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

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Sierra Club; Southern Border
Communities Coalition; et. al.

Plaintiff's,

v.

Donald J. Trump; in his official
capacity as President of the United
States; et. al.,

Defendants,

+++++

State of California; et. al.,

Plaintiff's,

v.

Donald J. Trump, in his official
capacity as President of the United
States; et. al.

Defendants,

+++++

Before: Clifton, N.R. Smith, and Friedland, Circuit Judges

Amicus Curiae Duane Morley Cox, respectfully submits this Amicus Brief in support of Defendants, arguing that this Appellate Court must Dismiss this case for lack of Jurisdiction pursuant to **Nixon v. Fitzgerald**.

<u>Table Of Contents</u>	<u>Page</u>
Summary	1
Facts Relevant	2
Argument	6
Conclusion	16
Certification/Verification	ATT
Attachment No. 1	ATT
Attachment No. 2	ATT
Attachment No. 3	ATT

<u>Table Of Authorities</u>	<u>Page</u>
<u>2018 National Drug Threat Assessment, Executive Summary, Drug Enforcement Administration (Copy Attached)</u>	14
<u>Amicus Brief</u> , by Rep. Andy Barr, filed with the U.S. Supreme Court Case 19A60, 18 July 2019	5
<u>Bender v. Williamsport Area School District</u> , 475 U.S. 534, 541 (1986),	6
<u>Complaint For Declaratory And Injunctive Relief</u> , No. 4:19-cv-00872-HSG	4, 9
<u>Complaint For Declarative And Injunctive Relief</u> , No. 4:19-cv-00892-HSg	4, 10
<u>DaimlerCrysler Corp v. Cuno</u> , 547 U.S. 332, 353 & N.5 (2006)	10
<u>Defendant’s Opposition To Plaintiff’s Motion For Preliminary Injunction</u> , (4:19-cv-00872)	4
<u>Executive Order: Border Security and Immigration Enforcement Improvements</u> , 25 January 2017	2
<u>Gonzales</u> , 550 U.S. 124	8
<u>Kikkonen v. Guardian Life Ins. Co of Am.</u> , 511 U.S. 375, 377 (1994)	6

<u>Table Of Authorities Cont'd</u>	<u>Page</u>
<u>Lewis v. Casey</u> , 518 U.S. 343, 358 n. 6 (1996)	6,10
<u>MS-13 Member Sentenced to life in prison for Kidnapping, Rape, Murder of 13-Year-Old Whittier Girl</u> , 21 June 2019, KTLA (Copy Attached)	15
<u>New FAIR Study</u> , Immigration Reform Law Institute, 27 September 2017 (Copy Attached)	11, 12, 13
<u>Nixon v. Administrator of General Services</u> , 433 U.S. 425 @ 443 (1977)	1
<u>Nixon v. Fitzgerald</u> , 457 U.S. 731 @ 754 (1982)	1, 4, 5, 6, 7, 9
<u>Opinion</u> , Donald J. Trump, et. al., v. Sierra Club; et. al., No. 10A60, cited as 588 U.S. _____ (2-019)	5, 6, 11
<u>Order</u> , Sierra Club et. al.v. Donald J. Trump; et. al., No's 19-16102 & 19-16300, D.C. No. 4:19-c-v-00892-HSG	5
<u>President Trump; et al. v. Sierra Club</u> , 588 U.S. _____ (2019)	5
<u>Presidential Proclamation on Declaring a National Emergency concerning the Southern Border of the United States</u> , 15 February 2019	3
<u>Rule 54c</u> of the Federal Rules of Procedure	7
<u>Steel Co. v. Citizens For A Better Env't.</u> , 523 U.S. 83, 95 (1998)	1, 8
<u>Whole Woman's Health v. Hellerstedt</u> , 579 U.S. _____ (2016)	7, 8

Summary

1. Amicus argues that although Plaintiff's have claimed Jurisdiction exists under 28 USC 1331, 1361, 1651 and 2201 which focus on the existence of claimed harm under federal statutes. But in instances where suits are filed against the President of the United States, the U.S. Supreme Court has held that additional Jurisdictional scrutiny is required.

“A court, before exercising jurisdiction, must balance the constitutional weight of the interest to be served against the dangers of intrusion on the authority and functions of the Executive Branch.” **Nixon v. Fitzgerald, 457 U.S. 731 @ 754 (1982) [citing Nixon v. Administrator of General Services, 433 U.S. 425 @ 443 (1977)**

2. Plaintiff's have made no effort to demonstrate that the Constitutional Weight of the interest to be served by their Complaints is sufficient to justify the dangers of intrusion on the authority and functions of the Executive Branch. And indeed, as will be shown, application of this Constitutional Weighting Test demonstrates that the Constitutional Weight of the results of their Complaint if granted is de-minimis as compared to the Constitutional Weight of the dangers to America that would result from the granting of the requested injunctive relief requested.

3. Further:

“Every federal appellate court has a special obligation to satisfy itself not only of its own jurisdiction, but also that of the lower courts in a cause under review, even though the parties are prepared to concede it. And if the record discloses that the lower court was without jurisdiction this court will notice the defect, although the parties make no contention concerning it. When the lower federal court lacks jurisdiction, we have jurisdiction on appeal, not of the merits but merely for the purpose of correcting the error of the lower court in entertaining the suit.” **Steel Co. v. Citizens For A Better Env't., 523 U.S. 83, 95 (1998)**

4. Accordingly, this Appellate Court has a “special obligation” to examine the Jurisdiction of the District Court, find a lack of Jurisdiction, and to Remand with instructions to Dismiss.

