No. 26-_____

IN THE

Supreme Court of the United States

KENOSHA COUNTY, KENOSHA COUNTY SHERIFF'S DEPARTMENT, DAVID G. BETH, ROBERT HALLISY, LARY APKER, MARC LEVIN, JUSTIN MILLER, AND BILL BETH,

Petitioners,

v.

ALEKSEY RUDERMAN, ARTURO SALDIVAR, AND CHRIS POCKNELL,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

The Trafficking Victim's Protection Act of 2000 criminalizes forced labor: "[w]hoever knowingly provides or obtains the labor or services of a person" by means of (1) force, physical restraint, or threats of force or physical restraint; (2) serious harm or threats of serious harm; (3) abuse or threatened abuse of law or legal process; or (4) any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint. 18 U.S.C. § 1589(a).

The Seventh Circuit recently held county jails violate the forced labor statute when detainees, including non-U.S. nationals lawfully detained by the federal government pending their removal proceedings, clean their cells and common areas without pay and under threat of discipline. This unprecedented expansion of Section 1589, upending established constitutional norms permitting such routine chores as part of jail management, follows several lower courts using fundamentally different methodologies when reading the text.

The question presented is:

Whether the forced labor statute, 18 U.S.C. § 1589, can be interpreted not to reach ordinary conditions of confinement in county jails that require basic housekeeping and to avoid the difficult question whether the statute is unconstitutionally vague as applied.

PARTIES TO THE PROCEEDING

Petitioners Kenosha County, Kenosha County Sheriff's Department, David G. Beth, Robert Hallisy, Larry Apker, Marc Levin, Justin Miller, and Bill Beth were the defendants in the District Court and appellees in the Seventh Circuit.

Respondents Aleksey Ruderman, Arturo Saldivar, and Chris Pocknell were plaintiffs-appellants below.

National Immigration Law Center (NILC) was amicus curiae in the Seventh Circuit.

RELATED PROCEEDINGS

United States District Court (E.D. Wis.):

> *Aleksey Ruderman, et al. v. Kenosha County, et al.*, No. 23-cv-1336 (Sept. 30, 2024)

United States Court of Appeals (7th Cir.):

> *Aleksey Ruderman, et al. v. Kenosha County, et al.*, No. 24-2939 (June 8, 2026)

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The court of appeals' opinion (Pet. App. A) is reported at 178 F.4th 333. The district court's opinion (Pet. App. C) is reported at 752 F.Supp.3d 1048.

JURISDICTION

The Seventh Circuit Court of Appeals entered its judgment on June 8, 2026. Justice Amy Coney Barrett's order of September 3, 2026, extended the time to file this petition to November 5, 2026. This Court has jurisdiction under 28 U.S.C. § 1254(1).

Pursuant to 28 U.S.C. § 2403(a), the district court certified to the Attorney General the constitutionality of an Act of Congress was drawn into question in this case on November 28, 2023. (23-cv1336 dkt. 34.) The Seventh Circuit Court of Appeals certified the same on June 2, 2025. (24-2939, private case note, June 2, 2025.)

Pursuant to Rule 29.4(b), 28 U.S.C. § 2403(a) may apply. This Petition has been served on the Solicitor General of the United States.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The specific provisions of the Trafficking Victims Protection Act, 18 U.S.C. §§ 1589 and 1595, are set forth verbatim in Appendix D.

The Dictionary Act provisions, 1 U.S. Code §§ 1, 2, and 8, are set forth verbatim in Appendix D.

INTRODUCTION

This Court last addressed a forced labor statute 38 years ago in *United States v. Kozminski*, 487 U.S. 931, 951-952 (1988), rejecting "amorphous definitions of involuntary servitude," using "[s]ound principles of construction" and following lenity when considering "uncertainty concerning the ambit" of the statute. The Court held 18 U.S.C. § 1584 and the Thirteenth Amendment are "limited to cases involving the compulsion of services by the use or threatened use of physical or legal coercion." *Id.* at 948.

In 2000, Congress reacted to *Kozminski* with 18 U.S.C. § 1589, criminalizing as forced labor broad categories of coercion, packaging it with a massive piece of legislation designed to eradicate sex and labor trafficking – the Trafficking and Violence Protection Act of 2000 (TVPA). Section 1589(a) criminalizes:

> Whoever knowingly provides or obtains the labor or services of a person by any one of, or by any combination of, the following means—
>
> (1) by means of force, threats of force, physical restraint, or threats of physical restraint to that person or another person;
>
> (2) by means of serious harm or threats of serious harm to that person or another person;

> (3) by means of the abuse or threatened abuse of law or legal process; or
>
> (4) by means of any scheme, plan, or pattern intended to cause the person to believe that, if that person did not perform such labor or services, that person or another person would suffer serious harm or physical restraint[.]

Section 1589 defines "abuse or threatened abuse of law or legal process" and "serious harm" but not "whoever." The Dictionary Act supplies two aids:

> In determining the meaning of any Act of Congress, unless the context indicates otherwise – …the words "person" and "whoever" include corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals." 1 U.S.C. § 1.
>
> The word "county" includes a parish, or any other equivalent subdivision of a State or Territory of the United States.1 U.S.C. § 2.

Congress "reauthorized" the TVPA several times over the years, including adding civil remedies under 18 U.S.C. § 1595 coterminous with Section 1589. *See Nestlé USA, Inc. v. Doe*, 593 U.S. 628, 638–39 (2021) (discussing history). Yet, never once did Congress have the TVPA address county jail detention generally or detained aliens specifically.

Meanwhile, lower courts faced Section 1589 in paradigmatic cases of labor exploitation, sometimes horrifying. *See, e.g., United States v. Kaufman*, 546 F.3d 1242 (10th Cir. 2008); *United States v. Calimlim*, 538 F.3d 706 (7th Cir. 2008).

The interpretive challenge began in 2015 when district courts faced questions whether detained noncitizens in detention facilities could assert claims under Section 1589. *See, e.g., Menocal v. GEO Grp., Inc.*, 113 F. Supp. 3d 1125 (D. Colo. 2015); *Barrientos v. CoreCivic, Inc.*, 332 F. Supp. 3d 1305 (M.D. Ga. 2018); *Gonzalez v. CoreCivic, Inc.*, 2019 WL 2572540 (W.D. Tex. Mar. 1, 2019).

This Court has never interpreted Section 1589, leaving uncertainty how far it can be stretched and whether it applies to county jails holding detainees. Lower courts wrestle with the question using inconsistent methods.

County jail detention of aliens arises, not by trafficking or coercive efforts to obtain their labor, but instead through the operation of the nation's immigration laws. In turn, county jails maintain safety, security and order over their *entire* population by applying customary, constitutionally-approved housing rules.

