

No. 26-1027

**IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT**

REFUGIO RAMIREZ OVANDO, et al.
Plaintiffs-Appellees,

v.

MARKWAYNE MULLIN, in his official capacity, et al.
Defendants-Appellants.

On appeal from the United States District Court
for the District of Colorado
The Honorable R. Brooke Jackson
No. 1:25-cv-03183-RBJ

BRIEF OF AMICI CURIAE LEGAL CHARITIES

JESSE HOWARD WITT
The Witt Law Firm PC
1067 South Hover Street Suite E-180
Longmont, Colorado 80501
(303) 216-9488
jesse@witt.law

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CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1, Amici state that they are non-profit, tax-exempt organizations or equivalents that have no parent corporations, and that no publicly-owned corporation owns 10% or more of their stock; (2) the brief was authored entirely by counsel for the amici curiae and not by counsel for any party, in whole or in part; (3) no party or counsel for any party contributed money to fund preparing or submitting the attached brief; and (4) apart from the amici curiae themselves, no other person contributed money to fund preparing or submitting the attached brief.

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I. IDENTITIES AND INTERESTS OF AMICI CURIAE

A. Identities

1. **Alianza NORCO** is a non-profit organization formed largely by immigrants from the northern Colorado community. Its goal is to uplift immigrant families and create pathways to opportunity, self-determination, and meaningful social progress through collective action and mutual support.

2. **Alpine Legal Services Inc.** is a private, non-profit civil legal assistance agency that has been dedicated to providing legal services and upholding fundamental legal rights from Parachute to Aspen since 1987. Its mission is to advance justice in the community and improve lives through legal advocacy, outreach, and education, while serving as a dependable resource for the pursuit of equal justice.

3. **American Immigration Lawyers Association – Colorado Chapter** is the local chapter of a nonpartisan, nonprofit, voluntary bar association that provides continuing legal education, professional services, information, and expertise to attorneys who practice and teach immigration law.

4. **Catholic Charities of Central Colorado, Inc.** is the social service arm of the Catholic Diocese of Colorado Springs. It was incorporated as a 501(c)(3) human service organization in 1968 and is currently one of over 1600 Catholic Charities

USA social service agencies in the United States. Catholic Charities seeks to further the charitable, welfare, educational, health, and social service purposes of the Diocese of Colorado Springs consistent with the Code of Canon Law of the Church and the Statutes of Colorado. It further seeks to develop opportunities for parishes and all people within the geographic boarder of the Diocese of Colorado Springs to positively influence the lives of those in our community and to serve those in need, striving to respond to its divine calling through social service and social action.

5. **Colorado Asylum Center** is a 501(c)(3) nonprofit dedicated to protecting the rights of asylum seekers throughout the United States through zealous representation and advocacy. The organization aims to make legal representation a reality for more asylum seekers, consistent with its belief that people who are fleeing for safety and seeking protection are entitled to due process and equal protection under the law.

6. The **Colorado Center for Law and Policy** (CCLP) is a nonprofit advocacy organization that advances economic security, health equity, and access to justice for all Coloradans. CCLP works to ensure that all Coloradans, including immigrants and members of mixed-status families, can safely access health care, food assistance, housing, legal protections, and other essential services without fear. CCLP has a strong interest in this case because ICE practices that permit or

encourage warrantless arrests in violation of federal law create fear that extends far beyond those directly detained. The threat of unlawful immigration enforcement discourages immigrants and their family members from seeking legal assistance, accessing public benefits and charitable services, and participating in community institutions. It also forces organizations serving these communities to redirect limited resources toward responding to detentions, addressing misinformation and fear, and helping community members navigate the resulting disruptions. These chilling and destabilizing effects undermine CCLP's mission and disproportionately harm low-income Coloradans who already face significant barriers to essential services and meaningful access to justice.

7. The **Colorado Hispanic Bar Association** is committed to the advancement of the Colorado Hispanic community by expanding the number of Latinos in the legal profession through professional development, education, and leadership opportunities. In line with this vision, the association spearheads a variety of civic and advocacy efforts serving the Hispanic community.

8. **Colorado Immigrant Justice Fund** provides legal education and resources for immigrants who are seeking refuge and asylum or in a removal process with a focus on underserved areas, prioritizing those whose lives are in danger if they are deported back to their home country. Its goal is to help them obtain freedom,

independence, and a pathway to becoming contributing members of society in the United States.

