



# H A R V A R D L A W S C H O O L

CAMBRIDGE · MASSACHUSETTS · 02138

February 3, 2014

The Honorable William Brownsberger  
*Senate Chairman*, Joint Committee on the  
Judiciary  
Room 413C  
Massachusetts State House  
Boston, MA 02133

The Honorable James Timilty  
*Senate Chairman*, Joint Committee on Public  
Safety and Homeland Security  
Room 507  
Massachusetts State House  
Boston, MA 02133

The Honorable Eugene O'Flaherty  
*House Chairman*, Joint Committee on the  
Judiciary  
Room 136  
Massachusetts State House  
Boston, MA 02133

The Honorable Harold Naughton Jr.  
*House Chairman*, Joint Committee on Public  
Safety and Homeland Security  
Room 167  
Massachusetts State House  
Boston, MA 02133

Dear Honorable Senators and Representatives,

We, the undersigned Massachusetts law school professors, write in support of An Act to restore community trust in Massachusetts law enforcement (“Trust Act”), which affords local law enforcement the discretion whether to honor immigration detainers.<sup>1</sup> Many state and local governments throughout the country are enacting policies and legislation similar to the Massachusetts Trust Act. For example, Connecticut and California have passed legislation and over a dozen municipalities, including major cities such New York City, Chicago, Washington, DC, New Orleans, Los Angeles, and San Francisco.<sup>2</sup> The Commonwealth of Massachusetts should likewise embrace Trust Act legislation.

In support of the Trust Act we briefly discuss the harmful effects some detainers can have and to share our legal analysis regarding (1) the non-binding nature of immigration detainers; (2) the constitutional problems arising from the enforcement of these detainers; and (3) the growing nationwide consensus that de-coupling immigration and local criminal enforcement is both legal and important to local law enforcement who do not want to treat detainers as mandatory.

## **I. Local law enforcement concerns about immigration detainers.**

Through the federal Secure Communities program, all individuals arrested and fingerprinted by local law enforcement agents now have their fingerprints automatically forwarded to the Department of Homeland Security’s fingerprint database, regardless of whether

---

<sup>1</sup> Identical bills were introduced in the House and Senate. H.1613, 188th Leg. (Mass. 2013) (referred to Comm. on the Judiciary, Jan. 22, 2013); S.1135, 188th Leg. (Mass. 2013) (referred to Comm. on Pub. Safety and Homeland Sec., Jan. 22, 2013).

<sup>2</sup> See *infra* notes 27–40, and accompanying text.

they are ever charged with or convicted of committing a crime.<sup>3</sup> This allows immigration agents to issue detainers for individuals solely on the basis of a fingerprint match. From 2008 to date, hundreds of thousands of detainers have been issued.<sup>4</sup>

In response to growing public concern about the harmful effects of harsh immigration enforcement strategies and mass detention, and the failure of the federal government to pass comprehensive and humane immigration reform, a growing number of state and local governments have passed or are considering the passage of Trust Acts or similar policies. These initiatives limit state, county, or local compliance with federal immigration detainers. In doing so, these policies may restore some public confidence in local and state law enforcement by reducing the risk of racial profiling and redirecting limited resources back to combating serious, violent crime.

## **II. The regulations authorizing the use of detainers, and the detainer form itself, clearly state that detainers are requests and not binding orders.**

Federal regulations clearly state that immigration detainers are only non-binding *requests*: a detainer “serves to *advise* another law enforcement agency that the Department [of Homeland Security] seeks custody of an alien . . . . The detainer is a *request* that such agency advise the Department [of Homeland Security], prior to the release of the alien.”<sup>5</sup> The federal regulations on immigration detainers contain no language stating that a local law enforcement agency is required to abide by a detainer.

The immigration detainer form itself likewise notes that the request to hold an individual is not binding on the law enforcement agency. The Department of Homeland Security (“DHS”) issues detainer requests to local law enforcement with a three-page form called an I-247 Immigration Detainer—Notice of Action.<sup>6</sup> That form states:

IT IS *REQUESTED* THAT YOU:  
Maintain custody of the subject for a period NOT TO EXCEED 48 HOURS, excluding Saturdays, Sundays, and holidays, beyond the time when the subject would have otherwise been released from your custody to allow DHS to take custody of the subject. This

---

<sup>3</sup> See Tom Keane, *Walsh is right about Secure Communities*, The Boston Globe, Dec. 10, 2013 (noting that “Every time a cop detains or arrests someone, that person’s fingerprints are to be turned over to the feds.”); see also Julia Preston, *Despite Opposition, Immigrant Agency to Expand Fingerprint Program*, N.Y. Times, May 11, 2012 (noting that “Under Secure Communities, fingerprints of anyone booked by the local or state police are sent through the F.B.I. to be checked in databases of the Department of Homeland Security which include immigration records.”).

