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15 IN THE UNITED STATES DISTRICT COURT
 16 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

17 AL OTRO LADO, Inc., a California
 18 corporation; ABIGAIL DOE, BEATRICE
 19 DOE, CAROLINA DOE, DINORA DOE,
 20 INGRID DOE, ROBERTO DOE,
 21 MARIA DOE, JUAN DOE, ÚRSULA
 22 DOE, VICTORIA DOE, BIANCA DOE,
 23 and CÉSAR DOE, individually and on
 24 behalf of all others similarly situated,

25 Plaintiffs,

26 v.

27 KIRSTJEN M. NIELSEN, Secretary,
 28 United States Department of Homeland
 Security, in her official capacity; KEVIN
 K. MCALEENAN, Commissioner, United
 States Customs and Border Protection, in
 his official capacity; TODD C. OWEN,
 Executive Assistant Commissioner, Office
 of Field Operations, United States
 Customs and Border Protection, in his
 official capacity; and DOES 1-25,
 inclusive,

Defendants.

Case No. 3:17-cv-02366-BAS-KSC

**AMICUS CURIAE BRIEF OF THE
 STATES OF CALIFORNIA,
 CONNECTICUT, THE DISTRICT
 OF COLUMBIA, DELAWARE,
 HAWAII, ILLINOIS, MARYLAND,
 MASSACHUSETTS, MICHIGAN,
 MINNESOTA, NEVADA, NEW
 JERSEY, NEW MEXICO, NEW
 YORK, OREGON,
 PENNSYLVANIA, RHODE
 ISLAND, VERMONT, VIRGINIA,
 AND WASHINGTON IN SUPPORT
 OF PLAINTIFFS**

Judge: Hon. Cynthia A. Bashant
 Action Filed: July 12, 2017

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INTRODUCTION AND STATEMENT OF INTEREST

1 The States of California, Connecticut, the District of Columbia, Delaware,
2 Hawaii, Illinois, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New
3 Jersey, New Mexico, New York, Oregon, Pennsylvania, Rhode Island, Vermont,
4 Virginia, and Washington (Amici States) respectfully submit this brief as amici
5 curiae in support of plaintiffs’ opposition to defendants’ motion to partially dismiss
6 the second amended complaint in this matter. The Amici States have strong
7 interests in the issues raised here. They invest significant resources to provide
8 education, health care, and other services to immigrants residing within their
9 borders, including asylum-seekers and asylees, in order to appropriately transition
10 them into life in our States. The Amici States also have a strong interest in ensuring
11 that federal agencies refrain from actions that violate the law and Constitution.
12 Defendants’ Turnback Policy harms these interests by causing undue trauma to
13 migrants which will make their needs more difficult for the Amici States to address,
14 and illegally denying members of the plaintiff class their right to petition the United
15 States for asylum.
16

17 A number of the Amici States fund not-for-profit agencies to provide
18 services to asylum-seekers, among other immigrants.¹ California, for example,
19 provided over \$41 million in funding for this purpose in the past fiscal year.² The
20 District of Columbia provides \$900,000 in Immigrant Justice Legal Services grants
21 to community-based non-profits to provide targeted services—including direct legal

22 ¹ See, e.g., Cal. Dep’t of Soc. Servs. (CDSS), *Immigration Services*
23 *Contractors*, <https://tinyurl.com/Cal-DSS-ISC>. These grantees include plaintiff
24 organization Al Otro Lado. Last year, Al Otro Lado was a subcontractor of grantee
25 International Institute of LA, and received approximately \$250,000; in the
26 upcoming fiscal year, Al Otro Lado is proposed to receive a similar amount as a
27 direct grantee.

28 ² CDSS, *Immigration Branch Immigration Services Funding Tentative*
Award Announcement (Oct. 31, 2017), <https://tinyurl.com/Cal-DSS-ISawards>.

1 services to asylum seekers—in the District.³ Massachusetts provides funds
2 specifically to assist immigrants with respect to domestic violence, mental health
3 services relating to torture and trauma, academic and coaching support,
4 employment and business services, and legal assistance.⁴ Washington’s Office of
5 Refugee and Immigrant Assistance provides comprehensive economic stability and
6 immigration services to more than 10,000 refugees and immigrants each year,
7 including asylees and unaccompanied children, using an annual budget of nearly
8 \$28 million.⁵ Illinois provides funds to assist immigrants with refugee resettlement,
9 including short-term cash assistance, health screening, language services,
10 vocational training and employment services, assistance with public benefits and
11 human services, and multilingual mental health services for immigrants who have
12 experienced severe trauma.⁶ Virginia provides asylees services and support through
13 the Virginia Refugee Resettlement Program. These services include financial
14 assistance (such as rent, utilities, transportation, and other basic needs),
15 employment assistance, academic integration support (including adjustment
16 services to students and parents and college preparation assistance), individual
17 mentoring for youth, adjustment services to elders, and citizenship and benefit
18 application assistance.⁷ New Mexico funds several significant border transition

19 ³ See Mayor’s Off. of Community Affairs, *FY 2019 Immigrant Justice Legal*
20 *Services Grant*, <https://tinyurl.com/DC-IJLSG>.

