

EXHIBIT I

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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE EASTERN DISTRICT OF CALIFORNIA
13 SACRAMENTO DIVISION
14

15
16 **THE UNITED STATES OF AMERICA,**

17 Plaintiff,

18 v.

19
20 **THE STATE OF CALIFORNIA; EDMUND
GERALD BROWN JR., Governor of
California, in his official capacity; and
21 XAVIER BECERRA, Attorney General of
California, in his official capacity,**

22 Defendants.
23

Case No. 2:18-cv-00490-JAM-KJN

**DEFENDANTS' RESPONSES AND
OBJECTIONS TO PLAINTIFF'S FIRST
SET OF INTERROGATORIES**

Hearing Date: June 20, 2018
Time: 10:00 a.m.
Courtroom: 6
Judge: Honorable John A. Mendez
Trial Date: None Set
Action Filed: March 6, 2018

24
25 PROPOUNDING PARTY: Plaintiff UNITED STATES OF AMERICA

26 RESPONDING PARTY: Defendants STATE OF CALIFORNIA, EDMUND
G. BROWN JR., XAVIER BECERRA
27

28 SET NUMBER: ONE

1 Under Rules 26 and 33 of the Federal Rules of Civil Procedure, Eastern District of
2 California Civil Local Rule 250.2, and the Court Order dated May 24, 2018, ECF No. 158
3 (May 24 Court Order), Defendants State of California, Edmund G. Brown Jr., Governor of
4 California in his official capacity, and Xavier Becerra, Attorney General of California in his
5 official capacity (collectively, “California”), by and through their attorneys of record, hereby
6 responds and objects to Plaintiff’s First Set of Interrogatories.

7 **PRELIMINARY STATEMENT AND OBJECTIONS TO INSTRUCTIONS AND**
8 **DEFINITIONS**

9 1. Defendants State of California, Edmund G. Brown Jr., and Xavier Becerra
10 (collectively, “California”) object to the United States’ First Set of Interrogatories
11 (“Interrogatories”), sent to California following the May 24 Court Order, to the extent that the
12 Interrogatories are different from the interrogatories that the Court considered when issuing the
13 Court Order.

14 2. California’s objections and responses to the Interrogatories are made on the basis of
15 facts and circumstances as they presently are known to California. California’s attorneys of
16 record have not yet completed their investigation, discovery, or analysis of the matters raised by
17 this action. Accordingly, all of the following responses are provided without prejudice to
18 California’s right to introduce at the hearing on the motion for preliminary injunction or at trial
19 any evidence that is subsequently discovered relating to proof of presently known facts, and to
20 produce and introduce all evidence, whenever discovered, relating to proof of subsequently
21 discovered facts. The responses are all based upon information and documents that have been
22 found after reasonable search and diligent inquiry. California reserves the right to amend or
23 supplement these responses.

24 3. California’s objections and responses are based on its understanding and
25 interpretation of the Interrogatories. If Plaintiff understands or interprets the Interrogatories
26 differently, California reserves the right to supplement any of its objections or responses.

27 4. California objects that these Interrogatories purportedly are propounded under Rule
28 34 of the Federal Rule of Civil Procedure which governs the production of documents, and not

1 interrogatories. The May 24 Court Order did not require California to produce any documents in
2 connection with these Interrogatories. California will respond to these Interrogatories consistent
3 with Rule 33 of the Federal Rules of Civil Procedure.

4 5. California objects to Instruction No. 2 on the grounds that the request for
5 “information” that “was created” or “has been used or has been in effect” between January 1,
6 2018 and the present is vague, overbroad, and unduly burdensome, and is not proportional to the
7 needs of the case or the issue of Plaintiff’s purported basis for asserting irreparable harm in its
8 motion for a preliminary injunction. California further objects to the extent that the “information”
9 that “was created” or “has been used or has been in effect,” which the United States seeks in
10 response to each Interrogatory, is information protected by the attorney-client privilege, the
11 attorney work-product doctrine, the deliberative process privilege, or any other applicable
12 privilege. California also objects to Instruction No. 2 on the grounds that it seeks “information”
13 from before the effective date of Senate Bill 54 (SB 54), which was January 4, 2018. Subject to
14 and without waiving any of its foregoing objections, California will limit its response to its
15 interpretation of California Government Code section 7284.6(a)(1)(C), which has been in effect
16 since January 4, 2018.

17 6. California objects to the definition of the term “Document” on the grounds that it is
18 overbroad and unduly burdensome. California further objects that it seeks documents that are not
19 relevant to the subject matter of the case. In addition, it seeks documents that are not proportional
20 to the needs of this case, Plaintiff’s purported basis for asserting irreparable harm in its motion for
21 preliminary injunction, or the abbreviated expedited discovery period. To the extent that the
22 definition of the term “Document” is broader than provided in the Federal Rules of Civil
23 Procedure, California will incorporate the term “Document” in accordance with the Federal Rules
24 of Civil Procedure. California further objects to the definition of the term “Document” as
25 inconsistent with the May 24 Court Order, which did not require California to produce any
26 documents. To the extent the definition incorporates the overbroad and unduly burdensome
27 definition of “California Law Enforcement Agency,” California’s below objections to that
28 definition are incorporated here as well. Moreover, California does not have possession, custody,

1 or control of documents as those terms are used in the Federal Rules of Civil Procedure, for all
2 California law enforcement agencies due only to the supervision and authority provisions set out
3 in the California Constitution article V, section 13 and California Penal Code section 13020.
4 Those provisions are unconnected to the requirements of the Federal Rules of Civil Procedure and
5 its purposes, and they do not take into account any of the requirements of those rules, including
6 that all discovery be relevant, not unduly burdensome or overbroad, and proportional.

