

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

CITY OF NEW YORK; ERIC L. ADAMS,
Mayor of The City of New York, in his official
capacity; NEW YORK CITY COUNCIL;
ADRIENNE E. ADAMS, Speaker of the New
York City Council, in her official capacity;
NEW YORK CITY DEPARTMENT OF
CORRECTION; LYNELLE MAGINLEY-
LIDDIE, Commissioner of the New York City
Department of Correction, in her official
capacity; NEW YORK CITY DEPARTMENT
OF PROBATION; JUANITA N. HOLMES,
Commissioner of the New York City
Department of Probation, in her official
capacity; NEW YORK CITY POLICE
DEPARTMENT; JESSICA S. TISCH,
Commissioner of the New York City Police
Department, in her official capacity,

Defendants.

Case No. 25-cv-4084

**[PROPOSED] BRIEF FOR STATE OF NEW YORK AS AMICUS CURIAE
IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS**

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INTRODUCTION AND INTERESTS OF AMICUS

The State of New York submits this amicus curiae brief in support of the defendants' motion to dismiss the complaint of plaintiff the United States, challenging on Supremacy Clause grounds New York City's laws limiting local officials' participation in federal civil immigration enforcement. This Court should dismiss the complaint because the challenged city laws are consistent with federal law.

The State has a longstanding interest in, and considerable experience with, issues related to the participation of state and local officials in federal civil immigration enforcement. In 2017 and again in 2025, the Office of the New York State Attorney General provided extensive guidance to local officials in New York on the subject, highlighting the ways in which laws and policies limiting their participation in federal civil immigration enforcement can enhance public safety and trust within communities.¹ The New York City laws challenged in this case provide for limitations on participation in federal civil immigration enforcement serving that same purpose. Specifically, the City's laws provide that, subject to federal and state law, city officials may not (1) detain an individual on the basis of federal immigration authorities' civil detainer² request without a judicial warrant and certain other prerequisites, N.Y.C. Admin. Code §§ 9-131, 9-205, 14-154; (2) take direction from the U.S. Department of Homeland Security to further federal civil immigration enforcement, *id.* § 10-178;

¹ See Off. of N.Y. State Att'y Gen., *Immigration Enforcement: Guidance Concerning Local Authorities' Participation in Immigration Enforcement and Model Provisions* (2025); Off. of N.Y. State Att'y Gen., *Guidance Concerning Local Authority Participation in Immigration Enforcement and Model Sanctuary Provisions* (2017 & Supps. 2017-2018). The original 2017 guidance was also supplemented later that year, in 2018, and in 2020. See Off. of N.Y. State Att'y Gen., *Guidance Concerning Local Authority Participation*, *supra*; Letter from Off. of N.Y. State Att'y Gen. (Apr. 8, 2020). (For authorities available online, full URLs appear in the table of authorities. All URLs were last visited on December 9, 2025.)

² An immigration detainer is a request from federal immigration officials to state or local officials, asking the state or local officials to maintain custody of an individual after the date on which the individual otherwise would be released under state law, so that the federal immigration officials can assume custody. See *People ex rel. Wells v. DeMarco*, 168 A.D.3d 31, 41 (2d Dep't 2018).

or (3) use city resources for federal civil immigration enforcement, *id.*, or for providing to federal civil immigration authorities certain information that is not related to citizenship or immigration status or otherwise required by law, *id.* § 9-131.

This amicus brief draws on the State's experience to make three points in support of defendants' motion to dismiss. *First*, federalism principles require that the City be permitted to determine, and through local laws implement, the best method of protecting public safety and community welfare, so long as the local laws are not inconsistent with federal or state law. Here, the City's elected representatives' decision to limit city officials' participation in civil immigration enforcement in order to best protect their local community is a quintessential exercise of the police power that federalism and the Tenth Amendment reserve to States and their localities. And there is a strong presumption against federal preemption of local laws governing local officials' exercise of that police power, like the City's local laws at issue here.

Second, the City's laws limiting local officials' participation in civil immigration enforcement are consistent with state and federal law. The City explains in detail in its motion papers the reasons that its laws are not preempted by federal immigration law and do not unlawfully regulate or discriminate against the federal government. Because the State agrees with those arguments (which alone require judgment for defendants), it does not belabor them here. Instead, the State explains that the City's laws are not only consistent with federal immigration law but also tailored to ensure that city officials comply with other state and federal law that substantially constrains local law enforcement participation in civil immigration enforcement. New York state law generally permits state and local law enforcement to arrest and detain for *criminal* violations—not civil immigration violations. And the Fourth Amendment prohibits unreasonable seizures, which could include civil immigration arrests that violate state law. The City's laws protect the City from liability for such unlawful arrests.