FACTS RELEVANT

5. On 25 January 2017, just 5 days after being sworn in as President, President Trump signed an “**Executive Order: Border Security and Immigration Enforcement Improvements**” which in relevant parts stated:

“Border security is critically important to the national security of the United States. Aliens who illegally enter the United States without inspection or admission present a significant threat to national security and public safety. ... The recent surge of illegal migration at the southern border with Mexico has placed a significant strain on Federal resources and overwhelmed agencies charged with border security and immigration enforcement, as well as local communities into which many of the aliens are placed. Transnational criminal organizations operate sophisticated drug and human trafficking networks and smuggling operations on both sides of the southern border, contributing to a significant increase in violent crime and United States deaths from dangerous drugs. Among those who illegally enter are those who seek to harm Americans through acts of terror or criminal conduct. Continued illegal immigration presents a clear and present danger to the interests of the United States. Federal immigration law both imposes the responsibility and provides the means of the Federal Government ... to secure the Nation’s southern border. ... The purpose of this order is to secure the Nation’s southern border, to prevent further illegal immigration into the United States, and to repatriate illegal aliens swiftly, consistently, and humanely. ... it is the policy of the executive branch to: (a) secure the southern border of the United States through the immediate construction of a physical wall on the southern border, monitored and supported by adequate personnel so as to prevent illegal immigration, drug and human trafficking, and acts of terrorism. ... The Secretary [of Homeland Security] shall immediately take the following steps to obtain complete operational control, as determined by the Secretary, of the southern border: (a) in accordance with existing law, including the Secure Fence Act and IIRIRA, take all appropriate steps to immediately plan, design, and construct a physical wall along the southern border, using appropriate materials and technology to most effectively achieve complete operational control of the southern border; (b) identify and, to the extent permitted by law, allocate all sources of Federal

funds for the planning, designing, and constructing of a physical wall along the southern border; ... General Provisions. (A) Noting in this order shall be construed to impair or otherwise affect; (i) the authority granted by law to an executive department or agency, or the head thereof; or (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals. ... (c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.”

6. After two years of wrangling with Congress over how to proceed to protect America and American Citizens from the consequences of illegal migration, drug smuggling and human trafficking across the southern border, on 15 February 2019, President Trump issued a **“Presidential Proclamation on Declaring a National Emergency concerning the Southern Border of the United States”** which stated in relevant parts:

“The current situation at the southern border presents a border security and humanitarian crisis that threatens core national security interests and constitutes a national emergency. The southern border is a major entry point for criminals, gang members, and illicit narcotics. ... To provide additional authority to the Department of Defense to support the Federal Government’s response to the emergency at the southern border, I hereby declare that this emergency requires the use of the Armed Forces, and, in accordance with section 301 of the National Emergencies Act (50 U.S.C. 1631), that the construction authority provided in section 2808 of title 10, United States Code, is invoked and made available ...”

7. Subsequently, the Executive Branch of the Government:

“identified three statutory authorities to continue construction of the border barriers, in addition to the \$1,375 billion recently appropriated by Congress to DHS specifically for such construction: (1) the Treasury forfeiture Fund (TFF) (31 U.S.C. § 9705); (2) the Department of Defense’s (DoD) counter-drug support authority (10 U.S.C. § 284), and (3) the authority to spend unobligated military construction funds to undertake military construction projects necessary to support the use of the armed forces in response to a

national emergency declaration (10 U.S.C. § 2808).” **Defendant’s Opposition To Plaintiff’s Motion For Preliminary Injunction, Pg 2 (4:19-cv-00872)**

8. In response there-to, the State of California; et. al. filed a **“Complaint For Declaratory And Injunctive Relief”** (No. 4:19-cv-00872-HSG) citing their Jurisdiction under 28 U.S.C. sections 1331 and 2201 and SIERRA CLUB, et. al. filed a **“Complaint For Declarative And Injunctive Relief”** (No. 4:19-cv-00892-HSG) citing their Jurisdiction under 28 U.S.C. section 1331 (federal question), 1361 (mandamus), 1651 (All Writs Act) and 2201.
9. Neither complaint sought Jurisdiction pursuant to the mandated Constitutional Weighting Analysis of **Nixon v. Fitzgerald**.
10. Neither complaint included a Constitutional Weighting Analysis of the “Interest to be served” by the Injunctions sought as compared to the “dangers of intrusion on the authority and functions of the Executive Branch.” as **must** be conducted before a court can accept Jurisdiction pursuant to **Nixon v. Fitzgerald**.
11. Neither Complaint included a description of any alternative measures which President Trump and the Executive Branch could effectively use to accomplish the construction of walls or barriers to help control the southern border against illegal immigration and the infiltration of criminals, illegal drugs or human trafficking into the United States that would justify the granting of the relief being sought.
12. President Donald J. Trump; et. al. properly and timely responded to these two complaints, but failed there-in to challenge the Jurisdiction of the Court pursuant to the mandate of **Nixon v. Fitzgerald**.

13. The District Court failed *sua sponte* to perform the Constitutional Weighting Analysis mandated by **Nixon v. Fitzgerald**, but instead proceeded on the merits to rule in favor of the Plaintiff's.
14. President Trump; et. al. appealed and the three judge panel for the Ninth Circuit upheld the ruling of the District Court on a 2-1 majority (No. 19-16102 & 19-16300) by an **Order** issued 3 July 2019.
15. President Trump; et al. appealed to the U.S. Supreme Court [Case No. 19A60, cited as **588 U.S. _____ (2019)**] seeking a stay of the Order by the Court below.
16. Rep. Andy Barr, filed an ***Amicus Brief*** (Barr Brief) to the US. Supreme Court in support of President Trump; et. al. which argued that the “courts below lacked jurisdiction” on six (6) separate grounds, but did not challenge the lower Court(s) jurisdiction to hear the two complaints pursuant to the Constitutional Weighting mandate of **Nixon v. Fitzgerald**.

However, his logic is well taken with regard to the required Constitutional Weighting Analysis mandated under **Nixon v. Fitzgerald**.

“Injunctions in favor of plaintiffs who lack standing inflict a (Constitutional) separation of powers injury on the Executive Branch that constitutes irreparable harm, and combines with the injunction’s negative impact on the Executive Branch’s ability to conduct foreign affairs and protect national security and public safety (citation omitted). By contrast, Plaintiff’s countervailing injuries (and interest) are trivial and, indeed, arguably not cognizable (citation omitted). Finally, the public interest favors a stay, both because the public interest merges with the merits ...” **BARR Brief**

17. The US. Supreme Court issued an unsigned **Opinion** granting the Stay

requested by President Trump; et al., which **Opinion** was authored by Justice Breyer who stated he “would grant in part and deny it in part”. Justices Ginsberg, Sotomayor and Kagan opposed the granting of the Stay.

