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16 **UNITED STATES DISTRICT COURT**  
 17 **EASTERN DISTRICT OF CALIFORNIA**

18 THE UNITED STATES OF AMERICA,

19 Plaintiff,

20 v.

21 THE STATE OF CALIFORNIA;  
 22 EDMUND GERALD BROWN JR.,  
 Governor of California, in his Official  
 23 Capacity; and XAVIER BECERRA,  
 Attorney General of California, in his  
 24 Official Capacity,

25 Defendants.  
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 27  
 28

Case No. 2:18-cv-490-JAM-KJN

**PLAINTIFF’S REQUEST FOR JUDICIAL  
 NOTICE IN SUPPORT OF PLAINTIFF’S  
 MOTION FOR PRELIMINARY  
 INJUNCTION AND PLAINTIFF’S REPLY  
 IN SUPPORT**

1 Pursuant to Federal Rule of Evidence 201, Plaintiff respectfully requests that the Court take  
2 judicial notice of 17 documents referenced in Plaintiff's Memorandum in Support of its Motion for  
3 Preliminary Injunction (ECF 2-1) and Plaintiff's Reply to Defendants' Response to that memorandum  
4 (ECF 171):

5 (1) Angela Hart, *'We Will Prosecute' Employers Who Help Immigration Sweeps, California AG Says*,  
6 SACRAMENTO BEE (Jan. 18, 2018, 2:29 PM), [http://www.sacbee.com/news/politics-  
8 government/capitol-alert/article195434409.html](http://www.sacbee.com/news/politics-<br/>7 government/capitol-alert/article195434409.html), ECF 2-1 at 6 (attached to this Motion  
9 for the Court's convenience);

10 (2) *Hearing on S.B. 54 Before the S. Standing Comm. on Public Safety* (Jan. 31, 2017) (statement of Sen.  
11 Scott Wiener, Member, S. Standing Comm. on Public Safety),  
12 [https://ca.digitaldemocracy.org/hearing/10091?startTime=1478&vid=efa4b1ec99de21c1  
13 8068aeed7242ca64](https://ca.digitaldemocracy.org/hearing/10091?startTime=1478&vid=efa4b1ec99de21c18068aeed7242ca64), ECF 2-1 at 7, 32; ECF 171 at 11;

14 (3) *California Senate Floor Hearing* (Apr. 3, 2017) (statement of President Pro Tempore De León),  
15 [https://ca.digitaldemocracy.org/hearing/52288?startTime=749&vid=40bb5e626b9783f0  
16 974783b7b5c13432](https://ca.digitaldemocracy.org/hearing/52288?startTime=749&vid=40bb5e626b9783f0974783b7b5c13432), ECF 2-1 at 7, 32; ECF 171 at 11;

17 (4) Press Release, Assemblymember David Chiu, Governor Brown Signs Bill to Provide Labor  
18 Protections Against ICE Worksite Raids (Oct. 5, 2017), [https://a17.asmdc.org/press-  
20 releases/governor-brown-signs-bill-provide-labor-protections-against-iceworksite-raids](https://a17.asmdc.org/press-<br/>19 releases/governor-brown-signs-bill-provide-labor-protections-against-iceworksite-raids),  
21 ECF 2-1 at 33–34 (attached to this Motion for the Court's convenience);

22 (5) Jazmine Ulloa, *California Becomes 'Sanctuary State' in Rebuke of Trump Immigration Policy*, L.A.  
23 TIMES (Oct. 5, 2017, 1:45 PM), [http://www.latimes.com/politics/la-pol-ca-brown-  
25 california-sanctuary-state-bill-20171005-story.html](http://www.latimes.com/politics/la-pol-ca-brown-<br/>24 california-sanctuary-state-bill-20171005-story.html), ECF 2-1 at 34 (attached to this  
26 Motion for the Court's convenience);

27 (6) Cal. Dep't of Justice, *Information Bulletin No. 14-01: Responsibilities of Local Law Enforcement  
28 Agencies under Secure Communities and the TRUST Act* (June 25, 2014), ECF 171 at 1, 18;

(7) Kate Morrissey, *County Jails Released 349 People Wanted by ICE since 'Sanctuary Law' Started*, SAN  
DIEGO UNION-TRIBUNE (May 28, 2018, 5:00 AM),