21 ⁴ See FY 2019 Final Budget, 2018 Mass. Acts 154, [https://tinyurl.com/Mass-](https://tinyurl.com/Mass-FY19)
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23 ⁵ See Off. of Refugee and Immig. Assistance, Econ. Servs. Admin., Wash.
24 Dep’t of Soc. & Health Servs., *Briefing Book for State Fiscal Year 2018*,
<https://tinyurl.com/y528prka>.

25 ⁶ See Ill. Refugee Resettlement Prog., *FY 2017 Annual Report*,
26 <https://tinyurl.com/y44vzxx8>; Ill. Dep’t of Hum. Servs., *Bureau of Refugee and*
27 *Immigrant Servs.*, <https://tinyurl.com/y3ed43xs>; Ill. Dep’t of Hum. Servs., *Ill.*
Welcoming Centers, Brochure, <https://tinyurl.com/y6o453sr>.

28 ⁷ Va. Dep’t of Soc. Servs., *Va. Refugee Resettlement Prog. Manual* (Nov. 1,

1 programs designed to help newcomers stay healthy, get educated and go to work.
 2 New Mexico supports new immigrants to become productive community members
 3 through its Emergency Medicaid Services for Aliens (EMSA)⁸ and Border Health
 4 Services programs,⁹ among others, which provide services without regard to
 5 citizenship status. New York allocates millions of dollars to support immigrants'
 6 access to education, employment, health care, and legal services.¹⁰ New Jersey will
 7 provide up to \$2.1 million in 2019 for legal assistance to individuals facing
 8 detention or deportation based on their immigration status.¹¹

9 Amici States also provide funding for organizations to assist undocumented
 10 unaccompanied minors, many of whom have asylum claims.¹² As discussed further
 11 below, the harms to organizations like plaintiff Al Otro Lado that the Turnback
 12 Policy causes in the form of frustration of mission and diversion of resources also

13 _____
 14 2018), <https://tinyurl.com/y4rxke6q>; Va. Dep't of Soc. Servs., *More Refugee Services*, <https://dss.virginia.gov/family/ons/more.cgi>.

15 ⁸ See N.M. Ctr. on L. and Poverty, *Emergency Services for Immigrants*,
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17 ⁹ N.M. Dep't of Pub. Health, *Off. of Border Health*,
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19 ¹⁰ See, e.g., N.Y. State, Off. of Temporary and Disability Assistance, Refugee
 20 Servs., *Overview*, <https://otda.ny.gov/programs/bria/>; Jano Tantongco, *State Budget Maintains Liberty Defense Project, Free Legal Help for Immigrants*, Long Island
 21 Wins (Apr. 5, 2018), <https://tinyurl.com/y2cxqz43>.

22 ¹¹ See FY 2019 Budget Detail, 2018 N.J. Sess. Law Serv. Ch. 53, p. B-199,
 23 <https://tinyurl.com/y4j2386n>.

24 ¹² See, e.g., CDSS, *Unaccompanied Undocumented Minors Legal Services Funding Contractor Referral List* (FY2017-18), <https://tinyurl.com/ILS-contractors>
 25 (including Al Otro Lado); CDSS, *Immigration Services*, *supra* note 1 (noting that
 26 CDSS provided almost \$3 million for these services in FY 2018-19). Michigan has
 27 two programs for children, including the largest state program for Unaccompanied
 28 Refugee Minors (URM), providing foster care services for eligible minors granted
 asylee/refugee status before coming to the U.S. See Mich. Dep't of Heath & Hum.
 Servs., *Refugee Assistance & Services*, <https://tinyurl.com/y2ey3u3c>.

1 impact Amici States, as delivery of these critical state-funded services is impeded.

2 Thus, the States urge the Court to deny the motion to dismiss and allow this
3 action to move forward.¹³

4 ARGUMENT

5 A. The Turnback Policy is Exacerbating Inhumane Border 6 Conditions and Causing Additional Trauma to Already 7 Vulnerable Migrants.

8 Defendants’ Turnback Policy, which forces migrants to remain at the border
9 while they attempt to enter the United States, inflicts significant trauma on migrants
10 who have already been traumatized as discussed below.¹⁴ Media reports have

11 ¹³ A number of the Amici States have challenged the Turnback Policy in the
12 context of its connection to defendants’ family separation policy in a lawsuit
13 transferred to this Court in August 2018. Compl., *Washington v. United States*,
14 Case No. 18-cv-1979 (S.D. Cal. June 26, 2018), ¶¶ 2 (“Border officials are
15 unlawfully turning away . . . families [fleeing violence and persecution in their
16 home countries] on the pretext that the United States is ‘full’ or no longer accepting
17 asylum seekers. This unlawful practice exacerbates the trauma already suffered by
18 [asylum seeking] families”); 58–60 (describing Turnback Policy). Defendants
19 have yet to respond to the complaint in that case.