Third, the City’s laws are supported by strong governmental interests. As both the experience of state and local law enforcement and ample social science evidence confirm, by limiting local officials’ participation in civil immigration enforcement, the City’s laws allow its residents to report crimes, serve as witnesses, obtain healthcare, and otherwise interact with local officials without fear that doing so may result in adverse immigration consequences for themselves or loved ones. In this way, the laws promote both public safety and public health for all. At the same time, laws like the City’s ensure that limited local resources are directed to advancing local public safety priorities, such as prevention of violent crime.

ARGUMENT

I. FEDERALISM PRINCIPLES REQUIRE THAT STATE AND LOCAL GOVERNMENTS BE FREE TO MAKE INDEPENDENT DECISIONS ABOUT USE OF THEIR OWN LAW ENFORCEMENT RESOURCES, SO LONG AS THOSE DECISIONS ARE NOT INCONSISTENT WITH FEDERAL OR STATE LAW.

Federalism is a fundamental principle of the United States Constitution, which recognizes that both federal and state governments “have elements of sovereignty the other is bound to respect.” *Arizona v. United States*, 567 U.S. 387, 398 (2012). “Our Federalism” recognizes “that the National Government will fare best if the States and their institutions are left free to perform their separate functions in their separate ways,” and therefore requires “sensitivity to the legitimate interests of both State and National Governments,” and a “National Government, anxious though it may be to vindicate and protect federal rights and federal interests,” that must “do so in ways that will not unduly interfere with the legitimate activities of the States.” *Younger v. Harris*, 401 U.S. 37, 44 (1971).

“[F]ederalism secures to citizens the liberties that derive from the diffusion of sovereign power.” *National Fed’n of Indep. Bus. v. Sebelius*, 567 U.S. 519, 536 (2012) (quotation marks omitted). Federalism implements the Framers’ vision that “the facets of governing that touch on

citizens' daily lives are normally administered by smaller governments closer to the governed, [which are] more local and more accountable than a distant federal bureaucracy." *Id.* (citing *The Federalist* No. 45, at 293 (James Madison)). Power diffused to state and local governments "also serves as a check on the power of the Federal Government: By denying any one government complete jurisdiction over all the concerns of public life, federalism protects the liberty of the individual from arbitrary power." *Id.* (quotation marks omitted).

Most fundamentally, federalism reserves to the States and their localities the "police power," that is, power over the day-to-day public safety and well-being of people within their jurisdiction. "The Constitution . . . withhold[s] from Congress a plenary police power," *United States v. Lopez*, 514 U.S. 549, 566 (1995), and, under the Tenth Amendment, the Constitution reserves such power, not delegated to the United States, to the States and the people. "States traditionally have had great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all persons." *Metropolitan Life Ins. Co. v. Massachusetts*, 471 U.S. 724, 756 (1985) (quotation marks omitted). And the States in turn may delegate aspects of the police power to local governments, which are merely "political subdivision[s] of the State from which [their] authority derives." *United Bldg. & Constr. Trades Council of Camden Cnty. & Vicinity v. Mayor of Camden*, 465 U.S. 208, 215 (1984).

While the federal government maintains authority over naturalization of noncitizens, and of their entry and removal across the nation's borders, the police power reserved to States and their localities includes authority over "essentially local problems" affecting individuals within their borders, including undocumented individuals and other noncitizens. *DeCanas v. Bica*, 424 U.S. 351, 355-57 (1976); *see, e.g., Plyler v. Doe*, 457 U.S. 202, 215 (1982). There is "no better example" of such a local problem over which the States and their localities retain police power "than the suppres-

sion of violent crime and vindication of its victims.” *United States v. Morrison*, 529 U.S. 598, 618 (2000). And suppression of crime and vindication of victims, and more broadly protecting local communities and families, are the principal purposes of the city laws challenged here. *See, e.g.*, Comm. Rep. of the Governmental Affs. Div. (Nov. 2, 2011), ECF No. 1-7, at 11-12 (city laws intended to address “public safety implications” of “witnesses and victims [who] are less likely to cooperate with local law enforcement for fear that they or their family members will be deported”); Comm. Rep. of the Governmental Affs. Div. (Feb. 26, 2013), ECF No. 1-8, at 4 (city laws intended to avoid cooperation between city agencies and ICE “negatively affecting community policing and the willingness of immigrant crime victims and immigrant witnesses to report crimes”); Comm. Rep. of the Governmental Affs. Div. (Oct. 20, 2014), ECF No. 1-9, at 4 (same).

