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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

THE UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF CALIFORNIA; EDMUND G.
BROWN, JR., GOVERNOR OF
CALIFORNIA, IN HIS OFFICIAL
CAPACITY; AND XAVIER BECERRA,
ATTORNEY GENERAL OF CALIFORNIA,
IN HIS OFFICIAL CAPACITY,

Defendants.

CASE NO. 2:18-CV-490

DECLARATION OF ASSISTANT SPECIAL
AGENT IN CHARGE DENISE R. MAR

13 I, Denise Mar, hereby declare and state as follows:

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1. I am an Assistant Special Agent in Charge with U.S. Department of Homeland Security (DHS), U.S. Immigration and Enforcement (ICE), Homeland Security Investigations (HSI), in the San Jose office, which is part of the HSI San Francisco Area of Responsibility. I have held this position since November 2016. In this position, I manage approximately thirty special agents in the South Bay, which includes the counties of Monterey, San Benito, Santa Clara, and Santa Cruz.
 2. I hold a Master of Science degree in Forensic Science from the National University in San Diego, California, and a Bachelor of Arts degree in Sociology, specializing in Law, Societies and Justice from the University of Washington, in Seattle, Washington.
 3. HSI is the investigative arm of the DHS and has authority to enforce a diverse array of federal laws, including but not limited to, transnational gang and drug trafficking activity, financial crimes, money laundering and bulk cash smuggling, human smuggling and trafficking, cybercrimes including child pornography, and customs and export violations.

- 1 4. I have over thirteen (13) years of law enforcement experience with ICE HSI. From
2 September 2001 to August 2011, I was a Special Agent with the HSI office located in Seattle,
3 Washington. In August 2011, I was promoted to Supervisory Special Agent in that office
4 and I served in that position until September 2014, whereupon I was detailed to HSI
5 Headquarters as a Domestic Operations Manager until December 2015, when I became
6 Deputy Chief of Staff to the Executive Associate Director of HSI. In November 2016, I was
7 promoted to Assistant Special Agent in Charge and assigned to the HSI office in San Jose,
8 California.
- 9 5. I am aware that Defendants filed an opposition to Plaintiff's Motion for Preliminary
10 Injunction of *United States v. California, et. al.*, Case No. 2:18-cv-490. I have reviewed the
11 declarations of Christopher Caligiuri (ECF 75-1), Jim Hart (ECF 75-3), and Jeffrey F. Rosen
12 (ECF 75-4), filed in support of Defendants' opposition to Plaintiff's Motion for Preliminary
13 Injunction. The facts in this declaration are based on my personal knowledge or upon
14 information provided to me in my official capacity.
- 15 6. In the South Bay Area, both the promulgation and passage of SB 54 has negatively affected
16 HSI's ability to investigate and enforce criminal violations of federal law, which in turn, has
17 affected public safety. The San Jose HSI office, in particular, has experienced numerous
18 instances wherein law enforcement has refused to cooperate with HSI in criminal
19 enforcement actions.
- 20 7. For example, Jim Hart's declaration refers to an operation in February 2017. These were not
21 immigration "raids"; rather, HSI was executing several federal criminal arrests and search
22 warrants. This operation was the culmination of a multi-year criminal investigation by HSI
23 of "Mara Salvatrucha 13" (MS-13) gang members who are believed to have engaged in
24 criminal activity within the jurisdiction of Santa Cruz County. While the five-year
25 investigation had begun as a cooperative effort between HSI and the local law enforcement
26 agencies in Santa Cruz County, including the Santa Cruz County Sheriff's Office, the day
27 before the operation, the Sheriff refused to participate in the execution of twenty-one (21)
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1 criminal arrest and search warrants on MS-13 gang members and associates, because he was
2 concerned about the possibility of illegal immigrants being arrested.