20 ¹⁴ Defendants have also recently begun to implement a program—originally
21 known as “Remain in Mexico,” and since renamed the “Migrant Protection
22 Protocols” (MPP)—under which asylum seekers are returned to Mexico for the
23 duration of their asylum proceedings. See DHS, *Migrant Protection Protocols* (Jan.
24 24, 2019), <https://tinyurl.com/DHS-remain>. While initially only applying the policy
25 to single adults at the San Diego-Tijuana border crossing, Richard Gonzales, *Trump
26 Administration Begins “Remain In Mexico” Policy, Sending Asylum-Seekers Back*,
27 NPR (Jan. 29, 2019), <https://tinyurl.com/NPR-remain>, DHS has reportedly begun
28 returning families as well. Adolfo Flores, *The Trump Administration Has Sent the
First Asylum-Seeking Families Back to Mexico* (Feb. 14, 2019),
<https://tinyurl.com/y2sptvew>. And DHS reportedly plans to expand MPP to other
sectors of the border. Robert Moore, *“If the Police Aren’t Safe Here, What About
Us?” Asylum Seekers Fear “Remain in Mexico” Policy*, Texas Monthly (Feb. 7,
2019), <https://tinyurl.com/Tex-Mo-Juarez> (describing plan to “begin implementing
[MPP] at other border sites, beginning with the El Paso-Juárez border”). This new
policy will result in still more individuals languishing for still longer in dangerous
and inhumane conditions at the border. See, e.g., Am. Immig. Lawyers Assoc.,

1 extensively documented the inhumane conditions outside these ports of entry. The
2 images and stories are grim, as thousands of immigrants, many with young
3 children, have been forced to stay in a makeshift camp at a sports complex, a shelter
4 at an abandoned concert venue in one of the most dangerous parts of Tijuana, and
5 on plastic tarps in the streets waiting to be processed by CBP.¹⁵ After multiple
6 instances of rain, the camp at the sports complex became a muddy pit where people
7 lost their limited belongings.¹⁶ The unsanitary conditions “have raised concerns
8 among aid workers and humanitarian organizations that the migrants, packed into a
9 space intended for half their number, are susceptible to outbreaks of disease.”¹⁷
10 Many developed respiratory infections due to the wet and cold weather, and health
11 officials also reported multiple cases of lice and chicken pox.¹⁸ Children
12 languishing at the border are becoming ill and not attending school, and families are
13 not receiving basic health and social services that the States would otherwise
14 provide, including mental health treatment.¹⁹ Local authorities lack sufficient

15 _____
16 *Policy Brief: “Remain in Mexico” Plan Sows Chaos, Puts Asylum Seekers at Risk*
(Dec. 21, 2018), <https://tinyurl.com/AILA-Remain>.

17 ¹⁵ Catherine E. Shoichet & Leyla Santiago, *The Tear Gas is Gone. But in*
18 *This Shelter at the Border, the Situation Is Getting Worse*, CNN (Nov. 29, 2018),
19 <https://tinyurl.com/Shoichet>; Sarah Kinosian, *Migrants at Mexico Border Face an*
20 *Uncertain Future on Their Own*, The Guardian (Dec. 1, 2018),
<https://tinyurl.com/Kinosian>.

21 ¹⁶ Kate Linthicum, *Rain Turns Migrant Camp in Tijuana into a Miserable,*
22 *Muddy Pit*, L.A. Times (Nov. 29, 2018), <https://tinyurl.com/Linthicum-LAT>.

23 ¹⁷ Sarah Kinosian et al., *Mexico Begins Moving Caravan Migrants to New*
24 *Shelter but Faces Mistrust*, Wash. Post (Nov. 30, 2018),
<https://tinyurl.com/Kinosian-shelter>.

25 ¹⁸ Christine Murray, *Ailing Central American Migrants in Dire Conditions*
26 *Dig in at U.S. Border*, Reuters (Nov. 28, 2018), <https://tinyurl.com/Murray-Reuters>.

27 ¹⁹ UNICEF, *Statement on Situation of Migrant Children at Mexico-U.S.*
28 *Border* (Nov. 28, 2018), <https://tinyurl.com/UNICEF-border> (noting “limited
access to many of the essential services [children] need for their wellbeing,

1 resources to help immigrants for prolonged periods and have called on
2 humanitarian organizations for assistance.²⁰ Recent media reports indicate that
3 conditions have not improved; in fact, “it’s clear the government shutdown has only
4 made conditions worse—making the legal process even more dragged out for
5 [asylum seekers] still applying and waiting.”²¹ Indeed, Amnesty International
6 reported that one of the few shelters available to migrants near Tijuana (the
7 abandoned concert hall) closed with virtually no notice, leaving former residents to
8 wander around outside.²²

9 In New Mexico, two young children died in CBP custody in the month of
10 December 2018 alone. Jakelin Caal Maquin, a seven-year-old Guatemalan girl, died
11 of septic shock, fever and dehydration on December 8 after seeking asylum at the
12 Antelope Wells designated point of entry and waiting some six hours before being
13 transported the 90 miles to Lordsburg, New Mexico.²³ Felipe Gómez Alonzo, an
14 eight-year-old who attempted to enter the country near El Paso, was held for a week
15 in CBP custody before his Christmas Eve death near Alamogordo.²⁴ The bottleneck
16 created by the Trump Administration’s Turnback policy is a direct threat to the
17 _____
18 including nutrition, education, psychosocial support and healthcare”).