<sup>4</sup> U.S. Immigration and Customs Enforcement, *Secure Communities, Monthly Statistics through May 31, 2013, IDENT/IAFIS Interoperability* (2013), available at [http://www.ice.gov/doclib/foia/sc-stats/nationwide\\_interop\\_stats-fy2013-to-date.pdf](http://www.ice.gov/doclib/foia/sc-stats/nationwide_interop_stats-fy2013-to-date.pdf) (noting that “Since Secure Communities’ use of IDENT/IAFIS Interoperability was first activated in Harris County, TX, on October 27, 2008, ICE has removed over 279, 482 aliens and over 81, 989 Level 1 convicted criminal aliens after identification through use of IDENT/IAFIS interoperability.”). IAFIS stands for Integrated Automated Fingerprint Identification System while IDENT stands for Automated Biometric Identification System.

<sup>5</sup> 8 C.F.R. § 287.7(a) (2013) (emphases added).

<sup>6</sup> Dep’t of Homeland Sec., Immigration Detainer —Notice of Action (Dec. 2012), available at <http://www.ice.gov/doclib/secure-communities/pdf/immigration-detainer-form.pdf> (last accessed on Nov. 19, 2013).

*request* derives from federal regulation 8 C.F.R. § 287.7.<sup>7</sup>

**III. In both public and internal communications, DHS consistently acknowledges that detainers are not binding on local law enforcement agencies.**

DHS concedes that detainers are permissive requests rather than mandatory orders. In response to questions from Congressional leaders, local governments, the public, and litigants, DHS has explicitly stated that immigration detainer requests are not mandatory.<sup>8</sup> In a 2010 briefing to members of the Congressional Hispanic Caucus, a DHS official affirmed that “local [law enforcement agencies] are not mandated to honor a detainer, and in some jurisdictions they do not.”<sup>9</sup> DHS has likewise confirmed that detainers are not mandatory in response to inquiries from local governments.<sup>10</sup> Even DHS’s own description of detainers published in the Federal Registry notes that detainers are non-binding requests to local law enforcement.<sup>11</sup> In response to a recent class action lawsuit, DHS again acknowledged that detainers do not impose a requirement upon local law enforcement agencies and stated that detainers are “legally-authorized request[s] upon which a state or local law enforcement agency *may* rely.”<sup>12</sup>

DHS’s internal communications also acknowledge that compliance with immigration detainers is voluntary. In a 2010 internal memorandum, Immigration and Customs Enforcement (an agency within DHS) outlined its policy concerning detainers.<sup>13</sup> In that document, each time a detainer is defined it is categorized as a request rather than a mandate.<sup>14</sup> For example, the policy describes a detainer as a “*request* that the [local law enforcement agency] maintain

---

<sup>7</sup> *Id.* (emphasis added). Previous versions of the detainer form contained misleading language. See Dep’t of Homeland Sec., Immigration Detainer - Notice of Action (Dec. 2011) *available at* [http://www.ilrc.org/files/documents/detainer\\_guidance\\_plus\\_addendums.pdf](http://www.ilrc.org/files/documents/detainer_guidance_plus_addendums.pdf) (last accessed on Nov. 22, 2013). The earlier version stated that 8 C.F.R. § 287.7 “provides that a law enforcement agency ‘shall maintain custody of an alien’ once a detainer has been issued by DHS.” That directive was misleading because the word “shall” in § 287.7(d) refers to the *time limit* beyond which local law enforcement *may not* detain an individual pursuant to an ICE detainer. Given voluntary compliance with an ICE detainer, 8 C.F.R. § 287.7(d) provides that a local law enforcement agency “*shall* maintain custody of the alien for a period *not to exceed 48 hours . . .*” 8 C.F.R. § 287.7(d) (emphasis added). In December 2012, DHS amended the form to make clear that immigration detainers are simply requests, and that they are not mandatory. See KATE M. MANUEL, CONG. RESEARCH SERV., R42690, IMMIGRATION DETAINERS: LEGAL ISSUES 11–12 (2012) (noting that the form was first amended two years earlier “in August 2010 to indicate that ICE ‘requested’—rather than ‘required’—that aliens be held”).

