

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS

THE CITY OF CHICAGO,

Plaintiff,

v.

JEFFERSON BEAUREGARD SESSIONS III,
Attorney General of the United States

Defendant.

Civil Action No. 1:17-cv-5720

Hon. Harry D. Leinenweber

CHICAGO'S MOTION FOR PRELIMINARY INJUNCTION

Plaintiff City of Chicago (“Chicago” or the “City”), by its counsel, hereby moves for a preliminary injunction restraining Defendant Jefferson Beauregard Sessions III, the Attorney General of the United States, from imposing unauthorized and unconstitutional conditions on FY 2017 Byrne JAG funds. In support hereof, Plaintiff states as follows:

1. Plaintiff’s Complaint seeks to enjoin Defendant from imposing unauthorized and unconstitutional conditions on an established grant program—the Edward Byrne Memorial Justice Assistance Grant (“Byrne JAG”) program—that Plaintiff has relied on for over a decade to promote public safety. These conditions seek to undermine the established public safety policies of cities like Chicago.

2. In particular, the new conditions would require Plaintiff to (1) provide at least 48 hours’ advance notice to the Department of Homeland Security (“DHS”) regarding the scheduled release date and time of a non-citizen in the jurisdiction’s custody when DHS requests such notice in order to take custody of the non-citizens pursuant to the Immigration and Nationality Act, (2) permit DHS personnel to access any correctional or detention facility in order to meet with a

non-citizen (or an individual believed to be a non-citizen) and inquire as to his or her right to be or remain in the United States, and (3) certify compliance with 8 U.S.C. § 1373.

3. The imposition of these conditions by the Attorney General creates an untenable choice for Plaintiff between, on the one hand, complying with unlawful and unconstitutional conditions, and thereby undermining the relationship between law enforcement and immigrant communities that is essential to its crime-fighting operations; and, on the other, forfeiting millions of dollars in funds that it (and the other eleven localities on whose behalf Chicago files applications for funding) depends on to acquire essential police equipment and conduct vital community outreach. Either choice—and indeed simply being forced to make such a choice—would cause irreparable harm to Plaintiff and its residents.

4. Plaintiff's application for Byrne JAG funding is due on September 5, 2017. Chicago has less than a month to decide whether it will apply for a grant that includes the Department's ultimatum. Plaintiff has therefore requested an accelerated briefing schedule in its contemporaneously filed Motion to Expedite Briefing Schedule and Unopposed Motion to File Oversized Brief.

5. This Motion for Preliminary Injunction is made on the grounds that Plaintiff is likely to succeed on the merits of its claims, that it will suffer irreparable harm in the absence of preliminary relief, that the balance of equities weighs in favor of an injunction, and that a preliminary injunction would serve the public interest. *See Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). These grounds are described in detail in Chicago's accompanying Memorandum in Support and supporting materials.

WHEREFORE, Plaintiff respectfully requests that this Court enter a Preliminary Injunction by September 5, 2017, enjoining the Attorney General from imposing the aforementioned conditions on FY 2017 Byrne JAG funds.

August 10, 2017.

JAMIE S. GORELICK (*pro hac vice* pending)
DAVID W. OGDEN (*pro hac vice* pending)
ARI HOLTZBLATT (*pro hac vice* pending)
ARI SAVITZKY (*pro hac vice* pending)
MOLLY JENNINGS (*pro hac vice* pending)
BRIDGET FAHEY* (*pro hac vice* pending)
WILMER CUTLER PICKERING HALE
AND DORR LLP
1875 Pennsylvania Avenue NW
Washington, DC 20006
(202) 663-6000

DEBO P. ADEGBILE (*pro hac vice* pending)
WILMER CUTLER PICKERING HALE
AND DORR LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007
(212) 230-8800

* Admitted to practice only in Colorado.
Supervised by members of the firm who are
members of the District of Columbia Bar

Respectfully Submitted,

By /s/ Edward N. Siskel
EDWARD N. SISKEL
Corporation Counsel of the City of Chicago
JUSTIN A. HOUPPERT
Assistant Corporation Counsel
SCOTT D. SPEARS
Assistant Corporation Counsel
121 N. LaSalle Street, Suite 600
Chicago, IL 60602
(312) 744-0220
edward.siskel@cityofchicago.org

ANDREW W. WORSECK
Chief Assistant Corporation Counsel
30 N. LaSalle Street, Suite 1230
Chicago, IL 60602
(312) 744-0220

RONALD S. SAFER
MATTHEW C. CROWL
NICK KAHLON
LAURA KLEINMAN
RILEY SAFER HOLMES & CANCELIA LLP
Three First National Plaza
70 West Madison Street, Suite 2900
Chicago, IL 60602
(312) 471-8700

Attorneys for the City of Chicago

CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2017, I caused the foregoing to be electronically transmitted to opposing counsel at the email addresses listed below.

Steven Buckingham, SBucking@civ.usdoj.gov

John Tyler, JTyler@civ.usdoj.gov

Thomas Walsh, Thomas.Walsh2@usdoj.gov

/s/ Edward N. Siskel