7 7. California objects to the definition of the term “Communication” as vague,
8 ambiguous, overly broad, unduly burdensome, and not relevant. In addition, the definition is not
9 proportional to the needs of the case, Plaintiff’s purported basis for asserting irreparable harm in
10 its motion for preliminary injunction, or the abbreviated expedited discovery period. Further, it is
11 beyond the scope of the requirements of the Federal Rules of Civil Procedure and the Local Rules
12 of this Court.

13 8. California objects to the definition of “California” or “State” on the grounds that it is
14 overbroad and unduly burdensome, includes matters not relevant to any party’s claim or defense.
15 In addition, it is not proportional to the needs of the case, Plaintiff’s purported basis for asserting
16 irreparable harm in its motion for preliminary injunction, or the abbreviated expedited discovery
17 period. California further objects to the definition of “California” or “State” as encompassing
18 state entities that are not parties to this litigation. *See People ex. rel. Lockyer v. Superior Court*,
19 122 Cal. App. 4th 1060, 1078 (Cal. Ct. App. 2004) (holding that by bringing an action on behalf
20 of the People, the People are not deemed to have possession, custody, or control of documents or
21 information from any state agency).

22 9. California objects to the definition of “California Law Enforcement Agency” to the
23 extent that Plaintiff requests California to produce information and documents that are not in its
24 possession, custody, or control. California also objects to the extent that the definition includes
25 matters not relevant to any party’s claim or defense and not proportional to the needs of the case,
26 Plaintiff’s purported basis for asserting irreparable harm in its motion for preliminary injunction,
27 or the abbreviated expedited discovery period. This definition purports to encompass hundreds of
28 California law enforcement agencies that exist in the State, irrespective of whether they are state

1 or local law enforcement. Information and documents pertaining to every California law
2 enforcement agency are not in Defendants' possession, custody, or control. Requesting
3 information from every state and local law enforcement agency in the entire state is not
4 proportional to the needs of the case or Plaintiff's purported basis for asserting irreparable harm
5 in its motion for preliminary injunction. Nor does it include matters relevant to any claims, and it
6 is extraordinarily overbroad and unduly burdensome.

7 10. California objects to the definition of "Detainer Request" on the grounds that it is
8 overbroad and unduly burdensome. It also includes matters not relevant to any party's claim or
9 defense or Plaintiff's purported basis for asserting irreparable harm in its motion for preliminary
10 injunction. And it is not proportional to the needs of the case and the abbreviated expedited
11 discovery period. The definition is unduly burdensome and overbroad in that it implies a vague
12 and ambiguous time period, which is also irrelevant to the claims and defenses in this litigation.
13 SB 54 was not effective until January 4, 2018, and therefore, the relevant and proportional time
14 period does not encompass the time period before the effective date of SB 54, and cannot
15 encompass the predecessor Department of Homeland Security (DHS) forms, including DHS
16 Form I-247D, DHS Form I-247N, and DHS Form I-247X, which were used before the current
17 DHS Form I-247A. Moreover, Plaintiff has not challenged the provision in SB 54 that prohibits
18 detaining an individual on the basis of a hold request ("detainer request"), which California
19 understands are or were requested in DHS Forms I-247A or I-247D, and thus is not at issue in this
20 litigation. Further, Plaintiff's Interrogatories concern California Government Code section
21 7284.6(a)(1)(C), which does not involve a request to transfer a person to immigration authorities
22 ("transfer request"). California understands transfer requests are or were made in DHS Forms I-
23 247A or I-247X, and are not relevant for purposes of responding to these Interrogatories. Subject
24 to and without waiving any of its foregoing objections, California will limit its response to its
25 interpretation of "Detainer Request" to encompass the request made on DHS Form I-247A to
26 "[n]otify DHS as early as practicable (at least 48 hours if possible)" before a person is released
27 from custody, and the request to law enforcement agencies to provide information at the bottom
28 of said form.

1 11. These objections to the definitions are applicable to each and every one of the
2 following answers and objections, and failure to repeat an objection in response to a specific
3 Interrogatory shall not be deemed a waiver of the objection. Repetition of one or more of these
4 objections in response to a specific Interrogatory shall not be a waiver of other applicable
5 objections.

6 **INTERROGATORIES**

7 **INTERROGATORY NO. 1:**

8 State whether, in Defendants' view, California Law Enforcement Agency may establish a
9 policy of sharing an individual's release date, as soon as it becomes available, with federal
10 immigration authorities, consistent with Section 7284.6(a)(1)(C) of the California Government
11 Code and Parts III.1.C and III.2.B.i of Information Bulletin 2018-DLE-01. If your answer would
12 vary depending on the circumstances, please explain.

13 **RESPONSE TO INTERROGATORY NO. 1:**

14 In addition to the foregoing objections, California objects to this Interrogatory because the
15 terms and phrases "policy" and "as soon as it becomes available," are vague, ambiguous, or
16 otherwise undefined, and require California to speculate about the intended meaning of those
17 terms and phrases. California also objects to the Interrogatory to the extent it seeks or purports to
18 place a burden on the State greater than that imposed by applicable laws and rules, including but
19 not limited to the Federal Rules of Civil Procedure, the Local Rules of this Court, and the May 24
20 Court Order. Further, to the extent the Interrogatory seeks California's contention regarding the
21 scope of the statute in the abstract, it poses a question of pure law, and California is not required
22 to respond to interrogatories raising questions of pure law, and objects on that basis. *See*
23 *AngioScore, Inc. v. TriReme Med., Inc.*, No. 12-cv-03393, 2014 WL 7188779, at *5 (N.D. Cal.
24 Dec. 16, 2014) ("[I]nterrogatories directed to issues of 'pure law'—i.e., abstract legal issues not
25 dependent on the facts of the case are not permitted") (citation and some internal punctuation
26 omitted); *see also Everest Nat'l Ins. Co. v. Santa Cruz Cty. Bank*, No. 15-cv-02085, 2016 WL
27 6311876, *4 (N.D. Cal. Oct. 28, 2016) (denying motion to compel interrogatory response where
28 "party asking for legal argument without a direct connection to the facts of th[e] case").