18. Amicus Duane Morley Cox, now files this Amicus Brief for the purpose of bringing before the Court or to the attention of the Court the Jurisdictional Mandate of **Nixon v. Fitzgerald**.

ARGUMENT

19. Indentures 1 thru 18 here-in are incorporated by reference in support of the below arguments.

20. **Plaintiff's have not met their burden**

The courts have clearly established the burden which Plaintiff's are required to have met where the Federal courts are courts of limited Jurisdiction **Bender v. Williamsport Area School District, 475 U.S. 534, 541 (1986)**, “[i]t is to be presumed that a cause lies outside this limited jurisdiction, and the burden of establishing the contrary rests upon the party asserting jurisdiction.” **Kikkonen v. Guardian Life Ins. Co of Am., 511 U.S. 375, 377 (1994)**. Further, Plaintiff's must establish standing separately for each form of relief they request. **Lewis v. Casey, 518 U.S. 343, 358 n. 6 (1996)** (See also Barr Brief, Pgs 12-14)

But where Plaintiff's have made no effort to show that the Constitutional Weight of their Complaint(s) is greater than the “danger of intrusion” by their complaint “on the authority and functions of the Executive Branch” as mandated by **Nixon v. Fitzgerald**, (See Indentures 8-10) they have failed to meet their

burden of demonstrating that the District Court and/or this Appellate Court have Jurisdiction to consider and rule on the merits of their Complaints.

21. **President Trump was and is entitled to Dismissal for lack of Jurisdiction even though he did not plead for or seek Dismissal on Jurisdictional grounds.**

Although President Trump did not challenge the Jurisdiction of the District Court (See Indenture 12) or this Appellate Court to hear the Complaints brought by Plaintiff's, **Rule 54c of the Federal Rules of Procedure** states:

“A final judgement should grant the relief to which each party is entitled, even if the party has not demanded that relief in its pleadings.”

Thus even though Defendants President Trump; et. al. did not challenge the District Court's Jurisdiction under **Nixon v. Fitzgerald**, they are non-the-less entitled to have Plaintiff's complaint's Dismissed for Lack of Jurisdiction.

In **Whole Woman's Health v. Hellerstedt**, an abortion case, the Opinion by Justice Breyer dealt with this exact issue. There-in the U.S. Supreme Court explained that the District Court held that the admitting privileges requirement was unconstitutional even though the providers had not asked the Court to do so. On Appeal, the Court of Appeals concluded: “The District Court was wrong to hold the admitting-privileges requirement unconstitutional because the providers had not asked them to do so ...” **Whole Woman's Health v. Hellerstedt, 579 U.S. _____ (2016) [Opinion @ I, C, 3rd Para.]** Then in analyzing this circumstance, the U.S. Supreme Court reversed the decision of the Court of Appeals, with the following logic.

“The Court of Appeals also concluded that the award of facial relief was precluded by principles of res judicata. 790 F.3d at 581. The court [of Appeals] concluded that the District court should not have “granted more relief than anyone requested or briefed.” **Id.**, at 580. ... The Federal Rules of Civil Procedure state that ... a “final judgement should grant the relief to which each party is entitled, even if the party has not demanded that relief in its pleadings.” Rule 54c.” **Whole Woman’s Health v. Hellerstedt, 579 U.S. _____ (2016) [Opinion @ II, A, Last Para.]**

22. **The Court below did not meet its Burden and erred by failing to conduct the Mandatory Jurisdiction analysis required by Nixon v. Fitzgerald.**

Before this Court or the Court below can decide the question(s) raised in Plaintiff’s complaint(s), each court must determine if it has federal Jurisdiction, not only for this court’s review, but also for the rulings of the Court below.

“Every federal appellate court has a special obligation to satisfy itself not only of its own jurisdiction, but also that of the lower courts in a cause under review, even though the parties are prepared to concede it. And if the record discloses that the lower court was without jurisdiction this court will notice the defect, although the parties make no contention concerning it. When the lower federal court lacks jurisdiction, we have jurisdiction on appeal, not of the merits but merely for the purpose of correcting the error of the lower court in entertaining the suit.” **Steel Co. v. Citizens For A Better Env’t., 523 U.S. 83, 95 (1998)**

And where Plaintiff’s Complaint(s) if upheld by the Courts would infringe upon the Constitutional Prerogatives and Duty to protect the Nation and its borders, this case contains significant Constitutional issues.

On such matters, the U.S. Supreme Court, with citation to **Gonzales, 550 U.S. 124** declared that the “Court retains an independent constitutional **duty** to review the factual findings where constitutional rights are at stake.” **Whole Woman’s Health v. Hellerstedt, 579 U.S. _____ (2016) [Opinion @ III, Next**

To Last Para.]

Thus, the Court below erred by failing to conduct the Constitutional Weight analysis mandated by the U.S. Supreme Court in **Nixon v. Fitzgerald** in order to determine whether or not it had Jurisdiction - which Amicus asserts it did not and could not ever have as considered next.

23. **The Constitutional Weight of the “interest to be served” by the Complaint(s) filed by Plaintiff’s cannot be more significant than the Constitutional Weight of the “dangers of [the resulting] intrusion on the authority and functions of the Executive Branch to control immigration and other problems at the southern border.**

In summary, Plaintiff’s claim harm from the diversion of funds which Defendants believe is necessary to assist in the construction of walls or barriers etc along the southern border where President Trump had declared a National Emergency, and other less important harms. Specifically:

“The State of California (and others) ... bring this action to protect their residents, natural resources, and economic interests from President Donald J. Trump’s ... pretext of a manufactured “crisis” of unlawful immigration to declare a national emergency and redirect federal dollars appropriated for drug interdiction, military construction, and law enforcement initiatives toward building a wall on the United States-Mexico border. This includes the diversion of funding that each of the Plaintiff States receive. ...” **Complaint by California, et. al., Pg 3**

And:

