

# EXHIBIT C

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

- - - - - x

THE UNITED STATES OF AMERICA, :  
Plaintiff, :

vs. : No. 18-264

THE STATE OF CALIFORNIA; :  
EDMUND GERALD BROWN, JR., :  
Governor of California, in his :  
Official Capacity; AND XAVIER :  
BECERRA, Attorney General of :  
California, in his Official :  
Capacity, :

Defendants. :

- - - - - x

VIDEOTAPED

DEPOSITION OF: THOMAS HOMAN

DATE: Tuesday, April 10, 2018

TIME: 10:12 a.m.

LOCATION: Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C.

REPORTED BY: Denise M. Brunet, RPR  
Reporter/Notary

A P P E A R A N C E S

1  
2  
3 On behalf of the Plaintiff:

4 COLIN A. KISOR, ESQUIRE

5 EREZ REUVENI, ESQUIRE

6 LAUREN BINGHAM, ESQUIRE

7 U.S. Department of Justice

8 Civil Division

9 450 5th Street, Northwest

10 Washington, D.C. 20530

11 (202) 532-4331

12 colin.kisor@usdoj.gov

13  
14 On behalf of the Defendants:

15 CHRISTINE CHUANG, ESQUIRE

16 State of California

17 Department of Justice

18 Bureau of Children's Justice

19 1515 Clay Street

20 Suite 2100

21 Oakland, California 94612

22 (510) 879-0094

23 christine.chuang.doj.ca.gov

24  
25 (Appearances continued on the next page.)

1 APPEARANCES (continued):

2

3 On behalf of the Defendants (continued):

4 LEE I. SHERMAN, ESQUIRE

5 CHEROKEE DM MELTON, ESQUIRE

6 SATOSHI YANAI, ESQUIRE

7 State of California

8 Department of Justice

9 300 S. Spring Street

10 Suite 1702

11 Los Angeles, California 90013

12 (213) 269-6404

13 lee.sherman@doj.ca.gov

14

15 ALSO PRESENT: Rene E. Browne

16 Michael P. Davis

17 Michael F. Arnold

18 Moria Skinner

19 Julie Laughlin

20 Dan Reidy, Videographer

21

22

23

24

25



1           Q       You just stated that it costs more money  
2 for the government to send additional agents. Do  
3 you have an estimate of how much more money it  
4 costs?

5           A       I don't know the figure offhand. We --  
6 we did operations recently in southern California  
7 and in northern California. We did three  
8 operations this -- in the past several months in  
9 California. We had to send many detail agents to  
10 augment existing staff to do these operations.  
11 I'm certain we track those expenses. I don't know  
12 off the top of my head. We certainly can provide  
13 them.

14          Q       Do you attribute the increase in ICE  
15 enforcement activities in California to AB 450?

16          A       I think AB 450 is requiring us to work  
17 harder and less efficient than prior to the  
18 enactment of 450.

19          Q       Can you please describe why you believe  
20 that?

21          A       Well, a couple of things. We just did an  
22 I-9 operation in California, and I recently  
23 learned that, for instance, one company in San  
24 Francisco did not want to supply the I-9 forms per  
25 the notice of inspection. It was the delay in

1 giving us the I-9 forms until the company -- the  
2 company felt like they would be in violation of  
3 450, so they got an attorney. We had to do an  
4 administrative subpoena to get the documents.  
5 That caused more work.

6           There seemed to be confusion on what the  
7 employer thought between 450 versus what the  
8 federal requirements are. So we spent more time  
9 in working that one case. That's one I was  
10 briefed on specifically.

11         Q       What company are you referring to?

12         A       I don't have that number offhand.

13         Q       The name offhand?

14         A       I don't know it offhand.

15         Q       Okay. When did this I-9 operation  
16 relating to this company occur?

17         A       Within the past eight weeks. I don't  
18 know the exact dates. We have a rolling I-9  
19 inspection throughout the country. California  
20 was -- I think we've already completed the first  
21 phase in California. So several weeks ago.

22         Q       And did the company specifically inform  
23 you that they did not want to comply with the I-9  
24 inspection process?