State and local governments also retain control of their own officers and resources, financial and otherwise, in our federal system. The Tenth Amendment prohibits Congress from conscripting state and local officers and resources to assist with federal regulatory schemes, such as civil immigration enforcement. *See Printz v. United States*, 521 U.S. 898, 935 (1997). Thus, a “quintessential police power” retained by state and local governments is the “ability to regulate [their] internal law enforcement activities,” including in connection with immigration matters. *United States v. California*, 921 F.3d 865, 887 n.11 (9th Cir. 2019) (rejecting federal preemption challenge to state law governing state and local law enforcement participation in civil immigration enforcement).

While, under the Constitution’s Supremacy Clause, Congress has the power to enact laws that preempt state and local laws, there is a strong presumption against preemption. *See, e.g., New York State Conf. of Blue Cross & Blue Shield Plans v. Travelers Ins. Co.*, 514 U.S. 645, 654 (1995). And that presumption “is especially strong” with respect to state and local laws that implicate a State’s traditional police powers. *See New York Pet Welfare Ass’n v. City of New York*, 850 F.3d 79, 86

(2d Cir. 2017). “Courts ‘start with the assumption that the historic police powers of the States were not to be superseded by [a] Federal Act unless that was the clear and manifest purpose of Congress.’” *New York State Telecomms. Ass’n v. James*, 101 F.4th 135, 148 (2d Cir.) (quoting *Wyeth v. Levine*, 555 U.S. 555, 565 (2009)), *cert. denied*, 145 S. Ct. 984 (2024), *reh’g denied*, 145 S. Ct. 1229 (2025). And courts do so because federal legislation affecting “areas traditionally regulated by the States” “is an extraordinary power in a federalist system . . . that we must assume Congress does not exercise lightly.” *Gregory v. Ashcroft*, 501 U.S. 452, 460 (1991).

Here, the City’s challenged laws govern quintessential matters of local police power: how city officials can best utilize their limited resources to protect public safety and community welfare in their city. The City’s elected representatives have decided, based on local experience, applicable state and federal law (see *infra* at 9-13), and powerful empirical evidence (see *infra* at 13-17), that the City should limit local officials’ role in federal civil immigration enforcement, in order to best promote public safety and community welfare. The Supreme Court and other courts, including courts in this circuit, have regularly applied the presumption against preemption in addressing preemption challenges to a variety of state and local laws governing police power matters touching on immigration issues. See, e.g., *Arizona*, 567 U.S. at 400; *DeCanas*, 424 U.S. at 357-58 (applying presumption to reject preemption challenge to state law governing employment of undocumented workers); *Nwauzor v. GEO Grp., Inc.*, 127 F.4th 750, 768 (9th Cir. 2025) (applying presumption to reject preemption challenge to state law governing wage provided to immigrants working in immigration detention facility); *United States v. New York*, No. 1:25-cv-744, 2025 WL 3205011, at *6-7, *10-11, *13 (N.D.N.Y. Nov. 17, 2025) (applying presumption to reject preemption challenge to state law prohibiting civil arrests in courthouses and executive orders limiting state participation in civil immigration enforcement); *Doe v. U.S. Immigration & Customs Enf’t*, 490 F. Supp. 3d 672, 692-93

(S.D.N.Y. 2020) (applying presumption to reject preemption challenge to state law prohibiting civil arrests in courthouses). And, even without the presumption, state and local control of state and local law enforcement resources is at the heart of federalism and should not lightly be found to be preempted.

II. NEW YORK CITY’S LAWS LIMITING LOCAL OFFICIALS’ PARTICIPATION IN IMMIGRATION ENFORCEMENT ARE CONSISTENT WITH FEDERAL AND STATE LAW.

A. The City’s Laws Are Not Preempted by Federal Law.

For the reasons explained in detail in defendants’ motion papers, plaintiff has not come close to meeting its burden to allege facts showing that the City’s laws are clearly preempted.³ *See* Mem. at 8-23. Plaintiff’s complaint relies on two nearly identical federal laws for its preemption claim, 8 U.S.C. §§ 1373 and 1644 (*see* Compl. ¶¶ 102-106 (July 24, 2025), ECF No. 1), but those laws cannot be valid preemptive provisions because they do not regulate conduct of private actors; they regulate only sharing of information between government officials. And “every form of preemption is based on a federal law that regulates the conduct of private actors”—not government officials. *See Murphy v. National Collegiate Athletic Ass’n*, 584 U.S. 453, 479 (2018).⁴

³ The City is also correct that its laws do not unlawfully regulate or discriminate against the federal government; they merely regulate the conduct of the City’s own officials, without singling out the federal government for less favorable treatment than anyone else. *See* Mem. of Law in Supp. of Mot. to Dismiss (Mem.) at 23-30.