19 ²⁰ Leah McDonald, *Mayor of Tijuana Said the \$30,000-a-Day Funding to*
20 *Assist with Caravan of 6,000 Central American migrants Is About to Run Out*,
21 Daily Mail (Nov. 28, 2018), <https://tinyurl.com/McDonald-DailyMail>.

22 ²¹ Elizabeth Espinosa & Marissa Wenzke, *In Tijuana, an L.A. City*
23 *Councilman Tries to Help While Migrants Face a Complicated and Harsh Process*
24 *for Asylum*, KTLA (Jan. 22, 2019), <https://tinyurl.com/KTLA-Tijuana>.

25 ²² D. Parvaz, *The Pentagon Just Doesn’t See Trump’s Border Wall as an*
26 *Emergency*, ThinkProgress (Jan. 30, 2019) <https://tinyurl.com/Parvaz-Wall>.

27 ²³ Angela Kocherga, *Border Patrol Officials Probe Death of 7-Year Old*,
28 Albuquerque J. (Dec. 14, 2018), <https://tinyurl.com/y6hh7lys>.

²⁴ Maria Atencio, *Border Facilities Still Need Fixing After Second Migrant*
Child’s Death, Say Democrats, NBC News (Jan. 7, 2019),
<https://tinyurl.com/y29foqc9>.

1 health of children and families.

2 In addition to adverse physical conditions, vulnerable adults and children are
 3 exposed to greatly increased risks of crime and exploitation as they wait at the
 4 border.²⁵ See *E. Bay Sanctuary Covenant v. Trump*, No. 18-cv-06810-JST, 2018
 5 WL 6053140, at *19 (N.D. Cal. Nov. 19, 2018), *appeal docketed*, No. 18-17274
 6 (9th Cir. Nov. 27, 2018) (discussing “the extensive record evidence of the danger
 7 experienced by asylum seekers waiting to cross”). Indeed, the State Department’s
 8 own travel advisories warn Americans considering travel to Mexico to “exercise
 9 increased caution” because “[v]iolent crime, such as homicide, kidnapping,
 10 carjacking, and robbery, is widespread.”²⁶ A number of Mexican states on the
 11 border where would-be asylum seekers are languishing are even more dangerous in
 12 the State Department’s estimation, designated “Reconsider Travel” or “Do Not
 13 Travel.”²⁷ Indeed, U.S. government employees are forbidden from driving “from
 14 the U.S.-Mexico border to or from the interior parts of Mexico.”²⁸ Tragically, in
 15 late 2018, two young Honduran migrants were murdered in Tijuana, which is
 16 experiencing a record number of homicides.²⁹ And some LGBTQ immigrants face
 17 threats of harassment and violence.³⁰ The weeks or months of delay in processing

18 ²⁵ Josiah Heyman & Jeremy Slack, *Blockading Asylum Seekers at Ports of*
 19 *Entry at the US-Mexico Border Puts Them at Increased Risk of Exploitation,*
 20 *Violence, and Death*, Ctr. for Migration Studies (June 25, 2018),
 21 <https://tinyurl.com/Heyman-Slack>; see Compl. ¶ 46.

22 ²⁶ U.S. Dep’t of State, *Mexico Travel Advisory* (Nov. 15, 2018),
 23 <https://tinyurl.com/St-Dept-Mex>.

24 ²⁷ U.S. Dep’t of State, *Mexico Map*, <https://tinyurl.com/St-Dept-Mex-Map>.

25 ²⁸ *Mexico Travel Advisory*, *supra* note 26.

26 ²⁹ Mary Beth Sheridan, *While Washington Focuses on the Wall, Mexico*
 27 *Fears Its Own Border Crisis*, Wash. Post (Dec. 28, 2018),
 28 <https://tinyurl.com/Sheridan-Border>.

³⁰ Sarah Kinosian & Joshua Partlow, *LGBT Asylum Seekers Are First to*
Reach the U.S. Border from the Caravan. Now They Wait., Wash. Post (Nov. 13,

1 asylum applications caused by defendants’ Turnback Policy will only aggravate the
 2 harms these individuals face and increase the amount and intensity of social
 3 services the States will be required to provide to them, as discussed below.