The United States as Amicus Curiae has recognized the TVPA could not apply in such breathtaking ways: "[i]n enacting the TVPA, Congress did not undermine the ability of detention facilities to take basic measures designed to ensure order." Brief for the United States as Amicus Curiae

in Support of Neither Party p. 11, *Barrientos v. CoreCivic, Inc.*, 951 F.3d 1269 (11th Cir. 2019) (No. 18-15081). "[A]n approach to TVPA liability that disregards the disciplinary needs of detention facilities threatens to undermine even the most basic personal housekeeping requirements." *Id.* at 13. "[C]ourts have long recognized" cleaning is "permissible and non-punitive in a custodial settings." *Id.* at p. 13. "An overly sweeping theory of liability under the TVPA could apply equally to those requirements; after all, a detainee who refuses to clean his assigned living area is subject to punishments including up to 72 hours of disciplinary segregation, loss of commissary privileges, or loss of job." *Id.* In sum, the "[n]othing supports reading the TVPA to preclude such basic disciplinary measures for all detainees." *Id.* *See also* Brief for the United States as Amicus Curiae in Support of Neither Party p. 22 n.5, *Burrell v. Staff*, 60 F.4th 25 (3d Cir. 2023) ("Importantly, this case involves detainee work for a private entity outside of the prison, not the 'general housekeeping responsibilities' within the prison that some courts have held that pretrial and civil detainees may be required to perform."); *Id.* p. 20 (hypothetical TVPA claims if jails "compel immigration detainees to manufacture auto parts by threatening to deprive them of food if they did not work" or "perform road work by threatening false criminal charges against their family members").

The position of the United States was not novel, for the constitutional framework and policy considerations governing jail conditions have allowed basic rules and restrictions for decades. The foundational decision, *Bell v. Wolfish*, 441 U.S. 520,

545-46 (1979), confirmed "several general principles," starting with: "'[l]awful incarceration brings about the necessary withdrawal or limitation of many privileges and rights.'" Detainees "simply [do] not possess the full range of freedoms of an unincarcerated individual." *Id.* at 546. Moreover, "maintaining institutional security and preserving internal order and discipline are essential goals that may require limitation or retraction of the retained constitutional rights of both convicted prisoners and pretrial detainees." *Id.* Finally, jail administrators "should be accorded wide-ranging deference in the adoption and execution of policies and practices that in their judgment are needed to preserve internal order and discipline and to maintain institutional security." *Id.* at 547. *See also Price v. Johnston*, 334 U.S. 266, 285 (1948) ("[l]awful incarceration brings about the necessary withdrawal or limitation of many privileges and rights" traditionally afforded citizens); *In re Medley*, 134 U.S. 160, 169 (1890) (penitentiaries have the power to make rules governing inmate conduct and conditions to which they are subject).

Although *Bell* did not adjudicate cleaning rules, the "general principles" and constitutional framework it announced—reasonable relation to legitimate governmental objectives, *id.* at 538-40, 545-46—track the framework federal circuits use when upholding jail cleaning rules.

Until the anomalous application of Section 1589 to county jails, the circuits allowed common jail rules like chores, even with discipline up to segregation. *See, e.g., Channer v. Hall*, 112 F.3d 214, 219 (5th Cir. 1997) (federal government "entitled to

require a communal contribution by an INS detainee in the form of housekeeping tasks"); *Hause v. Vaught*, 993 F.2d 1079, 1085-86 (4th Cir. 1993) ("[d]aily general housekeeping responsibilities" like cleaning common areas are not inherently punitive, do not violate the constitution, and relate to legitimate, non-punitive governmental objectives of prison cleanliness); *Martinez v. Turner*, 977 F.2d 421,423 (8th Cir. 1992) (detainees may be compelled, under threat of segregation, "to perform general housekeeping chores"); *Bijeol v. Nelson*, 579 F.2d 423, 424 & n.1 (7th Cir. 1978) (permissible to require detainees to dust, vacuum, empty ashtrays, and clean meal areas and windows because "general housekeeping responsibilities" are not punitive); *Jobson v. Henne*, 355 F.2d 129, 130–32 (2d Cir.1966) (assuming normal housekeeping chores may be required of lawfully committed mental health inmate). Even the Bureau of Prisons' regulations envision chores: "A pretrial inmate may not be required to work in any assignment or area *other than housekeeping tasks in the inmate's own cell and in the community living area*, unless the pretrial inmate has signed a waiver of his or her right not to work." 28 C.F.R. § 545.23(b) (emphasis added).

With the TVPA's gracious 10-year statute of limitations, and with the number of aliens and other detainees in county jails, the Seventh Circuit's decision opens the litigation floodgates for *any* detainee who had to clean his cell or common area without pay. This sweeping departure from settled legal norms rests on a discordant interpretation of Section 1589.

There is no mention anywhere in the TVPA's large-scale statutory universe–whether in Section 1589 or elsewhere–targeting counties, detention facilities or displacement of the constitutional legal norms that have existed for decades regarding conditions of confinement. No county jail official could have anticipated facing a class action lawsuit, as occurred here, by housing civilly detained immigrants under the same constitutionally permissible rules for housekeeping as the rest of the jail population.

The Question is squarely presented, outcome determinative, recurring, important and should be settled by the Court.

STATEMENT OF THE CASE

A. Factual Background

In 2000, Petitioner Kenosha County, Wisconsin entered into an Intergovernmental Service Agreement (IGSA) with the U.S. Marshals Service and Immigration and Naturalization Service (INS) to house federal detainees. Pet.App.42a (Compl. ¶ 17). Petitioners were detained at the Kenosha County Detention Center ("Jail") under the terms of this agreement. Pet.App.38a (Compl. ¶ 2).

Not unlike other detention facilities nationwide, the Jail had rules for all detainees to participate in housekeeping assignments including the cleaning of cells, dayrooms and sleeping areas. Pet.App. 43a (Compl. ¶¶ 21, 24). Such assignments were given to different detainees daily to ensure that

responsibilities were distributed evenly. Pet.App.45a (Compl. ¶ 34); Pet.App.63a. Refusing to participate in these assignments resulted in disciplinary action, or threat thereof, up to and including lockdowns and placement in segregation. Pet.App.38a (Compl. ¶ 3). Despite the uniformity and equal distribution of such assignments across all detainees in the Jail, Petitioners allege, due to their status as civil immigrant detainees, they were forced labor victims. Pet.App.43a & 54a (Compl. ¶¶ 21, 72-74).

B. Proceedings Below

Respondents filed this class action in the Eastern District of Wisconsin on October 10, 2023, alleging unpaid housekeeping was "forced labor" violating 18 U.S.C. §§ 1589(a)(1), (a)(2), and (a)(4) and invoking jurisdiction under 28 U.S.C. §§ 1331 (federal claims) and 1367 (supplemental state law claims). Petitioners filed a Motion to Dismiss under Rule 12(b)(6).

