

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ROBERT F. KENNEDY HUMAN RIGHTS,
SOUTHERN BORDER COMMUNITIES COALITION,
URBAN JUSTICE CENTER,

Plaintiffs,

No. 1:25-cv-1270

v.

U.S. DEPARTMENT OF HOMELAND SECURITY,
KRISTI NOEM, in her official capacity as Secretary
of Homeland Security,

Defendants.

**MEMORANDUM OF LAW FOR THE STATE OF NEW YORK, STATES OF
ARIZONA, CALIFORNIA, COLORADO, CONNECTICUT, DELAWARE, HAWAII,
ILLINOIS, MAINE, MARYLAND, MASSACHUSETTS, MICHIGAN, MINNESOTA,
NEVADA, NEW JERSEY, NORTH CAROLINA, OREGON, RHODE ISLAND,
VERMONT, WASHINGTON, AND THE DISTRICT OF COLUMBIA, AS AMICI
CURIAE IN SUPPORT OF PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

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STATEMENT PURSUANT TO LOCAL RULES

Pursuant to Local Civil Rule 7(o)(1) of the U.S. District Court for the District of Columbia, all undersigned amici represent that they are States and therefore may file an amicus curiae brief without the consent of the parties or leave of Court. *See* LCvR 7(o); *see also* Fed. R. App. P. 29(a)(2).

INTRODUCTION AND INTERESTS OF AMICI CURIAE

Amici are the States of New York, Arizona, California, Colorado, Connecticut, Delaware, Hawai‘i, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, North Carolina, Oregon, Rhode Island, Vermont, Washington, and the District of Columbia, and submit this brief in support of plaintiffs’ motion for a preliminary injunction seeking to halt the closure of three offices within the United States Department of Homeland Security (DHS) dedicated to protecting individual civil rights. Amici are home to tens of millions of residents who interact with and rely on services provided by DHS on a daily basis. These interactions include, for example, airport screenings conducted by the Transportation Security Administration (TSA), security checks at federal buildings conducted by the Federal Protective Service, and naturalization interviews conducted by U.S. Citizenship and Immigration Services (USCIS). DHS also operates or contracts for the operation of immigration detention facilities in amici States and across the country, where noncitizen residents of amici’s States may be transferred and held. Many of these interactions take place pursuant to opaque, discretion-laden processes that are not subject to external review or challenge, or occur out of public view entirely, in the case of immigration detention.

The three DHS offices at issue in this case—the Office for Civil Rights and Civil Liberties (CRCL), the Citizenship and Immigration Services Ombudsman (CIS Ombudsman), and the Office of Immigration Detention Ombudsman (OIDO)—were created by Congress to exercise oversight

of various DHS programs; to prevent and address civil rights violations by agency employees; and to provide direct case assistance to noncitizens, their employers, and their families who interact with DHS. In February 2025, DHS began removing from its website investigative records and other documents from one of these offices.¹ The following month, and over Congressional objection,² DHS announced that it would unilaterally abolish all three offices through reductions in force. A department spokesperson declared the reductions in force were necessary because the offices allegedly “obstructed immigration enforcement”; functioned as “internal adversaries that slow down operations”; and facilitated “complaints that encourage illegal immigration.”³ These declarations echoed President Trump’s statements during his campaign, which erroneously described one of these offices as providing “FREE Legal Services for Illegal Alien Criminals.”⁴

Amici agree with plaintiffs that defendants have exceeded their statutory and constitutional authority in unilaterally shutting down congressionally-mandated offices and eliminating their vital functions, and file this brief to underscore that the public interest weighs heavily against allowing those offices to be dismantled before judicial review.⁵ Defendants’ rushed decision to

¹ See Nick Schwellenbach, *DHS Removed 100+ Civil Rights and Civil Liberties Records*, Project on Gov’t Oversight (Apr. 21, 2025). (For sources available online, URLs appear in the Table of Authorities. All websites were last visited May 16, 2025.)

² See Letter from Sens. Gary C. Peters & Richard J. Durbin, to Kristi Noem, Secretary, Dep’t of Homeland Sec. (Mar. 13, 2025); *see also* Letter from Rep. Debbie Wasserman Schultz et al., to Kristi Noem, Secretary, Dep’t of Homeland Sec. (Apr. 8, 2025).

³ Ellen M. Gilmer, *Trump Aides Shutter Homeland Security Civil Rights Office*, Bloomberg Gov’t (Mar. 21, 2025).

⁴ Donald J. Trump (@realDonaldTrump), X (Oct. 29, 2024).

⁵ In opposition to the preliminary injunction motion, defendants claim for the first time that they plan to conduct an “assessment” and, “once available funding is determined,” potentially hire new staff, re-scope contracts, and commission software to handle certain functions of these offices. *See* Decl. of Ronald J. Sartini ¶ 9 (May 14, 2025), ECF No. 19-1. But defendants do not provide

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dismantle these offices, terminate the performance of their statutorily mandated functions without congressional approval, and operate DHS without congressionally mandated guardrails will irreparably harm amici and their residents and businesses. Amici, their residents, and their businesses rely on these offices to resolve problems with immigration benefits; to protect individuals from often illegal, unsanitary, inhumane, and dangerous conditions of immigration detention; and to investigate civil liberties violations and human rights abuses by DHS employees. Indeed, the sudden closure of CRCL, the CIS Ombudsman, and OIDO has already cut off important and even life-saving channels for amici States’ residents and communities that interact with DHS. Accordingly, amici have strong interests in postponing these unlawful closures pending judicial review, and ultimately in preventing these closures from taking effect.