1 California also objects to the extent that the Interrogatory seeks additional information regarding
2 Information Bulletin 2018-DLE-01, which speaks for itself and is the best evidence of its
3 contents.

4 Subject to and without waiving any of its foregoing objections, California responds that
5 California Government Code section 7284.6(a)(1)(C) states that: “California law enforcement
6 agencies shall not: [u]se agency or department moneys or personnel to investigate, interrogate,
7 detain, detect, or arrest persons for immigration enforcement purposes, including . . . [p]roviding
8 information regarding a person’s release date or responding to requests for notification by
9 providing release dates or other information *unless* that information is available to the public, or
10 is in response to a notification request from immigration authorities in accordance with Section
11 7282.5” (emphasis added). California Department of Justice’s Division of Law Enforcement
12 Information Bulletin No. DLE-2018-01 (Law Enforcement Bulletin), issued March 28, 2018,
13 states: “the phrase ‘available to the public’ refers to information where a law enforcement agency
14 has a practice of making such information public, such as disclosing the information on its
15 website or if it has a practice or policy of providing the information to individuals in response to
16 specific requests. Law enforcement agencies should, in addition to ensuring compliance with the
17 Values Act, take care to ensure that they comply with applicable state or federal privacy laws.”
18 California also responds that the California Public Records Act, California Government Code
19 section 6254(f)(1) generally authorizes the public disclosure of “the time and manner of release”
20 so long as the disclosure would not “endanger the safety of a person involved in an investigation
21 or would endanger the successful completion of the investigation or a related investigation.”

22 Further responding, consistent with California Government Code section 7284.6(a)(1)(C)
23 and the Information Bulletin, if a California Law Enforcement Agency has a practice of
24 disclosing release dates to the public as soon as release dates become available, and the law
25 enforcement agency is satisfied that the public disclosure of the information would not “endanger
26 the safety of a person involved in an investigation or would endanger the successful completion
27 of the investigation or a related investigation,” then the law enforcement agency’s disclosure of
28 release dates to immigration authorities would not violate SB 54. For example, if the California

1 Law Enforcement Agency has a practice of posting release dates on a website as soon as they
2 become available, that law enforcement agency may then share a person's release dates with
3 immigration authorities after posting the release date on a website without violating SB 54.
4 However, a California Law Enforcement Agency may not disclose release dates to immigration
5 authorities as soon as that information becomes available if the information is not available to the
6 public or the circumstances described in California Government Code section 7282.5 do not
7 apply.

8 **INTERROGATORY NO. 2:**

9 State whether, in Defendants' view, the phrase "or other information," as used in Section
10 7284.6(a)(1)(C) of the California Government Code, includes information other than "release
11 dates," such as information concerning an individual's identity or home address information
12 requested at the bottom of a Detainer Request in the section titled "To Be Completed by the Law
13 Enforcement Agency," or specific information regarding where and how that individual will be
14 exiting a California Law Enforcement's premises, including specific points of egress and whether
15 the point of egress is open to the public or a secure location. If your answer would vary
16 depending on the circumstances, please explain.

17 **RESPONSE TO INTERROGATORY NO. 2:**

18 In addition to the foregoing objections, California objects to this Interrogatory because the
19 terms and phrases "specific information regarding where and how that individual will be exiting a
20 California Law Enforcement's premises," "point[s] of egress," "open to the public," and "secure
21 location" are vague, ambiguous, or otherwise undefined, and require California to speculate about
22 the intended meaning of those terms and phrases. California further objects to the Interrogatory
23 to the extent it seeks or purports to place a burden on the State greater than that imposed by
24 applicable laws and rules, including but not limited to the Federal Rules of Civil Procedure, the
25 Local Rules of this Court, and the May 24 Court Order. California also objects to the
26 Interrogatory to the extent it seeks, during this expedited period, information concerning matters
27 unrelated to (i) Plaintiff's assertions of irreparable harm made in its Motion for Preliminary
28 Injunction and Memorandum of Law in Support filed on March 6, 2018 (ECF No. 2-1), and (ii)

1 arguments that Defendants made to rebut Plaintiff’s claims of irreparable harm in Defendants’
2 Opposition to Plaintiff’s Motion for Preliminary Injunction (ECF No. 74) where California did
3 not use the term “other information.” In that manner, the interrogatory is overbroad and unduly
4 burdensome. And it is not proportional to the needs of this case, Plaintiff’s purported basis for
5 asserting irreparable harm in its motion for preliminary injunction, or the abbreviated expedited
6 discovery period.

7 Further, to the extent the Interrogatory seeks California’s contention regarding the scope of
8 the statute in the abstract, it poses a question of pure law, and California is not required to
9 respond to interrogatories raising questions of pure law, and objects on that basis. *See*
10 *AngioScore, Inc. v. TriReme Med., Inc.*, No. 12-cv-03393, 2014 WL 7188779, at *5 (N.D. Cal.
11 Dec. 16, 2014) (“[I]nterrogatories directed to issues of ‘pure law’—i.e., abstract legal issues not
12 dependent on the facts of the case are not permitted”) (citation and some internal punctuation
13 omitted); *see also Everest Nat’l Ins. Co. v. Santa Cruz Cty. Bank*, No. 15-cv-02085, 2016 WL
14 6311876, *4 (N.D. Cal. Oct. 28, 2016) (denying motion to compel interrogatory response where
15 “party asking for legal argument without a direct connection to the facts of th[e] case”).