9. **Colorado Lawyers Committee** is a nonpartisan consortium of nearly 80 Colorado law firms dedicated to creating and increasing opportunities for children and underserved communities through pro bono legal advocacy, negotiation, and litigation.

10. **Colorado Poverty Law Project** connects low-income individuals with free legal services to fight evictions and housing injustice. It prevents homelessness through legal representation, education, and advocacy.

11. **El Comité de Longmont** is a social justice and human service organization that supports, educates, connects, and advocates to eliminate barriers and empower Latino and immigrant community members. Its vision is for Latino and immigrant residents of Longmont, Boulder County, and surrounding areas to experience belonging and equitable opportunity. El Comité provides a variety of community services, including low-cost consultations with attorneys who focus on immigration, criminal defense, family, and civil law.

12. The Community Firm, dba **Community Economic Defense Project**, began as an all-volunteer community organizing effort to protect Colorado renters from eviction and displacement during the coronavirus pandemic. It has since grown

and evolved to offer a broad range of legal services to advocate for mobile home residents, prevent homelessness through diversion efforts, to offer foreclosure and HOA defense services, to take on predatory consumer and medical debt, and to defend and provide aid to victims of non-consensual towing.

13. The **Hispanic Affairs Project** is a nonprofit, grassroots organization dedicated to promoting the social and economic integration of immigrants in Western Colorado through key services, leadership development, and advocacy. It provides charitable immigration legal services to immigrants and refugees, including family-based immigration, naturalization, as well as community outreach and education on access to immigration legal services.

14. **Justice and Mercy Legal Aid Center (JAMLAC)** seeks justice for people struggling with poverty and oppression. By providing culturally sensitive civil legal services and defending the cause of the poor and needy, JAMLAC's Vision is to enhance the quality of lives and create healthy communities where all people have access to justice, live free from abuse, are empowered, and thrive in the community.

15. **Rocky Mountain Immigration Advocacy Network (RMIAN)** is a 501(c)(3) organization based in Westminster, Colorado. Founded in 2000, RMIAN promotes knowledge of legal rights; provides free legal representation to people in immigration proceedings; strives to expand access to counsel; and advocates for a

humane, functional, and efficient immigration system. It is the largest non-profit provider of immigration services for people held in civil immigration detention in Colorado and the Mountain West. RMIAN regularly defends noncitizens' rights and represents clients incarcerated after warrantless arrests.

16. Rocky Mountain Victim Law Center (RMvlc) is a Colorado nonprofit law firm providing free legal services to victims of crime in Colorado through its Victim Rights Legal Services, Legal Information Network of Colorado, and Title IX programs. RMvlc provides a broad range of legal services to victims of crime in Colorado and to other services providers who work with victims of crime. The legal needs of victims of crime can be complex and varied, so RMvlc's services are designed to meet a broad range of needs and include providing legal information and referrals, limited assistance and consultation on legal issues, pro-bono legal representation, and training and outreach. RMvlc's services are free to victims of crime and services providers and are available in all twenty-three of Colorado's judicial districts.

17. Student Defense Alliance connects families and young people with pro bono legal representation aimed at slowing the school-to-prison pipeline by keeping kids in school and out of prison. It provides impact litigation through class action and other suits to change the education and youth rights legal landscape. It seeks to

ensure that financial resources are not obstacles preventing parents and students from obtaining high-quality, zealous legal representation.

18. Towards Justice of Colorado is a nonprofit law firm that represents workers in litigation and other advocacy in an effort to build worker power and advance economic justice in Colorado and across the country.

Pursuant to Fed. R. App. P. 29(2), all parties have consented to amicus participation.

B. Interest

Amici have an interest in this case because they all share a common concern that the actions of the United States Immigration and Customs Enforcement (ICE) are unjustly harming the communities they serve, in particular those immigrant populations who rely on the legal aid clinics and charitable services that Amici provide. They have seen their members afraid to attend clinics and seek out services out of fear that ICE may target them and make warrantless arrests in disregard of federal law. They have seen residents fearful of seeking medical care or reporting crimes to law enforcement. Some have had to divert resources to support clients who have been detained in violation of federal law. Amici believe that the district court's injunction should be affirmed because it provides critical protections for the individuals who rely on their services.

II. SUMMARY OF ARGUMENT

The Government invites this Court to assume this case is limited to a handful of isolated events affecting only the named plaintiffs. It is not.