4 The trauma inflicted by the Turnback Policy will exacerbate the trauma that
 5 asylum seekers have suffered in their home countries and en route to the border.
 6 The vast majority of the individuals affected by the Turnback Policy are from
 7 Central America’s “Northern Triangle” countries—Guatemala, Honduras, and El
 8 Salvador. Compl. ¶ 40. As set forth in detail in the Second Amended Complaint and
 9 in third-party reports, the Northern Triangle is one of the most violent regions in the
 10 world, with conditions “akin to the conditions found in the deadliest armed
 11 conflicts in the world today.”³¹ Asylum seekers from this region flee from
 12 extremely dangerous circumstances, most commonly murders of family members,
 13 threats to life or limb, extortion, and domestic violence.³² Immigrants who flee this
 14 violence face additional threats during their journey north. Along the route through
 15 Mexico and to the United States, immigrants are injured and traumatized from
 16 physical violence, abduction, theft, extortion, torture, and rape, often perpetrated by
 17 gangs and other criminal organizations.³³ Unsurprisingly, these experiences have
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 20 _____
 20 2018), <https://tinyurl.com/Kinosian-Partlow>.

21 ³¹ Medecins Sans Frontieres, *Forced to Flee Central American’s Northern*
 22 *Triangle: A Neglected Humanitarian Crisis* (May 2017), [https://tinyurl.com/MSF-](https://tinyurl.com/MSF-N-Triangle)
 23 [N-Triangle](https://tinyurl.com/MSF-N-Triangle) (stating that the level of violence suffered by Northern Triangle
 24 residents is comparable to that in war zones, and noting that homicidal violence in
 25 this region has led to higher numbers of civilian casualties than anywhere else in
 26 the world, including countries with armed conflicts or war); see Compl. ¶¶ 41–43.

25 ³² Allen Keller et al., *Pre-Migration Trauma Exposure and Mental Health*
 26 *Functioning among Central American Migrants Arriving at the US Border*, 12 *PLoS*
 27 *one* e0168692 (Jan. 10, 2017), <https://tinyurl.com/Keller-Trauma>.

27 ³³ *Forced to Flee*, *supra* note 31; see Compl. ¶ 44.
 28

1 caused high rates of serious mental health issues, including anxiety, post-traumatic
2 stress disorder and major depressive disorder.³⁴

3 Finally, the harm from the Turnback Policy extends to residents of the States
4 who suffer the anguish of uncertainty as their asylum-seeking relatives are in limbo
5 at the border. Many Central American asylum-seekers have relatives across the
6 country, including in Los Angeles, Miami, New York, and Washington.³⁵ These
7 include the Los Angeles family members of a Honduran family with young
8 children,³⁶ and a San Francisco mother, who has been anxiously awaiting the fate of
9 her 15-year-old son for months, after he was detained by Mexican authorities with
10 other minors as they attempted to apply for asylum.³⁷ These residents of the States
11 are being harmed by the federal government's actions, and the States have a
12 significant interest in ensuring that plaintiffs' lawsuit to stop those actions is heard
13 on the merits.

14 **B. The States will be harmed by the effects of the Turnback Policy.**

15 Every year, the States welcome thousands of potential asylees into their
16 communities who have suffered the trauma discussed above, providing or funding a
17 number of social services to help them realize their potential in their new country.
18 The additional mental and physical health harms caused by defendants' Turnback

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20 ³⁴ Keller, *supra* note 32.

21 ³⁵ See, e.g., Molly Hennessy-Fiske, *Why and How Are Asylum Seekers*
22 *Entering the U.S.?*, L.A. Times (Nov. 22, 2018), <https://tinyurl.com/Hennessy-Fiske>.

23 ³⁶ Elliot Spagat, *More Caravan Migrants Arrive in Tijuana, Brace for Long*
24 *Stay*, Fox News (Nov. 15, 2018), <https://tinyurl.com/Spagat-Fox>.

25 ³⁷ Cristina Rendon, *Salvadorian Woman Nervously Awaits Contact from Son*
26 *Seeking Asylum at US-Mexico Border*, Fox KTVU (Nov. 26, 2018),
27 <https://tinyurl.com/Rendon-KTVU>; Monica Campbell, *This Teen Migrated to the*
28 *US Border to Escape Gangs. He Hopes to Join His Mom in the US*, PRI (Feb. 7,
2019), <https://tinyurl.com/y4dxl0le>.

1 Policy will make asylees' needs for these services even more intense and
2 challenging to meet, requiring the States to divert resources from other services.

