

Amicus Briefs Submitted in *United States v. California*

JUNE 13, 2018

ON MARCH 6, 2018, THE U.S. DEPARTMENT OF JUSTICE SUED CALIFORNIA OVER three state laws: Assembly Bill 450, Assembly Bill 103, and Senate Bill 54, also known as the California Values Act. The resulting lawsuit, *U.S. v. California*, is representative of the Trump administration's recent efforts to retaliate against states and localities that have passed protective policies designed to integrate immigrants more fully into their communities.

Assembly Bill 450, or the Immigrant Worker Protection Act, prohibits California employers from allowing immigration agents to enter nonpublic employment areas or view employees' files without a subpoena or warrant. It also aims to prevent employer retaliation against employees who report unfair working conditions. Assembly Bill 103, or the Dignity Not Detention Act, calls for the inspection of state facilities where the federal government is detaining immigrants and for the improvement of facility conditions. Senate Bill 54 aims to prevent state and local resources from being used to carry out mass deportations and to ensure that our schools, hospitals, and courthouses are safe spaces for all in our communities.

All three laws have been in effect since January 2018, and the federal lawsuit seeks an injunction, which, if granted, would block their application.

The U.S. Justice Department argues that these laws (1) conflict with the U.S. Constitution because they obstruct the enforcement of federal immigration law and (2) harm public safety. California argues that the three laws were carefully crafted to stay within the bounds of the state's authority and promote the safety and dignity of all the state's residents.

In response to the *U.S. v. California* litigation, many cities, local governments, organizations, government agencies, members of the law enforcement community, and legal scholars have shown their support for California's laws by filing amicus (friend-of-the-court) briefs with the court. Amicus (or amicus curiae) briefs are legal documents submitted by individuals or groups that are not directly part of the litigation but have a strong interest in the outcome of the case.

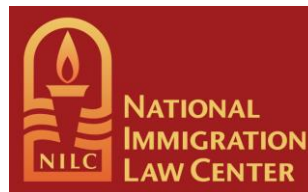
The tables below list 17 briefs filed in support of the three California laws that the federal government is challenging, as well as 6 amicus briefs submitted in support of the federal government's stance. Each entry states which entities filed and support the amicus brief listed, summarizes the brief's main argument, and, in table 1, provides relevant quotations and/or examples of individuals who are directly impacted by the three California laws.

Table 1: Briefs Submitted in Support of California's Position

LEAD AMICUS	OVERVIEWS AND QUOTATIONS
District of Columbia and Connecticut, Delaware, Hawaii, Illinois, New Jersey, New Mexico, Oregon, and Washington	<p>Discusses how some of these states "have adopted, or are considering adopting, lawful policies designed to improve public safety by focusing local law enforcement agencies on crime prevention rather than the enforcement of federal immigration law." Amici states argue that this fosters trust between residents and law enforcement, thereby enhancing public safety.</p> <p>"Together, the <i>Amici</i> States seek to protect their prerogative—indeed, their responsibility—to enact and implement policies that promote public safety, prevent crime, and facilitate positive and productive interactions between local law enforcement and all their residents, regardless of immigration status." (p. 2)*</p>

* Page numbers provided after quotations in the table are the "file-stamped" page numbers that appear at the top-right of each amicus brief page.