Amici comprise a broad consortium of legal charities and aid societies that serve disadvantaged communities. They have seen firsthand the effects of ICE's pattern of warrantless arrests. They have witnessed the fear and disruption that ICE's actions have caused, and how ICE's policies have undermined the rule of law. Amici now urge this honorable Court to affirm the district court's findings and uphold the injunction that requires ICE to comply with federal statutes.

Warrantless arrests without probable cause do not further any legitimate policy. Congress has made clear that immigration agents can make warrantless arrests only when they have probable cause that someone is a flight risk and likely to escape before a warrant can be obtained. Amici have seen how immigrants' fear of warrantless arrest makes them less likely to seek legal aid, contact law enforcement, obtain medical attention, or educate their children. Such a policy encourages lawless behavior that harms citizens and noncitizens alike. The district court's ruling is thus necessary and proper to ensure safety by protecting immigrants' access to these basic services without fear of unlawful arrest.

Indeed, the very concept of armed agents targeting minorities and rounding up those without papers is fundamentally un-American. If the Executive Branch will not abide by the laws passed by Congress, then it is the duty of the Courts to mandate compliance.

III. ARGUMENT

Arresting immigrants with neither a warrant nor probable cause flouts Congressional intent and impedes access to legal services

Congress has established a two-prong requirement for warrantless arrests of those suspected of violating immigration laws. First, officers must have reason to believe that an alien is in the United States in violation of immigration law. 18 U.S.C. § 1357(a)(2). Second, the officer must have reason to believe that the alien “is likely to escape before a warrant can be obtained for his arrest.” *Id.* These statutory requirements are amplified in federal regulations, which reiterate that a “warrant of arrest shall be obtained except when the designated immigration officer has reason to believe that the person is likely to escape before a warrant can be obtained.” 8 C.F.R. § 287.8(c)(2)(ii). This has long been held to establish a probable cause requirement. *See Roa-Rodriguez v. United States*, 410 F.2d 1206, 1209 (10th Cir. 1969); *Morales v. Chadbourne*, 793 F.3d 208, 216 (1st Cir. 2015).

In its opening brief, the Government suggests that there is no official policy directing its agents to make warrantless arrests absent probable cause of flight risk. The reality, however, refutes this suggestion. The district court found—with ample record support—that Colorado ICE agents have routinely ignored the probable-cause requirement in service of a plan to conduct mass deportations

without Congressional authorization. *See, e.g.*, Appx. at Vol. IV pp.824-30. This ignores legislative intent and harms the communities that Amici serve.

As Amici can attest, the fear of racial profiling and harassment by ICE discourages Colorado's minority populations from seeking essential services. Many Amici have witnessed their clients and other members of the immigrant community become reluctant to report crimes to law enforcement, testify as witnesses, or seek civil protection orders for fear of being targeted by ICE during judicial proceedings. Survivors of sexual violence are not requesting medical forensic examinations. Injured victims are reluctant to obtain medical care. Attendance at legal aid clinics has dwindled as clients are afraid that they may be arrested on the spot. Applicants who are eligible for asylum or lawful status—*i.e.*, those who tried to immigrate the “right way” into our country—are abandoning their petitions rather than risk being detained by ICE when they appear for biometric appointments.

These experiences in Colorado reflect national trends. Surveys have shown that significant percentages of minorities avoid calling the police or reporting a crime for fear of being questioned about their legal status. Gabriel R. Sanchez and Edward D. Vargas, *Racial profiling by ICE will have a marked impact on Latino communities*,

BROOKINGS INSTITUTE, (Oct. 16, 2025).¹ This situation is not confined to undocumented immigrants, and researchers “have found high percentages of Latino citizens avoiding important activities, including being engaged in their children’s schools and reporting crimes to police for fear of being asked for their immigration papers.” *Id.* These results echo earlier studies finding evidence suggesting that aggressive enforcement rhetoric and policies create a “chilling effect... in which immigrants avoid seeking care and distrust health care institutions.” Maria-Elena De Trinidad Young et al., *Beyond “chilling effects”: Latinx and Asian immigrants’ experiences with enforcement and barriers to health care*, MEDICAL CARE (May 2023).² And this in turn undermines overall law enforcement, which cannot function effectively when crime victims are afraid to contact the police due to their immigration status. See Elisa Jácome, *The effect of immigration enforcement on crime reporting: Evidence from Dallas*, JOURNAL OF URBAN ECONOMICS (March 2022).³ Such practices make communities less safe for citizens and non-citizens alike.