ARGUMENT

THE PUBLIC INTEREST FAVORS PLAINTIFFS BECAUSE DEFENDANTS’ ACTIONS WILL INFLICT IRREPARABLE HARM ON AMICI STATES AND THEIR RESIDENTS

As part of the legislation establishing DHS in 2002, Congress emphasized that national security must be pursued “within a framework that protects [both] civil liberties and privacy.” H.R. Rep. No. 107-609, at 66 (2002). To that end, Congress created key oversight mechanisms within DHS to monitor and address potential civil rights violations—chiefly, the Offices of the CIS Ombudsman and CRCL. The purpose of CRCL was to “review and assess information alleging abuses of civil rights, civil liberties, and racial and ethnic profiling” by DHS employees and officials; to publicize information on how the public could contact CRCL to report such abuses;

any timeframe in which this would take place, and have been careful to avoid representing which functions (if any) would be restored. Amici States’ residents and communities are suffering in the meantime.

and to report annually to Congress regarding any civil rights or civil liberties abuses that had occurred. Homeland Security Act of 2002 (HSA), Pub. L. No. 107-296, § 705, 116 Stat. 2135, 2220 (codified as amended at 6 U.S.C. § 345). In 2004, Congress expanded CRCL’s role to provide oversight to additional components of DHS, and vested the office with the authority to “investigate complaints and information indicating possible abuses of civil rights or civil liberties.” Intelligence Reform and Terrorism Prevention Act of 2004, Pub. L. No. 108-458, § 8303, 118 Stat. 3638, 3867.

At the same time, recognizing that the complex and technical nature of immigration law can create harmful delays and burdens on individuals and employers alike, Congress created the CIS Ombudsman to provide case-level assistance with immigration benefits, such as visas and work authorizations. *See* HSA § 452(b)(1), 6 U.S.C. § 272(b)(1). In addition to providing such assistance, Congress also envisioned that the CIS Ombudsman would act as an independent watchdog that could offer “an accurate, unfiltered report on serious problems with” USCIS. H.R. Rep. No. 107-609, at 102. To that end, the CIS Ombudsman was also tasked with identifying areas in which individuals and employers have problems in dealing with USCIS; proposing changes to USCIS’s practices to mitigate these problems; and identifying potential administrative solutions. 6 U.S.C. § 272(b)(1).

In 2019, Congress created a third office for civil rights oversight—the Office of the Immigration Detention Ombudsman (OIDO)—to address years of persistent reports detailing dangerous and substandard conditions in detention facilities run or contracted for by Immigration

and Customs Enforcement (ICE) and Customs and Border Protection (CBP).⁶ Consolidated Appropriations Act, 2020, Pub. L. No. 116-93, div. D, tit. I, § 106(a), 133 Stat. 2317, 2504 (2019) (codified at 6 U.S.C. § 205). Congress empowered OIDO to conduct unannounced inspections of immigration detention facilities, take confidential complaints directly from detained individuals, and escalate serious concerns directly to the DHS Secretary.⁷ *Id.*, § 106(a)-(b), 133 Stat. at 2504-05.

Together, these three statutorily mandated offices serve essential oversight functions—providing transparency, accountability, and redress in some of the most sensitive and high-stakes areas of federal immigration law and enforcement. For the reasons described in more detail below, defendants’ unilateral and sudden closure of these three offices threatens to dismantle those critical functions and exposes amici States and their residents to serious, irreparable harms by undermining many of amici’s economic and public safety interests.

A. Eliminating the CIS Ombudsman Will Irreparably Harm Amici’s Residents Seeking Legal Immigration Benefits and Their Employers, Including Amici.

Prior to its closure, the CIS Ombudsman provided direct assistance to noncitizens and employers in tens of thousands of immigration benefits cases each year—ranging from employment authorization to naturalization.⁸ Employers and individuals in amici States relied heavily on the services provided by the CIS Ombudsman to navigate a complex and error-prone immigration

⁶ See *Dep’t of Homeland Sec. Appropriations for 2020, Hearings Before a Subcomm. of the H. Comm. on Appropriations, Part 2*, 116th Cong. 22 (2019) (“*Appropriations Hearings Part 2*”); *Dep’t of Homeland Sec. Appropriations for 2020, Hearings Before a Subcomm. of the H. Comm. on Appropriations, Part 3*, 116th Cong. 109, 124, 134, 318 (2019).

⁷ The DHS Inspector General himself recommended that Congress fund *unannounced* inspections. *Appropriations Hearings Part 2* at 40-41.