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LEAD AMICUS	OVERVIEWS AND QUOTATIONS
<u>17 California cities, 7 counties, 1 mayor</u>	<p>Submitted in support of SB 54, arguing that it promotes the public safety, health, and welfare of those residing in counties throughout the state.</p> <p>“Sanctuary policies allow local governments to create a ‘spiral of trust’ that fosters communications between government officials and immigrants, reduces social isolation and cynicism toward government, and increases neighborhood attachment. This social cohesion and ‘collective efficacy’ has been associated with reduced violence and greater stability, which makes communities generally safer for all.” (p. 7)</p> <p>“Consistent with long-standing precedent and constitutional principles, it is state and local governments that are best able and most accountable to determine the policies that will best protect their communities, not the federal government.” (p. 13)</p>
<u>California Senate</u>	<p>Submitted in support of the state’s sovereignty, arguing that the federal government seeks to violate the Tenth Amendment by unlawfully commandeering state resources in its effort to force state and local law enforcement agencies to participate in immigration enforcement.</p> <p>“Against this backdrop of polarizing politics and harmful policies, the California Legislature passed the California Values Act, a constitutional exercise of California’s core sovereign authority to legislate for the health and safety of California residents, prioritize its limited law enforcement resources, and direct the operations of its law enforcement officials. Recognizing that state entanglement in federal immigration enforcement weakens trust between local law enforcement and the communities they serve, thus undermining public safety, the Act focuses the use of California law enforcement resources on matters of state concern.” (p. 2)</p>
<u>National Immigration Law Center and 80 immigrants’ and civil rights organizations from across the country</u>	<p>Filed on behalf of individuals, families, communities, and the public who would be harmed by blocking the three California laws. Includes specific stories of the impact of immigration enforcement and the importance of California’s passage of SB 54, AB 450 and AB 103.</p> <p>“The three laws seek to ensure that the State maintains its proper role in immigration enforcement and does not participate in overly aggressive and inhumane immigration enforcement actions that federal officials admit are intended to intimidate. The laws, among other things, advance public safety, prevent the mistreatment of undocumented individuals (and others who are believed to be undocumented), protect workers and workplace standards, and protect the health and safety of immigrant detainees.” (p. 1)</p>
<u>PICO California, National Council of Jewish Women-California, Franciscan Action Network, Rabbi Johnathon D. Klein of CLUE, and almost 100 religious leaders</u>	<p>Submitted on behalf of the immigrant communities these religious organizations serve as well as the general public. Amici argue that challenging these laws is against the public interest and contrary to religious values, such as helping those in need.</p> <p>“The Challenged Statutes enable citizens, including faith-based organizations, to provide sanctuary services to immigrants without being conscripted to assist federal enforcement efforts, consistent with the core tenets and divine mission of the Amici organizations. If Amici are viewed by immigrants as working hand in hand with federal immigration officials, immigrants will be scared off from availing themselves of food, shelter, and other sanctuary services.” (p. 2)</p>
<u>Los Angeles</u>	<p>Submitted in support of SB 54 and on behalf both of residents of Los Angeles and of the Los Angeles Police Department.</p> <p>“The benefits of trust-based community policing are not hypothetical. Nor are the regressive, negative effects of rekindling immigrants’ fear that local police are in fact deportation officers. The experience of Los Angeles over the past several decades demonstrates that trust, respect and cooperation are essential to public safety in Los Angeles.” (p. 7)</p>

LEAD AMICUS	OVERVIEWS AND QUOTATIONS
<u>City of New York, 20 local governments, and the United States Conference of Mayors</u>	<p>Submitted on behalf cities and counties across the country that have adopted or seek to adopt policies similar to the three California laws and that will seek to ensure those policies are protected to prevent immigrants in the communities they represent from being discouraged from engaging with essential local government services, including police, schools, and medical care.</p> <p>“Based on our experiences as the front-line providers of government services, we have concluded that these policies are essential to our ability to engage in good and effective governance.” (p. 13)</p> <p>“Public health has suffered. Doctors have reported parents cancelling their children’s pediatric appointments and vaccinations over immigration fears, or cancelling health insurance coverage altogether.” (p. 7)</p>
<u>City and County of San Francisco</u>	<p>These amici argue that 8 U.S.C. § 1373, a federal statute that prohibits local and state governments and agencies from enacting laws or policies that limit communication with the U.S. Department of Homeland Security about “information regarding the immigration or citizenship status” of individuals, was not constructed to be applied as broadly as the plaintiffs argue it should be. The amici also discuss the effects that sharing private information, such as immigration status, would have on community members.</p> <p>“A broad reading of Section 1373 would significantly intrude on state power by preventing States from maintaining confidential information about residents’ home addresses, work addresses, and release dates, let alone private health and financial information.” (p. 11)</p>
<u>National Health Law Program and 42 health, education, and disability rights advocacy organizations as well as legal service providers</u>	<p>Submitted in the interest of public health as well as the health and well-being of immigrants and their families both within the community and in detention facilities.</p> <p>“Immigrants and their families are highly sensitive to changes in immigration policies, and awareness that state and local entities cooperate with federal immigration officials greatly exacerbates these fears. The negative consequence of living with such chronic stress, anxiety, and fear on the health and well-being of immigrants and their families have been well documented.” (p. 2–3)</p>
<u>Immigrant Legal Resource Center, Human Rights Watch, Freedom for Immigrants</u>	<p>Submitted in support of AB 103 and on behalf of individuals with health care (including mental health) needs who are less likely to seek the necessary services without laws such as SB 54.</p> <p>“Detained persons suffer serious mental health and languish in detention centers where the suicide rate is more than triple that of the general prison population, and yet do not have access to mental health professionals or are placed in solitary confinement. Particularly vulnerable populations such as women and LGBTQ individuals are subject to unique degradation and sex abuse. Instead of finding refuge, torture victims who fled to the United States precisely because they were seeking asylum from persecution elsewhere are locked away in abusive and dangerous detention centers.” (p. 2)</p> <p>José, a 54-year-old former green card–holder who had lived in the U.S. for 32 years, had a history of lower back pain and diabetes. In mid-2013, José was working in the facility kitchen when he slipped and fell, hitting his hip and back. After his pain became uncontrollable and he could not stand up for more than five minutes, José asked to see a doctor but had to wait 18 months before seeing a surgeon. This unreasonable delay left José in pain and with decreased function. He was eventually scheduled for surgery but was deported before he could have the surgery. (p. 7)</p>