Petitioners challenged the constitutionality of Section 1589 as applied, moving to have that challenge certified under 28 U.S.C. § 2403 to the Attorney General. On November 28, 2023, the District Court granted certification.

On September 30, 2024, the court granted Petitioners' motion to dismiss and directed judgment be entered. It held "a county jail and its employees are not using 'forced labor' or engaging in 'human trafficking' within the meaning of Section 1589 and the TVPA by requiring inmates, including civil immigration detainees, to perform basic cleaning

functions in common areas" and "[Petitioners'] policies and actions in requiring [Respondents] to help clean common areas do not constitute 'obtain[ing] the labor or services of a person' by improper means as proscribed by Section 1589." Pet.App.21a.

The District Court observed the "fundamental principle of statutory context that the words of a statute must be interpreted and applied in context." Pet.App.22a. The court reviewed the Dictionary Act's definition of "whoever" and its qualifier about context. Pet.App.29a. It also considered three pertinent decisions: *United States v. Toviave*, 761 F.3d 623 (6th Cir. 2014), *Taylor v. Salvation Army Nat'l Corp.*, 110 F.4th 1017 (7th Cir. 2024), and *Bijeol*. As to Section 1589's declared purpose, no congressional finding discussed "targeting the authorized practice of federal or state government officials or suggest any need to impose additional protections for detainees lawfully held in state or federal prisons and jails. Pet.App.20a. "With these basic, commonsense points in mind" regarding the statute's text, purpose, history, "[Respondents'] allegations do not trigger liability under Section 1589." Pet.App.22a. The District Court accounted for [Respondents'] custodial status because, as *Taylor* explained, there are "necessary limitations on the rights and freedoms that [plaintiffs] might have otherwise enjoyed outside the detention setting" and *Toviave* teaches "the forced labor statute must be interpreted against the long-established practiced in place when the statute was enacted." Pet.App.25a. Indeed, *Bijeol* dismissed constitutional claims involving housekeeping chores because "general housekeeping responsibilities are

not punitive in nature" and must be "routinely observed in a multiple living unit" to maintain "health and safety." Pet.App.27a. "[N]othing in Congress's targeting of criminal human trafficking and forced labor suggests an intention to open jail and prison officials to criminal or civil liability for continuing to engage in the long-accepted practice of requiring lawfully detained inmates to help maintain the cleanliness of their living environment." Pet.App.31a.

Respondents timely appealed. On June 5, 2026, the Seventh Circuit vacated and remanded. Pet.App.B. Final judgment was entered on June 8, 2026. Pet.App.A. The court held counties fall within the Dictionary Act's definition of "whoever." Pet.App.8a "[A] county jail violates § 1589 by threatening civil detainees with solitary confinement to coerce them to work" and there may even be a violation under the "abuse of the law or legal process" liability ground. Pet.App.9a. Unlike *Taylor*, immigration detainees are "persons not subject to punishment." Pet.App.10a. Respondents' complaint alleged threats that were not "too slight to activate the statute." *Id*.

REASONS FOR GRANTING THE PETITION

I. The Seventh Circuit has decided an important question of federal law that has not been, but should be, settled by this Court.

The Seventh Circuit decision exacerbates wildly divergent interpretive methodologies among the circuits to parse Section 1589. Some skip a full reading of the text. Some look at the Dictionary Act to

determine coverage of "whoever," yet skip considering its context-qualifier. Some consider *other* statutes and *unrelated* case law without any comparative analysis of how Congress addresses counties and county jail detention in one statute versus another. The decisions below exemplify deep confusion. Explicit guidance is needed from this Court on whether Section 1589 can be stretched to cover routine management of county jail detention.

The Sixth Circuit in *United States v. Toviave*, 761 F.3d 623 (6th Cir. 2014) jumped straight to the canon that absent clear congressional intent, laws should not be read to federalize traditional areas of state law and "[t]he forced labor statute could not have been intended to overturn this longstanding parental right." *Id.* at 626. The Sixth Circuit looked beyond the statutory language to the context in which Congress passed the TVPA – to implement the Thirteenth Amendment. *Id*. The conduct at issue (household chores) differed from the "paradigmatic forced labor, such as prostitution, forced sweatshop work, or forced domestic service" which may be "federally criminal." *Id*. "The Supreme Court has recently reemphasized that we should be cautious in inferring Congressional intent to criminalize activity traditionally regulated by the states." *Id*. at 627 (citing *Bond v. United States*, 572 U.S. 844, 857 (2014)). After considering this Court's analysis in *Bond* and differentiating cases of "paradigmatic forced labor," the Sixth Circuit concluded, "[t]he line between required chores and forced labor may be a fine one in some circumstances, but that cannot mean that all household chores are forced labor, with only

the discretion of prosecutors protecting thoughtful parents from federal prosecution." *Id*. at 630.

Without considering *Toviave*, the Eleventh Circuit found Section 1589 contained no limiting principle and held labor performed by aliens at private detention facilities fell within the statute. *Barrientos v. CoreCivic, Inc.*, 951 F.3d 1269 (11th Cir. 2020). The statute used plain, unambiguous language and "general terms to describe its coverage." *Id*. at 1276-77. It was "presumptively" proper to conclude a private, for-profit contractor fell into the Dictionary Act's "whoever" bucket of "corporations" and "companies." *Id*. "[W]e need go no further," *id*. at 1278, declining further analysis of Section 1589 or the Dictionary Act's context-qualifier.

Barrientos found no extraordinary circumstances that would justify departing from this conclusion because the factual allegations, involving deplorable conditions and so-called "voluntary" labor going beyond cleaning cells and common areas, clearly fell within the TVPA. *Id*. at 1278-79 (details at *Barrientos v. CoreCivic, Inc.,* 332 F.Supp.3d 1305, 1308-09 (M.D. Ga. 2018)). The Eleventh Circuit was unpersuaded by Supreme Court decisions that counsel against adopting a construction of a criminal statute, like the TVPA, that may lead to results disconnected from Congress's purpose. "Those cases all involved some disconnect between the purpose of the statute and the nature of the conduct alleged." *Id*. at 1279.

Similarly, the Fifth Circuit in *Gonzalez v. CoreCivic, Inc.*, 986 F.3d 536, 539 (5th Cir. 2021)

found the text of the TVPA lacked "a categorical exemption" for work programs in detention facilities and applied it to a private detention facility that held aliens on behalf of the federal government. Such private detention facility was "clearly an entity covered by the term 'whoever.'" *Id*. at 538. Moreover, "the text of § 1589 itself is broad, and not limited to forced labor in the international human trafficking context." *Id*. at 538-39. Unsurprisingly, CoreCivic "clearly 'obtained' the labor of these alien detainees," *id*. at 538, by forcing them to "clean the detention facilities, cook meals for company events, engage in clerical work, provide barber services for fellow detainees, maintain landscaping, and other labors." *Id*. at 537.