<sup>8</sup> See *infra* notes 8–11.

<sup>9</sup> See Email to David Venturella, Assistant Dir., Immigration and Customs Enforcement Secure Communities at 3 (Oct. 29, 2010, 10:04), *available at* <http://altopolimigra.com/wp-content/uploads/2011/12/ICE-FOIA-2674.020612.pdf> (summarizing the briefing to Congressional members).

<sup>10</sup> See, e.g., Letter from David Venturella, Assistant Dir., Immigration and Customs Enforcement Secure Communities, to Miguel Marquez, Santa Clara County Counsel, *available at* <http://media.sjbeez.org/files/2011/10/4-ICE-response-to-SCC.pdf> (“[Question from Santa Clara County Counsel:] Is it ICE’s position that localities are required to hold individuals pursuant to [a detainer] or are detainers merely requests with which a county could legally decline to comply? [ICE Response:] ICE views an immigration detainer as a request”).

<sup>11</sup> 55 Fed. Reg. 43326 (Oct. 29, 1990) (“The detainer is merely a notice to an alien’s custodian that the Service is interested in assuming custody of the alien when he is released from his incarceration.”).

<sup>12</sup> See Defendants’ Answer at 5, 11 *Moreno v. Napolitano*, No. 1:11-CV-05452 (N.D. Ill. Dec. 12, 2012) (“Defendants [d]eny the allegation in the second sentence that a detainer . . . imposes a requirement upon a [local law enforcement agency]”) (“Defendants Deny the allegation in the second sentence that the regulation cited on the I-247 form . . . imposes a requirement upon the [local law enforcement agency]”); *Id.* at 5 (emphasis added).

<sup>13</sup> U.S. Immigration and Customs Enforcement, Interim Policy Number 10074.1: Detainers (Aug. 2, 2010), *available at* [http://www.aclunc.org/docs/legal/interim\\_detainer\\_policy.pdf](http://www.aclunc.org/docs/legal/interim_detainer_policy.pdf).

<sup>14</sup> *Id.* at 1–2.

custody”<sup>15</sup> and a “request that [a local law enforcement agency] temporarily detain an alien.”<sup>16</sup>

#### **IV. An attempt by DHS to make detainees binding would likely violate the Tenth Amendment of the United States Constitution.**

The Tenth Amendment prevents a federal agency, such as DHS, from requiring state and local law enforcement officials to use state resources to achieve federal enforcement goals.<sup>17</sup> The Tenth Amendment guarantees a system of dual sovereignty: state governments transfer certain powers to the federal government, but retain “a residual and inviolable sovereignty.”<sup>18</sup> Under this system, the federal government cannot force state or local officials to enact or administer a federal regulatory program.<sup>19</sup> The prohibition on federal “commandeering” of state officers reflects the separation of powers between the state and federal government—a division that provides a crucial and necessary check on federal powers.<sup>20</sup>

As the U.S. Supreme Court noted in *Printz v. United States*, “[t]he power of the Federal Government would be augmented immeasurably if it were able to impress into its service—and at no cost to itself—the police officers of the 50 States.”<sup>21</sup> The Court then held that “[t]he Federal Government may neither issue directives requiring the States to address particular problems, nor command the States’ officers, or those of their political subdivisions, to administer or enforce a federal regulatory program.”<sup>22</sup> According to the Court, regardless of potential benefits or policy rationales, “such [federal] commands are fundamentally incompatible with our constitutional system of dual sovereignty.”<sup>23</sup> Likewise, the First Circuit has also explained that under the Tenth Amendment, “Congress may not command states to administer federal regulatory programs, conscript state officers directly, or otherwise treat state governments as federal handmaidens.”<sup>24</sup>

Consequently, Tenth Amendment jurisprudence prohibits the federal government from requiring local law enforcement agencies compliance with the immigration detainer requests. Detainers are issued pursuant to federal immigration law enforcement programs and priorities and states need not use their own limited resources to hold noncitizens only for federal immigration purposes—especially when doing so is contrary to local law enforcement interests. Legislation like the Trust Act, which seeks to limit the compliance of state and local law enforcement officers, is therefore constitutional.