3 The States signatory to this brief have welcomed over 73 percent of the total
4 asylees entering the United States.³⁸ In the 2017 fiscal year, almost 15,000
5 accompanied immigrant children (those arriving with their families) received
6 positive credible fear determinations and were released from federal custody, many
7 in Amici States.³⁹ And in FY 2018, 16,746 unaccompanied immigrant children
8 were released from federal custody to adult sponsors in Amici States, 48 percent of
9 the total.⁴⁰ Historically, a high percentage of these children have been found to have
10 viable claims for asylum, although that percentage has dropped in the past two
11 years due the Trump Administration's policies.⁴¹

12 The States, their local jurisdictions, and non-governmental organizations
13 based in the States will assist the victims of the unnecessary trauma that defendants'
14 Turnback Policy causes, utilizing resources diverted from other purposes. Among
15 other services, the States' public schools will face more challenges in educating
16 students who have been traumatized and needlessly missed months or years of
17

18 ³⁸ Nadwa Mossad & Ryan Baugh, *Refugees and Asylees: 2016*, DHS Off. of
19 Immig. Statistics (Jan. 2018), <https://tinyurl.com/Mossad-Baugh>. California
20 receives almost 44 percent of the total, by far the most of any state. Collectively,
21 Amici States New York, New Jersey, Virginia, Maryland, Washington,
22 Massachusetts, and Illinois receive almost 29 percent; the District of Columbia has
the second highest number of asylees per capita of any state.

23 ³⁹ See Apprehension, Processing, Care, and Custody of Alien Minors and
24 Unaccompanied Alien Children, 83 Fed. Reg. 45486, 45519 (proposed Sept. 7,
2018).

25 ⁴⁰ Off. of Refugee Resettlement, *Unaccompanied Alien Children Released to*
26 *Sponsors by State* (last updated Nov. 29, 2018), <https://tinyurl.com/UAC-state>.

27 ⁴¹ Beth Fertig, *Unaccompanied Minors Have Tougher Time Winning Asylum*,
28 WNYC (June 6, 2018), <https://tinyurl.com/Fertig-WNYC>.

1 schooling while they wait at the border.⁴² And the States’ public health care
 2 systems will have to address the increased health needs of immigrants who have not
 3 had access to preventative care, vaccinations, and necessary medical care as they
 4 were trapped near ports of entry by the Turnback Policy.

5 Further, the States have invested in specialized services to meet asylees’
 6 needs, which will be taxed due to increased need caused by defendants’ policy. For
 7 example, in California, the Immigration Branch of CDSS has various forms of
 8 assistance for certain eligible asylees, including programs that provide cash
 9 assistance and employment services, as well as services for unaccompanied minors
 10 and victims of human trafficking.⁴³ Program benefits and services are typically
 11 administered at the local level by county social services departments, or through
 12 county contracts with local service providers to deliver direct services, including
 13 services for elders, integration and language assistance for students, and assistance
 14 to unaccompanied minors.⁴⁴ One of Washington’s state social service programs
 15 partners with local governments, community and technical colleges, ethnic
 16 community-based organizations, and other service provider agencies to deliver
 17 educational services, job training skills, assistance establishing housing and
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19 ⁴² See *Washington Compl.* ¶¶ 229 (citing *Plyler v. Doe*, 457 U.S. 202 (1982),
 20 which requires states to provide free public education to children regardless of
 21 immigration status, as well as “various statutory obligations to provide
 22 particularized services to high needs students, such as through the Individuals with
 23 Disabilities Education Act (IDEA)”), 230 (citing research showing that “experience
 of trauma may severely undercut a child’s ability to learn and function in the
 classroom”).

24 ⁴³ See CDSS, *Services for Refugees, Asylees, and Trafficking Victims*,
 25 <https://www.cdss.ca.gov/Refugee-Services>.

26 ⁴⁴ *Id.*; see also SF-CAIRS (the SF Refugee Forum), *Refugee & Asylee*
 27 *Benefits*, <http://sf-cairs.org/refugee-asylee-benefits>; Cty. of L.A., Dep’t of Soc.
 28 *Servs.*, *Refugee Employment Program*, <https://tinyurl.com/LA-refugee>.

1 transportation, language classes, and other comprehensive support services.⁴⁵
 2 Michigan provides cash and medical assistance programs through the Michigan
 3 Department of Health and Human Services, as well as employment services,
 4 integration services, education services, language services, health-related services,
 5 and elderly services through private agencies.⁴⁶ Similarly, in New York, Refugee
 6 Services—part of New York’s Office of Temporary and Disability Assistance—
 7 provides targeted assistance for unaccompanied minors and victims of human
 8 trafficking. These services include temporary cash assistance, health care
 9 screenings and medical services, and employment programs.⁴⁷ Additionally, New
 10 York’s Office for New Americans has established neighborhood-based Opportunity
 11 Centers throughout the State to provide, *inter alia*, English language courses and
 12 business development for immigrants.⁴⁸

13 After weeks or months spent languishing at the border, the beneficiaries of
 14 these services will, in many cases, predictably require more (or more intensive)
 15 services. For example, despite the Administration’s claims that its actions will
 16 reduce human trafficking,⁴⁹ international experts have found that policies such as

17 ⁴⁵ See Off. of Refugee and Immig. Assistance, Econ. Servs. Admin., Wash.
 18 Dep’t of Soc. & Health Servs., *Briefing Book for State Fiscal Year 2018*,
 19 <https://tinyurl.com/y528prka>.

20 ⁴⁶ See Mich. Dep’t of Heath & Hum. Servs., *Refugee Assistance*,
 21 <https://tinyurl.com/y9q662ms>.