16 California further objects to this Interrogatory on the grounds that it is not consistent with
17 the May 24 Court Order. The Court Order expressly provided “at this juncture” that “California
18 need not provide a further definition of ‘or other information,’” as used in California Government
19 Code section 7284.6(a)(1)(C), beyond as outlined in the Court Order and limited at the May 24
20 conference with the Court. Therefore, California will limit its response to address the information
21 identified in the May 24 Court Order, but will not respond to whether “information concerning an
22 individual’s identity,” as that term is defined in the Interrogatories and “home address
23 information” is “other information” as used in California Government Code section
24 7284.6(a)(1)(C). California also objects to Plaintiff’s characterization that “information
25 concerning an individual’s identity,” as that term is defined in the Interrogatories and “home
26 address information” is “information requested at the bottom of a Detainer Request in the section
27 titled ‘To Be Completed by the Law Enforcement Agency.’” A person’s home address, home
28 telephone number, present or last known employer, and date or place of birth are not requested on

1 the DHS Form I-247A. See [https://www.ice.gov/sites/default/files/documents/Document/2017/I-](https://www.ice.gov/sites/default/files/documents/Document/2017/I-247A.pdf)
2 [247A.pdf](https://www.ice.gov/sites/default/files/documents/Document/2017/I-247A.pdf).

3 California further objects to the Interrogatory on the grounds that Plaintiff modified this
4 Interrogatory after the Court issued the May 24 Order, so Plaintiff is seeking to require California
5 to respond to an Interrogatory that did not form the basis of the Court's Order. California will
6 limit its response to address the information identified in the May 24 Court Order. California
7 further objects to Plaintiff's attempt to dictate the language of California's response to the
8 Interrogatory. California will furnish an appropriate and relevant answer subject to these
9 objections that complies with the Federal Rules of Civil Procedure.

10 Subject to and without waiving any of its foregoing objections, California responds that
11 "other information" as that term is used in California Government Code section 7284.6(a)(1)(C)
12 includes the information requested on the DHS Form I-247A, consisting of the "Local
13 Booking/Inmate #," "Estimated release date/time," "Date of latest criminal charge/conviction,"
14 and "Last offense charged/conviction." Further responding, "other information" as that term is
15 used in California Government Code section 7284.6(a)(1)(C) includes "the specific location of
16 release at the jail or facility (such as the front door, back door, holding area, etc.), including
17 whether the location is inside or outside the jail/facility and whether the location is open to the
18 public." See May 24 Court Order at 2.

19 **INTERROGATORY NO. 3:**

20 State whether, in Defendants' view, Section 7284.6(a)(1)(C) of the California Government
21 Code, as further defined by Parts III.1.C and III.2.B.i of Information Bulletin 2018-DLE-01,
22 would permit an a [*sic*] California Law Enforcement Agency to establish a practice or policy of
23 providing information concerning "release dates" or "other information" as described in response
24 to Interrogatory 2 to federal immigration authorities in response to specific requests for such
25 information from individuals.

26 **RESPONSE TO INTERROGATORY NO. 3:**

27 In addition to the foregoing objections, California objects to this Interrogatory because the
28 terms and phrases "an a [*sic*] California Law Enforcement Agency," "practice or policy," and

1 “concerning ‘release dates’ or ‘other information’” are vague, ambiguous, or otherwise
2 undefined, and require California to speculate about the intended meaning of those terms and
3 phrases. California further objects to the Interrogatory to the extent it seeks or purports to place a
4 burden on the State greater than that imposed by applicable laws and rules, including but not
5 limited to the Federal Rules of Civil Procedure, the Local Rules of this Court, and the May 24
6 Court Order. California also objects to the Interrogatory to the extent it seeks, during this
7 expedited period, information concerning matters unrelated to (i) Plaintiff’s assertions of
8 irreparable harm made in its Motion for Preliminary Injunction and Memorandum of Law in
9 Support filed on March 6, 2018 (ECF No. 2-1), and (ii) arguments that Defendants made to rebut
10 Plaintiff’s claims of irreparable harm in Defendants’ Opposition to Plaintiff’s Motion for
11 Preliminary Injunction (ECF No. 74), where California did not use the term “other information.”
12 In that manner, the Interrogatory is overbroad and unduly burdensome. And it is not proportional
13 to the needs of this case, Plaintiff’s purported basis for asserting irreparable harm in its motion for
14 preliminary injunction, or the abbreviated expedited discovery period.

15 Further, to the extent the Interrogatory seeks California’s contention regarding the scope of
16 the statute in the abstract, it poses a question of pure law, and California is not required to
17 respond to interrogatories raising questions of pure law, and objects on that basis. *See*
18 *AngioScore, Inc. v. TriReme Med., Inc.*, No. 12-cv-03393, 2014 WL 7188779, at *5 (N.D. Cal.
19 Dec. 16, 2014) (“[I]nterrogatories directed to issues of ‘pure law’—i.e., abstract legal issues not
20 dependent on the facts of the case are not permitted”) (citation and some internal punctuation
21 omitted); *see also Everest Nat’l Ins. Co. v. Santa Cruz Cty. Bank*, No. 15-cv-02085, 2016 WL
22 6311876, *4 (N.D. Cal. Oct. 28, 2016) (denying motion to compel interrogatory response where
23 “party asking for legal argument without a direct connection to the facts of th[e] case”).
24 California also objects to the extent that the Interrogatory seeks additional information regarding
25 Information Bulletin 2018-DLE-01, which speaks for itself and is the best evidence of its
26 contents. California also objects to the Interrogatory on the grounds that it seeks duplicative
27 information sought in Interrogatory No. 1, and thus, California incorporates its response and
28 objections to that Interrogatory here.