1 [http://www.sandiegouniontribune.com/news/immigration/sd-me-sanctuary-laws-](http://www.sandiegouniontribune.com/news/immigration/sd-me-sanctuary-laws-20180525-story.html)  
2 [20180525-story.html](http://www.sandiegouniontribune.com/news/immigration/sd-me-sanctuary-laws-20180525-story.html), ECF 171 at 11;

3 (8) Mariel Alpher, Matthew R. Durose, Joshua Markman, *2018 Update on Prisoner Recidivism: A 9-*  
4 *Year Follow-up Period (2005-2014)*, BUREAU OF JUSTICE STATISTICS SPECIAL REPORT (U.S.  
5 Dep't of Justice, Office of Justice Programs, Bureau of Justice Statistics), May 2018,  
6 <https://www.bjs.gov/content/pub/pdf/18upr9yfup0514.pdf>, ECF 171 at 28;

7 (9) *An Examination of Offenders Released in Fiscal Year 2012-13*, 2017 OUTCOME EVALUATION  
8 REPORT (California Dep't of Corrections and Rehabilitation, Office of Research), Oct.  
9 2017, [https://www.cdcr.ca.gov/Adult\\_Research\\_Branch/Research\\_Documents/2017-](https://www.cdcr.ca.gov/Adult_Research_Branch/Research_Documents/2017-Outcome-Evaluation-Report.pdf)  
10 [Outcome-Evaluation-Report.pdf](https://www.cdcr.ca.gov/Adult_Research_Branch/Research_Documents/2017-Outcome-Evaluation-Report.pdf), ECF 171 at 28;

11 (10) Cal. Dep't of Justice, *Information Bulletin 18-02-CJIS: California Values Act's Statistical Reporting*  
12 *Requirements* (Mar. 28, 2018),  
13 [https://oag.ca.gov/sites/all/files/agweb/pdfs/info\\_bulletins/18-02-cjis.pdf](https://oag.ca.gov/sites/all/files/agweb/pdfs/info_bulletins/18-02-cjis.pdf), ECF 171 at  
14 29 n.22 (attached for the Court's convenience);

15 (11) Press Release, Cal. Dep't of Justice, Attorney General Becerra Issues Advisory Providing  
16 Guidance on the Privacy Requirements of the Immigrant Worker Protection Act (Feb.  
17 13, 2018), [https://oag.ca.gov/news/press-releases/attorney-general-becerra-issues-](https://oag.ca.gov/news/press-releases/attorney-general-becerra-issues-advisory%C2%A0providing-guidance-privacy-requirements)  
18 [advisory%C2%A0providing-guidance-privacy-requirements](https://oag.ca.gov/news/press-releases/attorney-general-becerra-issues-advisory%C2%A0providing-guidance-privacy-requirements), ECF 2-1 at 6;

19 (12) Cal. Dep't of Justice, *Immigrant Worker Protection Act (Assembly Bill 450) Frequently Asked*  
20 *Questions*, [https://oag.ca.gov/sites/all/files/agweb/pdfs/immigrants/immigration-](https://oag.ca.gov/sites/all/files/agweb/pdfs/immigrants/immigration-ab450.pdf)  
21 [ab450.pdf](https://oag.ca.gov/sites/all/files/agweb/pdfs/immigrants/immigration-ab450.pdf) (last visited June 7, 2018), ECF 2-1 at 6 (attached to this Motion for the  
22 Court's convenience);

23 (13) California Committee on the Judiciary Report (Assembly), Apr. 22, 2017, 2017 CA A.B. 450  
24 (NS) (in Westlaw, scroll to April 22, 2017); ECF 2-1 at 1, 4, 34; ECF 171 at 1, 2;

25 (14) California Committee on the Judiciary Report (Senate), July 10, 2017, 2017 CA A.B. 450  
26 (NS) (in Westlaw, scroll to July 10, 2017), ECF 2-1 at 1, 4, 13, 34; ECF 171 at 24;

27 (15) Cal. Dep't of Justice, *Information Bulletin DLE 2018-01: Responsibilities of Law Enforcement*  
28