⁴ The cases on which plaintiff relied in its pre-motion letter response (U.S. Response to Defs.’ Mot. for Pre-Mot. Conf. (Sept. 17, 2025), ECF No. 13, at 1 & n.2) are not to the contrary. *City of New York v. United States*, 179 F.3d 29 (2d Cir. 1999), predated *Murphy*. And both that case and *New York v. U.S. Department of Justice*, 951 F.3d 84 (2d Cir. 2020), addressed only Tenth Amendment and Guarantee Clause claims; they did not make any preemption holdings. *See* 951 F.3d at 114 n.27 (“we need not conclusively decide the preemptive effect of § 1373”); *City of New York*, 179 F.3d at 33; *see also New York*, 2025 WL 3205011, at *14 (“the United States’ contention that the Second Circuit has addressed the preemptive effect of Section 1373 is entirely without merit”). Moreover, the courts that have decided the issue have consistently held that §§ 1373 and 1644 do not have preemptive effect under *Murphy*. *See Ocean Cnty. Bd. of Comm’rs v. Attorney Gen.*, 8 F.4th 176, 182 (3d Cir. 2021); *United States v. Illinois*, No. 25-cv-1285, 2025 WL 2098688, at *13-17 (N.D. Ill. July 25, 2025); *Colorado v. U.S. Department of Just.*, 455 F. Supp. 3d 1034, 1059 (D. Colo. 2020); *Oregon v. Trump*, 406 F. Supp. 3d 940, 972 (D. Or. 2019), *aff’d in part & vacated in part on other grounds*, *City & Cnty. of San Francisco v. Garland*, 42 F.4th 1078 (9th Cir. 2022); *City & Cnty. of San Francisco v. Sessions*, 349 F. Supp. 3d 924, 950 (N.D. Cal. 2018), *aff’d in part & vacated in part on other grounds*, 965 F.3d 753 (9th Cir. 2020).

Even if §§ 1373 and 1644 were preemption provisions (and they are not), they are not *express* preemption provisions, and plaintiff’s express preemption claim fails. “Express preemption arises when a federal statute expressly directs that state law be ousted.” *Island Park, LLC v. CSX Transp.*, 559 F.3d 96, 101 (2d Cir. 2009) (quotation marks omitted). Sections 1373 and 1644 do nothing of the sort. Nor is there any basis for finding “conflict preemption,” *see, e.g., Arizona*, 567 U.S. at 399-400, because the City’s laws do not pose any conflict with § 1373 or § 1644. Those federal laws prohibit only restrictions on sharing of information regarding individuals’ immigration status. Such restrictions are nowhere to be found in the City’s laws. To the contrary, the City’s laws expressly underscore that they do not restrict sharing of “information related to a person’s citizenship or immigration status” (or otherwise “required by law”). N.Y.C. Admin. Code § 9-131(h)(1).

Plaintiff likewise errs in contending that the City’s laws are impliedly preempted because they create “obstacles” to federal immigration enforcement. The City’s laws limiting circumstances in which its officials may take active steps to support federal civil immigration enforcement do not create the sort of affirmative obstacles that result in preemption. The Supreme Court has made clear that the mere “possibility that federal enforcement priorities might be upset is not enough to provide a basis for preemption.” *Kansas v. Garcia*, 589 U.S. 191, 212 (2020). That is because “[t]he Supremacy Clause gives priority to ‘the Laws of the United States,’ not the . . . law enforcement priorities or preferences of federal officers.” *Id.* (quoting U.S. Const. art. VI, cl. 2) (holding immigration-related state law not preempted). Any frustration that the federal government may face from being unable to commandeer local officials into doing the federal government’s work is not an injury that gives rise to preemption; rather, it is a necessary consequence of federalism. *See, e.g., Printz*, 521 U.S. at 935.

Plaintiff also errs in claiming field preemption. As discussed (*supra* at 6), the City’s laws do not regulate immigration; rather, they regulate city officials’ handling of their own police power

to protect public safety and community welfare in the way the City thinks best. That is not a field from which the City is preempted; it is a field where city and state authority are at their apex.

B. The Laws of Both New York State and the United States Substantially Constrain Local Law Enforcement Participation in Civil Immigration Enforcement.