- 3 8. HSI did not detain and hold over twenty individuals for suspected immigration violations as
4 asserted by Jim Hart. Rather, during the execution of the arrest and search warrants HSI
5 encountered eleven unidentified illegal immigrants not directly listed on the warrants. Of the
6 eleven, HSI temporarily detained six individuals who were believed to be associated with
7 criminal activity and or MS-13. Of the six individuals, five were identified and released the
8 same day. Only one individual was detained for his direct association with, and participation
9 in, MS-13 and related criminal activities. The five additional individuals encountered were
10 cited and released on site for humanitarian reasons.
- 11 9. As a result of the operation, fourteen people were indicted for federal crimes, including, but
12 not limited to, violations of 18 U.S.C. § 1962(d) – Racketeering Conspiracy; 18 U.S.C. §
13 1959 – Violent Crimes in Aid of Racketeering; 18 U.S.C. § 1951(a) – Conspiracy to Commit
14 Extortion by Force; 21 U.S.C. §§ 846, 841(a)(1), and 841(b)(1)(A)(viii) – Conspiracy to
15 Distribute Methamphetamine; 18 U.S.C. § 844(h) – Use of a Firearm in the Commission of a
16 Felony; 18 U.S.C. § 924(c)(1)(A) – Possession of Firearm in Furtherance of Crime of
17 Violence and Drug Trafficking Crime; 18 U.S.C. § 924(j) – Use of Firearm Resulting in
18 Death; and 18 U.S.C. § 2 – Aiding and Abetting. The case is still pending.
- 19 10. HSI provides relief and assistance to victims and witnesses to crimes. These come in the
20 form of counseling, visas, work authorizations, and sometimes temporary relocations. For
21 example, in 2015, HSI assisted Santa Clara County District Attorney’s Office and the Santa
22 Clara County Sheriff’s Office with the continued presence of nine persons who were the
23 victims/witnesses in a labor trafficking case. Each individual eventually received a victim or
24 trafficking visa with the assistance of non-governmental organizations. While HSI had little
25 involvement in the investigation itself, HSI had heavy involvement in assisting the victims to
26 obtain relief benefits.
- 27 11. While it may be true that none of law enforcement partners associated with the California
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1 Bureau of Investigation have asked to remove HSI/ICE from any task force, HSI was
2 removed from a criminal task force in another jurisdiction due to SB 54. In January 2018, a
3 HSI Special Agent who had been assigned to the Peninsula Regional Violence and Narcotics
4 Team (PRVNT), a California state task force in Monterey, California for over 15 months was
5 removed from that Task Force because of SB 54. The mission of the PRVNT Task Force is
6 to significantly diminish violent crime associated with gang activity, other high-risk crimes,
7 and the availability and use of illegal drugs on the Monterey Peninsula through collaborative
8 involvement of the region's law enforcement agencies, including but not limited to, Marina
9 Police Department, Seaside Police Department, Monterey Police Department, Carmel Police
10 Department and California Highway Patrol. The Task Force is overseen by a board of police
11 chiefs from the contributing agencies. HSI has been involved with PRVNT since its
12 inception in 2013, assigning a total of four Special Agents to the Task Force.

13 12. Sometime after the passage of SB 54 in October 2017, the Monterey Police Chief Dave
14 Hober sought advice from the Monterey City Attorney regarding HSI's involvement with the
15 Task Force, and was advised that PRVNT should sever all ties with HSI. On or about
16 January 18, 2018, Chief Hober called to inform me that a decision had been made to remove
17 the HSI Special Agent assigned to the Task Force. Because the termination of HSI's
18 participation on the PRVNT Task Force would undermine its efforts to combat criminal
19 gangs and drug trafficking in the South Bay, I notified the HSI Deputy Special Agent in
20 Charge (DSAC) and Special Agent in Charge (SAC) of HSI San Francisco Area of
21 Responsibility.

22 13. After our conversation, Chief Hober verbally informed the Special Agent that he was being
23 removed from the Task Force. Later that evening, the Task Force Commander officially
24 informed the agent and ordered him to vacate the office provided to him and return the keys
25 within one week.

26 14. In February 2018, SAC Ryan Spradlin and DSAC Jerry Templet attended a meeting with the
27 Board of Chiefs to discuss resuming HSI's participation on, and relationship with, the
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1 PRVNT Task Force. Despite extensive dialogue regarding the different roles and
2 responsibilities of HSI and ERO and the City Attorney's 'interpretation' of SB 54, the Board
3 of Chiefs informed them that the relationship with HSI was severed because of SB 54.

4 15. The special agents in my office have also been excluded from participating in meetings with
5 local law enforcement to combat gang activity. In January 2018, a HSI Group Supervisor
6 met with several San Jose Police Department Detectives from the Gang Investigations Unit
7 to discuss the working on gang cases together. During this meeting, HSI was invited by one
8 of the detectives to attend its monthly gang meeting, the next one was scheduled for February
9 15, 2018. The day prior to the meeting, the Group Supervisor contacted one of the detectives
10 to confirm the time of the meeting. The Detective informed the Group Supervisor that he
11 was ordered by his Lieutenant, per the San Jose Police Department Chief's direction, to not
12 assist or associate with ICE. HSI was uninvited from the gang meeting.

13 16. In April 2018, I met with San Jose Police Chief Eduardo Garcia and asked him to allow HSI
14 to attend the monthly gang meetings. Chief Garcia stated that he would have to consult with
15 legal counsel prior to allowing HSI to attend the meetings because of SB 54, because he was
16 concerned of the potential penalties for going against SB 54. To this day, HSI has not been
17 invited to participate in the San Jose PD monthly gang meetings.

18 17. The information in this declaration is current and accurate as of June 8, 2018.

19 I declare, under penalty of perjury under 28 U.S.C. § 1746, that the foregoing is true and correct to the
20 best of my knowledge, information, and belief.

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22 Executed in San Jose, California on this 8th day of June 2018,

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25 _____
26 Denise R. Mar
27 Assistant Special Agent in Charge
28 Homeland Security Investigations
U.S. Immigration and Enforcement
U.S. Department of Homeland Security