The Third Circuit used another methodology in applying the TVPA to counties: consider Section 1589's plain language in light of Congress's reaction to *Kozminski*, acknowledge Congress made the terms and definitions broad, and declare with little analysis that the TVPA applied to child-support contemnors who faced working off their sentences at the local recycling center. *Burrell v. Staff*, 60 F.4th 25, 31, 36-37 (3d Cir. 2023). The Third Circuit did not interpret how the Dictionary Act interrelates with Section 1589. Nor did the Third Circuit consider the Dictionary Act's differential treatment of "county" or explore how other Circuits arrived at their results. The application of Section 1589 under these circumstances drew a dissent because "the fact Plaintiffs' choices produced unappealing consequences does not require new definitions of torture and labor." *Id.* at 51 (Matey, J., concurring in part and dissenting in part). In the dissent's view, the allegations could not possibly reveal

an "abuse of law or legal process" under § 1589(b). *Id.* at 54. The majority wrongly turned "the TVPA's goal of 'effectuat[ing] the constitutional prohibitions against slavery and involuntary servitude' into an employment action." *Id.* at 56.

The Fourth Circuit in *United States v. Chaudhri*, 134 F.4th 166 (4th Cir. 2025) also addressed the first clause of Section 1589: "Whoever ... obtains the labor or services of a person." The analysis, however, was simple. It concurred with *Barrientos* that "whoever" is broad, consulted the common dictionary for "labor or services" – then stopped upon seeing no difficulty applying it to appalling family abuse of an immigrant. *Id.* at 177-78. The Fourth Circuit ignored the Dictionary Act and had no need for further analytical work since the involved conduct was "clearly proscribed." *Id.* at 179.

The Seventh Circuit found its own path. It first observed a circuit conflict would emerge with *Barrientos, Gonzalez* and *Burrell* if it adopted the District Court's conclusion. Pet.App.6a. The Seventh Circuit explored the meaning of "whoever" by observing "[c]ounties lack the sovereign immunity accorded to their parent states." Pet.App.7a. In traveling through the meaning of "whoever," the Seventh Circuit also considered 28 U.S.C. § 1332, the diversity jurisdiction statute and judicial treatment of 42 U.S.C. § 1983's "person." *Id.*

Turning to the Dictionary Act, the Seventh Circuit observed the "whoever" definition uses "include" – an illustrative term. This fast-tracked a

conclusion county jails fall into that definition. Pet.App.8a.

Although acknowledging the TVPA "must be applied with care lest it condemn many common practices," the Seventh Circuit switched to exploring Section 1589(a)(2)'s definition of "serious harm," and concluded jails requiring common chores would be suitable targets of TVPA claims just as much as households who turn *au pairs* into their indentured servants, but "jarring and implausible" examples of opera singers and opera companies might be spared. Pet.App.9-10a.

Adding to the confusion, *Taylor v. Salvation Army National Corp*. 110 F.4th 1017, 1021-1022 (7th Cir. 2024) rejected the TVPA's application to parolees or probationers working at the Salvation Army who, as part of their adjudication, had to do "work therapy" ranging from cooking, cleaning, stocking activities, snow shoveling to other work. Such "justice referred" individuals did not have a TVPA claim. *Id*. at 1034. They were not "within the heartland of those circumstances usually encountered in litigation under the statute" and needed to plead more. *Id*. at 1029. Yet, in the decision below, the "justice referred" aliens keeping their cells and common areas clean get a class action.

In sum, statutory interpretation concerning Section 1589 lacks any unifying principles. The Seventh Circuit's decision adds more confusion. While it opted to join the surface unanimity of the other circuits, lower courts need more explicit guidance and the need for this Court's review has grown more acute.

II. The question presented is exceptionally important and warrants review

1. This case presents an important, outcome-determinative question concerning the scope of Section 1589 since the answer directly impacts county jail operations nationwide, current and future immigration detention agreements between federal authorities and State and local facilities, and skyrocketing civil litigation against detention centers with enormous financial liabilities. The Executive detains tens of thousands of aliens every year as part of pending removal proceedings. *See* ICE, *Annual Report Fiscal Year 2024*, at 21-26 (Dec. 19, 2024), https://perma.cc/LRJ4-PHTK. Such detention, among other concerns, led to NILC's amicus submission in the Seventh Circuit.

A county jail's population flows with all types of detainees: arrestees, pretrial, civilly committed, contemnors, and convicted persons returning for court. More class litigation is sure to follow for all these groups after the Seventh Circuit opened the floodgates to *any* detainee held in jail who had to clean his cell or mop the common area without pay.

Despite the position taken in two circuits by the United States as Amicus Curiae, which counsels for constraint when applying the TVPA to common jail chores, litigation simmers around the country without any consistent and uniform reading of Section 1589's text, how it fits with the Dictionary Act's "whoever" and "county" and whether Section 1589 unsettles constitutional and statutory norms governing jail operations.

No public jail administrator, county sheriff or county board member would have ever foreseen massive TVPA liability washing up on its shores. For decades, their concerns involved managing the jail detainee population in accordance with constitutional and statutory norms. Without a scent of warning in the air, they now face claims under a federal criminal trafficking law with coterminous civil remedies and a 10-year retrospective window.

Even the Seventh Circuit seemed to recognize concerns with such a broad application of the TVPA. Reading Section 1589 "for all it could be worth" would break with prior case law allowing compelled work of convicted felons – which the panel noted would be "a break from traditional practice" and would have warranted comment from Congress. Pet.App.6a. In remanding, it put a placeholder on the vagueness concerns; the district court "should consider the County's argument that the statute is unconstitutionally vague. . . ." Pet.App.10-11a. The panel questioned the scope of the statute noting "[m]any other situations come to mind in which broad application of the language in §1589 would be jarring and implausible." Pet.App.10a.

2. This case is an ideal vehicle for resolving the question. Simple and clear facts implicate the legal issue crisply, have never materially shifted and were deemed sufficient by the Seventh Circuit to activate Section 1589. There are no procedural complexities, irregularities, or ongoing proceedings. The case arrives here on the same record the lower courts considered; they squarely addressed the issue, reached final judgments and did so without

extraneous issues. Since the beginning of the case, the Attorney General has been notified of the as applied constitutional challenge.

Nor is further percolation necessary. Each of the circuits facing application of Section 1589 to jail detention have had their chance to shed light on the way the statute should be read, and have done so on top of an already dense collection of case law on the 26-year-old TVPA. On this Question, the Seventh Circuit ended the need for further percolation; it joined the other circuits so as to avoid conflict.

