570 MRP, 94-7571 MRP, 94-7562 MRP, 95-0187 MRP, 1998 WL 141325 (C.D. Cal. Mar. 13, 1998).....	9
<i>Susan B. Anthony List v. Driehaus</i> , 134 S. Ct. 2334 (2014).....	2
<i>Winter v. Nat. Res. Def. Council, Inc.</i> , 555 U.S. 7 (2008).....	2

Statutes

8 U.S.C. § 1373.....	1
Ariz. Rev. Stat. Ann. § 11-1051 (2010).....	9

Other Authorities

<i>2013 Nonprofit Funding and Organizational Trends Report</i> , SILICON VALLEY COUNCIL OF NONPROFITS (2013).....	4
<i>2015 State of the Nonprofit Sector Survey</i> , NONPROFIT FINANCE FUND (May 2015)	4
<i>A Dozen Common Sense Solutions to Government-Nonprofit Contracting Problems</i> , NAT’L COUNCIL OF NONPROFITS (Dec. 5, 2013).....	6
Marc L. Berk & Claudia L. Schur, <i>The Effect of Fear on Access to Care Among Undocumented Latino Immigrants</i> , 3 J. IMMIGR. HEALTH 151 (2001)	9
John Brothers, <i>Nonprofits Begin Coping with Government Shutdown</i> , NONPROFIT QUARTERLY (Oct. 2, 2013)	8
CITY AND COUNTY OF SAN FRANCISCO, OFFICE OF THE CONTROLLER, SF OPENBOOK, http://openbook.sfgov.org/ (last visited Mar. 21, 2017)	4

TABLE OF AUTHORITIES
(continued)

	Page
COUNTY OF SANTA CLARA EXECUTIVE’S OFFICE OF BUDGET AND ANALYSIS, FISCAL YEAR 2016-2017 ADOPTED BUDGET.....	4
Tim Delaney & David L. Thompson, <i>Nonprofits Need to Stand Together to Push for Smart Public Policies</i> , CHRON. OF PHILANTHROPY (Jan. 4, 2017).....	7
Bill Ong Hing, <i>Immigration Sanctuary Policies: Constitutional and Representative of Good Policing and Good Public Policy</i> , 2 UC Irvine L. Rev. 247 (2012).....	11
Chuck McLean & Carol Brouwer, <i>The Effect of the Economy on the Nonprofit Sector: October 2008–February 2009</i> , GUIDESTAR (2009).....	6
Emily Navarro, <i>Government Funding for Charities: When It Declines, the Charities Lose Twice</i> , CHARITY NAVIGATOR (May 1, 2005).....	8
Press Release, City of San Jose, Statement from Mayor Liccardo (Feb. 10, 2017)	10
Robert Salonga, ‘Not our role’: Santa Clara County cops reaffirm they won’t be deportation force, SAN JOSE MERCURY NEWS (Mar. 14, 2017)	10
San Francisco Human Services Network, <i>A Comprehensive Profile of San Francisco’s Nonprofit Human Service Providers</i> , SAN FRANCISCO URBAN INST. (2002)	3
Barbara Starfield et al., <i>Contribution of Primary Care to Health Systems and Health</i> , 83(3) MILBANK QUARTERLY 457 (2005)	12
Russell B. Toomey et al., <i>Impact of Arizona’s SB 1070 Immigration Law on Utilization of Health Care and Public Assistance Among Mexican-Origin Adolescent Mothers and Their Mother Figures</i> , 104 Am. J. Pub. Health S1 (2014)	9, 11
<i>Toward Common Sense Contracting</i> , NAT’L COUNCIL OF NONPROFITS (2014)	4, 5

I. SUMMARY OF ARGUMENT & INTEREST OF *AMICI CURIAE*

On January 25, 2017, the President of the United States signed an Executive Order that empowers the federal government to withhold federal funds from jurisdictions that are deemed “sanctuary” jurisdictions. Exec. Order 13,768, 82 Fed. Reg. 8799 (Jan. 25, 2017) (the “Executive Order”).¹ The uncertainty created by the Executive Order causes real and imminent harm to nonprofits serving the communities the Order may affect, and to the communities themselves, especially those who are most vulnerable. *Amici* are community-based nonprofit organizations and associations of nonprofit organizations in the health and human services sector that are uniquely situated to articulate the Executive Order’s harm to nonprofit organizations and the communities these nonprofits serve.²