“... the challenged action will have an impact throughout the Northern District of California, including in Contra Costa County and Monterey County, where the Department of Defense maintains several bases and facilities. The challenged action jeopardizes million of dollars of Department of Defense funding for construction projects at military bases in this District. ... Sierra Club brings this action on its own behalf and on behalf of its members. Sierra Club members live near and frequently visit the parks, refuges, and other public lands along the United States-Mexico border for hiking, bird watching, photography and other professional, scientific, recreational and aesthetic uses. ... [Alleged injuries] are particularly

significant because the U.S. Department of Homeland Security's is proceeding with border work without first complying with decades-old environmental and public safety laws and regulations that were enacted for the very purpose of protecting places, species, and values Sierra Club members work to protect. ... Plaintiff southern border Communities Coalition ("SBCC") ... brings this action on behalf of its members and on its own behalf. ... They recreate in and derive other benefits from public lands, including areas for which border barrier funding has not been appropriated or for which deployment of funds has been prohibited. The ongoing and imminent construction of border infrastructure, including the border wall and fencing, will restrict members' access to these and other lands, degrading their quality of life. It has additional negative consequences: dividing and fragmenting communities by increasing members' fears about traveling back-and-forth across the border; heightening racial division and promoting hostility towards immigrants and communities of color in border communities; and decreasing eco- and other forms of tourism that generate significant revenue." **Complaint by Sierra Club; et al., Pgs 3-5**

Which pleadings by Plaintiff's indicate two general categories: monetary and social/recreational. And since "plaintiff's must establish standing separately for each form of relief they request. **Lewis v. Casey, 518 U.S. 343, 358 N. 6 (1996)** ("standing is not dispensed in gross"); **DaimlerCrysler Corp v. Cuno, 547 U.S. 332, 353 & N.5 (2006)** it would appear that separate Constitutional Weight analyses must be conducted for each of the monetary and social/recreational categories contained in the Complaints.

24. Constitutional Weight Analysis

Plaintiff's Sierra Club & California, et. al. claim monetary harms relating to loss of funding for defense and other businesses in their States, loss of funding for Plaintiff's particular business activities, or even monetary losses from negative effects on tourism, etc.

But these claims of monetary harm are argued to be illusory where: a)

military spending is at an all time high which suggests that the states would not actually be experiencing a reduction in government spending as compared to prior years; b) Plaintiff's are not able to even tell how much of the disputed money will actually be lost and unavailable to the states and local governments; and c) if the funds are not spent by 30 September 2019, they will be returned to the Treasury (**Supreme Court Opinion by Breyer, Pg 2**) and thus would be unavailable to the Plaintiff's anyway. Thus it appears impossible for the Plaintiff's to articulate any actual benefit to themselves or the country if the money to be diverted was actually received by the Plaintiff's instead of being used for the wall - which results in a very low, even negligible "Constitutional Weight of interest" being assigned if Plaintiff's requested relief was granted.

Further, Plaintiff's do not allege that they would have used any of the money for purposes which support the President's Emergency Declaration and need to build the Border wall, nor do Plaintiff's make any recommendations as to how the President is to improve the border situation if Plaintiff's requested relief was to be granted.

And finally, if Plaintiff's requested relief was to be granted, the "Constitutional Benefit of the interest to be served" by their Complaint(s) would actually be negative because of the escalating costs to state and local governments which can reasonably be expected to continue to rise above current levels as more illegal migrants come to the United States. This is borne out by a recent cost study by the Immigration Reform Law Institute's (IRLI) **New FAIR Study, (Copy**

Attached) which states that:

“Illegal immigration to the U.S. costs federal, state and local taxpayers a staggering net cost of \$116 billion a year - an increase of some \$16 billion compared to previous estimates.” **Id.**

“The staggering total costs of illegal immigrants and their children outweigh the taxes paid to federal and state governments by a ratio of roughly 7 to 1, with costs at nearly \$135 billion compared to tax revenues at nearly \$19 billion” **Id.**

“On the federal level, medical (\$17.14 billion) is by far the highest cost, with law enforcement coming second (\$13.15 billion), and general government services (\$8 billion) third.” **Id.**

“At the state and local level, education (\$44.4 billion) was by far the largest expense, followed by general public services (\$18.5 billion) and medical (\$12.1 billion).” **Id.**

“The study also includes cost and tax revenue estimates per state. The top three states based on total cost to state taxpayers for illegal immigrants and their children: California (\$23 billion); Texas (\$10.9 billion); and New York (\$7.5 billion). **Id.**

Thus, in fact if the President’s initiative to secure the border with Mexico using a wall or barrier in critical places was even partially successful, it is reasonable to conclude that state and local costs to the various states and local communities would be stabilized or even reduced, perhaps substantially, which would benefit the states and local governments by allowing a reprogramming of citizen tax revenues now used to support the illegal immigrants to other priorities. Thus, the granting of the relief requested by Plaintiff’s would actually result in a negative “Constitutional Weight”, a point fairly made by the IRLI Executive Director, Dan Stein.

“Clearly, the cost of doing nothing to stop illegal immigration is far too high.

... President Trump has laid out a comprehensive strategy to regain control of illegal immigration and bring down these costs, ... Building the wall, enhancing interior enforcement and mandating national E-verify will go a long way in bringing these ridiculously high costs under control.” **Id.**

And the claims of harm for social/recreational by Plaintiff’s are similarly de-minimis. The border wall is not planned to be continuous along the entire southern border, but only to be built in specific areas where major flows of immigrants, drugs and human trafficking occur, while Plaintiff’s make general claims of harm everywhere. The planned wall segments are to be built where the government can force traffic to areas where enforcement personnel can be more efficiently used to interrupt these undesirable flows of persons and drugs. However, general allegations cannot defeat President Trump’s Executive Order and Declaration of a National Emergency for the effect of Plaintiff’s requested relief is to perpetuate a situation which is already a National Emergency situation. Thus the “Constitutional Weight of the interest to be served” by the relief sought is de-minimis or next to zero (0).

Amicus thus argues that on a relative scale of 0 to 10 with 10 being the highest Constitutional Weight, the Constitutional Weight for the “interest to be served” by granting the relief requested by Plaintiff’s is de-minimis or zero (0), and perhaps even negative.