III. The unprecedented expansion of Section 1589 to county jail detention conflicts with relevant decisions of this Court.

The unprecedented expansion of Section 1589 to common chores in local jails is not only a blatant disregard of controlling Supreme Court precedents involving jail management principles, but also outlandishly contrary to this Court's precedents about reading statutes fairly. Five considerations point to a conclusion Section 1589 does not reach county jails that require detainees to perform basic housekeeping: (1) the text and structure of Section 1589 and the TVPA; (2) Congress's consistent practice of naming local governments when it means to regulate them; (3) the Dictionary Act's context-qualifier and separate treatment of "county"; (4) the background presumptions against implied displacement of settled law; and (5) constitutional avoidance.

The meaning of statutory language is "determined by reference to the language itself, the specific context in which the language is used, and the broader context of the statute as a whole." *Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (1997). The Court will "exhaust 'all the textual and structural clues' bearing on that meaning." *Niz-Chavez v. Garland*, 593 U.S. 155, 160 (2021).

The circuits inconsistently apply "fair reading" principles. *Bond v. United States,* 572 U.S. 844, 857 (2014) (three times describing statutory interpretation as requiring "fair reading" principles). Some read Section 1589 from "the broadest imaginable definitions of [the] component words," *Dubin v. United States*, 599 U.S. 110, 120 (2023) (first alteration in original; citations omitted), without any trepidation whether Section 1589 has limits. *See, e.g., Bondi v. VanDerStok*, 604 U.S. 458, 481 (2025) (evaluating text, context, and structure to conclude the words at issue "have their bounds."); *Borden v. U.S.,* 593 U.S. 420, 430 (2021) (rejecting overinclusive interpretation due to inconsistency with statute's plain language, context and purpose); *Bond*, 572 U.S. at 860 (the statute ambiguously applied to the charged conduct because, *inter alia*, its definition had "improbably broad reach of the key statutory definition" and there were "deeply serious consequences of adopting such a boundless reading."); *Mohamad v. Palestinian Auth.*, 566 U.S. 449 (2012) (interpreting "individual" in Torture Victim Protection Act based on plain language, context, Dictionary Act instructions, the intent of the law at issue, and differential usage in statutes between "individual," "person" and entities).

1. Congress never aimed Section 1589(a) at county jail detention, and clues within its context support that conclusion.

"It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme." *Davis v. Mich. Dept. of Treasury*, 489 U.S. 803, 809 (1989). "In a given statute, . . . different terms usually have different meanings." *Pulsifer v. United States*, 601 U.S. 124, 149 (2024). "We sometimes call this presumption the 'meaningful-variation canon.'" *Id.* at 162 (Gorsuch, J., dissenting) ("When Congress uses different terms in a statute, we normally presume it does so to convey different meanings."). This meaningful-variation canon reflects the presumption a "different term denotes a different idea." *Southwest Airlines Co. v. Saxon*, 596 U.S. 450, 457-58 (2022) (citing A. Scalia & B. Garner, *Reading Law: The Interpretation of Legal Texts* 170 (2012)). *See also Mullin v. Al Otro Lado,* 609 U.S. 258, 269-74 (2026) (considering absence of certain language and how the federal law's other provisions reference the subject term in different ways).

Neither 18 U.S.C. § 1589 nor the civil remedy under 18 U.S.C. § 1595 reference counties or local governments. Section 1589 focuses on two groups: "whoever" (once - in relation to the perpetrator), and "person" (nine times - in relation to the victim).

Section 1589 was enacted as part of the Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464. Therein, sex and labor

crimes were placed in sec. 112, each targeting "whoever." Elsewhere in the same Act, Congress addressed counties. For example, the regulations creating an interagency task force to combat trafficking, which must "[e]ngage in consultation and advocacy with governmental and nongovernmental organizations, among other entities . . . ." *Id*. sec. 105; 22 U.S.C. §7103(d)(6). Congress authorized grants to "units of local government" to "strengthen victim service programs for victims of trafficking." *Id*. sec. 107; 22 U.S.C. §7105(b)(2)(A). The Attorney General must promulgate regulations "for law enforcement personnel" to address the detention of victims of severe forms of trafficking. *Id*. sec. 107; 22 U.S.C. §7105(c)(1).

Congress packaged into the TVPA the Violence Against Women Act of 2000 (VAWA), tasking the Attorney General with dissemination of information to "local government," *id*. sec. 1101, 42 U.S.C. §3796hh-1(c), and with grant awards to "local entities." *Id*. sec. 1103; 42 U.S.C. §3796gg(1). VAWA's "Matching Grant Program for School Security" (Part AA) defined "unit of local government" to include "a county," *id*. sec. 2704, a definition used twice in Sections 2701 and 2702 of Pub. L. No. 106-386.

When Congress wanted this legislation to reach local governments, it said so expressly. Its choice of the unadorned "whoever" in Section 1589, alongside express references to local government elsewhere in the same law, signals Section 1589 was not aimed at county jail detention of aliens.

Other clues can be found in the balance of Section 1589, starting with subsection (a)'s four "means" by which the perpetrator "provides or obtains the labor or services of a person." (Subsection (b) relies on the same four "means.") Of those liability pathways, the perpetrator extracts "labor or services" of a "person" by force, restraint, threats thereof, or some "scheme, plan or pattern." County jails do not receive detainees by "force," "restraint," "threats" or some "scheme, plan or pattern" in order to procure their "labor or services." Jails *lawfully receive* detainees, as occurred here by national authority under federal immigration laws.

Other aspects of Section 1589(a) support the conclusion. "Obtains," per common dictionary definitions like Merriam-Webster, means "to gain or attain usually by planned action or effort." County jails receive pretrial detainees, like arrestees, contemnors or civilly detained immigrants, not by their own plans or efforts but by the state or federal legal machinery, as here with federal immigration laws.

What these clues suggest, several features of surrounding context confirms. Section 1589(c)'s two definitions are not reconcilable with county jails holding aliens under federal authority. As to Section 1589(c)(1)'s "abuse or threatened abuse of law or legal process" "for which the law was not designed," the national immigration laws have as part of their design the detention of aliens and the holding of aliens subject to process. Notably, county jails are not being attacked for violating this component of Section 1589. The silence speaks volumes – civilly detained immigrants are neither trafficked nor put into

servitude by county jails when held under federal legal process and when they must follow the same jail rules as everyone else.