The Executive Order is causing extreme financial uncertainty for *amici* and other similar nonprofit organizations. Many of these nonprofit organizations depend on federal funding that states, counties, and municipalities receive and pass through to them to provide services. With that funding in question, nonprofits have to alter their budget planning processes and spend time and resources on contingency planning. Many of the organizations may have to cut vital services, at the very time that demand for those services will be increasing due to cuts to county and municipal services. Nonprofits are not only feeling the effects of the Executive Order on their own planning and programming, but also seeing the negative effects on the vulnerable community members they serve, who are expressing fear and anxiety about accessing both government and nonprofit services.

¹ The Executive Order does not clearly define what a “sanctuary” jurisdiction is, so communities are left to guess whether their jurisdictions will be designated as such (although at a minimum, the Order applies to jurisdictions that do not comply with 8 U.S.C. § 1373, which requires local jurisdictions to detain individuals beyond their incarceration periods for immigration enforcement).

² *Amici curiae* include nine nonprofit associations (API Council of San Francisco, California Association of Nonprofits, Coalition of Agencies Serving the Elderly, HIV/AIDS Provider Network, Homeless Emergency Service Providers Association, San Francisco Human Services Network, San Francisco Latino Parity and Equity Coalition, San Francisco Mental Health Contractors Association, and Silicon Valley Council of Nonprofits) and fourteen individual nonprofit organizations (Abode Services, Asian Americans for Community Involvement, Caminar, Catholic Charities of Santa Clara County, Community Solutions, Destination: Home, Fresh Lifelines for Youth, HealthRIGHT 360, The Health Trust, LifeMoves, Second Harvest Food Bank of Santa Clara and San Mateo Counties, Silicon Valley Independent Living Center, West Valley Community Services, and Yu-Ai Kai Japanese American Community Senior Service). Descriptions of all of the *amici* are provided in Appendix A.

1 The community at large suffers irreparable harm when some members of the community cannot
 2 access important health and safety resources when needed. The immediate harms to both the
 3 nonprofits and the communities they serve warrant a nationwide preliminary injunction, to prevent
 4 further harm to the public interest while the ultimate legality of the Executive Order is adjudicated.

5 **II. ARGUMENT**

6 **A. Legal Context**

7 To secure a preliminary injunction, a plaintiff must establish that (1) it “is likely to succeed
 8 on the merits;” (2) it “is likely to suffer irreparable harm in the absence of preliminary relief;” (3)
 9 “the balance of equities tips in [its] favor;” and (4) “an injunction is in the public interest.” *Winter v.*
 10 *Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). *Amici* present information to elucidate the
 11 nature of the irreparable harms at issue and the reasons an injunction serves the public interest.

12 Nonprofits are already suffering irreparable harm due to extreme financial uncertainty caused
 13 by expected loss of multiple funding streams. And the community members they serve are afraid to
 14 access services and afraid of losing essential services upon which they rely due to budget cuts.
 15 Uncertainty, itself, can constitute irreparable harm. *See Angotti v. Rexam, Inc.*, No. C 05-5264 CW,
 16 2006 WL 1646135, at *3, *15-16 (N.D. Cal. June 14, 2006) (granting injunction where retirees faced
 17 “the irreparable harm of anxiety” after benefits were threatened, when they believed they would
 18 receive certain lifetime benefits and therefore did not budget for supplemental expenses); *see also*
 19 *California Ass’n of Health Care Facilities v. Dep’t of Health Servs.*, No. Civ. S-90-1086 RAR GGH,
 20 1990 WL 282598, at *1 (E.D. Cal. Oct. 1, 1990) (finding that “inadequate and untimely assurances
 21 about the levels of [federal] payment currently in effect” created a “possibility” that health facilities
 22 providing services to Medicaid beneficiaries “will suffer immediate and irreparable harm”). Neither
 23 nonprofits nor community members should be subjected to such harms while waiting to find out how
 24 legal challenges to the Executive Order will be adjudicated. *See Susan B. Anthony List v. Driehaus*,
 25 134 S. Ct. 2334, 2342 (2014) (“[W]here threatened action by government is concerned,” a plaintiff
 26 need not “expose himself to liability before bringing suit to challenge the basis for the threat.”)
 27 (citation omitted).

