

1 CHAD A. READLER  
Acting Assistant Attorney General

2 MCGREGOR SCOTT  
3 United States Attorney

4 AUGUST FLENTJE  
5 Special Counsel

6 WILLIAM C. PEACHEY  
7 Director

8 EREZ REUVENI  
9 Assistant Director

10 DAVID SHELLDY  
Civil Chief, Assistant United States Attorney

11 LAUREN C. BINGHAM  
12 JOSEPH A. DARROW  
13 JOSHUA S. PRESS  
14 FRANCESCA GENOVA

15 Trial Attorneys  
United States Department of Justice  
16 Civil Division  
Office of Immigration Litigation  
17 District Court Section  
P.O. Box 868, Ben Franklin Station  
18 Washington, DC 20044  
Telephone: (202) 305-1062  
19 Facsimile: (202) 305-7000  
20 Email: Francesca.M.Genova@usdoj.gov

21 *Attorneys for the United States of America*

22 **UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

23 **UNITED STATES OF AMERICA,**

24 Plaintiff,

25 v.

26 **STATE OF CALIFORNIA, et al.,**

27 Defendants.  
28

**NO. 2:18-CV-00490-JAM-KJN**

**PLAINTIFF'S BRIEF IN SUPPORT OF  
PERMISSIVE INTERVENTION OF COUNTY  
OF ORANGE**

Judge: Hon. John A. Mendez

1 Plaintiff the United States of America supports County of Orange and Sandra Hutchens,  
2 Sheriff-Coroner for the County of Orange's ("Orange County") permissive intervention in this matter  
3 pursuant to Federal Rule of Civil Procedure 24(b). Permissive intervention is allowed in the interest of  
4 efficiency when a party "has a claim or defense that shares with the main action a common question of  
5 law or fact." Fed. R. Civ. P. 24(b)(1)(B).

6  
7 The claims of Orange County share common legal and factual issues with those brought by the  
8 United States, and the United States supports the permissive intervention of Orange County. Orange  
9 County presents four unique interests in this case that we think warrant permissive intervention.

10 First, SB 54 and AB 103 uniquely impact and direct the actions of local government agencies  
11 like Orange County. *See* Cal. Gov't Code § 7282(d) ("law enforcement official" subject to SB 54  
12 cooperation restrictions means "any local agency or officer of a local agency authorized to enforce  
13 criminal statute . . . or to operate jails or to maintain custody of individuals in jails"); § 7282(e) ("local  
14 agency" subject to SB 54 cooperation restrictions means "any city, county, city and county, special  
15 district, or other political subdivision of the state"); 7284.4(a) ("California law enforcement agency"  
16 barred from cooperation "means a state or local law enforcement agency" but "does not include the  
17 Department of Corrections and Rehabilitation"); § 12532 (AB 103 inspection regime applies to  
18 "county, local, or private locked detention facilities"). Indeed, AB 103 purports to regulate Orange  
19 County's contractual relationships with the federal government. *Id.* § 12532; *see* Proposed Complaint,  
20 ECF 59-2, ¶ 42. Given that Orange County is the direct subject of these laws, we think permissive  
21 intervention is warranted.  
22  
23  
24

25 Second, Orange County also has a unique perspective on the impact of SB 54 on the release of  
26 aliens with criminal convictions to the public and into a local community in California. Given that  
27 California claims that public safety is served by SB 54, it makes sense to also hear Orange County's  
28

1 perspective.

2 Third, Orange County has identified a valid concern with losing federal grant funds based on  
3 being required to apply SB 54. *See* Proposed Complaint, ECF 59-2, ¶¶ 9-10; Mot. to Intervene of  
4 County of Orange, ECF 59, at 1-2. A similar concern has formed the basis for other litigation around  
5 the country and in the State.

6  
7 Fourth, Orange County maintains that the Attorney General of California has threatened it with  
8 civil or criminal liability if it cooperates with federal immigration enforcement. Mot. to Intervene, ECF  
9 59, at 11.

10 In sum, Orange County has a unique interest in this case as the laws' direct subject, which  
11 warrants permissive intervention. As another governmental unit with its own set of concerns, it is in a  
12 unique position from both parties and the other group of proposed intervenors. Given that permissive  
13 intervention is appropriate, we do not think it is necessary to address intervention as of right.

14  
15 For the foregoing reasons, the United States supports Orange County's permissive intervention  
16 in this matter.

1 DATED: May 22, 2018

CHAD A. READLER  
Acting Assistant Attorney General

2 MCGREGOR SCOTT  
3 United States Attorney

4 AUGUST FLENTJE  
5 Special Counsel

6 WILLIAM C. PEACHEY  
7 Director

8 EREZ REUVENI  
9 Assistant Director

10 DAVID SHELLDY  
11 Civil Chief, Asst. United States Attorney

12 LAUREN C. BINGHAM  
13 JOSEPH A. DARROW  
14 JOSHUA S. PRESS  
15 FRANCESCA GENOVA

16 */s/ Francesca Genova*  
17 FRANCESCA GENOVA  
18 Trial Attorneys  
19 United States Department of Justice  
20 Civil Division  
21 Office of Immigration Litigation  
22 District Court Section  
23 P.O. Box 868, Ben Franklin Station  
24 Washington, DC 20044  
25 Phone: (202) 305-1062  
26 Francesca.M.Genova@usdoj.gov

27 *Attorneys for the United States of America*  
28

**CERTIFICATE OF SERVICE**

I hereby certify that on May 22, 2018, I electronically transmitted the foregoing document to the Clerk's Office using the U.S. District Court for the Eastern District of California's Electronic Document Filing System (ECF), which will serve a copy of this document upon all counsel of record.

By: /s/ Francesca Genova  
FRANCESCA GENOVA  
Trial Attorney  
United States Department of Justice  
Civil Division