Subsection 1589(c)(2) defines "serious harm" as "sufficiently serious, under all the surrounding circumstances, *to compel a reasonable person of the same background and in the same circumstances* to perform or continue performing labor or services in order to avoid incurring that harm." § 1589(c)(2) (emphasis added). "Compel" can mean "'to drive or urge with force, or irresistibly,' 'to force,' and 'to subjugate.'" *United States v. Austin*, 125 F.4th 688, 692 (5th Cir. 2025). Detention of aliens is "compelled" by federal law, federal authorities and their own status. While detainees might debate whether they as "reasonable persons" should have to clean their cells and common areas under threat of discipline, federal courts settled that debate long before the TVPA. Not one of those courts ever held detention housekeeping equated to labor trafficking, forced servitude or pre-Civil War "house slaves." A person in lawful pretrial confinement may be given, and may be instructed to obey under threat of discipline, a jail's housekeeping rules. The "surrounding circumstances" involve, such as here, the power of the federal government to house detained noncitizens in a county jail while awaiting judicial process.

The criminal penalties under § 1589(d) range from fines to 20 years in jail to life imprisonment enhancers for forced labor involving kidnapping, aggravated sexual abuse or "an attempt to kill." None of these camps involve county jails holding detainees under lawful authority.

2. That reading of Section 1589 is nonremarkable when considering how Congress tracks and standardizes regulation of local public entities. Congress routinely identifies local government, including when it targets county jails, such as: vindicating constitutional rights through 42 U.S.C. § 1983; suppressing sexual misconduct through the Prison Rape Elimination Act of 2003 (PREA), 42 U. S. C. § 15601 *et seq*.; and addressing jail litigation through the Prison Litigation Reform Act of 1995 (PLRA), 110 Stat. 1321-71, as amended, 42 U.S.C. § 1997e *et seq* and its precursor the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. § 1997 *et seq*. (1980).

Congress sometimes legislates with reference to "county" in 1 U.S.C. § 2.[1] Whether aiming federal laws at counties through express use of the word "county," reference to 1 U.S.C. § 2 or lumping them into "local units of government" (or similar), the circuits cannot presume Congress so carelessly meant to include county jails in Section 1589.

Related statutes, especially those passed at the same time, reinforce this conclusion. "It is the 'most rudimentary rule' of statutory interpretation 'that courts do not interpret statutes in isolation, but in the context of the *corpus juris* of which they are a part, including later-enacted statutes.'" *Watson v. Republican Nat'l Comm*., 608 U.S. 672, 683 (2026)

[1] *See, e.g.,* 12 U.S.C. § 3702(9) (mortgages); 15 U.S.C. § 1692p(c)(1) (debt collection). *See also In re U.S*., 877 F.2d 1568, 1572–73 (Fed. Cir. 1989) (using Section 2's definition of "county" to reject broad interpretations "not expressly authorize[d]" and noting the statutes "facially suggest" an "opposite conclusion").

(comparing language between federal election day statute and Overseas Citizens Absentee Voting Act); *see also Pulsifer*, 601 U.S. at 149 ('The [interpretive] principle is mostly applied to terms with some heft and distinctiveness, whose use drafters are likely to keep track of and standardize.").

Acting in the same legislative session as the TVPA, Congress passed the Religious Land Use and Institutionalized Persons Act of 2000 ("RLUIPA"), 114 Stat. 803. Congress applied RLUIPA to county jails; not so with the TVPA. RLUIPA protects religious exercise from abridgment by the "government," including local government, for anyone "confined to an institution" such as a "jail, prison, or other correctional facility" or "pretrial detention facility." 42 U.S.C. § 2000cc-1(a), cc-5(4)(A); 42 U.S.C. § 1997(1)(A), (B)(ii) and (iii). In other legislation that year, Congress made grants available to "qualifying local government" for surveillance and education regarding infections associated with illicit drug use. Notes to 42 U.S.C. § 247b–15 (citing Pub. L. 106–398, §1 [[div. A], title XVII, §1704], Oct. 30, 2000, 114 Stat. 1654, 1654A-365).

Congress knows how to target local government elsewhere in the *corpus juris*, repeatedly doing so time and again by reference to "public entity," "public agency," "local government," or "governmental unit," as seen in Title 29 (Labor); Title 18 (Crimes)—even for trafficking crimes; Title 22 (Foreign Relations); and Title 42 (The Public Health and Welfare).

While Congress creates wide-ranging liabilities in many ways, it nevertheless specifies its target audience. *See Return Mail*, 587 U.S. at 629 (noting statutory terms can take on "'distinct characters' in distinct statutory provisions"). Even with global problems like trafficking this is true. "[T]here are many different ways to create a cause of action that would enforce developments in international law . . ." and "Congress may well decide to create a cause of action against one category of defendants but not another." *Nestlé*, 593 U.S. at 639.

3. Stable interpretation of Section 1589 has not been achieved with the help of the Dictionary Act, which provides definitions of common words "unless context indicates otherwise." "Context" means "the text of the Act of Congress surrounding the word at issue, or the texts of other related congressional Acts . . . ." *Rowland v. Cal. Men's Colony*, 506 U.S. 194, 199 (1993). Further –

> Where a court needs help is in the awkward case where Congress provides no particular definition, but the definition in 1 U. S. C. § 1 seems not to fit. There it is that the qualification "unless the context indicates otherwise" has a real job to do, in excusing the court from forcing a square peg into a round hole.

Id. at 200.

The Question here presents the "awkward case" where the context-qualifier "has a real job to do." The circuits have largely ignored the context-

qualifier. The Seventh Circuit gave it no work to do. The Seventh Circuit rested the Dictionary Act analysis on a single word, "include," which it interpreted as limitless – it "does not rule out any kind of entity." Pet.App.8a.

"[C]onstruing statutory language is not merely an exercise in ascertaining the outer limits of a word's definitional possibilities." *Sackett v. Env't Prot. Agency,* 598 U.S. 651, 676 (2023). Yet, the Seventh Circuit did so – of every defendant imaginable, only the national government might be outside Section 1589's reach because it has sovereign immunity. Pet.App.8a (citing *Dep't. of Agric. v. Kirtz*, 601 U.S. 42, 59 (2024)). Given how the circuits have breezily concluded "whoever" targets anyone and anything, without any limiting principle, that assumption does not logically follow.

The Court has acknowledged the Dictionary Act's important context-qualifier in reading statutory language where contextual clues indicate otherwise. *See, e.g., Env't Prot. Agency v. Calumet Shreveport Ref., L.L.C.*, 605 U.S. 627, 641 (2025) (construing statute in reference to Dictionary Act's rule about singular rules, considering context, and arriving at a construction "in the absence of other evidence"); *Niz-Chavez,* 593 U.S. at 165 (finding Dictionary Act's rule on use of the singular did not have application to the construction of the statute).