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<u>California Labor Federation, AFL-CIO, California State Council of Service Employees, and 5 labor organizations, as well as two legal organizations</u>	<p>Submitted on behalf of California’s workers. The brief argues that California’s laws are necessary to prevent adverse employment and health consequences resulting from I-9 (employment eligibility verification form) audits, unnecessary or discriminatory reverification processes, and unnecessary or unjustified investigations used as retaliation.</p> <p>Anthony and his coworkers work for an Italian restaurant in Southern California. They initiated a campaign to improve working conditions at their workplace based on wage payment irregularities and lack of accommodations for breastfeeding employees. The workers filed wage claims, prepared a petition, and delivered it to their employer, demanding payment of unpaid wages and improvements in working conditions. After the action, the restaurant manager approached Anthony and said, “Soon I’m going to get rid of all of you.” Anthony asked, “How?” The manager told Anthony that he was going to call Immigration on the workers.</p>
<u>26 immigration, labor, and employment law scholars</u>	<p>Submitted in support of AB 450 and on behalf of workers. Amici argue that the federal government did not meet its burden in showing that AB 450 presents an “obstacle to the accomplishment and execution of the full purposes and objectives of Congress” in passing the Immigration Reform and Control Act of 1986.</p> <p>“It is not a new revelation that the specter of immigration enforcement against workers can severely undercut the integrity of labor and employment laws.” (p. 7)</p> <p>“[R]ecent shifts in federal policy have increased the vulnerability of undocumented workers at the workplace. Reports of retaliation by employers against workers on the basis of their immigration status are on the rise” (p. 7)</p>
<u>Tahirih Justice Center and 5 anti-domestic violence advocacy organizations</u>	<p>Submitted on behalf of immigrant survivors of gender-based violence. Advocates argue that California’s laws promote the safety of survivors and improve community safety for all by encouraging survivors to report gender-based violence and other criminal activity.</p> <p>“In amici’s experience, the California laws at issue here, which limit state and local entanglement in immigration enforcement, promote the safety of immigrant survivors of gender based violence by providing some assurance that a survivor can call the police or reach out to a state or local agency for help without risking deportation proceedings or detention.”</p>
<u>29 current and former prosecutors and law enforcement leaders</u>	<p>Submitted on behalf of criminal justice leaders who “understand the ways in which law enforcement functions in communities where immigrants fear the police and are vulnerable to exploitation and crime.” They argue that these laws are necessary to protect local community needs and public safety.</p> <p>“According to the Houston Police Department, rape reporting by members of the Hispanic community fell over 40 percent from the first quarter of 2016 to the same period in 2017, despite an overall increase in city-wide crime reports. Los Angeles, San Francisco, and San Diego also witnessed lagging sexual assault and domestic violence reporting by Hispanic persons—but not other ethnic groups—in the first half of 2017. According to Los Angeles County Sheriff’s Deputy Marino Gonzalez, ‘They’re afraid of us. And the reason they’re afraid of us is because they think we’re going to deport them.’” (p. 6)</p>