On the other hand, President Trump, in his Executive Order of 25 February 2017 states the expected benefits to be achieved by the building of a wall at critical locations along the southern border, stating:

“it is the policy of the executive branch to: (a) secure the southern border of the United States through the immediate construction of a physical wall on the southern border, monitored and supported by adequate personnel so as to prevent illegal immigration, drug and human trafficking, and acts of terrorism...”

The cost of drug smuggling which takes the lives of thousands of drug users across the United States thereby affecting the fabric of our local communities is incalculable. The **2018 National Drug Threat Assessment Report** by the DEA indicates that Drug Poisoning has steadily increased from 16,849 in 1999 to 63,632 in 2016. And the **Id., Executive Summary** (Attached) states:

“Illicit drugs, as well as the transnational and domestic criminal organizations who traffic them, continue to represent significant threats to public health, law enforcement and national security in the United States. Drug poisoning deaths are the leading cause of injury death in the United States; they are currently at their highest ever recorded level and, every year since 2011, have outnumbered the deaths by firearms, motor vehicle crashes, suicide, and homicide. In 2016 [latest year for figures] approximately 174 people died every day from drug poisoning (see Figure 1).” **Executive Summary**

It is beyond dispute that the barrier which President Trump believes is necessary to help control the flow of drugs into the United States can be reasonably expected to reduce illegal drug flow and attendant deaths. Thus, if the relief requested by Plaintiff's is granted, that there will be not simply a “danger of intrusion on the authority and functions of the Executive Branch”, but an actual “intrusion on the authority and functions of the Executive Branch”. Thus, on this issue alone, Amicus argues that the “Constitutional Weight of the actual intrusion on the authority and functions of the Executive Branch” if Plaintiff's relief is granted is ten (10), the highest level possible.

With regard to the terrorism issue, the MS-13 gangs across America are populated by illegal immigrants, and it is common practice to require new members to earn admittance to the gangs by killing someone. Reducing the flow of illegal immigrants across the southern border with a wall, would arguably lead to the reduction of MS-13 gang members, and a reduction in serious crimes and homicides like the otherwise unnecessary kidnaping, rape and murder of a thirteen year old girl by Jorge Palacios who was recently sentenced to life in prison without the possibility of parole, plus 25 additional years. **MS-13 Member Sentenced to life in prison for Kidnapping, Rape, Murder of 13-Year-Old Whittier Girl, 21 June 2019, KTLA (Copy Attached).**

So again, where the granting of Plaintiff's relief would deny President Trump of the funds to build a substantial portion of the planned border wall, it is clear that such action by the Court would substantially "intrude on the authority and functions of the Executive Branch" in its quest to stem the flow of illegal immigrants into the United States and reduce the number of MS-13 gang members who conduct criminal acts on other citizens of the United States. Thus, on this issue alone, Amicus argues that the "Constitutional Weight of the actual "intrusion on the authority and functions of the Executive Branch" if the relief requested by Plaintiff's is granted is ten (10), the highest level possible.

And finally dealing directly with the monetary aspect. As discussed above, the Immigration Reform Law Institute study of the cost to the federal, state and local governments of illegal immigrants is a staggering \$116 billion amount.

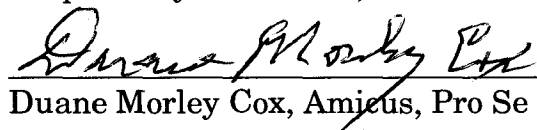
Granting the relief requested by Plaintiff's would "interfere" with the Executive Branches efforts to reduce the flow of illegal immigrants into the country, and thus "interfere" with efforts to control and/or reduce the cost of illegal immigrants to the federal, state and local governments. Thus, on this issue alone, Amicus argues that the "Constitutional Weight of the actual "intrusion on the authority and functions of the Executive Branch" if the relief requested by Plaintiff's is granted is ten (10), the highest level possible.

Amicus thus argues that on a relative scale of 0 to 10 with 10 being the highest Constitutional Weight, the Constitutional Weight for the "dangers of intrusion on the authority and functions of the Executive Branch" is the highest possible level of ten (10).

CONCLUSION

The Constitutional Weight pertaining to the "interest to be served" by the relief sought by Plaintiff's is de-minimis or zero (0), while the Constitutional Weight of the "dangers of intrusion on the authority and functions of the Executive Branch" is highest or ten (10) - which indicates that the District Court did not and does not have Jurisdiction on plaintiff's Complaints. Therefore, the Court below had and has no Jurisdiction to hear Plaintiff's Complaints, and thus this Court must reverse and remand the matter to the Court below with instructions to Dismiss Plaintiff's Complaints With Prejudice.

Respectfully Submitted;


Duane Morley Cox, Amicus, Pro Se Pg 16


Date

CERTIFICATE OF SERVICE

I, Duane Morley Cox, Pro Se, does hereby swear that on 30^a July 2019, that I did serve a true and correct copy of the attached Amicus Brief to the below listed parties by first class mail, postage pre-paid.

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30 July 2019
Date

CERTIFICATION

I Duane Morley Cox, Pro Se, do hereby swear that I am the author of this Brief, that I was not paid or asked by anyone to file this Brief. Nor did I solicit or obtain any money or assistance in any form in its preparation. Instead, I did all of my own research and preparation.

Further, the total word count by actual count is 4,291 words and 16 pages exclusive of Attachments, Table of Contents and Table of Authorities.

Signed and sworn on this 27th day of July 2019 by:

Duane Morley Cox
Duane Morley Cox, Pro Se

27 July 2019
Date

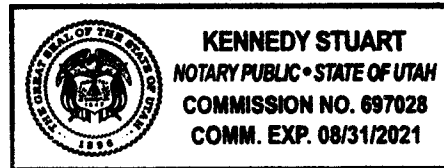
Notary:

County of Cache:

State of Utah:

I did verify that the above signed Duane Morley Cox did appear before me and is known to me, and that he did Swear that this Certification statement is true and correct.

Kennedy Stuart
Notary





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New FAIR Study: Illegal Immigration Costs \$116 billion Annually

September 27, 2017 | IRUJ Staff

Brunt of Costs Fall on State and Local Taxpayers

(Washington, D.C.) - Illegal immigration to the U.S. costs federal, state and local taxpayers a staggering net cost of \$116 billion a year - an increase of some \$16 billion compared to previous estimates - according to a new **study** released by the Federation for American Immigration Reform (FAIR). The study is the most comprehensive to date on the cost to federal, state and local taxpayers of the nation's 12.5 million illegal immigrants and their 4.2 million citizen children.