B. The Executive Order Causes Irreparable Harm to Nonprofit Organizations and Those They Serve Because of the Substantial Budgetary Uncertainty It Creates.

Nonprofit organizations in the health and human services sector provide crucial services to the most vulnerable members of the community, distinct from those services provided by the government. Nonprofits are often located in the communities they serve, hire people who live in those communities, and enjoy a special level of trust. Their employees often have particular expertise (such as language ability) and cultural understanding that aids their ability to develop strong relationships with community members. *See, e.g.,* San Francisco Human Services Network, *A Comprehensive Profile of San Francisco's Nonprofit Human Service Providers*, SAN FRANCISCO URBAN INST. 10-11 (2002), http://www.sfhsn.org/downloads/documents/survey/hsn_iss_sur_report_04-18-02.pdf. As a result, nonprofits across the country play a critical role in their communities, and provide an essential safety net for many who do not otherwise have access to vital services.

Many *amici* and other nonprofits rely on federal and local governmental funding to support their life-saving and life-sustaining programs and services. They are concerned that, as a result of the Executive Order, federal funding³ passed through county and municipal governments will disappear; that direct county and municipal funding will therefore need to be reallocated to other areas to cover the shortfall from the loss of federal funding; and that their ability to raise funds from private sources (many of which match or complement government funding sources) will also be reduced.⁴ As a result of this severe budgetary uncertainty, nonprofit organizations are now developing contingency plans and considering cutting programs and services that are desperately needed in the communities they serve, right when those services are needed most.

³ The government argues that the Executive Order threatens “federal grants” only, not *all* federal funding. (Dkt. 46 at 7.) This is a meaningless distinction for nonprofits. Because the term “federal grants” is undefined and vague in the context of the Order, nonprofits must prepare for the worst, including making difficult decisions about downsizing or eliminating programs, services, and staff.

⁴ Counsel for *amici* have interviewed and received information from the nonprofit organizations and associations of nonprofit organizations that are filing this brief. Information throughout the brief that relates to those organizations and associations was obtained through these interviews and requests for information.