---

<sup>15</sup> *Id.* at 1 (emphasis added).

<sup>16</sup> *Id.* at 2 (emphasis added).

<sup>17</sup> See U.S. CONST. amend. X. (“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”).

<sup>18</sup> See *Printz v. U.S.*, 521 U.S. 898, 918–19 (1997) (quoting THE FEDERALIST No. 39, at 245 (James Madison)). In *Printz*, the Court cited several sources of constitutional text supporting the theory of residual state sovereignty, including the: (1) prohibition on involuntary reduction or combination of a state’s territory (U.S. CONST. art. IV, §3); (2) Judicial Power Clause (U.S. CONST. art. III, §2); and (3) Privileges and Immunities Clause (U.S. CONST. art. IV, §2), which speaks of the “citizens” of the States. *Id.*

<sup>19</sup> See *id.* at 902–04, 932 (finding an interim provision of the Brady Handgun Violence Prevention Act that required state and local law enforcement officers to conduct background checks on prospective gun purchasers unconstitutional).

<sup>20</sup> See *New York v. United States*, 505 U.S. 144, 168–69 (1992).

<sup>21</sup> *Printz*, 521 U.S. at 922.

<sup>22</sup> *Id.* at 935.

<sup>23</sup> *Id.*

<sup>24</sup> *Herrera-Inirio v. I.N.S.*, 208 F.3d 299, 307 (1st Cir. 2000).

**V. Massachusetts should follow a growing number of state and local governments that are taking action to limit compliance with ICE detainees.**

Two states and over a dozen localities have enacted legislation or policies limiting compliance with immigration detainees. In June 2013, Connecticut became the first state to pass a version of the Trust Act.<sup>25</sup> Four months later, following a statement from California Attorney General Kamala D. Harris that “detainer requests are not mandatory” and that “law enforcement agencies in California can make their own decisions about whether to fulfill an individual immigration detainer,”<sup>26</sup> California Governor Jerry Brown signed the California TRUST Act.<sup>27</sup> Even Former DHS Secretary Janet Napolitano expressed support for the California TRUST Act.<sup>28</sup>

Over a dozen major cities and counties, including a city in Massachusetts, have likewise limited the circumstances in which local law enforcement agencies may comply with ICE detainees. These municipalities include: New York City, NY;<sup>29</sup> Chicago, IL (Cook County);<sup>30</sup> Seattle (King County), WA;<sup>31</sup> Miami-Dade County, FL;<sup>32</sup> Washington, DC;<sup>33</sup> New Orleans, LA;<sup>34</sup> Los Angeles, San Francisco, and Santa Clara, CA;<sup>35</sup> Newark, NJ;<sup>36</sup> Milwaukee, WI;<sup>37</sup>

---

<sup>25</sup> See An Act Concerning Civil Immigration Detainers, Conn. Pub. Acts No. 13-155 (2013), available at <http://www.cga.ct.gov/2013/ACT/PA/2013PA-00155-R00HB-06659-PA.htm>.

<sup>26</sup> Information Bulletin from Kamala D. Harris, Att’y Gen. of the State of California to Executives of State and Local Law Enforcement Agencies, *Responsibilities of Local Law Enforcement Agencies Under Secure Communities*, No. 2012-DLE-01 (Dec. 4, 2012) (hereinafter “Harris Information Bulletin”).

<sup>27</sup> See Assembly Bill No. 4, 2013 Cal. Stat. ch. 570 (2013), available at [http://legalinfo.ca.gov/pub/13-14/bill/asm/ab\\_0001-0050/ab\\_4\\_bill\\_20130916\\_enrolled.pdf](http://legalinfo.ca.gov/pub/13-14/bill/asm/ab_0001-0050/ab_4_bill_20130916_enrolled.pdf); see also Patrick McGreevy, *Signing Trust Act is another illegal-immigration milestone for Brown*, L.A. TIMES, Oct. 5, 2013, <http://www.latimes.com/local/la-me-brown-immigration-20131006,0,5441798.story>.

<sup>28</sup> Larry Gordon, *UC student leaders meet with new system president Napolitano*, L.A. TIMES, Oct. 1, 2013, <http://www.latimes.com/local/lanow/la-me-ln-napolitano-students-20131001,0,286409.story>.