1 California further objects to this Interrogatory on the grounds that it incorporates
2 information sought in Interrogatory No. 2, which as discussed above, is an Interrogatory that is
3 inconsistent with the May 24 Court Order. The Court Order expressly provided “at this juncture”
4 that “California need not provide a further definition of ‘or other information,’” as used in
5 California Government Code section 7284.6(a)(1)(C), beyond as outlined in the Court Order and
6 limited at the May 24 conference with the Court. Therefore, California will limit its response to
7 address only the information identified in the May 24 Court Order, but will not respond to this
8 Interrogatory to the extent it seeks whether “information concerning an individual’s identity,” as
9 that term is defined in the Interrogatories, and “home address information” is “other information”
10 as used in California Government Code section 7284.6(a)(1)(C). Moreover, to the extent that this
11 Interrogatory incorporates Interrogatory No. 2, California objects to Plaintiff’s characterization
12 that “information concerning an individual’s identity,” as that term is defined in the
13 Interrogatories and “home address information” is “Information requested at the bottom of a
14 Detainer Request in the section titled “To Be Completed by the Law Enforcement Agency.” A
15 person’s home address, home telephone number, present or last known employer, and date or
16 place of birth are not requested on the DHS Form I-247A. *See*
17 <https://www.ice.gov/sites/default/files/documents/Document/2017/I-247A.pdf>. California also
18 objects to the Interrogatory on the grounds that it incorporates Interrogatory No. 2, and Plaintiff
19 modified that Interrogatory after the Court issued the May 24 Order, so Plaintiff is seeking to
20 require California to respond to an Interrogatory that did not form the basis of the Court’s Order.
21 California will limit its response to address the information identified in the May 24 Court Order.

22 Subject to and without waiving any of its foregoing objections, California responds that
23 California Government Code section 7284.6(a)(1)(C) states that: “California law enforcement
24 agencies shall not [u]se agency or department moneys or personnel to investigate, interrogate,
25 detain, detect, or arrest persons for immigration enforcement purposes, including . . . [p]roviding
26 information regarding a person’s release date or responding to requests for notification by
27 providing release dates or other information *unless* that information is available to the public, or
28 is in response to a notification request from immigration authorities in accordance with Section

1 7282.5” (emphasis added). California Department of Justice’s Division of Law Enforcement
2 Information Bulletin No. DLE-2018-01 (Law Enforcement Bulletin), issued March 28, 2018,
3 states: “the phrase ‘available to the public’ refers to information where a law enforcement agency
4 has a practice of making such information public, such as disclosing the information on its
5 website or if it has a practice or policy of providing the information to individuals in response to
6 specific requests. Law enforcement agencies should, in addition to ensuring compliance with the
7 Values Act, take care to ensure that they comply with applicable state or federal privacy laws.”
8 California also responds that the California Public Records Act, California Government Code
9 section 6254(f)(1) generally authorizes the public disclosure of “the time and date of arrest,” “the
10 time and date of booking,” “the factual circumstances surrounding the arrest,” “the time and
11 manner of release or the location where the individual is currently being held,” and “all charges
12 the individual is being held upon, including any outstanding warrants from other jurisdictions and
13 parole or probation holds,” so long as the public disclosure would not “endanger the safety of a
14 person involved in an investigation or would endanger the successful completion of the
15 investigation or a related investigation.”

16 Further responding, consistent with California Government Code section 7284.6(a)(1)(C)
17 and the Information Bulletin, if a California Law Enforcement Agency has a practice of
18 disclosing release dates or “other information,” as limited in California’s response to
19 Interrogatory No. 2, in response to specific requests from members of the public, and the law
20 enforcement agency is satisfied that the public disclosure of the information would not “endanger
21 the safety of a person involved in an investigation or would endanger the successful completion
22 of the investigation or a related investigation,” then the law enforcement agency may similarly
23 disclose release dates or “other information,” in compliance with SB 54, as limited in California’s
24 response to Interrogatory No. 2, to federal immigration authorities. Moreover, California Law
25 Enforcement Agencies are permitted to provide criminal history information to federal
26 immigration authorities regardless of whether the information is available to the public, California
27 Government Code section 7284.6(b)(2), so a California Law Enforcement Agency is not
28 restricted, in any way, from providing to federal immigration authorities the “Date of latest

1 criminal charge/conviction” and “Last offense charged/conviction” information requested on a
2 DHS Form I-247A. However, a California Law Enforcement Agency may not disclose release
3 dates or “other information” to immigration authorities in response to specific requests from
4 federal immigration authorities, if the information is not available to the public, the California
5 Law Enforcement Agency does not have a policy or practice of providing such information in
6 response to specific requests made by members of the public, the information is not criminal
7 history information, or the circumstances described in California Government Code
8 section 7282.5 do not apply.

9 **INTERROGATORY NO. 4:**

10 State whether, in Defendants’ view, providing federal immigration authorities information
11 in response to a Notification Request contained in a Detainer Request constitutes “providing the
12 information to individuals in response to specific requests,” as that phrase is used in Information
13 Bulletin 2018-DLE-01.

14 **RESPONSE TO INTERROGATORY NO. 4:**

15 In addition to the foregoing objections, California objects to the Interrogatory to the extent it
16 seeks or purports to place a burden on the State greater than that imposed by applicable laws and
17 rules, including but not limited to the Federal Rules of Civil Procedure, the Local Rules of this
18 Court, and the May 24 Court Order. Further, to the extent the Interrogatory seeks California’s
19 contention regarding the scope of the statute in the abstract, it poses a question of pure law, and
20 California is not required to respond to interrogatories raising questions of pure law, and objects
21 on that basis. *See AngioScore, Inc. v. TriReme Med., Inc.*, No. 12-cv-03393, 2014 WL 7188779,
22 at *5 (N.D. Cal. Dec. 16, 2014) (“[I]nterrogatories directed to issues of ‘pure law’—i.e., abstract
23 legal issues not dependent on the facts of the case are not permitted”) (citation and some internal
24 punctuation omitted); *see also Everest Nat’l Ins. Co. v. Santa Cruz Cty. Bank*, No. 15-cv-02085,
25 2016 WL 6311876, *4 (N.D. Cal. Oct. 28, 2016) (denying motion to compel interrogatory
26 response where “party asking for legal argument without a direct connection to the facts of th[e]
27 case”). California also objects to the extent that the Interrogatory seeks California to provide
28 additional information regarding Information Bulletin 2018-DLE-01, which speaks for itself and

1 is the best evidence of its contents. California also objects to the Interrogatory on the grounds
2 that it seeks duplicative information sought in Interrogatory No. 3, and thus, California
3 incorporates its response and objections to that Interrogatory here.