Costs Soar

The report, "The Fiscal Burden of Illegal Immigration on United States Taxpayers," examines the cost of illegal immigration through a detailed analysis of federal, state and local programs that are available to the nation's illegal immigrant population, their U.S.-born children, or accessed via fraud. The study tallies the impact on education, medical, justice/enforcement, welfare and other government programs. The report notes that the \$116 billion cost of illegal immigration falls on state and local taxpayers disproportionately - by a ratio of roughly 2 to 1 - with state and local expenditures totaling \$88.9 billion and Federal expenditures totaling \$45.8 billion, with only approximately \$19 billion recouped in taxes.

Taxes Paid Inadequate

- The staggering total costs of illegal immigrants and their children outweigh the taxes paid to federal and state governments by a ratio of roughly 7 to 1, with costs at nearly \$135 billion compared to tax revenues at nearly \$19 billion.
- All told, the nearly \$135 billion paid out by federal and state and local taxpayers to cover the cost of the presence of 12.5 million illegal aliens and their 4.2 million citizen children amounts to approximately \$8,075 per illegal alien and citizen child prior to taxes paid, or \$6,940 per person after taxes are paid.
- On the federal level, medical (\$17.14 billion) is by far the highest cost, with law enforcement coming second (\$13.15 billion) and general government services (\$8 billion) third.
- At the state and local level, education (\$44.4 billion) was by far the largest expense, followed by general public services (\$18.5 billion) and medical (\$12.1 billion).

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If Border Security
Matters, Why Can't
Anyone Be
Deported?
July 11, 2019

• The study also includes cost and tax revenue estimates per state. The top three states based on total cost to state taxpayers for illegal immigrants and their children: California (\$23 billion); Texas (\$10.9 billion), and New York (\$7.5 billion).

“Clearly, the cost of doing nothing to stop illegal immigration is far too high,” said FAIR executive director Dan Stein. “President Trump has laid out a comprehensive strategy to regain control of illegal immigration and bring down these costs,” said Stein. “Building the wall, enhancing interior enforcement and mandating national E-Verify will go a long way in bringing these ridiculously high costs under control,” he said.

ABOUT FAIR

Founded in 1979, FAIR is the country’s largest immigration reform group. With more than 1.3 million members and supporters nationwide, FAIR fights for immigration policies that serve national interests, not special interests. FAIR believes that immigration reform must enhance national security, improve the economy, protect jobs, preserve our environment, and establish a rule of law that is recognized and enforced.

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July 10, 2019



**Liberty Headlines:
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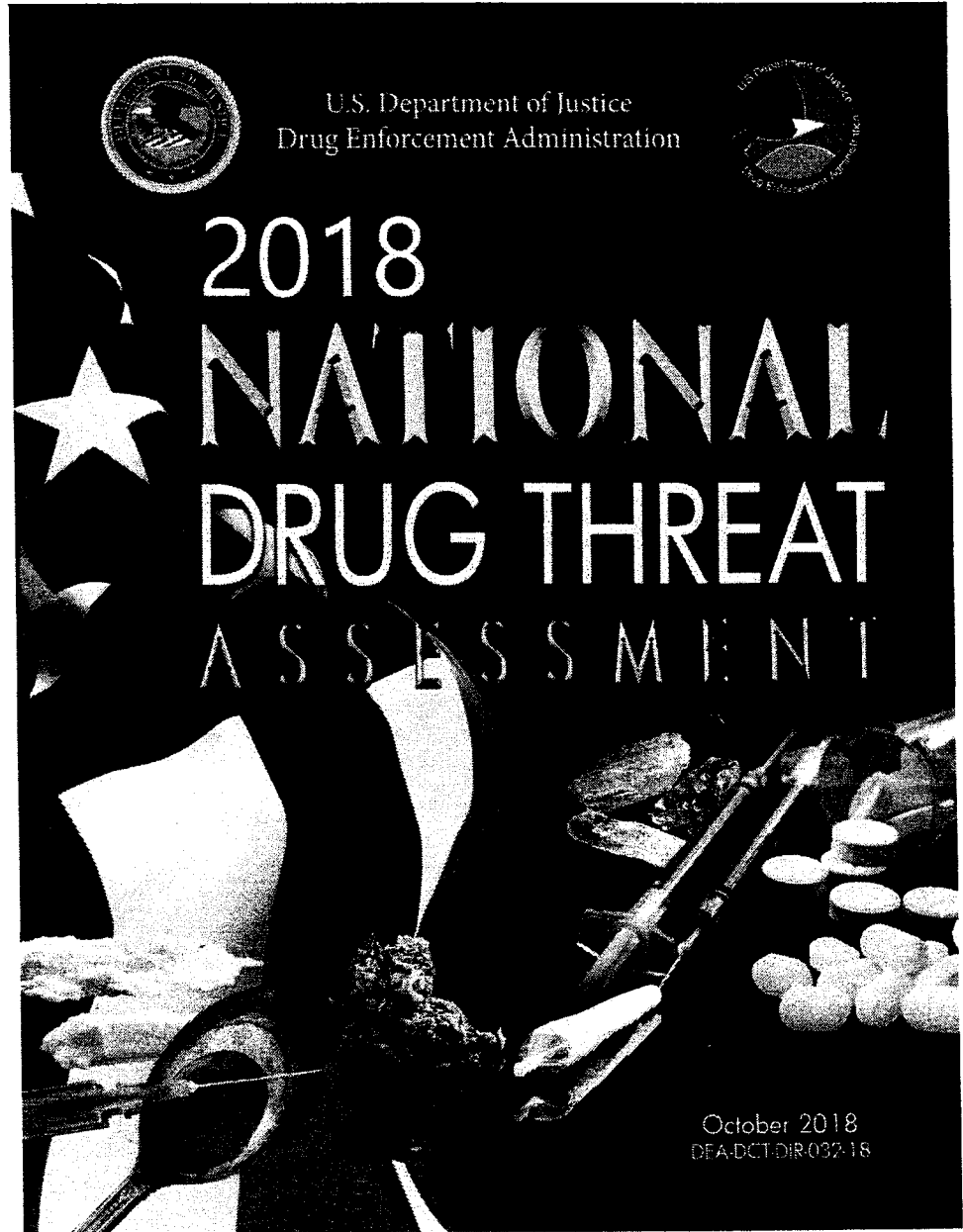
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Drug Enforcement Administration