1 **1. Nonprofits rely on federal and local funding that is now in jeopardy.**

2 Most nonprofits are funded with a blend of government, foundation, and other private
 3 funding streams, with about a third of total revenue coming from government contracts. *Toward*
 4 *Common Sense Contracting*, NAT'L COUNCIL OF NONPROFITS, 5 (2014),
 5 [https://www.councilofnonprofits.org/sites/default/files/documents/toward-common-sense-](https://www.councilofnonprofits.org/sites/default/files/documents/toward-common-sense-contracting-what-taxpayers-deserve.pdf)
 6 [contracting-what-taxpayers-deserve.pdf](https://www.councilofnonprofits.org/sites/default/files/documents/toward-common-sense-contracting-what-taxpayers-deserve.pdf). Those government contracts come from federal, state, or
 7 local governments, or a combination thereof. *2015 State of the Nonprofit Sector Survey*, NONPROFIT
 8 FINANCE FUND, 12 (May 2015),
 9 http://www.nonprofitfinancefund.org/sites/default/files/docs/2015/2015survey_natl_full_results.pdf.
 10 Federal funding is often provided to counties or other local governments for particular purposes, and
 11 then “passed through” to nonprofits to actually provide the services. For example, in a 2013 study of
 12 Santa Clara County nonprofit contracts, Silicon Valley Council of Nonprofits found that nonprofits
 13 receive almost \$270 million from the County (including federal pass-through dollars). *2013*
 14 *Nonprofit Funding and Organizational Trends Report*, SILICON VALLEY COUNCIL OF NONPROFITS
 15 (2013), available at <http://www.svcn.org/nonprofit-resources> (Nonprofit Resources, SVCN Funding
 16 Trends). For fiscal year 2016-2017, the County designated \$80 million directly from its own
 17 General Fund for contracts with nonprofits (not including pass-through dollars). COUNTY OF SANTA
 18 CLARA EXECUTIVE’S OFFICE OF BUDGET AND ANALYSIS, FISCAL YEAR 2016-2017 ADOPTED
 19 BUDGET, 374-80, [https://www.sccgov.org/sites/scc/gov/Documents/FY-16-17-Adopted-Budget-](https://www.sccgov.org/sites/scc/gov/Documents/FY-16-17-Adopted-Budget-v3_web.pdf)
 20 [v3_web.pdf](https://www.sccgov.org/sites/scc/gov/Documents/FY-16-17-Adopted-Budget-v3_web.pdf). County contracts with nonprofits vary in size, with some over \$10 million, and cover a
 21 variety of services including social services, behavioral health, housing, and more. *See id.* The City
 22 of San Francisco paid \$654.3 million to nonprofits in the 2015-2016 fiscal year. CITY AND COUNTY
 23 OF SAN FRANCISCO, OFFICE OF THE CONTROLLER, SF OPENBOOK, <http://openbook.sfgov.org/> (last
 24 visited Mar. 21, 2017) (report for vendor payments to nonprofits in fiscal year 2015-16).

25 This interrelation between nonprofit and government budgets means that a determination that
 26 a county, city, or state is a “sanctuary” jurisdiction (and will therefore lose federal funding pursuant
 27 to the Executive Order) will be devastating for the many nonprofit organizations that rely on funding
 28 from those jurisdictions. If jurisdictions are deprived of federal funding, nonprofits will lose the

1 money they receive for programs funded through those jurisdictions by the federal government.
 2 Then, due to the loss in federal funding, “sanctuary” jurisdictions will necessarily need to reallocate
 3 money to cover essential services, likely resulting in additional cuts to nonprofit funding streams
 4 from those jurisdictions’ general funds. (*See* Dkt. 29, Declaration of Santa Clara County Chief
 5 Operating Officer Miguel Marquez, ¶¶ 8, 12, 16-18 (stating that the elimination of federal and
 6 federally dependent funds, amounting to about 35% of Santa Clara County’s revenues, would have a
 7 severe impact on the County’s ability to fund its own vital services).) Moreover, to the extent that
 8 many nonprofits are funded by other cities or counties that may also be designated “sanctuary”
 9 jurisdictions, the Executive Order places even larger portions of their budgets at risk.

10 Nonprofits will not be able to recoup the budgetary shortfall using contributions from private
 11 foundations. Nationwide, foundation grants account for less than two percent of nonprofit revenue.
 12 *Toward Common Sense Contracting*, NAT’L COUNCIL OF NONPROFITS at 5. Foundations also operate
 13 under their own missions and funding priorities, which may not coincide with filling the gaps created
 14 by government funding cuts. *Id.* at 6. Many nonprofits also rely on private funding, including but
 15 not limited to foundation grants, to supplement government funding for particular programs. *Id.* at
 16 14. If government funding for particular programs is cut, the complementary private funding for
 17 those programs may dry up as well, especially if the private component is not sufficient to keep the
 18 programs afloat.

19 The possibility of losing federal, county, municipal, and some private funding simultaneously
 20 in the near future is causing extreme budget uncertainty and harm to nonprofits immediately, as they
 21 scramble to ascertain the extent of the possible effect on their organizations, develop contingency
 22 plans, consider freezing hiring, and take other measures to plan for the likelihood of decreased
 23 funding. These stresses on already understaffed and under-resourced organizations impact their
 24 ability to fulfill their missions even before any cuts are made, and will be substantially alleviated if a
 25 preliminary injunction is granted.