⁸ See, e.g., CIS Ombudsman, *Annual Report 2024* iv (June 28, 2024) (“There is no USCIS application or petition type we do not handle[.]”).

system. In fiscal year 2023 alone, for example, the CIS Ombudsman received 3,047 requests from California, 2,757 requests from New York, 1,188 requests from New Jersey, 1,092 requests from Massachusetts, 845 requests from Illinois, 656 requests from Maryland, and 130 requests from the District of Columbia.⁹ Taken together, these seven amici alone represent 41% of the total requests for case assistance (23,585 requests) that the CIS Ombudsman received nationwide in 2023.¹⁰ These numbers reflect both the volume of immigration activity in amici States and the extent to which their residents rely on this statutorily created office for redress when USCIS systems break down.

Amici's reliance on the CIS Ombudsman is unsurprising given the high numbers in which residents and businesses in these States apply for immigration benefits—such as the legal authority to work or permanently reside in the United States, or citizenship. In 2019, for example, California, New York, and New Jersey were among the top five States of residence for people who naturalized—with nearly one third of all naturalizations nationwide coming from residents of these three States alone.¹¹ California, New York, and New Jersey are also consistently among the top ten States with the most specialty occupation visa (H-1B) recipients, with California having over 100,000 H-1B approvals in 2022.¹² California, New York, Arizona, Colorado, Maryland, New Jersey, and Illinois

⁹ *Id.* at 75-77.

¹⁰ *See id.* at iv.

¹¹ USCIS, *Characteristics of People Who Naturalized Between FY 2015 and FY 2019 2-3* (July 2021).

¹² Conor Gowder, *Useful Stats: A Look at the H-1B Visa Program by Industry, Employer and State*, State Sci. & Tech. Inst. (Oct. 26, 2023).

are also consistently among the top States where individuals are granted affirmative asylum from USCIS.¹³

Amici also frequently interact with USCIS in their capacity as employers. For example, amici States' public universities and hospitals sponsor thousands of individuals for employment through H-1B and other types of visas each year.¹⁴ Amici are proud to invest in these individuals because, as one advocacy group has explained, such individuals "contribute to groundbreaking research, provide medical services to underserved and vulnerable populations," and "hold critical jobs maintaining the infrastructure necessary for the institutions' operations."¹⁵ Timely and error-free processing of these visa applications by USCIS, in turn, is critical because universities follow an academic calendar and must ensure the availability of faculty at the beginning of each semester, and must have lead and supporting researchers on campus when grant monies are disbursed.¹⁶ Similarly, because teaching hospitals rely on residency training programs that begin at a set time each year, the timely processing of H-1B visas is critical to ensuring enough medical residents at the start of each program year to meet the healthcare needs of patients.¹⁷

¹³ See Noah Schofield & Amanda Yap, Off. of Homeland Sec. Stat., *Asylees: 2023* 12 (Oct. 2024).

¹⁴ For instance, in 2024, USCIS initially approved 474 H-1B visas and continued 386 H-1B visas in the University of California system. See USCIS, *H-1B Employer Data Hub* (data last updated Sept. 30, 2024).

¹⁵ See Letter from Ted Mitchell, President, Am. Council on Educ., to Charles L. Nimick, Division Chief, Bus. & Foreign Workers Div., USCIS 1 (Dec. 22, 2023).

¹⁶ See Letter from Ass'n of Am. Med. Colls. et al., to Lori Scialabba, Acting Director, USCIS 1 (Mar. 22, 2017).

¹⁷ See Joanne Finnegan, *Physician Groups Raise Alarm over Potential Dearth of Medical Residents in July Due to Visa Delays*, Fierce Healthcare (May 31, 2018).

In addition, amici's public universities rely on USCIS to approve visas for their international students.¹⁸ International students make important contributions to amici States, such as working as assistant teachers or researchers at public universities,¹⁹ and graduating with science, technology, engineering, and math degrees that result in vital contributions to the economies of amici States.²⁰ As with employment-based visas, timely and error-free processing of student visas is critical, not only because students themselves must be on campus at the beginning of each semester to attend classes but also because university administrators must be able to accurately forecast admission, matriculation, and revenue each academic year.²¹ Addressing problems and delays in USCIS visa processing is key to attracting these students, some of whom, by attending amici's universities, gain eligibility for "optional practical training," another immigration benefit granted by USCIS that allows foreign-born, American-educated students who comply with visa standards to work for up to three years in a field related to their area of study.²²

¹⁸ See Homeland Sec. Investigations, 2023 SEVIS by the Numbers Report 14-15 (n.d.). In 2023, for example, Arizona State University had 17,953 active F-1 students; the University of Illinois had 16,418 active F-1 students; the University of Michigan had 12,952 active F-1 students, and the University of California San Diego had 12,249 active F-1 students.

¹⁹ See William A. Kandel et al., Cong. Rsch. Serv., R47164, U.S. Employment-Based Immigration Policy 32 (Nov. 19, 2024).

²⁰ See Neil G. Ruiz & Abby Budiman, Number of Foreign College Students Staying and Working in U.S. After Graduation Surges, Pew Rsch. Ctr. (May 10, 2018).

²¹ See NAFSA: Ass'n of Int'l Educators, New York: Benefits from International Students (n.d.); Jacob Jackson, Pub. Pol'y Inst. of Cal., International Students Play a Critical Role in Higher Education (July 15, 2020).