The City’s laws are not only consistent with federal immigration law, but also carefully tailored to ensure that city officials comply with the law—both state and federal—that constrains state and local officials’ authority to participate in civil immigration enforcement.

“As a general rule, it is not a crime for a removable alien to remain present in the United States.” *Arizona*, 567 U.S. at 407. And, under New York state law, state and local officials do not have authority to make arrests or detain individuals for *civil* immigration violations, even at the request of federal immigration authorities issuing immigration detainers and administrative warrants to state or local officials. The Appellate Division, Second Department, has explicitly held that state and local officials lack such authority. *See Wells*, 168 A.D.3d at 42-43. And where, as here, the Court of Appeals has not addressed an issue and only one appellate department has reached the issue, that department’s decision is the law of New York, binding on trial courts throughout the State. *See, e.g., Phelps v. Phelps*, 128 A.D.3d 1545, 1547 (4th Dep’t 2015); *People v. Shakur*, 215 A.D.2d 184, 185 (1st Dep’t 1995); *Mountain View Coach Lines, Inc. v. Storms*, 102 A.D.2d 663, 664 (2d Dep’t 1984). In addition, this Court has agreed with the Appellate Division’s interpretation of New York law. *See Orellana v. County of Suffolk*, No. 17-cv-4267, 2025 WL 481723, at *11-13 (E.D.N.Y. Jan. 2, 2025), *appeal dismissed*, No. 25-321 (2d Cir. June 16, 2025).

As the New York courts have explained, the New York Criminal Procedure Law (C.P.L.) permits state and local officials to execute only judicially issued warrants to arrest, and makes no mention of any federal administrative or civil immigration warrants. *See Wells*, 168 A.D.3d at 42. And the C.P.L. permits warrantless arrests only if an officer has reasonable cause to believe that

the arrestee has committed a crime or offense: that is, has violated a law that allows for a sentence of imprisonment or a fine. *See id.* at 43-44 (citing C.P.L. § 140.10; Penal Law § 10.00(1), (6)); *see also* C.P.L. § 1.20 (incorporating Penal Law § 10.00 definitions into C.P.L.). Federal immigration detainers and the administrative warrants that ordinarily accompany them, however, are civil in nature and do not specify any crime or offense. Thus, standing alone, those documents do not give state or local officials grounds to arrest the subject of the detainer. *See Wells*, 168 A.D.3d at 43-44. Further, no common-law police power permits New York law enforcement officials to make arrests based only on an immigration detainer and accompanying administrative warrant. The New York legislature has “codified the traditional common-law varieties of arrests” and, consequently, “New York courts have consistently looked to statutory law in determining arrest authority.” *Id.* at 54 (citing *People v. Williams*, 4 N.Y.3d 535, 538 (2005)); *see id.* at 44-46.⁵

Moreover, federal law does not authorize New York law enforcement officers to make arrests that New York law prohibits. *See id.* at 47-51. The federal Immigration and Nationality Act (INA) confers civil immigration enforcement authority on federal—not state and local—officers. *See, e.g., Arizona*, 567 U.S. at 408-09. For example, it provides that “an officer or employee of” the U.S. Department of Homeland Security may execute warrants under regulations promulgated by the Secretary of the Department. 8 U.S.C. § 1357(a). Consistent with that assignment of responsibility, the INA’s implementing regulations nowhere mention state or local officials as being among the

⁵ There is also a substantial risk that civil immigration arrests by state and local officials would violate the New York Constitution unless conducted pursuant to a judicially issued warrant. Article I, § 12 of the State Constitution provides broader protection than the Fourth Amendment of the U.S. Constitution. *See, e.g., People v. Scott*, 79 N.Y.2d 474, 496-97 (1992); *People v. P.J. Video*, 68 N.Y.2d 296, 304 (1986). For instance, the New York Court of Appeals has interpreted the State Constitution to express a strong preference for warrants made by “detached and neutral” judges, “over those based upon the hurried judgment of law enforcement officers”—particularly where, as here, the stakes are high. *People v. Johnson*, 66 N.Y.2d 398, 406 (1985) (quotation marks omitted); *see Scott*, 79 N.Y.2d at 501. An administrative immigration warrant accompanying an ICE detainer lacks any judicial oversight even though it may result in the weighty consequence of removal from the United States; thus, an arrest based solely on such a warrant may well violate the State Constitution.

categories of officials who are authorized by those regulations to execute immigration arrest warrants. *See* 8 C.F.R. § 287.5(e)(3)(i); *see also id.* § 241.2(b).