Jumping over context straight to "include" "is like using a hammer to pound in a screw—it looks like it might work, but using it botches the job." *Fischer v. United States*, 603 U.S. 480, 509 (2024) (Barrett, J.,

dissenting). "Include" or "including" does not always mean what follows is illustrative — sometimes, based on context, lists are exhaustive. *See, e.g., Samantar v. Yousuf*, 560 U.S. 305 (2010) (rejecting, based on context, "officials" were included in a definitional list for "foreign state" that "includes a political subdivision," partly because "elsewhere in the [federal law] Congress expressly mentioned officials when it wished to count their acts … ,which suggests that officials are not included within the unadorned term 'foreign state.'"); *Carcieri v. Salazar*, 555 U.S. 379, 391-92 (2009) (Congress explicitly and comprehensively defined "Indian" under 25 U.S.C. § 479 to "include" three discrete definitions); Scalia & Garner, *Reading Law* 132-33 (while "include" introduces examples, "the courts have not invariably so held").

While the Dictionary Act's opening clause "unless the context indicates otherwise" itself signals "whoever" is not open-ended, several other interpretive clues counsel against extending "whoever" to county jails detaining aliens. The list consists primarily of business entities, concluding with "individuals," none having legislative, executive or judicial dimension. Moreover, even assuming the list's reference to "corporations" includes governmental entities, Congress separately defined "counties" to include "any other equivalent subdivision of a State" in 1 U.S.C. § 2.

Nothing in these clues or structure lends an easy conclusion "whoever" means counties, and there's even less reason to reach this conclusion when importing "whoever" into Section 1589 to reach

county jail detention of federally detained aliens doing common cleaning. *See also Harrington v. Purdue Pharma L. P.,* 603 U.S. 204, 217-18 (2024) (looking at structure and canons to determine scope of a "catchall phrase" in a list).

The lower courts have been unable to resolve Section 1589 interpretation against the Dictionary Act's history. The 1874 version dropped "bodies politic." *See Ngiraingas v. Sanchez*, 495 U.S. 182, 190 (1990). Looking at the Dictionary Act in *United States v. Mine Workers*, the Court articulated the general canon "person" "does not include the sovereign, and statutes employing it will ordinarily not be construed to do so." 330 U.S. 258, 275 (1947). Several months later, Congress defined "county" in 1 U.S.C. § 2. (July 30, 1947, ch. 388, 61 Stat. 633). The next year, Congress inserted "whoever" into 1 U.S.C. § 1. (June 25, 1948, ch. 645, §6, 62 Stat. 859). Its subsequent amendment of the Dictionary Act, adding "whoever," was done when Congress knew it had already defined counties in the next section.

While this Court has not considered whether "whoever" includes counties, it has observed some entities are missing from the list. "Congress' express inclusion of partnerships and corporations in § 1 implies that Congress did not intend to include the Government." *Return Mail, Inc. v. United States Postal Serv.*, 587 U.S. 618, 627 (2019). Here, too, without an "'affirmative showing of statutory intent to the contrary,'" *id.*, "whoever" does not include counties.

4. Other reasons exist to call into question whether county jails can be targeted for forced labor liability when having their detainee population do cleaning chores.

"'Congress legislates against the backdrop' of certain unexpressed presumptions." *Bond*, 572 U.S. at 857. One presumption is Congress must "speak clearly" if it alters established common law rules. *See United States v. Texas*, 507 U.S. 529, 534 (1993). "A fair construction ordinarily disfavors implied change." Scalia & Garner, *Reading Law* 318. When Congress creates new laws, "this Court generally presumes the new provision should be understood to work in harmony with what has come before." *Monsalvo v. Bondi*, 604 U.S. 712, 725 (2025).

The TVPA contains express purposes and findings – none involving local governments, jail detention, or preexisting legal norms governing jail detention. Its purposes are in 22 U.S.C. § 7101(a): "to combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims."

Congress made 24 findings, beginning with one foreshadowing all the rest:

> As the 21st century begins, the degrading institution of slavery continues throughout the world. Trafficking in persons is a modern form of slavery, and it is the largest manifestation of slavery today. ….

§ 7101(b)(1). Congress recognized the sins of labor trafficking five times, beginning with trafficking is a "growing transnational crime" that "also includes forced labor and involves significant violations of labor, public health, and human rights standards worldwide. § 7101(b)(3). Labor-related findings involved buying children for placement into "bonded labor," § 7101(b)(4); physical violence, psychological abuse and coercion, all in order to engage in "slavery-like labor," § 7101(b)(6); and "trafficking also involves violations of other laws, including labor and immigration codes..." § 7101(b)(10). The last labor finding: "[t]rafficking for such purposes as involuntary servitude, peonage, and other forms of forced labor has an impact on the nationwide employment network and labor market." § 7101(b)(12).

Congress thus designed a forced labor statute to address the sins of trafficked or involuntary labor in household servitude, textile and manufacturing, mines, fields, factories and the like, just like the two adult males in *Kozminski* working unpaid for years in deplorable farm conditions. The purposes and findings do not reflect Congressional aim to displace decades of settled precedent permitting jail detainee management to include unpaid chores, such as in *Bijeol*, 579 F.2d at 424 (cleaning requirements for pretrial detainee "seems as fair and equitable as possible when you have groups of people living together"), or to address the "civic duty" exception that also supported such jail activity. *See Kozminski*, 487 U.S. at 943-44 ("the prohibition against involuntary servitude does not prevent the State or Federal Governments from compelling their citizens,

by threat of criminal sanction, to perform certain civic duties."); *Channer*, 112 F.3d at 215 (INS detainee required to work eight-hour shifts under threat of solitary confinement was not subject to "involuntary servitude" because civic duty exception applied); *Bayh v. Sonnenburg*, 573 N.E.2d 398, 412 (Ind.1991) (work performed by involuntarily confined mental-hospital patients, including fixing meals, cleaning, laundry, and lawn care, fell within the civic-duty). Nor do they reflect a desire to address the States' statutory and administrative regulations for jail detention, management, safety, security and conditions.

5. In adopting a construction of the statute that places liability on the doorstep of county jails holding various detainees like federally detained aliens and operating under decades of precedent allowing order, safety and security in the jail, the Seventh Circuit decision raises substantial doubt whether Section 1589 is unconstitutionally vague as applied under the Fifth Amendment's due process clause. By extending the forced labor's provision into the public jail context, jail administrators now face serious criminal and civil consequences.

At the very least, "any fair reader of this statute would be left with a reasonable doubt about whether it covers the defendant's charged conduct. And when that happens, judges are bound by the ancient rule of lenity to decide the case … not for the prosecutor but for the presumptively free individual." *Snyder v. United States,* 603 U.S. 1, 20 (2024) (Gorsuch, J., concurring). In *Snyder,* six reasons – "the scope of a statute text, statutory history, statutory structure, statutory punishments,

federalism, and fair notice" – "taken together, lead us" to a conclusion about the statute. *Id*. at 10. *Kozminski* also avoided difficult constitutional questions by rejecting a proposed broad statutory construction that "would appear to criminalize a broad range of day-to-day activity." 487 U.S. at 949.