²² See FWD.us, What is OPT? Optional Practical Training Policy Brief (Oct. 30, 2024); see also Homeland Sec. Investigations, 2023 Top 100 School Campuses with OPT (Pre- + Post-Completion) by Active SEVIS Records (n.d.); Homeland Sec. Investigations, 2023 Top 100 School Campuses with STEM OPT Authorizations by Active SEVIS Records (n.d.).

The abrupt termination of the CIS Ombudsman’s services will have devastating consequences for amici and their residents. Without the critical case-assistance services provided by the CIS Ombudsman, thousands of individuals in amici States will likely face denials or extreme delays in obtaining vital immigration benefits such as work and student visas, work authorizations, and green cards. Historically, for example, the CIS Ombudsman has helped individuals solve problems with the receipt dates of responses to “requests for evidence,” which are tools that USCIS sometimes uses to seek additional information from applicants.²³ For these individuals, USCIS has erroneously marked critical evidence as late or never received, dooming the applicant’s chances of relief or benefits, even if the applicants have proof that USCIS timely received the documents.²⁴ Likewise, the CIS Ombudsman has historically intervened when individuals have not received an “initial receipt notice” of their petition or application from USCIS.²⁵ For these individuals, even accessing USCIS’s normal customer service options typically requires the customer to provide a receipt number—the very thing they would be calling about.²⁶

²³ CIS Ombudsman, *Annual Report 2024*, *supra*, at 6, 37, 39-40 & n.226; see Julia Gelatt, *Unblocking the U.S. Immigration System: Executive Actions to Facilitate the Migration of Needed Workers* 6, Migration Pol’y Inst. (Feb. 2023).

²⁴ See CIS Ombudsman, *Annual Report 2024*, *supra*, at iv, 6, 15, 36-37, 39-40 & n.226. Similarly, the CIS Ombudsman helps individuals for whom USCIS has marked a request for evidence (RFE) as unanswered, but the individual never received the RFE. *Id.* at 39-40; see, e.g., @KFelts910, Reddit (Mar. 21, 2025) (describing successful resort to CIS Ombudsman to resolve this problem).

²⁵ See Am. Immigr. Laws. Ass’n, *How to Request CIS Ombudsman’s Individual Case Assistance* (Nov. 8, 2023). An initial receipt notice “reassures most individuals that their case is underway and establishes the official filing date with USCIS.” CIS Ombudsman, *Annual Report 2024*, *supra*, at 39.

²⁶ See *id.* at 15. By way of illustration, in 2023, the CIS Ombudsman received approximately 400 requests for case assistance involving delayed receipt notices for defensive asylum applicants—an estimated forty percent of whom had resorted to filing duplicate applications (sometimes four or five) to avoid missing critical deadlines. See *id.* at 15 n.74.

If the CIS Ombudsman is allowed to shutter permanently, applicants may be unable to resolve these problems at all or may not be able to do so before important, time-limited benefits (such as work authorization) expire. To the extent applicants and employers have any recourse, it will be expensive and time-consuming, such as filing motions to reopen, administrative appeals, or new applications—all of which create additional procedural steps and attendant delays.²⁷ Employers are also likely to incur greater costs, including paying large “premium” processing fees to avoid delays or errors; paying legal fees to attempt to remedy wrongful denials; and paying to hire temporary workers while visas are pending.²⁸ Closing the CIS Ombudsman will also be more costly to amici, many of whom fund legal assistance programs to help their residents apply for T- and U-visas, asylum, or temporary protected status.²⁹ Without the CIS Ombudsman’s intervention, many of these errors can result in a permanent loss of status, deportation risks, or forced departure from jobs or schools—harm that is not merely an administrative inconvenience, but deeply consequential and often irreversible.

In addition to the loss of direct case assistance, eliminating the CIS Ombudsman will also remove what has historically been an important tool in spotlighting and correcting USCIS-wide problems. For instance, after the CIS Ombudsman called attention to significant backlogs in adjudications of unlawful presence waivers (Form I-601A) in 2023, median processing times have

²⁷ See Jeelani L. Firm, P.L.C., *The Impact of DHS Suspension of USCIS Ombudsman to Immigrants* (Apr. 14, 2025).

²⁸ See Gelatt, *Unblocking the U.S. Immigration System*, *supra*, at 11; Duane Morris LLP, *Expect Delays in H-4 EAD Adjudications upon End of Homeland Security Settlement* (Nov. 14, 2024) (suggesting that employers can avoid delays by using premium processing or upgrading existing applications to premium processing).