2018 National Drug Threat Assessment

ATT No 2



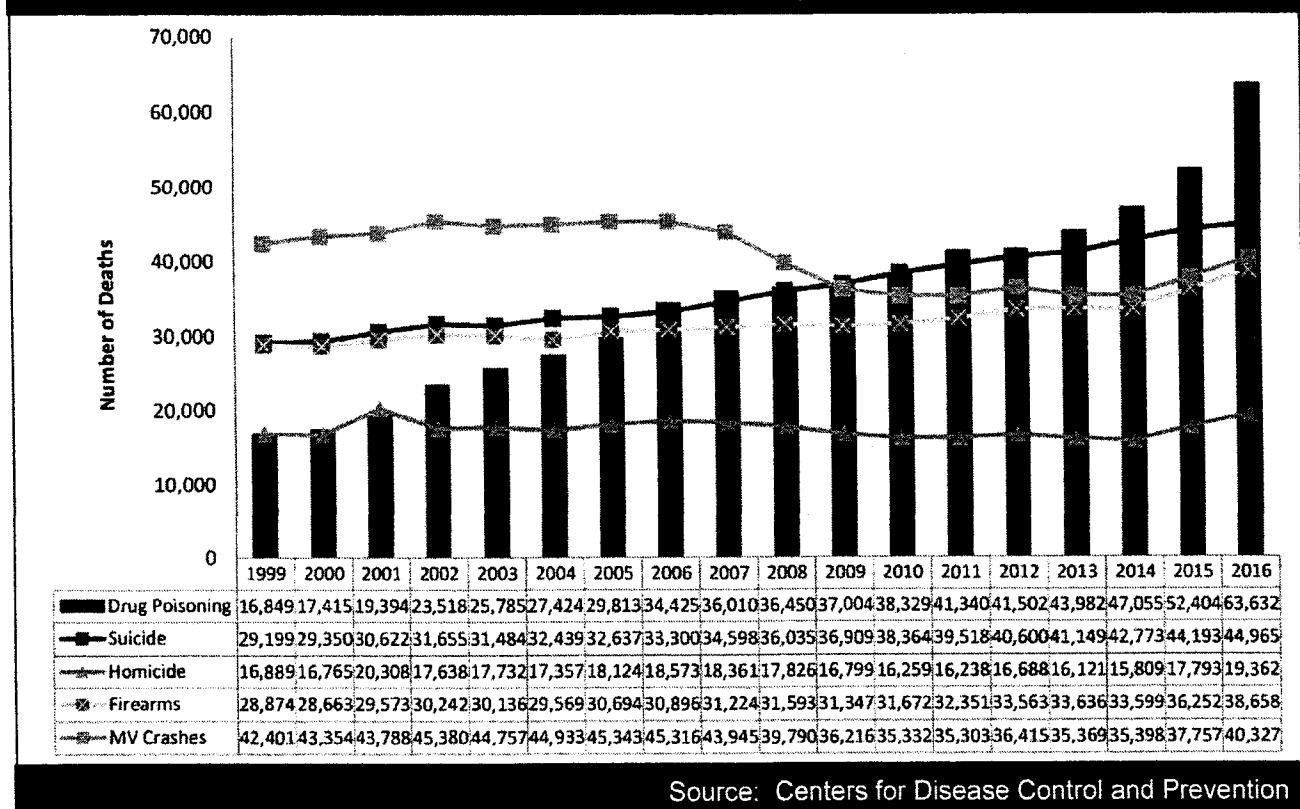
This product was prepared by the DEA Strategic Intelligence Section. Comments and questions may be addressed to the Chief, Analysis and Production Section, at DEAIntelPublications@usdoj.gov.

EXECUTIVE SUMMARY

The 2018 National Drug Threat Assessment (NDTA)¹ is a comprehensive strategic assessment of the threat posed to the United States by domestic and international drug trafficking and the abuse of illicit drugs. The report combines federal, state, local, and tribal law enforcement reporting; public health data; open source reporting; and intelligence from other government agencies to determine which substances and criminal organizations represent the greatest threat to the United States.

Illicit drugs, as well as the transnational and domestic criminal organizations who traffic them, continue to represent significant threats to public health, law enforcement, and national security in the United States. Drug poisoning deaths are the leading cause of injury death in the United States; they are currently at their highest ever recorded level and, every year since 2011, have outnumbered deaths by firearms, motor vehicle crashes, suicide, and homicide. In 2016, approximately 174 people died every day from drug poisoning (see Figure 1). The opioid threat (controlled prescription drugs, synthetic opioids, and heroin) has reached epidemic levels and currently shows no signs of abating, affecting large portions of the United States. Meanwhile, as the ongoing opioid crisis justly receives national attention, the methamphetamine threat remains prevalent; the cocaine threat has rebounded; new psychoactive substances (NPS) are still challenging; and the domestic marijuana situation continues to evolve.

Figure 1. Number of Injury Deaths by Drug Poisoning, Suicide, Homicide, Firearms, and Motor Vehicle Crashes in the United States, 1999 – 2015²



Source: Centers for Disease Control and Prevention

¹ Analyst Note: The information in this report is current as of August 2018.

² Drug overdose deaths are identified using ICD-10 underlying cause-of-death codes X40-X44, X60-X64, X85, and Y10-Y14. Drug overdose deaths involving selected drug categories are identified using ICD-10 multiple cause-of-death codes: heroin, T40.1; natural and semisynthetic opioids, T40.2; methadone, T40.3; synthetic opioids other than methadone, T40.4; cocaine, T40.5; and psychostimulants with abuse potential, T43.6. Categories are not mutually exclusive because deaths may involve more than one drug. Also, not all states report death data the same or at all to the Centers for Disease Control and Prevention (CDC), meaning nationwide counts of drug overdose deaths, especially deaths by a specific drug(s), may vary from statewide counts. As a result, CDC has stated the true number of drug overdose deaths is almost certainly much higher than the numbers officially reported.