"A fundamental principle in our legal system is that laws which regulate persons or entities must give fair notice of conduct that is forbidden or required." *F.C.C. v. Fox Television Stations, Inc*., 567 U.S. 239, 253 (2012). "This requirement of clarity in regulation is essential to the protections provided by the Due Process Clause of the Fifth Amendment." *Id*. "It requires the invalidation of laws that are impermissibly vague." *Id*. *See also Grayned v. City of Rockford*, 408 U.S. 104, 108 (1972) ("we insist that laws give the person of ordinary intelligence a reasonable opportunity to know what is prohibited, so that he may act accordingly."). "The Legislature must identify the conduct it wishes to prohibit. And its prohibition must be knowable in advance—not a lesson to be learned by individuals only when the prosecutor comes calling or the judge debuts a novel charging instruction." *Percoco v. United States*, 598 U.S. 319, 337-38 (2023) (Gorsuch, J., concurring).

Section 1589's *scienter* does not dispel constitutional doubt. Even *Kozminski* found shortcomings with *scienter*. In seeking an expansive statutory interpretation, "[t]he Government argues that any such difficulties are eliminated by a requirement that the defendant harbor a specific intent to hold the victim in involuntary servitude." 487 U.S. at 950. But, "this specific intent requirement

amounts to little more than an assurance that the defendant sought to do 'an unknowable something.'" *Id.*

Specific attributes of jail operation muddle the *scienter* inquiry. The established constitutional framework, under which jail officials have worked for decades, permits them to require daily tasks, chores and housekeeping and to use discipline (including solitary confinement, force, restraints, and threats) in order to maintain safety and order. The local jailer, jail administrator or sheriff – all persons of ordinary intelligence going about jail management in a constitutionally permissible way – was given no fair warning by the TVPA that common jail activities were criminally or civilly unlawful.

Section 1589's "serious harm," when commingled with *scienter*, still leaves doubt in the correctional setting. In a jail setting, the use of disciplinary confinement is permitted under preexisting legal norms. "Running a prison is an inordinately difficult undertaking," *Turner v. Safley*, 482 U.S. 78, 84–85 (1987). "The difficulties of operating a detention center must not be underestimated by the courts." *Florence v. Bd. of Chosen Freeholders of Cnty. of Burlington*, 566 U.S. 318, 326 (2012). "Maintaining safety and order at these institutions requires the expertise of correctional officials, who must have substantial discretion to devise reasonable solutions to the problems they face." *Id.* Searches, visitation restrictions and force may be allowed. *See generally id.*; *Kingsley v. Hendrickson*, 576 U.S. 389, 399–400 (2015).

Jails do not have to "'carve out exceptions for certain detainees.'" *Florence*, 566 U.S. at 326. It is impossible for jail officers to know whether any threat – even if *constitutionally permissible* under settled legal norms – violates the TVPA's forced labor provisions. "This absence of any ascertainable standard for inclusion and exclusion is precisely what offends the Due Process Clause." *Smith v. Goguen*, 415 U.S. 566, 575 (1974). This Court should grant review to supply the limiting construction the lower courts have not.

IV. The decision below is incorrect

The Seventh Circuit's decision breaks from accepted Supreme Court policy considerations allowing basic jail management rules and conditions. Now, *any* detainee can refuse orders to clean their cell or common area unless they get paid.

While laudable for the Seventh Circuit to seek circuit alignment, it assumes the other circuits did the hard work of interpreting Section 1589. If the goal is circuit alignment, the Seventh Circuit should have synced the Eleventh Circuit's limitation on its holding: "[t]o be clear, our opinion should not be read …to call into question longstanding requirements that detainees or inmates be required to perform basic housekeeping tasks." *Barrientos*, 951 F.3d at 1277-78.

The decision also creates superfluity in the Dictionary Act. Reasonable readers of Chapter 1 would also look at 1 U.S.C. § 2 which says the word "county" includes "any other equivalent subdivision" of a State. If 1 U.S.C. § 1's use of "include" vis-à-vis

"whoever" illustrates so as to encompass everything, Section 2 becomes surplusage.

The superfluity problem does not stop there. Amongst the list of entities considered "persons" or "whoever" are "companies" and "associations." In turn, "[t]he word 'company' or 'association', when used in reference to a corporation, shall be deemed to embrace the words 'successors and assigns of such company or association', …." 1 U.S.C. § 5. If § 1's "include" illustrates, all these statutory features become meaningless add-ons.

Nor did sparing the federal government from the TVPA under sovereign immunity, while sweeping any other defendant into the TVPA, settle the uncertainty about Section 1589's scope. The task at hand remains statutory interpretation. Indeed, *Kirtz* declined to disregard statutory definitions "simply because the question before us happens to involve sovereign immunity." 601 U.S. at 59.

The diversity statute analysis only added confusion. Section 1332 speaks to suits between "citizens." Section 1332 does not aim at "whoever." Nor is part of the TVPA; it is Code Ch. 28 addressing the judiciary. It is not a large-scale piece of federal legislation criminalizing trafficking and forced labor. The diversity statute dates back to 1911 with Supreme Court treatment construing "citizens" to include governmental bodies. *See Moor v. Alameda County*, 411 U.S. 693, 718–21 (1973). *Moor* did not review "whoever" or the Dictionary Act and, of course, it did not deal with trafficking, jails or the constitutional legal norms surrounding confinement.

Even if the methodology to interpret the TVPA requires consideration of those authorities, the Seventh Circuit has amplified the inconsistent approaches across the circuits.

Unrelated judicial treatment of 42 U.S.C. § 1983's "person" did not break the confusion. This approach conflates the target "whoever" in the TVPA with § 1983's target, "person." This textual mix-and-match creates serious ambiguity about the TVPA. Section 1589 cannot be simultaneously violated by "whoever" and "persons"; its language protects "person" – the victim – and looks to impose criminal and civil liability on the perpetrator – "whoever." Congress uses different terminology when targeting different persons, entities or activities. This Court observed as much in *Mohamad*, 566 U.S. at 458, where it declined to construe a federal statute's scope to conform with other federal statutes where they do not employ the same terms. "We generally seek to respect Congress' decision to use different terms to describe different categories of people or things." *Id*. at 456.

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This Court has granted review where lower courts have adopted unduly expansive interpretations of federal criminal statutes. That time has come with Section 1589 when it can be said county jails are engaged in unlawful forced labor under a trafficking law for having federally detained aliens clean their cells and common areas as part of the jail rules applicable to all detainees. The Question presented requires immediate review.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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