25         A       The information I received from HSI

1 leadership was that the company would not --  
2 didn't think they had to comply with the notice of  
3 inspections to give the I-9s within the three days  
4 required. They thought they were going to be in  
5 violation of 450.

6 They contacted an attorney. We actually  
7 did an administrative subpoena, and we got the  
8 I-9s after additional work. That is what was  
9 relayed to me.

10 Q Who relayed that to you?

11 A Derek Benner, the acting executive  
12 associate director for Homeland Security  
13 investigations.

14 Q And who relayed that to Derek?

15 A The e-mail was -- first, Derek verbally  
16 told me that he followed up with an e-mail. The  
17 e-mail was from Derek. And their staff below -- I  
18 don't know who -- I'm sure the e-mail split up  
19 between -- we have three SACs, special agents in  
20 charge: San Francisco, L.A. and San Diego. So it  
21 was -- I'm sure he got it from the SACs, but I do  
22 not know for sure because I did not ask him that  
23 question.

24 Q Do you know if Derek obtained that  
25 information directly from the company?

1 legislation as a law enforcement officer -- and  
2 that certainly would have a bad effect on our  
3 mission, what we're trying to do.

4 Q Can you please describe what you mean by  
5 bad effect on our mission of what we're trying to  
6 do?

7 A Generally, even back in my day, when  
8 we -- when we had this discussion with employers,  
9 we like to do it in a private setting because  
10 information may come up -- certainly PII  
11 information on employees; you know, they provide  
12 social security numbers, personal information.  
13 Employers, in my experience, would much rather  
14 meet with, you know, ICE officers in private  
15 settings, especially if customers are going to  
16 come into the public area. They don't want to  
17 see -- their customers see them having a  
18 discussion with law enforcement.

19 I've been a law enforcement officer for  
20 34 years. I can just tell you, doing things like  
21 this in a private setting, we usually will  
22 encounter better cooperation and be able to find  
23 other things out when we're in a private setting.

24 Victims of trafficking certainly aren't  
25 going to come forward in a public setting. But if

1 you're in a private setting talking to an  
2 employer -- an employee that may be a victim of  
3 trafficking or abuse or peonage or something were  
4 more apt to tell the officer that in a private  
5 setting rather than -- not in a public area.

6 So I just -- as a law enforcement  
7 officer, we -- that's why generally we do things  
8 like this in a private setting, to have  
9 confidential conversations away from the general  
10 public. And I think not only a law enforcement  
11 officer. Whoever we're talking to tends to  
12 cooperate better in a private setting. That's  
13 just my opinion as a law enforcement officer.

14 MR. KISOR: Before you go on to your next  
15 question, I think we're about at the one-hour  
16 mark. Is it all right if we take a break?

17 MS. CHUANG: Yes. How long would you  
18 like to take a break for?

19 MR. KISOR: Five, ten minutes.

20 MS. CHUANG: That works. Thank you.

21 THE VIDEOGRAPHER: We're going off the  
22 record. This ends media unit number 1. The time  
23 on the video is 11:12 a.m. We're off the record.

24 (Whereupon, a short recess was taken.)

25 THE VIDEOGRAPHER: This begins media unit

1 gather better information, better cooperation in a  
2 private setting.

3 Q And you mentioned speaking to other law  
4 enforcement agencies and officers. Who did you  
5 speak to?

6 A Spoke to Phil Miller, spoke to Matt  
7 Albence, spoke to Derek Benner. I've been doing  
8 this 34 years. I could spend the next four  
9 hours -- I used to do worksite investigation as a  
10 special agent in Phoenix back in 1988, 1989 when  
11 we -- probably '95, '96. When I was a special  
12 agent, I did worksite investigation. I have  
13 served notice of inspections. And so I have  
14 firsthand knowledge how that works and how the  
15 interviews go and what you gather from the  
16 interviews. I just think, based on my experience  
17 and my knowledge, I think AB 450 is going to  
18 prevent us from doing much of our job.

19 And I certainly think it's going to have  
20 an impact on identifying possible victims of  
21 trafficking and peonage and employer abuse if we  
22 can't have discussions in private.