Controlled Prescription Drugs (CPDs): CPDs are still responsible for the most drug-involved overdose deaths and are the second most commonly abused substance in the United States. As CPD abuse has increased significantly, traffickers are now disguising other opioids as CPDs in attempts to gain access to new users. Most individuals who report misuse of prescription pain relievers cite physical pain as the most common reason for abuse; these misused pain relievers are most frequently obtained from a friend or relative.

Heroin: Heroin use and availability continue to increase in the United States. The occurrence of heroin mixed with fentanyl is also increasing. Mexico remains the primary source of heroin available in the United States according to all available sources of intelligence, including law enforcement investigations and scientific data. Further, significant increases in opium poppy cultivation and heroin production in Mexico allow Mexican TCOs to supply high-purity, low-cost heroin, even as U.S. demand has continued to increase.

Fentanyl and Other Synthetic Opioids: Illicit fentanyl and other synthetic opioids — primarily sourced from China and Mexico—are now the most lethal category of opioids used in the United States. Traffickers—wittingly or unwittingly—are increasingly selling fentanyl to users without mixing it with any other controlled substances and are also increasingly selling fentanyl in the form of counterfeit prescription pills. Fentanyl suppliers will continue to experiment with new fentanyl-related substances and adjust supplies in attempts to circumvent new regulations imposed by the United States, China, and Mexico.

Cocaine: Cocaine availability and use in the United States have rebounded, in large part due to the significant increases in coca cultivation and cocaine production in Colombia. As a result, past-year cocaine initiates and cocaine-involved overdose deaths are exceeding 2007 benchmark levels. Simultaneously, the increasing presence of fentanyl in the cocaine supply, likely related to the ongoing opioid crisis, is exacerbating the re-merging cocaine threat.

Methamphetamine: Methamphetamine remains prevalent and widely available, with most of the methamphetamine available in the United States being produced in Mexico and smuggled across the Southwest Border (SWB). Domestic production occurs at much lower levels than in Mexico, and seizures of domestic methamphetamine laboratories have declined steadily for many years.

Marijuana: Marijuana remains the most commonly used illicit drug in the United States. The overall landscape continues to evolve; although still illegal under Federal law, more states have passed legislation regarding the possession, use, and cultivation of marijuana and its associated products. Although seizure amounts coming across the SWB have decreased in recent years, Mexico remains the most significant foreign source for marijuana available in the United States. Domestic marijuana production continues to increase, as does the availability and production of marijuana-related products.

New Psychoactive Substances (NPS): The number of new NPS continues to increase worldwide, but remains a limited threat in the United States compared to other widely available illicit drugs. China remains the primary source for the synthetic cannabinoids and synthetic cathinones that are trafficked into the United States. The availability and popularity of specific NPS in the United States continues to change every year, as traffickers experiment with new and unregulated substances.

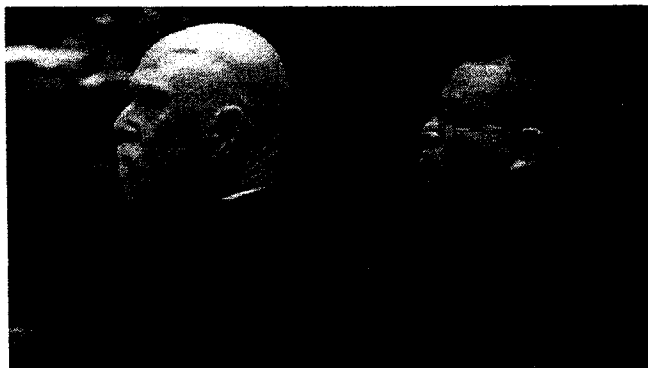
Mexican Transnational Criminal Organizations (TCOs): Mexican TCOs remain the greatest criminal drug threat to the United States; no other group is currently positioned to challenge them. The Sinaloa Cartel maintains the most expansive footprint in the United States, while Cartel Jalisco Nueva Generacion's (CJNG) domestic presence has significantly expanded in the past few years. Although 2017 drug-related murders in Mexico surpassed previous levels of violence, U.S.-based Mexican TCO members generally refrain from extending inter-cartel conflicts domestically.

MS-13 Member Sentenced to Life in Prison for Kidnapping, Rape, Murder of 13-Year-Old Whittier Girl

POSTED 5:24 PM, JUNE 21, 2019, BY BRIAN DAY

ADT No 3

A judge on Friday sentenced an MS-13 gang member to life in prison without the possibility of parole, plus an additional 25 years, for the 2001 kidnapping, rape and murder of a 13-year-old Whittier girl, authorities said.



Jorge Palacios, right, sits with lawyer Lawrence Forbes during closing arguments in his trial on March 1, 2018. (Credit: Myung J. Chun / Los Angeles Times)

A jury convicted Jorge Palacios, 41, in March of first-degree murder and kidnapping to commit another crime, the Los Angeles County District Attorney's Office said in a written statement. Jurors also found true the special allegations of murder during the commission of a rape, lewd acts on a child and kidnapping.

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Three other men are awaiting trial for their alleged roles in the killing of Jacqueline Piazza, whose body was discovered in Elysian Park on June 28, 2001. A previous trial ended with a hung jury.

The victim's body was nude when discovered and she had been shot twice in the head, prosecutors said.

The brutal killing remained unsolved for more than a decade before investigators from the Los Angeles Police Department's Robbery-Homicide Division, working in conjunction with detectives from the Gang and Narcotics Division, received new information in the case. An indictment against the four suspects was unsealed in June of 2012.

"During the trial, prosecutors said the defendants kidnapped the victim the night before she was found and drove her to a remote area of (a) park, where they sexually assaulted and killed her," according to the D.A.'s office statement.

Co-defendants Rogelio Contreras, 41; Melvin Sandoval, 40; and Santos Grimaldi, 36, are scheduled to appear in Los Angeles County Superior Court on Aug. 23 for a pretrial conference in their case.

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