26 **2. Nonprofits are considering cutting services due to the severe budget**
 27 **uncertainty caused by the Executive Order.**

28 Uncertainty, itself, can harm nonprofit organizations and inhibit their ability to provide

1 necessary programming. Most nonprofits already operate on tight budgets, within which they strain
 2 to meet the needs of the communities they serve. In fact, the majority of nonprofits have only three
 3 months or less of operating funds in the bank. *Id.* at 5. These organizations now face severe budget
 4 uncertainty because of the scope of the funding threatened by the Executive Order. As a result, they
 5 must immediately curtail development of new programs and services and begin making plans for
 6 how they will cut existing programs if the Order is implemented—even before any actual funding
 7 cuts take place.

8 Even delayed funding can have a significant effect on nonprofits, given their tight budgets.
 9 When government funding is late (no less eliminated, as the Executive Order threatens), “many
 10 nonprofits are forced to divert efforts away from their missions as they scramble to meet normal
 11 cash-flow needs to pay their employees, rent and utilities, and other operating costs by raising funds
 12 from other sources such as private donations or bridge loans, or by taking extraordinary actions like
 13 curtailing operations and laying off employees.” *A Dozen Common Sense Solutions to Government-*
 14 *Nonprofit Contracting Problems*, NAT’L COUNCIL OF NONPROFITS (Dec. 5, 2013),
 15 [https://www.councilofnonprofits.org/sites/default/files/documents/white-paper-common-sense-](https://www.councilofnonprofits.org/sites/default/files/documents/white-paper-common-sense-solutions.pdf)
 16 [solutions.pdf](https://www.councilofnonprofits.org/sites/default/files/documents/white-paper-common-sense-solutions.pdf).

17 The impact of the potential loss of federal funds can be likened to the impact of the economic
 18 downturn in late 2008 and early 2009. Guidestar, a nonprofit organization that provides information
 19 about nonprofits to the public, conducted a survey to determine how nonprofits were reacting to the
 20 financial downturn. Fifty-seven percent of nonprofits had to reduce programs and services, 45%
 21 enacted a salary freeze, 37% enacted a hiring freeze, and 30% had to make layoffs. Chuck McLean
 22 & Carol Brouwer, *The Effect of the Economy on the Nonprofit Sector: October 2008–February*
 23 *2009*, GUIDESTAR, 9 (2009), <https://www.guidestar.org/ViewCmsFile.aspx?ContentID=3909>.

24 Anticipating similar budgetary impacts as a result of the Executive Order, many Santa Clara
 25 County-based nonprofits, especially those with a fiscal year ending on June 30, are having to start
 26 planning now for the prospect of reducing staff and services in the near future. For instance,
 27 LifeMoves, a nonprofit organization that provides homeless shelters and services, is already
 28 struggling to plan for the coming fiscal year due to the threat of Santa Clara County losing federal

1 funding. If LifeMoves loses federal funding received through the county or significant county
 2 funding, it will likely be forced to close at least one of its four shelters in San Jose, California, and
 3 lay off staff. Because all homeless shelters in the County already operate at capacity, residents of
 4 the closed shelter will have no option but to return to the streets and the dangers of homelessness.
 5 Similarly, if federal funds passed through the county are eliminated, Catholic Charities of Santa
 6 Clara County will lose its funding for the provision of essential services to nearly 14,000 low-
 7 income and vulnerable seniors and families, including daily hot meals for seniors, health and safety
 8 checks in nursing homes, behavioral health services, and therapeutic services to help families and
 9 children reunite. Loss of federal “pass-through” funding would force Abode Services to stop
 10 providing rental assistance to several hundred formerly homeless households and cause Silicon
 11 Valley Independent Living Center (SVILC) to shut down critical housing workshops throughout
 12 Santa Clara County. Federal funding cuts would also imperil programs providing HIV/AIDS
 13 prevention services—leading to an increase in health care costs and potential increase in HIV/AIDS
 14 transmission. Some *amici*, including SVILC, Abode Services, and Caminar, have already been
 15 forced to take time away from realizing their missions to create contingency plans due to the
 16 uncertainty caused by the Executive Order. Budgetary uncertainty itself is impairing the ability of
 17 these organizations to fulfill their missions to provide vital services to the neediest members of their
 18 communities.