4 Subject to and without waiving any of its foregoing, California responds that consistent with
5 California Government Code section 7284.6(a)(1)(C) and the Information Bulletin, if a California
6 Law Enforcement Agency has a practice of disclosing information requested in the current DHS
7 Form I-247A, in response to specific requests by members of the public, as described in response
8 to Interrogatory Nos. 2 and 3, then SB 54 would not bar the law enforcement agency from
9 similarly disclosing that same information to federal immigration authorities in response to the
10 currently existing DHS Form I-247A (i.e., Notification Request). However, a California Law
11 Enforcement Agency may not respond to requests for information on the DHS Form I-247A if the
12 information is not available to the public, the California Law Enforcement Agency does not have
13 a policy or practice of providing such information in response to specific requests made by
14 members of the public, the information is not criminal history information, or the circumstances
15 described in California Government Code section 7282.5 do not apply.

16 **INTERROGATORY NO. 5:**

17 State whether, in Defendants' view, California Law Enforcement Agency that did not
18 previously, prior to January 1, 2018 have a practice or policy of disclosing information
19 concerning an individual's release date or other information concerning such individuals on its
20 website or providing the information to individuals in response to specific requests, could
21 implement such a practice or policy after January 1, 2018.

22 **RESPONSE TO INTERROGATORY NO. 5:**

23 In addition to the foregoing objections, California objects to this Interrogatory because the
24 terms and phrases "practice or policy," "concerning an individual's release date or other
25 information concerning such individuals," and "implement" are vague, ambiguous, or otherwise
26 undefined, and require California to speculate about the intended meaning of those terms and
27 phrases. California also objects to the Interrogatory to the extent it seeks or purports to place a
28 burden on the State greater than that imposed by applicable laws and rules, including but not

1 limited to the Federal Rules of Civil Procedure, the Local Rules of this Court, and the May 24
2 Court Order. Further, to the extent the Interrogatory seeks California’s contention regarding the
3 scope of the statute in the abstract, it poses a question of pure law, and California is not required
4 to respond to interrogatories raising questions of pure law, and objects on that basis. *See*
5 *AngioScore, Inc. v. TriReme Med., Inc.*, No. 12-cv-03393, 2014 WL 7188779, at *5 (N.D. Cal.
6 Dec. 16, 2014) (“[I]nterrogatories directed to issues of ‘pure law’—i.e., abstract legal issues not
7 dependent on the facts of the case are not permitted”) (citation and some internal punctuation
8 omitted); *see also Everest Nat’l Ins. Co. v. Santa Cruz Cty. Bank*, No. 15-cv-02085, 2016 WL
9 6311876, *4 (N.D. Cal. Oct. 28, 2016) (denying motion to compel interrogatory response where
10 “party asking for legal argument without a direct connection to the facts of th[e] case”).
11 California also objects to the Interrogatory to the extent it implies that the effective date of
12 California Government Code section 7284.6(a)(1)(C) is January 1, 2018. California will limit its
13 response to whether a California Law Enforcement Agency changed its policy or practice after
14 January 4, 2018, which was the effective date of California Government Code section
15 7284.6(a)(1)(c). California also objects to the Interrogatory on the grounds that it seeks
16 duplicative information sought in Interrogatory Nos. 3 and 4, and thus, California incorporates its
17 response and objections to those Interrogatories here.

18 Subject to and without waiving any of its foregoing objections, California responds that
19 consistent with California Government Code section 7284.6(a)(1)(C) and the Information
20 Bulletin, a California Law Enforcement Agency that did not have a practice or policy of
21 disclosing release dates or other information to the public may implement a policy or practice
22 after January 4, 2018 of disclosing release date information or “other information,” as limited in
23 California’s response to Interrogatory No. 2, to the public on its website or in response to specific
24 requests by members of the public.

25 **INTERROGATORY NO. 6:**

26 State whether, in Defendants’ view, Section 7284.6(a)(1)(C) of the California Government
27 Code, as further defined by Parts III.1.C and III.2.B.i of Information Bulletin 2018-DLE-01,
28 would permit an a California Law Enforcement Agency to establish a practice or policy of

1 notifying federal immigration authorities that an individual subject to a Notification Request
2 contained in a Detainer Request is scheduled for release, and to inform federal immigration
3 authorities of the specific time and location an individual will exit a California Law Enforcement
4 Agency's premises.

5 **RESPONSE TO INTERROGATORY NO. 6:**

6 In addition to the foregoing objections, California objects to this Interrogatory because the
7 terms and phrases "an a California Law Enforcement Agency," "practice or policy," "scheduled
8 for release" and "California Law Enforcement Agency's premises" are vague, ambiguous, or
9 otherwise undefined, and require California to speculate about the intended meaning of those
10 terms and phrases. California also objects to the Interrogatory to the extent it seeks or purports to
11 place a burden on the State greater than that imposed by applicable laws and rules, including but
12 not limited to the Federal Rules of Civil Procedure, the Local Rules of this Court, and the May 24
13 Court Order. Further, to the extent the Interrogatory seeks California's contention regarding the
14 scope of the statute in the abstract, it poses a question of pure law, and California is not required
15 to respond to interrogatories raising questions of pure law, and objects on that basis. *See*
16 *AngioScore, Inc. v. TriReme Med., Inc.*, No. 12-cv-03393, 2014 WL 7188779, at *5 (N.D. Cal.
17 Dec. 16, 2014) ("[I]nterrogatories directed to issues of 'pure law'—i.e., abstract legal issues not
18 dependent on the facts of the case are not permitted") (citation and some internal punctuation
19 omitted); *see also Everest Nat'l Ins. Co. v. Santa Cruz Cty. Bank*, No. 15-cv-02085, 2016 WL
20 6311876, *4 (N.D. Cal. Oct. 28, 2016) (denying motion to compel interrogatory response where
21 "party asking for legal argument without a direct connection to the facts of th[e] case").