²⁹ See, e.g., Nat’l Immigr. F., *Public Funding for Immigration Legal Services* (Apr. 12, 2021); N.Y. State, Press Release, *Governor Hochul, Mayor Adams Announce \$38 Million for Asylum Seeker Legal Services and Case Management* (Oct. 3, 2023).

decreased by eleven months.³⁰ That type of agency-wide impact cannot be replicated by shifting functions internally to USCIS. In addition, in December 2024, the CIS Ombudsman issued recommendations to USCIS to improve steps for processing the family-based petition (Form I-130).³¹ Form I-130 is one of top three forms for which residents of amici States request case assistance from the CIS Ombudsman (13% of requests for California, 12% from New York, 11% from New Jersey, 8% from Massachusetts, 15% from Illinois, and 14% from Maryland).³² Without the CIS Ombudsman’s oversight, existing problems delays at USCIS can be expected to remain or to worsen.³³

Defendants are incorrect to suggest that the harm will not be irreparable because, although defendants have concededly eliminated the CIS Ombudsman’s “entire staff” (Mem. in Opp. to Pls.’ Mot. for a Prelim. Inj. (Opp.) at 6), the CIS Ombudsman’s functions have purportedly been folded into other, unspecified DHS components, who will continue “accepting”—but, conspicuously, not acting on—complaints. *See* Opp. at 35; *see id.* at 6-7, 10. As an initial matter, the CIS Ombudsman was created to provide services *in addition* to USCIS’s customer service channels—not in lieu of

³⁰ *See* CIS Ombudsman, *Annual Report 2024*, *supra*, at vii, 29; USCIS, *Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms by Fiscal Year* (data current through Feb. 28, 2025).

³¹ DHS, *CIS Ombudsman Issues Formal Recommendation to USCIS on Improving Family-Based Petition Routing Procedures and Preventing Delays Post-Approval* (Dec. 18, 2024).

³² CIS Ombudsman, *Annual Report 2024*, *supra*, at 73-76.

³³ For example, as of the first quarter of 2025, USCIS reported over half a million applications for initial employment authorizations—including over 10,000 for asylum seekers—that had been pending for more than sixty days. *See* USCIS, *I-765, Application for Employment Authorization Counts of Pending Petitions by Days Pending for All Eligibility Categories and (c)(8) Pending Asylum Category* (data current through Dec. 31, 2024).

them—and only after USCIS’s service options had been exhausted.³⁴ Moreover, USCIS’s existing customer service channels are notoriously inadequate and difficult to navigate, even if the applicant does possess a receipt number. USCIS has greatly limited the ability of individuals to make an appointment to meet with a caseworker face-to-face, moving instead to a telephonic service center model.³⁵ Accessing help through USCIS’s service telephone line is a daunting process, which requires a lengthy menu and long hold times to reach a live representative to even *submit* a request. Indeed, one survey revealed that twenty-five percent of callers hang up before reaching a live representative, and another twenty-five percent reported being abruptly disconnected when attempting to reach a live person.³⁶ If they get through, individuals may have to wait days before receiving a call back from an immigration officer who can substantively assist with the request, and if the callback is missed, the individual may be required to start the process again.³⁷ Congressional casework services do not—and cannot—replicate the CIS Ombudsman’s independent investigatory authority or systemic problem-solving role, given the unique and technical nature of immigration law and benefits processes.

³⁴ Decl. of Alex Doe ¶ 4 (May 3, 2025), ECF No. 15-9; Decl. of Debra Rogers ¶ 5 (May 1, 2025), ECF No. 15-10.

³⁵ See Gelatt, *Unblocking the U.S. Immigration System*, *supra*, at 11.

³⁶ Paul Stern & Sharvari Dalal-Dheini, *Walled Off: How USCIS Has Closed Its Doors on Customers and Strayed from Its Statutory Customer Service Mission* 4-5, Am. Immigr. L. Ass’n (Feb. 12, 2021).

³⁷ See *id.* at 4.

B. Eliminating the Immigration Detention Ombudsman Will Irreparably Harm Amici’s Residents Who Spend Time in Immigration Detention and Strain State and Local Public Healthcare Systems.

DHS currently administers or contracts for the operation of numerous immigration detention facilities across the country, including in amici States.³⁸ Reports of unsafe conditions in these facilities have prompted some amici States to pass transparency laws,³⁹ but limited access to federally- and privately-operated facilities unfortunately remains possible only with DHS cooperation in some States, and the level of access to private detention facilities remains contested in other States.⁴⁰ Because amici are constrained in the amount of direct oversight that they can provide, OIDO has been essential to protecting the health and safety of individuals detained in facilities located in amici States, as well as residents of amici States who are detained in facilities elsewhere.⁴¹

³⁸ See, e.g., ICE, *Detention Facilities* (updated Jan. 22, 2025).

³⁹ See, e.g., Second Substitute H.B. 1470, 68th Leg. Reg., Sess. (Wash. 2023), enacted as 2023 Wash. Sess. Laws, ch. 419; Cal. Dep’t of Just., *Immigration Detention in California* 4 (2025); David S. Rubenstein & Pratheepan Gulasekaram, *Privatized Detention & Immigration Federalism*, 71 Stan. L. Rev. Online 224, 228 (Mar. 2019).

⁴⁰ *The GEO Group, Inc. v. Inslee, et al.*, Case No. 24-2815 (9th Cir. argued Feb. 14, 2025); *Washington Dep’t of Health v. The GEO Group, Inc.*, Case No. 24-5880 (9th Cir. appeal docketed Sept. 26, 2024).

⁴¹ See also Leon Yin et al., *The Rising Cost of ICE Flying Immigrants to Far-Flung Detention Centers*, Bloomberg (May 1, 2025) (“Immigrants detained by ICE during the first month of Trump’s new term were taken across state lines at higher rates than previous administrations,” with some detention centers along the Southern border “accepting detainees from the East Coast for the first time in at least a dozen years.”).

