



OFFICE OF THE MAYOR
CITY OF CHICAGO

FOR IMMEDIATE RELEASE

October 12, 2018

CONTACT:

Mayor's Press Office

312.744.3334

press@cityofchicago.org

Bill McCaffrey, Department of Law

312.744.1575

Bill.McCaffrey@cityofchicago.org

**MAYOR EMANUEL, CITY OF CHICAGO FILE SUIT AGAINST TRUMP JUSTICE DEPARTMENT
OVER 2018 BYRNE JUSTICE ASSISTANCE GRANT**

*Despite Chicago's Numerous Legal Victories Regarding 2017 Grant, Trump DOJ is Again Placing
Unlawful Conditions on 2018 Grant and Refuses to Release 2017 Funds to Chicago*

Mayor Rahm Emanuel and Chicago Corporation Counsel Ed Siskel today announced that the City of Chicago filed a lawsuit to block the latest attempt by Attorney General Sessions and the Trump Justice Department to impose new and unlawful conditions on the 2018 Edward Byrne Justice Assistance Grant, in blatant disregard for several federal court rulings invalidating the same or similar conditions.

"Chicago has repeatedly beaten the Trump Justice Department in court, and Chicago is proud to fight the Trump Justice Department again," said Mayor Emanuel. "Instead of inviting lawsuits and attacking immigrants, the Trump DOJ should immediately stop placing illegal conditions on these grants, quit withholding grant funding, and allow Chicago to use these grants to improve public safety. We will not be bullied, intimidated or coerced into making a false choice between our values as a welcoming city and the principles of community policing."

Despite prior losses on three immigration-related conditions, the Trump DOJ is now attempting to impose four immigration-related conditions on the 2018 Byrne Grant. These conditions include a "notice" condition, which requires grantees to provide advanced notice to ICE before releasing a potentially undocumented immigrant from custody, and an "access" condition that requires grantees to allow ICE access to detainees in the grantee's custody for interrogation. In addition to including these previously-barred conditions, the Attorney General has added a new condition and an additional mandatory certification, both of which are unlawful, and both of which are intended to deny funds from welcoming cities like Chicago.

"We have already won this battle in court, and yet the Attorney General continues to disregard numerous federal court rulings that have repeatedly said he does not have the authority to add

these requirements to a grant program created by Congress,” said Corporation Counsel Ed Siskel. “He cannot unilaterally impose new certifications and offer vague references to federal laws as a justification for unlawful actions.”

The new “harboring” condition would prohibit grantees from trying to protect undocumented immigrants, even where doing so would not violate any statute. The new “additional certification” condition would require grantees to certify compliance with a raft of federal immigration laws and provide assurance that the grantee has no law or policy that would impede federal officers enforcing federal immigration law.

This legal battle began in August 2017, after the Department of Justice published the solicitation for 2017 JAG program, which provides states and cities with federal funding to support local law enforcement efforts.

Despite the many losses, the Trump DOJ has not yet released the 2017 grant of more than \$2 million to Chicago, and Chicago, unlike many other cities across the nation, has not yet received an award letter for 2018.

The DOJ has also withheld the 2017 COPS Hiring award of \$3 million, as the DOJ also has imposed a special condition regarding compliance with a federal statute (8 USC 1373) that requires grantees to comply with applicable federal law. Numerous federal courts have concluded that section 1373 is not an applicable federal law because it is unconstitutional. The 2018 COPS Hiring solicitation was put on hold by the COPS Office until further notice.

In September 2017, U.S. District Judge Harry Leinenweber entered a preliminary injunction blocking the access and notice conditions on a nationwide basis. In April 2018, this preliminary injunction was upheld on appeal to the Seventh Circuit Court of Appeals, although that court later limited this injunction to Chicago.

In July 2018, Judge Leinenweber entered a permanent injunction blocking all three grant conditions, but limited the permanent injunction to Chicago. DOJ appealed the permanent injunction ruling to the Seventh Circuit, and briefing is underway, with Chicago’s response brief due November 8.

As part of the proceedings, Leinenweber warned the Trump DOJ that if it continued to include these conditions in future grants, he would likely order the DOJ to pay the City’s attorney’s fees for having to challenge the conditions yet again. As a result, we are seeking fees on the ground that DOJ has acted in bad faith.

The City of Philadelphia recently won a ruling on the similar grounds, which the Trump DOJ is appealing. Chicago filed an amicus brief on Thursday in support of the favorable ruling for Philadelphia.

The 2018 Byrne solicitations, which were released in late July, have already drawn four lawsuits by eight different States and two cities.

Over the years, Chicago has used Byrne funds for a variety of purposes that benefit public safety, including the purchase of SWAT equipment, police vehicles, radios, tasers, and expansion of the ShotSpotter system. Chicago intends to use the 2018 Byrne to bolster the resources of the Chicago Police Department's Bureau of Detectives. In 2016, the City of Chicago received \$2.3 million in JAG funds.

The City of Chicago is being supported in its legal efforts in this case by two outside law firms, Riley Safer and Wilmer Hale, who are providing their services pro bono.

###