<sup>29</sup> See New York City, N.Y., Code § 14-154 (2013); Kirk Semple, *Council Votes to Add Curbs on Aiding Deportations*, N.Y. TIMES, Feb. 27, 2013, <http://www.nytimes.com/2013/02/28/nyregion/new-york-council-expands-restrictions-on-citys-cooperation-in-deportation-cases.html>.

<sup>30</sup> Cook Cnty. Bd. of Comm’rs, Ordinance 11-O-73 (Sep. 7, 2011).

<sup>31</sup> King Cnty Council Ordinance 2013-0285 (Dec. 2, 2013) (stating that King County will only honor ICE detainees for individuals convicted of, not merely charged with, serious, violent, sex, and gun crimes, or two or more serious traffic violations).

<sup>32</sup> Miami-Dade Cnty. Bd. of Comm’rs Res. R-1008-13 (Dec. 3, 2013) (“Resolution Directing the Mayor or Mayor’s Designee to Implement Policy on Responding to Detainer Requests from the United States Department of Homeland Security Immigrations and Customs Enforcement”).

<sup>33</sup> D.C. CODE §24-211.06 (2012).

<sup>34</sup> See Campbell Robertson, *New Orleans and U.S. in Standoff on Detentions*, N.Y. TIMES, Aug. 12, 2013, at A10, <http://www.nytimes.com/2013/08/13/us/new-orleans-and-us-in-standoff-on-detentions.html>.

<sup>35</sup> See Office Correspondence from Alexander R. Yim, Chief Custody Division, County of Los Angeles Sheriff’s Department, to All Concerned Personnel, Custody Division (April 9, 2013) (hereinafter “Yim Letter”); San Francisco, Cal. Res. 535-11 (2011); Inter-Office Correspondence from Vicki Hennessy, Interim Sheriff, San Francisco, to San Francisco Sheriff’s Department Personnel, (Reference 2012-091) (Oct. 4, 2012); *Santa Clara County to Stop Honoring Immigration Detainers for Low-Level Offenders*, L.A. TIMES, Oct. 18, 2011, <http://latimesblogs.latimes.com/lanow/2011/10/santa-clara-county-to-stop-honoring-immigration-detainers-for-low-level-offenders-.html>; *Jailed immigrants: Santa Clara County sticks with lenient policy*, SAN JOSE MERCURY NEWS, Nov. 11 2013, [http://www.mercurynews.com/crime-courts/ci\\_24460689/supervisors-stick-lenient-santa-clara-county-immigration-policy](http://www.mercurynews.com/crime-courts/ci_24460689/supervisors-stick-lenient-santa-clara-county-immigration-policy).

<sup>36</sup> See James Queally, *Newark police first in N.J. to refuse to detain undocumented immigrants accused of minor crimes*, N.J.COM (Aug. 15, 2013), [http://www.nj.com/essex/index.ssf/2013/08/newark\\_police\\_first\\_in\\_nj\\_to\\_refuse\\_to\\_detain\\_illegal\\_immigrants\\_accused\\_of\\_minor\\_crimes.html](http://www.nj.com/essex/index.ssf/2013/08/newark_police_first_in_nj_to_refuse_to_detain_illegal_immigrants_accused_of_minor_crimes.html).

Taos, NM;<sup>38</sup> and Amherst, MA.<sup>39</sup>

These states and municipalities have rejected unfettered compliance with immigration detainer requests for a range of reasons including: (1) the significant expense localities endure holding detainees for DHS; (2) detainers' negative impact on community policing because they discourage the public, including victims and witnesses of crime, from interacting with the police; (3) detainers' high error rate, including frequent detention of U.S. citizens; and (4) the tendency of federal immigration enforcement programs, like Secure Communities, to encourage racial profiling.<sup>40</sup> Though their policy rationales vary, these jurisdictions all agree that DHS detainers are not legally binding on local law enforcement agencies, and that requiring compliance with detainers can be harmful to state and local interests.<sup>41</sup> In light of such harm, localities are free to limit the circumstances in which local law enforcement agencies may use their limited resources to comply with ICE detainers, or to forgo compliance entirely.