There have also been several recent, high-profile examples of ICE moving individuals apprehended in amici States to different States. See, e.g., Alex Sundby, *Mom, 3 Children Detained by ICE and Taken to Texas Being Returned to New York, Officials Say*, CBS News (Apr. 7, 2025); Surina Venkat & Tsehai Alfred, *Palestinian Activist Mahmoud Khalil, SIPA ‘24, Moved to Detention Facility in Louisiana, According to ICE Database*, Columbia Spectator (Mar. 10, 2025).

Prior to its abrupt closure, OIDO's case managers conducted hundreds of monthly site visits and unannounced inspections at detention facilities across the country.⁴² At site visits, case managers provided direct, face-to-face assistance to detained individuals and interceded with facility management to resolve serious problems before they escalated.⁴³ Similarly, the inspections allowed OIDO to identify and remedy systemic conditions, such as critically low medical staffing levels,⁴⁴ leaking roofs,⁴⁵ and mold in living areas.⁴⁶ OIDO also responded to thousands of complaints from detainees annually about issues related to living conditions and medical care,⁴⁷ including but not limited to biting insects in a detainee living area; distribution of incorrect medication; failure to provide medically necessary crutches to a detainee with an amputated limb; and failure to provide appropriate meals to a detainee with diabetes.⁴⁸ In addition, OIDO identified and reported on a calculated use of force incident at Mesa Verde, which targeted four hunger strikers, who were transferred to a facility in El Paso, Texas.⁴⁹ OIDO found that Mesa

⁴² See OIDO, *OIDO Annual Report 2023* 51 (Mar. 2024).

⁴³ See OIDO, *2021 Annual Report* 20 (Apr. 2022) (noting that a "chat with a case manager at a facility is all that is needed to start a case").

⁴⁴ OIDO, *Ombudsman Alert: Critical Medical Understaffing on the Border* 1 (July 12, 2022).

⁴⁵ OIDO, *OIDO Inspection: Central Arizona Florence Correctional Center* 11-12 (Apr. 18, 2023).

⁴⁶ OIDO, *OIDO Inspection of Northwest ICE Processing Center* 20-21 (Nov. 20, 2024).

⁴⁷ See OIDO, *Newsletter No. 11*, at 6-7 (Nov. 2024).

⁴⁸ See OIDO, *OIDO Annual Report 2023*, *supra*, at 12, 31, 42; OIDO, *Annual Report 2022* 28 (June 2023). Contrary to defendants' misleading representations, OIDO's functions of handling individual complaints (approximately 12,000 in 2023) and of conducting official inspections (approximately 22) are distinct. *Contra Opp.* at 4.

⁴⁹ OIDO, *Final Report Limited-Scope Unannounced Inspection of Mesa Verde ICE Processing Center in Bakersfield, California* (Nov. 2, 2023).

Verde failed to report the incident and did not fully record the incident.⁵⁰ If not for OIDO's unannounced inspection, the incident would not have been reported and policy violations would not have been addressed.

In the past few months, the need for OIDO's services has only grown. First, the overall population of detained individuals has reached a near-term high and is expected to balloon further.⁵¹ As detention facilities have grown more crowded, individuals have reported more problems with living conditions, medical care, and abuse.⁵² Second, the Trump administration has announced its intent to reopen previously shuttered facilities—including some closed for noncompliance or mismanagement—raising a compelling need for oversight.⁵³ Without the ability to make complaints to OIDO—or to rely on OIDO's site visits and unannounced facility inspections—detained individuals are likely to face increasingly unsanitary and dangerous conditions. Finally, the increased practice of transferring detainees to geographically isolated facilities has greatly impeded contact and communication with family members and attorneys,⁵⁴ leaving an increasing number

⁵⁰ *Id.* at 8.

⁵¹ See Transactional Recs. Access Clearinghouse, *ICE Detention Increases to Highest Levels Since 2019* (Feb. 28, 2025); Aaron Reichlin-Melnick, Immigr. Impact, *House Reconciliation Bill Would Supercharge Immigrant Detention and Effectively Eliminate Asylum for Most* (May 5, 2025).

⁵² See Emily Hofstaedter, *Immigration Attorneys Say People Are Subject to Inhuman Conditions in Detention Centers*, NPR (Apr. 6, 2025) (describing instances where individuals detained by ICE in Maryland were not fed for days and were forced to sleep on a floor with over a dozen other detainees).

⁵³ Marianne LeVine et al., *Private Prison Firms Prepare to Reopen Closed Facilities to Hold Immigrants*, Wash. Post (Feb. 28, 2025).

⁵⁴ See Yin, *The Rising Cost of ICE Flying Immigrants to Far-Flung Detention Centers*, *supra*.

of vulnerable individuals with no one to assist them.⁵⁵ Without OIDO, the increased risks to detained individuals will go unaddressed until they result in true emergency situations or inflict irreversible harm.