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<u>82 administrative law, constitutional law, criminal law, and immigration law scholars</u>	<p>Submitted in support of SB 54, arguing that it is California’s right to disentangle its law enforcement resources from federal immigration enforcement.</p> <p>“For most of the Nation’s history, state and local law enforcement played little to no role in the enforcement of federal immigration laws.” (p. 1)</p> <p>“SB 54 need not, and indeed should not, be construed to stand as an obstacle to implementation of the [Immigration and Nationality Act] or to conflict directly with (immigration law) 8 U.S.C. § 1373. The detention and removal provisions of the INA impose obligations on federal officials; they were not intended to disturb state and local authority over the allocation of state and local law enforcement resources.” (p. 1)</p>
<u>Anti-Defamation League</u>	<p>Submitted to discuss the impact that these laws have on the reporting and prevention of crimes, including hate crimes.</p> <p>“By undermining critical protective statutes and coercing local law enforcement agencies to enforce a federal immigration program, the requested injunction would drive a wedge between police officers and the residents they protect. Immigrants and members of communities with large immigrant populations would reasonably fear that their interaction with law enforcement would necessarily lead to unwanted interaction with [U.S. Immigration and Customs Enforcement].” (p. 4–5)</p>
<u>Center for Human Rights and Constitutional Law and 8 legal aid organizations</u>	<p>Submitted by legal aid organizations on behalf of the clients they serve. Amici argue that AB 450, AB 103, and SB 54 do not conflict with federal law and in no way interfere with U.S. Immigration and Customs Enforcement’s (ICE’s) achievement of its enforcement goals.</p> <p>“The challenged California statutes provide a <i>floor</i> for local entities to follow in their involvement with ICE enforcement operations. That floor is far below the <i>ceiling</i> created by what federal law requires of local entities.” (p. 15)</p>

Table 2: Briefs Submitted in Support of the Federal Government’s Position

LEAD AMICUS	SUMMARY
<u>Federal Law Enforcement Officers Association and National Border Patrol Council</u>	Amici argue that SB 54 alters federal enforcement programs and poses “grave risks” for the safety of U.S. Immigration and Customs Enforcement officers in California. They also argue that SB 54 impairs the effective enforcement of federal immigration law and that it “compromises national security by restricting state and local cooperation with ICE investigations.”
<u>Municipalities and elected officials</u>	Amici argue that “California’s attempts to protect illegal aliens” conflicts with federal immigration law and that by deviating from a “carefully calibrated state-federal enforcement scheme,” the state “poses an obstacle to the full purposes and objectives of Congress.”
<u>American Center for Law and Justice</u>	The main argument this organization poses is that AB 450 “violates the Supremacy Clause because it is an obstacle to the enforcement of federal immigration law.”
<u>Criminal Justice Legal Foundation, et al.</u>	Amici argue that AB 450 violates the Fourteenth Amendment. They argue that AB 450 infringes on their rights as citizens to “inform federal authorities of violations of federal law by others” and “to take the steps needed to confirm their own compliance with the law,” in the way it limits employer interactions with federal agents.

LEAD AMICUS	SUMMARY
<u>National Sheriffs' Association, Advocates for Victims of Illegal Alien Crime & Fight Sanctuary State</u>	<p>Amici argue that the California laws are in violation of the Supremacy Clause and that "SB 54 compels local jurisdictions to commit harboring in violation of federal law, and AB 450 violates employers' right to petition protected in the First Amendment."</p>
<u>Texas, Alabama, Arkansas, Florida, Georgia, Indiana, Kansas, Louisiana, Michigan, Missouri, Nebraska, Nevada, Ohio, Oklahoma, South Carolina, West Virginia, Governor Phil Bryant of the State of Mississippi, and Paul R. LePage, Governor of Maine</u>	<p>These amici states argue that they have an interest in this case because "sanctuary laws and policies can cause harm to neighboring states by making it easier for people who are not lawfully in this country and have committed civil or criminal offenses to evade law enforcement and travel out-of-state." They also argue that if "Arizona laws designed to enforce federal immigration law were preempted in <i>U.S. v. Arizona</i>, then California's laws designed to interfere with or block federal immigration enforcement are equally preempted."</p>