19 **3. Nonprofits will face more demand for their services and for new services**
 20 **as government services are cut.**

21 At the same time that nonprofits may have to cut services due to the likelihood of lost
 22 funding, they anticipate increased demand for their services. History has shown that when
 23 government funds are cut, the needs of the community increase. But if nonprofit organizations
 24 themselves lose funding, they will not be able to step in to fill those new gaps in services, and the
 25 most vulnerable members of their communities will be without the assistance they need.

26 These pressures and demands are not speculative. “[R]educing government budgets doesn’t
 27 lower the number of people in need of social services; it just adds more pressures on nonprofits to
 28 keep up with ever-growing demands.” Tim Delaney & David L. Thompson, *Nonprofits Need to*

1 *Stand Together to Push for Smart Public Policies*, CHRON. OF PHILANTHROPY (Jan. 4, 2017),
 2 <https://www.philanthropy.com/article/Opinion-Nonprofits-Need-to/238802>. Government funding
 3 cuts result in more people who need nonprofit services, but less funding for the nonprofits to deliver
 4 those services. Emily Navarro, *Government Funding for Charities: When It Declines, the Charities*
 5 *Lose Twice*, CHARITY NAVIGATOR (May 1, 2005), [https://www.charitynavigator.org/index.cfm?bay](https://www.charitynavigator.org/index.cfm?bay=content.view&cpid=281)
 6 [=content.view&cpid=281](https://www.charitynavigator.org/index.cfm?bay=content.view&cpid=281). This increased demand is difficult, if not impossible, for nonprofits to
 7 meet without additional resources. When funding is cut for government nutrition programs, “people
 8 still need to eat, so they’re running to the food banks, they’re running to any nonprofit that
 9 distributes food or resources. At the same time, the nonprofits have not increased their supply.”
 10 John Brothers, *Nonprofits Begin Coping with Government Shutdown*, NONPROFIT QUARTERLY (Oct.
 11 2, 2013), [https://nonprofitquarterly.org/2013/10/02/nonprofits-begin-coping-with-government-](https://nonprofitquarterly.org/2013/10/02/nonprofits-begin-coping-with-government-shutdown)
 12 [shutdown](https://nonprofitquarterly.org/2013/10/02/nonprofits-begin-coping-with-government-shutdown).

13 A similar situation is unfolding in Santa Clara County. Second Harvest Food Bank of Santa
 14 Clara and San Mateo Counties is already struggling to figure out how it would meet the increased
 15 need if federal funding to Santa Clara County is cut pursuant to the Executive Order. Federal
 16 nutrition programs administered through the County, such as SNAP (CalFresh), WIC, and Senior
 17 Nutrition, provide nearly two and a half times as much food to local residents as the Food Bank. If
 18 these programs are cut due to lost federal funding, Second Harvest will not be able to fill the gap in
 19 food distribution for hungry families and children. Nonprofit organizations that provide other vital
 20 services, such as housing assistance and homelessness prevention, will also see an increased need for
 21 supportive services if funding for government-provided services is eliminated. Additionally, *amici*
 22 are spending precious financial and other resources to educate community members about what
 23 services are safe to access, given the federal government’s request for cooperation in immigration
 24 enforcement from local jurisdictions. All of these additional budgetary pressures, simultaneous with
 25 the threat of the loss of major funding streams, is creating a precarious situation for nonprofits.

26 **C. The Executive Order Causes Fear In the Community About Accessing Public**
 27 **Services, Which Is Not in the Public Interest.**

28 The uncertainty the Executive Order has caused in the community endangers public health

1 and safety because it provides a disincentive for vulnerable community members to access programs
 2 and services that contribute to individual and public health and well-being, such as medical and
 3 mental health clinics, senior and child nutrition programs, education, services for those with
 4 disabilities, and support for survivors of domestic violence or trauma. In light of the Executive
 5 Order, some immigrants are afraid to seek services from governmental entities and even from
 6 nonprofit organizations. This reluctance to access crucial services puts these individuals at risk and
 7 also causes harm to the community at large. A preliminary injunction would prevent further harm
 8 while the legality of the Executive Order is adjudicated and thus would be in the public interest.