22 California also objects to the extent that the Interrogatory seeks California to provide additional
23 information regarding Information Bulletin 2018-DLE-01, which speaks for itself and is the best
24 evidence of its contents. California also objects to the Interrogatory on the grounds that it seeks
25 duplicative information sought in Interrogatory Nos. 1, 3 and 4, and thus, California incorporates
26 its response and objections to those Interrogatories here.

27 Subject to and without waiving any of its foregoing objections, consistent with California
28 Government Code section 7284.6(a)(1)(C) and the Information Bulletin, if a California Law

1 Enforcement Agency has a practice of disclosing specific release dates, time, and location to the
2 public in response to specific requests, then the law enforcement agency may similarly disclose
3 such information to federal immigration authorities, whether in response to a DHS Form I-247A
4 (i.e. Notification Request) or other specific requests. For example, if the California Law
5 Enforcement Agency has a practice of posting release dates, times, and location, SB 54 does not
6 preclude that California Law Enforcement Agency from then sharing a person’s release date,
7 time, and location with federal immigration authorities after posting such information on a
8 website. However, a California Law Enforcement Agency may not disclose release dates, times,
9 and location to immigration authorities if the information is not available to the public or the
10 circumstances described in California Government Code section 7282.5 do not apply.

11 **INTERROGATORY NO. 7:**

12 State whether, in Defendants’ view, Section 7284.6(a)(1)(C) of the California Government
13 Code, as further defined by Parts III.1.C and III.2.B.i of Information Bulletin 2018-DLE-01,
14 would permit a California Law Enforcement Agency to establish a practice or policy of notifying
15 federal immigration authorities that an individual subject to a Notification Request contained in a
16 Detainer Request is scheduled for release, and to permit federal immigration authorities to take
17 custody of the individual anywhere on the California Law Enforcement Agency’s premises.

18 **RESPONSE TO INTERROGATORY NO. 7:**

19 In addition to the foregoing objections, California objects to this Interrogatory because the
20 terms and phrases “practice or policy” and “scheduled for release” are vague, ambiguous, or
21 otherwise undefined, and require California to speculate about the intended meaning of those
22 terms and phrases. California further objects to the Interrogatory to the extent it seeks or purports
23 to place a burden on the State greater than that imposed by applicable laws and rules, including
24 but not limited to the Federal Rules of Civil Procedure, the Local Rules of this Court, and the
25 May 24 Court Order. California also objects to the Interrogatory to the extent it seeks, during this
26 expedited period, information concerning matters unrelated to (i) Plaintiff’s assertions of
27 irreparable harm made in its Motion for Preliminary Injunction and Memorandum of Law in
28 Support filed on March 6, 2018 (ECF No. 2-1), and (ii) arguments that Defendants made to rebut

1 Plaintiff's claims of irreparable harm in Defendants' Opposition to Plaintiff's Motion for
2 Preliminary Injunction (ECF No. 74). In that manner, the Interrogatory is overbroad and unduly
3 burdensome. And it is not proportional to the needs of this case, Plaintiff's purported basis for
4 asserting irreparable harm in its motion for preliminary injunction, or the abbreviated expedited
5 discovery period.

6 Further, to the extent the Interrogatory seeks California's contention regarding the scope of
7 the statute in the abstract, it poses a question of pure law, and California is not required to
8 respond to interrogatories raising questions of pure law, and objects on that basis. *See*
9 *AngioScore, Inc. v. TriReme Med., Inc.*, No. 12-cv-03393, 2014 WL 7188779, at *5 (N.D. Cal.
10 Dec. 16, 2014) (“[I]nterrogatories directed to issues of ‘pure law’—i.e., abstract legal issues not
11 dependent on the facts of the case are not permitted”) (citation and some internal punctuation
12 omitted); *see also Everest Nat'l Ins. Co. v. Santa Cruz Cty. Bank*, No. 15-cv-02085, 2016 WL
13 6311876, *4 (N.D. Cal. Oct. 28, 2016) (denying motion to compel interrogatory response where
14 “party asking for legal argument without a direct connection to the facts of th[e] case”).
15 California also objects to the extent that the Interrogatory seeks California to provide additional
16 information regarding Information Bulletin 2018-DLE-01, which speaks for itself and is the best
17 evidence of its contents. California also objects to the Interrogatory on the grounds that it seeks
18 duplicative information sought in Interrogatory Nos. 1, 3, 4, and 6, and thus, California
19 incorporates its response and objections to those Interrogatories here. California further objects
20 to this Interrogatory as compound and containing multiple discrete subparts, and therefore counts
21 this “Interrogatory” as two toward the number of Interrogatories that Plaintiff is allowed under
22 Federal Rule of Civil Procedure 33(a)(1).

23 Subject to and without waiving any of its foregoing objections, consistent with California
24 Government Code section 7284.6(a)(1)(C) and the Information Bulletin, California responds that
25 if a California Law Enforcement Agency has a practice of disclosing a person's release date to
26 members of the public in response to specific requests, then the law enforcement agency may
27 similarly disclose such information to federal immigration authorities, whether in response to a
28 DHS Form I-247A (i.e. Notification Request) or other specific requests. However, a California

1 Law Enforcement Agency may not disclose a person's release date to immigration authorities if
2 the information is not available to the public or the circumstances described in California
3 Government Code section 7282.5 do not apply.