22 ⁴⁷ See N.Y. St. Off. of Temp. and Disability Assist., Refugee Servs.,
 23 *Overview*, <https://otda.ny.gov/programs/bria/>.

24 ⁴⁸ See N.Y. St. Off. for New Americans, *Our Mission*,
 25 <https://tinyurl.com/y5wb8dws>; see also N.Y. St. Off. for New Americans, Request
 26 for Applications, RFA #18-ONA-32, available at <https://tinyurl.com/y3oqjul6>; N.Y.
 27 St., Pressroom, *Governor Cuomo Announces Expansion of Services for Immigrant
 28 Community Through Office for New Americans*, <https://tinyurl.com/y3yd54sb> .

⁴⁹ See, e.g., White House, *Remarks by President Trump on the Humanitarian
 Crisis on our Southern Border and the Shutdown* (Jan. 19, 2019),
<https://tinyurl.com/Trump-S-B-crisis> (“Our plan includes critical measures to

1 the Turnback Policy make migrants significantly *more* vulnerable to these kinds of
 2 abuses,⁵⁰ which will increase the need for the States to address the impacts through
 3 programs like those discussed above. Indeed, media reports indicate that the policy
 4 has been a bonanza for human traffickers, who now charge “increasingly desperate”
 5 migrants up to \$7,500 per person to cross.⁵¹

6 Recognizing the importance of proper legal guidance during immigration
 7 proceedings, Amici States fund a number of non-profit legal service organizations
 8 to provide free or low-cost legal services for asylum seekers. For example,
 9 California funds dozens of such organizations, including plaintiff Al Otro Lado, to
 10 provide services including assisting applicants for asylum and seeking other
 11 immigration remedies and assisting individuals with removal defense.⁵² And
 12 California’s public universities also fund programs that provide legal assistance to
 13 migrants seeking asylum.⁵³ Washington State allocated a million dollars from its
 14 general fund for FY 2019 to legal services organizations serving asylum seekers
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16 protect migrant children from exploitation and abuse”); White House, *Remarks by*
 17 *President Trump After Meeting with Congressional Leadership on Border Security*
 18 (Jan. 4, 2019), <https://tinyurl.com/Trump-Cong-Border-Sec> (claiming that current
 19 “traffickers having three and four women with tape on their mouths and tied up”).

20 ⁵⁰ See Heyman, *supra* note 25 (“Blockaded asylum seekers in northern
 21 Mexican border cities, bottled up in those sites with few or no resources or
 connections, are particularly vulnerable to labor, sexual, and other trafficking”).

22 ⁵¹ Rick Jervis & Rafael Carranza, *Trump’s Immigration Policies Are*
 23 *Benefiting Smugglers and Violent Crime Groups in Mexico*, USA Today (Feb. 4,
 24 2019), <https://tinyurl.com/Jervis-USA>.

25 ⁵² See *Immigration Services Contractors*, *supra* note 1.

26 ⁵³ See, e.g., U. of Cal.-Davis Sch. of L., *Immigration Law Clinic*,
 27 <https://tinyurl.com/Davis-immig>; U. of Cal. Hastings Coll. of the L., *Center for*
 28 *Gender and Refugee Studies*, <https://cgrs.uchastings.edu>; U. of Cal., Irvine Sch. of
 L., *Immigrants’ Rights Clinic*, <https://tinyurl.com/Irvine-immig>

1 and other migrant populations in the state.⁵⁴ Partially in response to the federal
 2 administration's 2018 family separation policy, Washington State directed \$1.2
 3 million to legal services for immigrants.⁵⁵ Among other programs, New York funds
 4 the Liberty Defense Project, a State-led, public-private legal defense fund designed
 5 to ensure that immigrants have access to legal counsel.⁵⁶ The University of Nevada,
 6 in Reno and Las Vegas, provides aid to refugee families, including the UNLV
 7 School of Law's Immigration Clinic, which provides deportation defense services
 8 to families and unaccompanied children seeking asylum.⁵⁷

9 Harms to these organizations from the Turnback Policy in the form of
 10 frustration of mission and diversion of resources, as stated in the complaint, Compl.
 11 ¶¶ 17–23, redound to their funders, including the Amici States, whose priorities and
 12 funding decisions are impacted as well.

13 Amici States also fund qualified nonprofit organizations to provide other
 14 immigration-related assistance to individuals who have been granted asylum. These
 15 organizations provide asylees access to crucial services such as mental health care,
 16 education, and resettlement assistance.⁵⁸ For example, the International Rescue
 17 Committee for the City of Los Angeles provides programs that assist asylum
 18 grantees with health care, resettlement, economic opportunities, and community

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 20 ⁵⁴ See Wash. Laws of 2018, ch. 299, § 127(65) (amending Laws of 2017, 3d
 Spec. Sess., ch. 1, § 128) (Mar. 27, 2018), <https://tinyurl.com/yy3rduov>.