9 Experience demonstrates that increased immigration enforcement causes anxiety in the
 10 immigrant community, leading in turn to reduction in utilization of healthcare programs and other
 11 vital services. For example, in 1994, California passed Proposition 187, which required some
 12 service providers, including medical professionals, to report individuals suspected of being
 13 undocumented. California Proposition 187 §§ 6-8 (1994) (found unconstitutional by a federal
 14 district court); *League of United Latin Am. Citizens v. Wilson*, Nos. 94-7569 MRP, 94-7570 MRP,
 15 94-7571 MRP, 94-7562 MRP, 95-0187 MRP, 1998 WL 141325, at *1 (C.D. Cal. Mar. 13, 1998).
 16 Studies have found that Proposition 187 had at least a temporary deterrent effect on use of health
 17 care services, and that “lack of documentation—and the fear associated with it—is a powerful
 18 deterrent to people obtaining care they believe they need.” Marc L. Berk & Claudia L. Schur, *The*
 19 *Effect of Fear on Access to Care Among Undocumented Latino Immigrants*, 3 J. IMMIGR. HEALTH
 20 151, 155 (2001). Community reaction to Arizona Senate Bill 1070 (2010) is also instructive. SB
 21 1070 affirmatively allowed law enforcement to demand proof of immigration status. Ariz. Rev. Stat.
 22 Ann. § 11-1051 (2010). Researchers found that “the enactment of Arizona’s SB 1070 was
 23 associated with decreases in the utilization of public assistance and routine, preventive health care.”
 24 Russell B. Toomey et al., *Impact of Arizona’s SB 1070 Immigration Law on Utilization of Health*
 25 *Care and Public Assistance Among Mexican-Origin Adolescent Mothers and Their Mother Figures*,
 26 104 Am. J. Pub. Health S1, S31 (2014).

27 In the wake of the Executive Order, there is evidence of similar anxiety in the immigrant
 28 community. For example, in February, the Mayor of San Jose issued a press release reassuring city

1 residents that the San Jose police would not participate in immigration enforcement, and that they
 2 should not be afraid to call the police, regardless of their immigration status. Press Release, City of
 3 San Jose, Statement from Mayor Liccardo (Feb. 10, 2017),
 4 [http://www.sanjoseinfo.org/external/content/](http://www.sanjoseinfo.org/external/content/document/1914/2916706/1/Statement%20on%20ICE%20Raids.pdf)
 5 [document/1914/2916706/1/Statement%20on%20ICE%20Raids.pdf](http://www.sanjoseinfo.org/external/content/document/1914/2916706/1/Statement%20on%20ICE%20Raids.pdf). In March, Santa Clara County
 6 law enforcement leaders held a press conference in response to anxiety in the community. Morgan
 7 Hill Police Chief David Swing said that the event was intended to “assuage immigrant residents’
 8 fears that their own local government may target them based on their immigration status.” Robert
 9 Salonga, *‘Not our role’: Santa Clara County cops reaffirm they won’t be deportation force*, SAN
 10 JOSE MERCURY NEWS (Mar. 14, 2017), [http://www.mercurynews.com/2017/03/14/santa-clara-](http://www.mercurynews.com/2017/03/14/santa-clara-county-law-enforcement-reaffirms-immigrant-protections/)
 11 [county-law-enforcement-reaffirms-immigrant-protections/](http://www.mercurynews.com/2017/03/14/santa-clara-county-law-enforcement-reaffirms-immigrant-protections/). Local nonprofit leaders confirmed that
 12 the fear in the community was pervasive, noting that they are addressing severe anxiety among their
 13 clients on a regular basis, including the fear of separation of parents from their children. *Id.*