Although plaintiff’s complaint (ECF No. 1, ¶ 36) notes that 8 U.S.C. § 1357(g) authorizes state and local authorities to “cooperate” with federal officials in civil immigration enforcement, that provision permits state and local officials to carry out functions of federal immigration officers only in certain limited circumstances. And as relevant here, those circumstances are limited to instances where the carrying out of such functions by state and local officials is “consistent with State and local law,” and where the state or local jurisdiction has a written agreement with the Secretary of Homeland Security—which New York City undisputedly does not have here. *See* 8 U.S.C. § 1357(g)(1). So, by its plain terms, § 1357(g) contemplates that state and local officials will act within the bounds of state and local law—which in New York prohibits them from making civil immigration arrests. *See Wells*, 168 A.D. 3d at 49-50.

While § 1357(g)(10)(B) permits States and their localities “to cooperate with the [Secretary of Homeland Security] in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States” without a written agreement, nothing in the text or context of § 1357(g)(10) indicates that it *requires* state and local governments to do anything—much less to act in contravention of state law. Section 1357(g)(10)(B) is not reasonably interpreted to “confer ‘authority on State and local officers to make arrests pursuant to civil immigration detainers, where none otherwise exists’ under state law.” *Wells*, 168 A.D.3d at 51 (quoting *Lunn v. Commonwealth*, 477 Mass. 517, 535 (2017)). Rather, § 1357(g)(10) merely clarifies that a State or locality need not enter into a § 1357(g) written agreement if in an exercise of its existing, lawful police powers, it wishes to cooperate with federal immigration enforcement by, for instance, “participat[ing] in a joint task

force with federal officers, provid[ing] operational support in executing a warrant, or allow[ing] federal immigration officials to gain access to detainees held in state facilities,” *Arizona*, 567 U.S. at 410.

Moreover, because neither state nor federal law confers on city officials the authority to arrest or detain on the basis of civil immigration detainers and administrative warrants alone, such actions may violate the Fourth Amendment of the U.S. Constitution. Although the Second Circuit has not yet addressed the question, *see Jimenez v. City of Cohoes Police Dep’t*, No. 23-955, 2024 WL 1551149, at *2 (2d Cir. Apr. 10, 2024), this Court, *see Orellana*, 2025 WL 481723, at *13-15, and others have held that state or local officials may violate the Fourth Amendment by arresting or detaining individuals on the basis of purported civil immigration violations alone.⁶ In addition, at least one federal appeals court has held that local officials may be liable for monetary damages for holding individuals for civil immigration violations, *see Santos*, 725 F.3d at 464-66, 470, and a jury in this Court recently awarded \$112 million in damages to individuals held on the basis of civil immigration detainers by Suffolk County, *see Judgment, Orellana v. County of Suffolk*, No. 17-cv-4267 (E.D.N.Y. Nov. 12, 2025), ECF No. 287. Indeed, local officials across the country have paid substantial settlements or judgments to individuals who alleged that they were arrested or held unlawfully for purported immigration violations.⁷

The City’s laws prohibiting its officials from taking certain actions, including detaining individuals for civil immigration violations, therefore ensure that its officials do not violate state or

⁶ *See, e.g., Santos v. Frederick Cnty. Bd. of Comm’rs*, 725 F.3d 451, 464-65 (4th Cir. 2013) (local law enforcement officials violate Fourth Amendment by arresting “solely based on known or suspected civil immigration violations”); *Melendres v. Arpaio*, 695 F.3d 990, 1000-01 (9th Cir. 2012) (similar); *Creedle v. Miami-Dade Cnty.*, 349 F. Supp. 3d 1276, 1304 (S.D. Fla. 2018) (“[n]umerous courts” agree); *Ochoa v. Campbell*, 266 F. Supp. 3d 1237, 1258 (E.D. Wash. 2017) (“[c]ourts around the country” agree); *Davila v. Northern Reg’l Joint Police Bd.*, 370 F. Supp. 3d 498, 547 (W.D. Pa. 2019) (“courts across the country” agree).

⁷ *See* Off. of N.Y. State Att’y Gen. et al., *Setting the Record Straight on Local Involvement in Federal Civil Immigration Enforcement: The Facts and the Laws* 9 (2017) (listing several examples).

federal law by acting in excess of their lawful authority. At the same time, the City's laws ensure that such actions do not subject the City to liability, monetary or otherwise.