4 Further responding, California states that SB 54, which amended Section 7282 and 7282.5
5 of, and added Chapter 17.25 (commencing with Section 7284) to Division 7 of Title 1 of, the
6 California Government Code, which was chaptered on October 5, 2017, and which became
7 effective January 4, 2018, regulates California Law Enforcement Agencies, not federal
8 immigration authorities. No provision of SB 54 regulates federal immigration authorities in how
9 they may take custody of a person. However, California Government Code section 7284.6(a)(4)
10 requires California Law Enforcement Agencies not to "[u]se agency or department moneys or
11 personnel to investigate, interrogate, detain, or arrest persons for immigration enforcement
12 purposes, including . . . [t]ransfer[ing] an individual to immigration authorities unless authorized
13 by a judicial warrant or judicial probable cause determination, or in accordance with Section
14 7282.5." Therefore, while SB 54 may not preclude a California Law Enforcement Agency from
15 disclosing a person's release date to immigration authorities, if that information is available to the
16 public, the California Law Enforcement Agency shall not otherwise use its resources to assist in
17 transferring a person into the custody of immigration authorities unless the immigration authority
18 presents a judicial warrant or judicial probable cause determination, as those terms are defined in
19 Government Code sections 7284.4(h) and (i), or California Government Code section 7282.5(a)
20 applies.

21 **INTERROGATORY NO. 8:**

22 State whether, in Defendants' view, if a California Law Enforcement Agency has a practice
23 or policy pursuant to Section 7284.6(a)(1)(C) of the California Government Code, as further
24 defined by Parts III.1.C and III.2.B.i of Information Bulletin 2018-DLE-01, of making
25 information concerning an individual's release date public, such as disclosing the information on
26 its website or by providing the information in response to specific requests, federal immigration
27 authorities may take custody of such an individual on a California Law Enforcement Agency's
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1 premises. If your answer would vary depending on the circumstances, including whether the area
2 in question is open to the public, please explain.

3 **RESPONSE TO INTERROGATORY NO. 8:**

4 In addition to the foregoing objections, California objects to this Interrogatory because the
5 terms and phrases “practice or policy,” “making information concerning an individual’s release
6 date public,” and “California Law Enforcement Agency’s premises” are vague, ambiguous, or
7 otherwise undefined, and require California to speculate as to the intended meaning of those
8 terms and phrases. California further objects to the Interrogatory to the extent it seeks or purports
9 to place a burden on the State greater than that imposed by applicable laws and rules, including
10 but not limited to the Federal Rules of Civil Procedure, the Local Rules of this Court, and the
11 May 24 Court Order. California also objects to the Interrogatory to the extent it seeks, during this
12 expedited period, information concerning matters unrelated to (i) Plaintiff’s assertions of
13 irreparable harm made in its Motion for Preliminary Injunction and Memorandum of Law in
14 Support filed on March 6, 2018 (ECF No. 2-1), and (ii) arguments that Defendants made to rebut
15 Plaintiff’s claims of irreparable harm in Defendants’ Opposition to Plaintiff’s Motion for
16 Preliminary Injunction (ECF No. 74). In that manner, the interrogatory is overbroad and unduly
17 burdensome. And it is not proportional to the needs of this case, Plaintiff’s purported basis for
18 asserting irreparable harm in its motion for preliminary injunction, or the abbreviated expedited
19 discovery period.

20 Further, to the extent the Interrogatory seeks California’s contention regarding the scope of
21 the statute in the abstract, it poses a question of pure law, and California is not required to
22 respond to interrogatories raising questions of pure law, and objects on that basis. *See*
23 *AngioScore, Inc. v. TriReme Med., Inc.*, No. 12-cv-03393, 2014 WL 7188779, at *5 (N.D. Cal.
24 Dec. 16, 2014) (“[I]nterrogatories directed to issues of ‘pure law’—i.e., abstract legal issues not
25 dependent on the facts of the case are not permitted”) (citation and some internal punctuation
26 omitted); *see also Everest Nat’l Ins. Co. v. Santa Cruz Cty. Bank*, No. 15-cv-02085, 2016 WL
27 6311876, *4 (N.D. Cal. Oct. 28, 2016) (denying motion to compel interrogatory response where
28 “party asking for legal argument without a direct connection to the facts of th[e] case”).

1 California also objects to the extent that the Interrogatory seeks California to provide additional
2 information regarding Information Bulletin 2018-DLE-01, which speaks for itself and is the best
3 evidence of its contents. California also objects to the Interrogatory on the grounds that it seeks
4 duplicative information sought in Interrogatory No 7, and thus, California incorporates its
5 response and objections to those Interrogatories here.

6 Subject to and without waiving any of its foregoing objections, consistent with California
7 Government Code section 7284.6(a)(1)(C) and the Information Bulletin, California responds that
8 Senate Bill No. 54 regulates California Law Enforcement Agencies, not federal immigration
9 authorities. No provision of SB 54 regulates federal immigration authorities in how they may
10 take custody of a person. However, under California Government code section 7284.6(a)(4), a
11 “California law enforcement agenc[y] shall not: [u]se agency or department moneys or personnel
12 to investigate, interrogate, detain, or arrest persons for immigration enforcement purposes,
13 including . . . [t]ransfer[ing] an individual to immigration authorities unless authorized by a
14 judicial warrant or judicial probable cause determination, or in accordance with Section 7282.5.”
15 Therefore, while SB 54 may not prevent a California Law Enforcement Agency from disclosing a
16 person’s release date to immigration authorities, if that information is available to the public, the
17 California Law Enforcement Agency shall not otherwise use its resources to transfer the person
18 into the custody of immigration authorities unless the immigration authority presents a judicial
19 warrant or judicial probable cause determination, as those terms are defined in California
20 Government Code section 7284.4(h) and (i), or California Government Code section 7282.5(a)
21 applies.

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Dated: June 1, 2018

Respectfully Submitted,

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VERIFICATION

United States District Court
For the Eastern District of California
Sacramento Division
Case No.: 2:18-cv-00490-JAM-KJN
United States v. California, et al.

I, Kevin Gardner, declare:

I have read the foregoing Responses to Plaintiff's Interrogatories, Set One, and know their contents. I declare under penalty of perjury that the information stated therein is true based on my own knowledge, except as to those matters stated on information and belief, and as to those matters, I believe them to be true.

Executed this 1 day of June, 2018, at Vacaville, California.



Kevin Gardner
Chief, Division of Law Enforcement
California Department of Justice