¹ www.brookings.edu/articles/racial-profiling-by-ice-will-have-a-marked-impact-on-latino-communities/

² pmc.ncbi.nlm.nih.gov/articles/PMC10079615/

³ www.sciencedirect.com/science/article/abs/pii/S0094119021000772

In addition to indirect effects on the community, the threat of warrantless arrest also hinders the amicus organizations directly. Rather than focus on core services such as legal clinics, family law support, and general immigration matters, some Amici must now redirect their resources toward the specter of unlawful detention. This goes beyond the need for obvious tasks such as preparing habeas corpus petitions on behalf of those who have been improperly detained; some Amici have had to establish entirely new family-preparedness programs to help clients create documents necessary to ensure their loved ones' safety in the event a caregiver is illegally arrested by ICE. In analogous circumstances, the Supreme Court has recognized that the need to divert resources from other charitable causes constitutes a form of legal injury-in-fact to such groups. *Havens Realty Corp. v. Coleman*, 455 U.S. 363, 379 (1982). The same is true here. Legal charities should be allowed to focus on their core missions rather than scrambling to help those caught up in unlawful mass deportation efforts.

None of this is meant to discount ICE's legitimate role in enforcing the immigration laws enacted by Congress. Indeed, the district court's order merely reinforces the provisions of federal law mandating that ICE agents either obtain an advance warrant or establish probable cause of an individualized flight risk prior to detaining any individual. If these requirements are to change, the change must come

from Congress. ICE cannot simply decide to ignore the law to further political agendas or campaign promises.

Separation of powers is a bedrock principal of our tripartite government. *See, e.g., United States v. Nixon*, 418 U.S. 683, 704-05 (1974), *citing Marbury v. Madison*, 5 U.S. 177 (1803). In this context, Congress has enacted unambiguous limitations on the Executive’s power to arrest suspected non-citizens. When confronted with evidence that ICE was ignoring these limitations in Colorado, the district court properly acted to enjoin such overreach, thus fulfilling the Judicial Branch’s role. Against this landscape, the Government’s pleas to vacate the injunction—which does little more than require ICE to abide by existing statutory limits on ICE’s authority—ring hollow.

Amici’s concerns have heightened due to recent events. This Court may take notice that, barely a month after the Government filed its opening brief, ICE killed two immigrants in Texas and Maine. *One week, two killings: Trump’s immigration crackdown turns deadly – again*, THE GUARDIAN, July 19, 2026.⁴ These events followed the publicized killings of American citizens Renee Good and Alex Pretti by ICE in Minnesota last January, which in turn followed at least nine other reported

⁴ www.theguardian.com/news/ng-interactive/2026/jul/19/ice-killings-immigration-crackdown

shootings by ICE in 2025. *Id.* Rather than dial back these tactics, ICE has now announced that its agents “may soon be outfitted with gloves that can deliver painful electric shocks intended to gain compliance from combative individuals.” Ryan J. Foley, *ICE plans to give officers gloves that can deliver painful electric shocks*, AP NEWS, Aug. 11, 2026.⁵

These events and announcements—coupled with a pattern of warrantless arrests—reflects a policy of intimidation, not law enforcement. When a government allows armed agents to stop people on the street, cow them into submission, and arrest them with neither a warrant nor probable cause, then society has become a de facto police state. This is not what our founders intended, and the district court was thus correct to order ICE to stop making warrantless arrests absent probable cause that a suspect would flee the community before a warrant could be obtained. Amici thus urge this Court to affirm the district court’s injunction and reiterate that ICE must follow the law.

IV. CONCLUSION

The district court had good reason to enjoin ICE from violating federal statutes. The injunction is necessary to protect the communities that Amici serve

⁵ apnews.com/article/ice-electric-shock-gloves-85ff746d3e0ee5f39e7a9a3f1f576252

and to ensure that these populations can maintain access to essential services without fear of being arrested by ICE officers without a warrant or probable cause to suspect a flight risk.

For these reasons, Amici pray that this honorable Court will affirm the district court's order and uphold this necessary injunction.

Respectfully submitted this 6th day of September 2026.

THE WITT LAW FIRM
a professional corporation

s/Jesse Howard Witt
Jesse Howard Witt
1067 S. Hover St. Ste. E-180
Longmont, CO 80501
303-216-9488
jesse@witt.law

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Dated this 6th day of September 2026.

s/Jesse Howard Witt
Jesse Howard Witt, Esq.