III. THE CITY'S LAWS ARE SUPPORTED BY A STRONG GOVERNMENTAL INTEREST IN MAINTAINING PUBLIC SAFETY AND COMMUNITY WELFARE.

In limiting local officials' participation in civil immigration enforcement, the City's laws allow individuals to report crimes, serve as witnesses, and otherwise interact with law enforcement without fear that doing so may result in adverse immigration consequences like deportation for themselves or loved ones. The City's approach is strongly supported by empirical evidence and the experience of local law enforcement nationwide. In one study, half of immigrants and more than two-thirds of undocumented individuals reported that they were less likely to report or offer information about crimes to local police for fear that officers would inquire about their or others' immigration status.⁸ That result is highly detrimental to local law enforcement because, as one New York county police commissioner explained, "[w]e solve crimes based on people coming to us. It's that simple. If people think they're going to get deported every time they speak to a police officer, it's not helpful."⁹ For that reason, as a New York City police commissioner elaborated, "[i]t is critical that everyone who comes into contact with the [police], regardless of their immigration status, be able to identify themselves or seek assistance without hesitation, anxiety or fear."¹⁰ If they cannot do so, "you create a shadow population" that "become[s] prey for human predators who extort them or abuse

⁸ Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement* 5-6 (2013).

⁹ Liz Robbins, *Police Fear Trump Immigration Orders May Handcuff Effort to Fight Gangs*, N.Y. Times (Feb. 22, 2017).

¹⁰ Leonard Greene & Rocco Parascandola, *NYPD Commissioner Reminds Cops to Ignore President Trump's Immigrant Deportation Orders*, N.Y. Daily News (Feb. 23, 2017).

them because they know they won't contact the police."¹¹ Indeed, local police leaders agree that "[t]he reluctance of folks to come forward . . . is a much greater public safety problem than having people here who may be undocumented," because "[c]riminals thrive in neighborhoods where people don't trust the police."¹² Thus, the President's Task Force on 21st Century Policing, which brought together experts nationwide to identify best practices in contemporary policing, recommended "decoupling" civil immigration enforcement from routine local policing—just as the City has attempted to do.¹³

Ample social science research confirms that local law enforcement involvement in civil immigration enforcement harms public safety, and that, conversely, laws like the City's benefit public safety. Studies have repeatedly indicated that greater involvement of local law enforcement in civil immigration enforcement makes immigrant communities less likely to interact with police,¹⁴ and more likely to become victims of crime or other exploitation.¹⁵ A comparative study of jurisdictions with and without policies limiting local law enforcement involvement in civil immigration enforcement found that Latino victims had significantly higher probabilities of reporting violent crime victimization to law enforcement where such limiting policies were in place. In fact, the study found that more than 90,000 additional incidents of violent crime would have been reported to police during

¹¹ Steve Lopez, *LAPD Chief Beck Explains Why He Doesn't Want His Officers to Be Immigration Cops*, L.A. Times (Jan. 28, 2017).

¹² Pamela Constable, *For Immigrant Women, Domestic Violence Creates a Double Shadow*, Wash. Post (Dec. 2, 2013); see also Off. of N.Y. State Att'y Gen. et al., *Setting the Record Straight*, *supra*, at 14-17 (collecting similar commentary from additional law enforcement leaders).

¹³ The President's Task Force on 21st Century Policing, *Final Report* 18 (2015).

¹⁴ See, e.g., Nik Theodore & Robert Habans, *Policing Immigrant Communities: Latino Perceptions of Police Involvement in Immigration Enforcement*, 42 J. Ethnic & Migration Stud. 970, 971 (2016).

¹⁵ See, e.g., Elizabeth Fussell, *The Deportation Threat Dynamic and Victimization of Latino Migrants: Wage Theft and Robbery*, 52 Socio. Q. 593, 610 (2011) (labor exploitation and theft increases when migrant workers fear that interaction with police may result in deportation).

the study period if such policies were in place nationally.¹⁶ Another study reached a similar conclusion, finding that crime reporting in 2017 declined significantly compared to 2016 in areas with higher Hispanic population shares because of fears of increased immigration enforcement, but that counties with policies like the City’s, limiting local law enforcement involvement in civil immigration enforcement, did not demonstrate the same levels of decreased crime reporting as counties without such policies. The study also ruled out decrease in crime commission as a cause of the decrease in crime reporting.¹⁷ And that result is consistent with studies that have found no evidence that policies like the City’s are associated with higher crime commission. On the contrary, studies have found that the “spiral of trust” created by such policies reduces crime,¹⁸ and that jurisdictions with such policies have lower crime rates than other jurisdictions.¹⁹

Other research has concluded that immigrant community members often refrain from seeking vital local services other than law enforcement assistance—including healthcare services—when they fear that the relevant local officials could report them to immigration authorities.²⁰ The consequences can be dire: in one disturbing incident, a child died when his parents delayed seeking

¹⁶ Ricardo D. Martínez-Schuldt & Daniel E. Martínez, *Immigration Sanctuary Policies and Crime-Reporting Behavior: A Multilevel Analysis of Reports of Crime Victimization to Law Enforcement, 1980 to 2004*, 86 Am. Socio. Rev. 154, 170 (2021).