23 Q You mentioned three individuals before  
24 that you spoke to: Phillip Miller, Derek -- I  
25 forget his last name -- and another individual.

1           Did you implement this change of policy  
2 for ICE?

3           A     It's my understanding it's still being  
4 worked on.

5           Q     And when it's still being worked on, do  
6 you mean it's in draft form?

7           A     It's the privacy office -- last I was  
8 briefed on this, the policy office is working on  
9 changes of the privacy policy.

10          Q     Do you have an estimated time frame for  
11 the completion and approval of the new privacy  
12 policy?

13          A     No.

14          Q     So those -- in your understanding of this  
15 policy change, does it impact privacy protections  
16 for lawful permanent residents?

17          A     There's privacy protection for everybody  
18 in our custody. But there's a -- I think there's  
19 an elevated concern for those who are lawful  
20 permanent residents. And of course, again, for  
21 the victims of domestic abuse, trafficking, not  
22 only do they have privacy protection, they  
23 actually have statutory protections.

24                 But again, I know what this says, but I  
25 can tell you that I'm not a policy expert, but a

1 policy expert has reviewed this affidavit and  
2 agreed with the factual contents of the affidavit,  
3 that this California legislation will put us at  
4 odds with privacy policy and statutes. And that's  
5 why it's in the affidavit.

6 Q Under what circumstances would lawful  
7 permanent residents be detained in civil detention  
8 facilities?

9 A If they're removable. We detain people  
10 for removable purposes. So if a lawful permanent  
11 resident got convicted of certain aggravated  
12 felonies, serious offenses, that would put their  
13 lawful permanent resident status at risk if they  
14 get convicted of something like that. Let's say  
15 an LPR gets convicted of murder. Certainly  
16 removable. So we would detain them for removable  
17 purposes.

18 Q Do you understand this policy change  
19 discussed in section G of the February 20th  
20 memorandum to impact privacy protections for  
21 individuals who are not U.S. citizens and not  
22 lawful permanent residents?

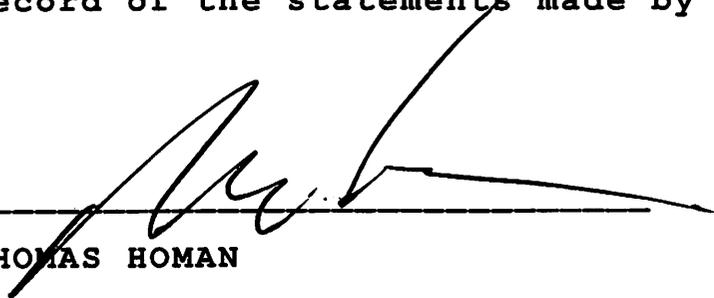
23 A Can you repeat the question, please?

24 Q Do you understand that the policy change  
25 referenced in section G of this February 20th

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

ACKNOWLEDGMENT OF DEPONENT

I hereby declare under penalty of perjury that I have read the foregoing transcript of my deposition and except for any corrections or changes noted on the errata sheet, I hereby subscribe to the transcript as an accurate record of the statements made by me.

  
\_\_\_\_\_  
THOMAS HOMAN

4-24-18  
DATE

E R R A T A S H E E T

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IN RE: U.S.A. vs. STATE OF CALIFORNIA

DATE: 4/10/2018

PAGE LINE CORRECTION AND REASON

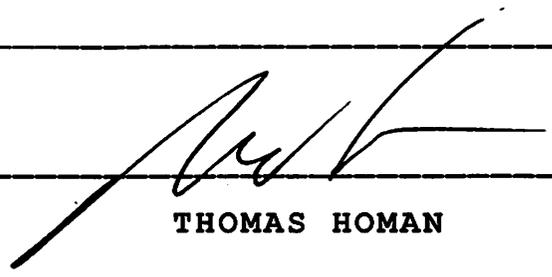
110 21 "cas should be care"

113 17 "icis" should be "cis"

114 9 "are citizers" should be "are not citizers"

126 6 "note" should be "not"

4-24-18



(DATE)

THOMAS HOMAN