The consequences of eliminating OIDO also extend far beyond detention walls. Each year, ICE releases hundreds of thousands of individuals from immigration detention back into their communities—on bond, parole, or other forms of permanent relief.⁵⁶ It is well established that denial of access to medical care in detention can cause detainees’ existing medical conditions to worsen, or cause detainees to develop new medical conditions that may need to be treated in hospital settings in the community.⁵⁷ Multiple reports have documented how detention facilities’ delays in providing medical care have caused individuals “to end up hospitalized in intensive care units for many months.”⁵⁸ One woman detained in the New York Metropolitan Area, for example, was denied adequate treatment for sickle-cell disease. On the same day that she was unexpectedly released from ICE custody, she was hospitalized for two months in an intensive care unit.⁵⁹ Further, individuals released from immigration detention overwhelmingly report being released

⁵⁵ See Innovation L. Lab et al., *Cut Off: How ICE Detention Facilities Block Communication* 6, 8-11 (Aug. 2021).

⁵⁶ See Off. of Homeland Sec. Stat., *DHS Repatriations – November 2024*, tab Annual ICE Book-outs by Reason (Jan. 16, 2025).

⁵⁷ N.Y. Laws. for the Pub. Int., *Detained and Denied: Healthcare Access in Immigration Detention* 1 (2017); Altaf Saadi et al., *Duration in Immigration Detention and Health Harms*, JAMA Network 2, 5-6 (Jan. 24, 2025); Altaf Saadi et al., *Cumulative Risk of Immigration Prison Conditions on Health Outcomes Among Detained Immigrants in California*, 9 J. Racial & Ethnic Health Disparities 2518, 2522 (2022); Arya Sundaram, *The Border Patrol-to-Emergency Room Pipeline*, The Atlantic (July 2019).

⁵⁸ N.Y. Laws. for the Pub. Int., *Detained and Denied*, *supra*, 1.

⁵⁹ *Id.* at 7.

without any discharge planning,⁶⁰ medical records, referrals, or continuity of care, including for serious mental health conditions like schizophrenia, which can lead to hospitalization when conditions worsen.⁶¹ When detainees are hospitalized after their release, the costs of such treatment are borne by States and localities, because public hospitals often bear the cost of care for uninsured patients,⁶² and noncitizens are uninsured at higher rates than the general population.⁶³ Nor are the injuries limited to treatment costs: hospitalizing detainees who have failed to receive basic care in detention can take up scarce bed space in rural hospitals,⁶⁴ and failing to respond to medical needs of detainees with communicable diseases can cause preventable public health risks.⁶⁵

By eliminating OIDO, DHS has cut off a crucial line of defense for detecting, investigating, and mitigating these harms before they escalate. OIDO's functions are not easily replaced or recreated, as many harms suffered by detainees take place in facilities that are closed to the public, and where DHS exercises a large measure of discretion. OIDO's abrupt closure places a direct,

⁶⁰ See *Charles v. Orange Cnty.*, 925 F.3d 73, 77 (2d Cir. 2019); Cal. Dep't of Just., *Immigration Detention in California*, *supra*, at 84, 109, 118, 128.

⁶¹ See *id.* at 14; see also Channele Diaz et al., *Harmful by Design—A Qualitative Study of the Health Impacts of Immigration Detention*, 38 J. Gen. Internal Medicine 2030, 2034 (2022); N.Y. Laws. for the Pub. Int., *Still Detained and Denied—The Health Crisis in Immigration Detention Continues* 5, 19 (n.d.).

⁶² See, e.g., Cal. Ass'n of Pub. Hosps. & Health Sys., *About California's Public Health Care Systems* (n.d.) (public hospitals in California account for forty percent 36% of hospital care to the uninsured in communities they serve); U.S. Cong. Budget Off., *The Impact of Unauthorized Immigrants on the Budgets of State and Local Governments* 8 (Dec. 2007).

⁶³ Blake N. Shultz & Pooja Agrawal, *Hospitals Bear the Costs of Detention and Incarceration*, Petrie-Flom Ctr. at Harvard L. Sch. (Aug. 18, 2020).

⁶⁴ See Washington Off. on Latin Am., *Beyond the Wall: The Human Consequences of ICE Detention Centers* at 42:58 (May 19, 2020).

⁶⁵ See, e.g., Channele Diaz et al., *Advancing Research to Address the Health Impacts of Structural Racism in U.S. Immigration Prisons*, 42 Health Affs. 1448, 1450-51 (Oct. 2023) (describing community impacts from untreated Covid-19 in immigration detention facilities).

substantial burden on amici States, both in their responsibility to protect residents and in the public systems that absorb the consequences of federal failure.

C. Closing CRCL Will Irreparably Harm Amici’s Citizen and Noncitizen Residents’ Physical Safety, Liberty, and Privacy Interests.

The abrupt closure of CRCL will harm amici and their residents by eliminating an independent, statutorily mandated mechanism for oversight, safeguarding of civil rights, and transparency. CRCL’s closure will dismantle critical protections that CRCL had previously implemented—including access to language services, accommodations for disabled individuals, and confidentiality protections for victims of trafficking and family violence. Although Defendants represent that CRCL’s investigative functions were transferred to the DHS Office of the Inspector General (*see* Opp. at 23), in 2023, the Office of the Inspector General (OIG) handled only a small fraction of the allegations received by CRCL and closed most of them, with OIG ultimately opening and retaining only two complaints out of the thousands that CRCL received.⁶⁶

Since its inception in 2002, CRCL has been a frontline accountability office for individuals whose rights were violated by DHS personnel or policies. CRCL’s public-facing work has involved fielding and investigating thousands of complaints involving all components of DHS—including ICE, CBP, USCIS, and TSA.⁶⁷ As immigration enforcement has increased, CRCL has received and investigated dozens of complaints about widespread abuses at immigration holding and detention centers around the country, including lack of access to food, water, and restrooms, and

⁶⁶ CRCL, *Fiscal Year 2023 Annual Report* 42, 45 (Nov. 2024).