¹⁷ See Reva Dhingra et al., *Immigration Policies and Access to the Justice System: The Effect of Enforcement Escalations on Undocumented Immigrants and Their Communities*, 44 Pol. Behav. 1359, 1361 (2022).

¹⁸ Daniel E. Martínez et al., *Providing Sanctuary or Fostering Crime? A Review of the Research on “Sanctuary Cities” and Crime*, 12 Socio. Compass e12547, at 7-10 (Jan. 2018) (surveying the literature); see, e.g., Marta Ascherio, *Do Sanctuary Policies Increase Crime? Contrary Evidence from a County-Level Investigation in the United States*, 106 Soc. Sci. Research 102743 (Aug. 2022) (finding policies that limit local law enforcement involvement in civil immigration enforcement associated with decreased property and violent crime).

¹⁹ See, e.g., Tom K. Wong, Ctr. for Am. Progress, *The Effects of Sanctuary Policies on Crime and the Economy* (Jan. 26, 2017).

²⁰ See, e.g., Omar Martinez et al., *Evaluating the Impact of Immigration Policies on Health Status Among Undocumented Immigrants: A Systematic Review*, 17 J. Immigr. Minor. Health 947, 964 (2015); Scott D. Rhodes et al., *The Impact of Local Immigration Enforcement Policies on the Health of Immigrant Hispanics/Latinos in the United States*, 105 Am. J. Pub. Health 329, 332 (2015).

medical treatment because they feared that hospital officials might report them to immigration authorities.²¹ And as communicable diseases like COVID-19 illustrate well, refusal of anyone in the community to seek medical help can harm everyone by amplifying the disease's spread.

At the same time, imposition of federal immigration priorities on already strained local officials can detract from local needs, in law enforcement and otherwise. Laws like the City's are intended, in large part, to avoid diverting scarce resources and time away from the community's public safety and other priorities.²² Requiring state and local officials to carry out tasks to support federal civil immigration enforcement would effectively impose an unfunded mandate on them.²³ And the costs are substantial. For instance, the City Council found that, in 2014, before the City substantially limited authority to grant federal immigration detainer requests, honoring those requests cost the city government at least \$17 million per year.²⁴ Studies elsewhere have likewise found that requiring local law enforcement to grant federal immigration detainer requests cost tens of millions of dollars annually in each of several States, and redirected local resources away from important public safety initiatives.²⁵ Moreover, these costs come on top of the potential liability that the States and localities face from settlements and judgments in cases alleging that immigration-related arrests and detentions were unlawful, as discussed above. See *supra* at 12 & n.7.

²¹ Elizabeth M. McCormick, *Federal Anti-Sanctuary Law: A Failed Approach to Immigration Enforcement and a Poor Substitute for Real Reform*, 20 Lewis & Clark L. Rev. 165, 199 (2016).

²² See ECF No. 1-7, at 12 (city laws intended to avoid "costs on taxpayers due to the maintenance of custody over inmates who would, in the absence of an immigration detainer, be released sooner"); ECF No. 1-9, at 4-5 (city laws intended to avoid substantial "financial burden" from taking actions such as granting detainer requests); see also Off. of N.Y. State Att'y Gen. et al., *Setting the Record Straight*, *supra*, at 13-14 (similar for other local laws).

²³ See Pratheepan Gulasekaram et al., *Anti-Sanctuary and Immigration Localism*, 119 Colum. L. Rev. 837, 865-66 & n.169 (2019).

²⁴ ECF No. 1-9, at 5.

²⁵ See Alexandra Sirota & Lissette Guerrero, Budget & Tax Ctr., N.C. Ctr. for Just., *Local Communities Face High Costs of Federal Immigration Enforcement* 4-5 (Apr. 2019).

The City has acted lawfully—and, indeed, wisely—in directing scarce local resources to its public safety priorities, rather than providing uncompensated support for the federal government’s civil immigration enforcement that would harm community trust and thus public safety.

CONCLUSION

This Court should grant the defendants’ motion to dismiss.

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December 9, 2025

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