Based on the foregoing legal arguments and policy concerns, we urge the Massachusetts legislature to pass a clear, sensible law to limit compliance with ICE detainers. The Massachusetts Trust Act would do just that while fostering community confidence in local law enforcement agencies and allowing those agencies to make their own decisions on how to allocate their limited resources toward fostering effective local community policing and toward programs that they believe improve public safety.

Sincerely,

Roger I. Abrams  
Richardson Professor of Law  
Northeastern University School of Law\*

Libby S. Adler  
Professor of Law  
Northeastern University School of Law\*

Susan M. Akram  
Clinical Professor of Law  
Boston University School of Law\*

Deborah E. Anker  
Clinical Professor of Law  
Harvard Law School\*

---

<sup>37</sup> Georgia Pabst, *Abele Signs Immigration Detainer Resolution*, JOURNAL SENTINEL, June 4, 2012, <http://www.jsonline.com/blogs/news/157041355.html>.

<sup>38</sup> See Taos County Adult Detention Policies and Procedures, *available at* <http://altopolimigra.com/wp-content/uploads/2011/12/Taos-Jail-Policy.pdf>.

<sup>39</sup> See Results: Annual Town Meeting April 30, May 2, 7, 9, 14, and 16, 2012, *available at* <http://www.amherstma.gov/DocumentCenter/Home/View/18533>.

<sup>40</sup> See, e.g., Harris Information Bulletin, *supra* note 26; Yim Letter, *supra* note 35; Kirk Semple, *Council Votes to Add Curbs on Aiding Deportations*, N.Y. Times, Feb. 27, 2013 (quoting New York City Council Speaker Christine Quinn's statement, "[w]e have seen too many families torn apart by current detention and deportation practices . . . . Our legislation will ensure that the city does not enable such a harmful policy.").

<sup>41</sup> See *supra* notes 24–38 and accompanying text.

Brook K. Baker  
Professor of Law  
Northeastern University School of Law\*

Elizabeth Bartholet  
Morris Wasserstein Public Interest Professor of Law  
Harvard Law School\*

Christine A. Desan  
Leo Gottlieb Professor of Law  
Harvard Law School\*

Rashmi Dyal-Chand  
Professor of Law  
Northeastern University School of Law\*

Susan H. Farbstein  
Assistant Clinical Professor of Law  
Harvard Law School\*

Martha A. Field  
Langdell Professor of Law  
Harvard Law School\*

Tyler Giannini  
Clinical Professor of Law  
Harvard Law School\*

Anne B. Goldstein  
Professor of Law  
Western New England University School of Law\*

Michael Gregory  
Assistant Clinical Professor of Law  
Harvard Law School\*

Janet Halley  
Royall Professor of Law  
Harvard Law School\*

Mary Holper  
Associate Clinical Professor of Law  
Boston College Law School\*

Wendy B. Jacobs  
Clinical Professor of Law  
Harvard Law School\*

Daniel Kanstroom  
Professor of Law  
Boston College Law School\*

Duncan Kennedy  
Harvard Law School\*

Karl E. Klare  
George J. and Kathleen Waters Matthews Distinguished University Professor of Law  
Northeastern University School of Law\*

Hope Lewis  
Professor of Law  
Northeastern University School of Law\*

Susan A. Maze-Rothstein  
Senior Academic Specialist  
Northeastern University School of Law\*

Michael Meltsner  
George J. and Kathleen Waters Matthews Distinguished University Professor of Law  
Northeastern University School of Law\*

Laura Murray-Tjan  
Assistant Clinical Professor of Law  
Boston College Law School\*

Daniel Nagin  
Clinical Professor of Law  
Harvard Law School\*

Charles J. Ogletree, Jr.  
Jesse Climenko Professor of Law  
Harvard Law School\*

Deborah A. Ramirez  
Professor of Law  
Northeastern University School of Law\*

David Rossman  
Professor of Law  
Boston University School of Law\*

James V. Rowan  
Professor of Law  
Northeastern University School of Law\*



Irene M. Scharf  
Professor of Law  
University of Massachusetts School of Law\*

Ragini Shah  
Associate Clinical Professor of Law  
Suffolk University Law School\*

Ronald S. Sullivan, Jr.  
Clinical Professor of Law  
Harvard Law School\*

Carol S. Steiker  
Henry J. Friendly Professor of Law  
Harvard Law School\*

Lucy A. Williams  
Professor of Law  
Northeastern University School of Law\*

\* Academic institution included for identification purposes only.