⁶⁷ *See* CRCL, *Fiscal Year 2023 Annual Report*, *supra*, 42 (noting 3,104 complaints received in FY 2023).

physical abuse of children at open-air detention sites near the border.⁶⁸ CRCL has also investigated other forms of discrimination in the immigration process. In 2023, for example, in response to an allegation from a resident of California, CRCL opened a complaint alleging that USCIS had failed to provide an interpreter for a deaf applicant at her biometrics appointment, which resulted in redress to the individual and an agreement to provide training to all field offices about providing sign language interpreters.⁶⁹ Similarly, in 2020, CRCL received and investigated a complaint that ICE had performed facial recognition searches on millions of Maryland drivers.⁷⁰ In sum, CRCL serves as an essential backstop to investigate and address unlawful and harmful immigration enforcement and detention practices as varied as abuse and neglect at CBP facilities, disability discrimination by USCIS, and surveillance overreach by ICE.

Notably, CRCL has also investigated directly on behalf of amici States themselves. In 2023, for example, pursuant to a state transparency law, the California Department of Justice sent a team of inspectors to an immigration detention facility in Adelanto, California, which is run by a private prison contractor, the GEO Group.⁷¹ Once there, however, the GEO Group did not allow the State's expert to interview detainees in person and instead required the expert to interview detainees

⁶⁸ See, e.g., Immigr. Defs. L. Ctr., *Florence Project and Immigrant Defenders Release Alarming New Reports Detailing Abuse of Unaccompanied Immigrant Children in Border Patrol Custody* (Sept. 12, 2024); Letter from Al Otro Lado et al. to Shoba Sivaprasad Wadhia, Officer, CRCL (Dec. 11, 2023); see also Schwellenbach, *DHS Removed 100+ Civil Rights and Civil Liberties Records*, *supra*.

⁶⁹ See CRCL, *Summary of CRCL's Recommendations and USCIS's Response: Disability Modifications at Application Support Centers* (Sept. 6, 2024).

⁷⁰ See J. David McSwane & Hannah Allam, *"They Don't Care About Civil Rights": Trump's Shuttering of DHS Oversight Arm Freezes 600 Cases, Imperils Human Rights*, ProPublica (Apr. 8, 2025). This complaint has since been deleted. See *id.*; see also DHS, *CRCL Recommendation and Investigation Memos Collection* (n.d.).

⁷¹ Cal. Dep't of Just., *Immigration Detention in California*, *supra*, at 29.

“through a landline phone located in a conference room and only when a telephone line was available.”⁷² The GEO Group also prevented state officials from “having any interaction with detention officers, health care staff, or detainees during the tour.”⁷³ The State of California filed a complaint about GEO Group’s policies to CRCL, which investigated and issued advice to ICE how to accommodate the State’s inspections of ICE detention facilities in California.⁷⁴

In the wake of CRCL’s elimination, DHS has already proposed or begun implementing policies that pose alarming threats to human rights⁷⁵ and civil liberties,⁷⁶ and has deleted CRCL’s recommendation memos spanning a broad range of programs and activities.⁷⁷ The ongoing closure of this crucial office will continue to undermine amici’s interests in public safety and the health and welfare of their residents. Without CRCL, amici States are left with no direct channel to flag patterns of civil rights violations to DHS leadership and no federal partner to support the enforcement of basic constitutional norms in DHS operations. This harm is ongoing, systemic, and irreparable. Once the staff and functions of CRCL are dissolved, the ability to restore the authority, institutional memory, and public trust will be difficult—if not impossible—leaving vulnerable communities without meaningful redress and amici States without a critical ally in protecting their residents’ fundamental rights.

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Defendants have now removed this guidance from ICE’s website. *Compare* DHS, *CRCL Recommendation and Investigation Memos Collection*, *supra*, with Schwellenbach, *DHS Removed 100+ Civil Rights and Civil Liberties Records*, *supra*.

⁷⁵ See Julia Ainsley, [*Trump Administration Preparing to Restart Immigrant Family Detention*](#), NBC News (Feb. 7, 2025).

⁷⁶ See Priscilla Alvarez et al., [*DOGE Is Building a Master Database for Immigration Enforcement*](#), *Sources Say*, CNN (Apr. 25, 2025).

⁷⁷ See Schwellenbach, *DHS Removed 100+ Civil Rights and Civil Liberties Records*, *supra*.

CONCLUSION

Plaintiffs' motion for a preliminary injunction should be granted.

Dated: New York, New York
May 16, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 16, 2025, I have served the foregoing Memorandum of Law on all registered parties through the Court's electronic case filing (CM/ECF) system.

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