14 Many of the *amici* organizations are receiving inquiries from immigrant clients about
 15 whether it is safe to access public services. The fear is not limited to those who are undocumented—
 16 queries are also coming from clients with valid immigration status. The problem is compounded
 17 because many immigrant families are “mixed status”—they include some family members who are
 18 documented (including U.S. citizens), and some who are not. Many documented members of mixed-
 19 status families are fearful of disclosing any information about the household and of accessing
 20 services, regardless of their own valid immigration status. *Amici* organizations are also aware of
 21 families who are not taking advantage of health and nutrition programs offered by the county
 22 because of concerns of detention and deportation. Members of the California Association of
 23 Nonprofits (a statewide membership organization for nonprofits across a range of sectors) report that
 24 many nonprofit clients are declining to seek health care due to such fear since the election. One
 25 member organization actually shut down for a couple of months because so many of their clients
 26 were not leaving their homes. A member organization of SVCN that serves domestic violence
 27 survivors reports that more clients are avoiding law enforcement and court appearances.

28 The anxiety in the community goes beyond fear of accessing government services. Many

clients are not aware of which programs and services are run by governmental agencies and which are run by independent nonprofits. As a result, some clients have expressed anxiety about sharing personal information and accessing services even at nonprofit organizations. After receiving multiple inquiries, at least one *amicus* organization felt compelled to post signs onsite to reassure clients that their organization does not report the legal status of clients to the government. The need to take such steps in light of the Executive Order adds to the burdens placed on nonprofits, discussed above. Efforts to inform the community about the safety of accessing public and nonprofit services cost time and money, taking away from activities more closely related to the nonprofits' missions.

When individuals are too scared of immigration consequences to seek essential services, the risks for individual and public safety increase. Indeed, low-income immigrants targeted by immigration enforcement measures are often among the most vulnerable in the population. *See* Toomey, at S30-S31. In many jurisdictions, policies not to ask individuals about immigration status have had the stated purpose of encouraging *victims* of crimes such as domestic violence to seek assistance—and they have been successful. Bill Ong Hing, *Immigration Sanctuary Policies: Constitutional and Representative of Good Policing and Good Public Policy*, 2 UC Irvine L. Rev. 247, 254-55 (2012) (cooperation with police, including in domestic violence cases, increased after New Haven police instituted a policy prohibiting officers from inquiring about immigration status). Even before it is clear how it may be implemented, the Executive Order is creating uncertainty and fear that prevents vulnerable members of the community from accessing services that will protect their own health and safety, as well as the health and safety of those around them.

There are similar risks to individuals and to the public when it comes to anxiety about accessing health services. Individuals may not seek preventive care, may not come in for prescriptions for vital medications, and may not seek care for acute conditions until they experience an emergency. Indeed, in Arizona, researchers found that some of the most vulnerable members of the community, adolescent mothers, were also the most likely to refrain from seeking preventive care for themselves and their children as a result of SB 1070. Toomey at S30-S31. This finding is alarming because preventive care, including immunizations, is critical for public health. *Id.* at S32. Keeping up with preventive care also decreases emergency room visits, lowering health care costs

1 for communities. *See, e.g.,* Barbara Starfield et al., *Contribution of Primary Care to Health Systems*
 2 *and Health*, 83(3) MILBANK QUARTERLY 457, 473 (2005),
 3 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2690145/pdf/milq0083-0457.pdf>.

4 In communities around the country like Santa Clara County that have significant immigrant
 5 populations, the uncertainty caused by the Executive Order affects a large segment of the
 6 community, and thus the community as a whole. Current levels of anxiety endanger the progress
 7 that the community has made over time toward encouraging encouraging public health through
 8 access to health and nutrition services. A preliminary injunction preventing the implementation of
 9 the Executive Order will prevent irreparable harm to the *amici* organizations, to the clients served by
 10 *amici*, and to the community, and is in the public interest.

11 **III. CONCLUSION**

12 On behalf of their organizations, their clients and the communities they serve, *amici curiae*
 13 urge this Court to grant the nationwide preliminary injunction and prevent further harm and damage
 14 to the public interest while the status of the Executive Order is adjudicated.

15 Dated: March 22, 2017

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