21 ⁵⁵ See, e.g., Wash. Gov. Jay Inslee, *Inslee Announces \$1.2 Million for Civil*
 22 *Legal Aid Funding to Northwest Immigrant Rights Project* (June 20, 2018),
 23 <https://tinyurl.com/y5xdkwfc>.

24 ⁵⁶ See N.Y. St., Div. of Budget, *Governor Cuomo Announces Highlights of*
 the FY 2019 State Budget, <https://tinyurl.com/y6qv2jev>.

25 ⁵⁷ UNLV William S. Boyd School of Law, *UNLV Immigration Clinic*,
 26 <https://tinyurl.com/y4ckoxhk>.

27 ⁵⁸ See, e.g., SF-CAIRS, *Social Services and Mental Health*, [http://sf-](http://sf-cairs.org/mental-health/)
 28 [cairs.org/mental-health/](http://sf-cairs.org/mental-health/).

1 integration and development.⁵⁹ Opening Doors in Sacramento offers a literacy
2 program, as well as resettlement assistance and family trauma counseling.⁶⁰ The
3 City of Seattle's New Americans Program is one of 16 different community-based
4 programs in Washington providing employment services, vocational English
5 language programs, food assistance, and application and preparation assistance for
6 the naturalization exam.⁶¹ In New York City, CAMBA provides asylees with
7 counseling, social services, and employment-related training.⁶² After enduring
8 additional trauma at the border, many asylees will require significantly more of
9 these types of services, putting pressure on these organizations and their funders,
10 including the Amici States.

11 The Amici States' agencies work with impacted local health agencies,
12 providers, and resettlement agencies to provide assessments and other health
13 services to asylees, victims of severe forms of human trafficking, and other eligible
14 entrants.⁶³ For example, the Highland Human Rights Clinic in Oakland (operated
15 by the Alameda County Health System) conducts approximately 80 to 120 health
16 assessments of asylees in California annually.⁶⁴ According to the Clinic's medical
17 director, the vast majority of the patients he evaluates need mental health referrals,
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19 ⁵⁹ Int'l Rescue Comm., *The IRC in Los Angeles, CA*, [https://tinyurl.com/IRC-](https://tinyurl.com/IRC-refugee)
20 [refugee](https://tinyurl.com/IRC-refugee).

21 ⁶⁰ Opening Doors, *Refugee Programs*, <https://tinyurl.com/OD-refugee>.

22 ⁶¹ See Off. of Refugee and Immig. Assistance, Econ. Servs. Admin., Wash.
23 Dep't of Soc. & Health Servs., *Briefing Book for State Fiscal Year 2018*,
<https://tinyurl.com/y528prka>.

24 ⁶² See CAMBA, *Refugee Assistance Program*, <https://tinyurl.com/y2d2nlt7>.

25 ⁶³ See, e.g., CDPH, *Office of Refugee Health*, [https://tinyurl.com/CDPH-](https://tinyurl.com/CDPH-refugee)
26 [refugee](https://tinyurl.com/CDPH-refugee).

27 ⁶⁴ Anna Gorman, *Medical Clinics that Treat Refugees Help Determine the*
28 *Case for Asylum*, NPR (July 10, 2018), <https://tinyurl.com/Gorman-NPR>.

1 due to years of abuse and trauma.⁶⁵ These needs will only be increased by the
2 additional trauma that migrants will endure while languishing in dangerous,
3 unhealthy conditions at the border due to the Turnback Policy.

4 Washington funds a State Refugee Coordinator to ensure that state agencies
5 collaborate with local partners including clinicians, community based
6 organizations, health coalitions, and voluntary agencies to address refugee health
7 issues.⁶⁶ In addition, the Washington State Refugee Health Promotion Project is a
8 collaboration between state agencies, health providers, and resettlement agencies
9 such as Seattle Children’s Hospital and Lutheran Community Services Northwest to
10 improve health outcomes and enable successful resettlement for refugee
11 populations.⁶⁷ In New York, the Office of Temporary and Disability Assistance
12 supports numerous organizations that provide health care services to refugees and
13 asylees, including care for post-traumatic stress syndrome and depression.⁶⁸

14 All of these state-provided resources will be further impacted due to the
15 increased harms that the Turnback Policy causes to individuals who are eventually
16 able to present their asylum claims and enter the country.

17 CONCLUSION

18 Defendants’ motion to partially dismiss the second amended complaint
19 should be denied.

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⁶⁵ *Id.*

24 ⁶⁶ See Wash. Dep’t of Soc. & Health Servs., *Plan for Refugee Assistance*
25 *Program, 2015* 8, <https://tinyurl.com/yxmd2st3>.

26 ⁶⁷ *Id.* at 6; see also Wash. Dep’t of Health, *Refugee Health Program,*
27 *Provider Resources*, <https://tinyurl.com/y2z7q38y>.

28 ⁶⁸ See N.Y. St., Off. of Temporary and Disability Assistance, *Refugee*
Services Provider Directory, <https://tinyurl.com/y59wxyku>.

1 Dated: February 21, 2019

Respectfully submitted,

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