1 *Agencies under the California Values Act, California TRUST Act, and the California TRUTH Act*  
2 (Mar. 28, 2018), [https://oag.ca.gov/sites/all/files/agweb/pdfs/law\\_enforcement/dle-18-](https://oag.ca.gov/sites/all/files/agweb/pdfs/law_enforcement/dle-18-01.pdf)  
3 [01.pdf](https://oag.ca.gov/sites/all/files/agweb/pdfs/law_enforcement/dle-18-01.pdf), ECF 171 at 28;

4 (16) Immigration & Customs Enforcement, *Policy Number 10074.2, Issuance of Immigration Detainers*  
5 *by Ice Immigration Officers* (April 2, 2017),  
6 <https://www.ice.gov/sites/default/files/documents/Document/2017/10074-2.pdf>,  
7 ECF 171 at 29.

8 (17) Cal. Dep't of Justice, *FAQs: Legal Opinions*, <http://ag.ca.gov/opinions/faqs.php> (last visited  
9 June 8, 2018), ECF 171 at 16.

10 Items 2 and 3 are video recordings of hearings held in the California Senate on the bills at  
11 issue in this case. Documents 13 & 14 are official committee reports, available on Westlaw, on AB  
12 450. This legislative history is a proper subject of judicial notice. *See Anderson v. Holder*, 673 F.3d 1089,  
13 1094 n.1 (9th Cir. 2012).

14 Document 4 is a press release by the sponsor of AB 450, California Assemblymember David  
15 Chiu. The Ninth Circuit routinely takes judicial notice of such materials. *See, e.g., Arce v. Douglas*, 793  
16 F.3d 968, 975 (9th Cir. 2015) (“We take judicial notice of the press release, because it is a public record  
17 on file with the Arizona State Board of Education.”); *Taleff v. Southwest Airlines Co.*, 554 F. App'x 598,  
18 599 n.1 (9th Cir. 2014) (granting a “request for judicial notice of a Department of Justice press  
19 release”).

20 Documents 1 and 5 are news articles reporting on press conferences by the Attorney General  
21 of California and sponsors and supporters of SB 54. Document 1 also includes a video of the press  
22 conference that it discusses. This Court may take judicial notice of this information, as these public  
23 statements in press conferences can be “accurately and readily determined from sources whose  
24 accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2); *see Crowder v. Kitagawa*, 81 F.3d  
25 1480, 1491 n.10 (9th Cir. 1996).

26 Document 7 is a news article detailing statistics maintained by the San Diego County Sheriff's  
27 Department. Documents 8 and 9 contain statistics regarding recidivism rates in the United States and  
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1 California. Document 8 contains statistics maintained by the U.S. Department of Justice’s Bureau of  
2 Justice Statistics. Document 9 includes statistics maintained by the California Department of  
3 Corrections and Rehabilitation. Courts in the Ninth Circuit routinely take judicial notice of  
4 government statistics and reports produced in reliance on public statistics. *See, e.g., United States v.*  
5 *Orozco-Acosta*, 607 F.3d 1156, 1164 n.5 (9th Cir. 2010); *United States v. Manzo-Jurado*, 457 F.3d 928, 936  
6 n.7 (9th Cir. 2006). The statistics satisfy the “‘essential prerequisite’ to taking judicial notice of an  
7 adjudicative fact”—readily determinable accuracy. *Rivera v. Philip Morris, Inc.*, 395 F.3d 1142, 1151 (9th  
8 Cir. 2005) (quoting Fed. R. Evid. 201(a) & (b) advisory committee’s notes).

9 Documents 6, 10, 11, 12, 15, and 17 are the California Department of Justice’s published and  
10 publicly available memoranda and press releases on the TRUST, California Values, and Immigrant  
11 Worker Protection Acts and legal opinions. Document 16 is Immigration and Customs Enforcement’s  
12 policy on immigration detainers. These documents are judicially noticeable under Ninth Circuit  
13 precedent. *See, e.g., Teixeira v. Cty. of Alameda*, 873 F.3d 670, 676 n.6 (9th Cir. 2017); *Owino v. Holder*,  
14 771 F.3d 527, 534 n.4 (9th Cir. 2011) (taking judicial notice of agency memorandum); *Daniels-Hall v.*  
15 *Nat’l Educ. Ass’n*, 629 F.3d 992, 998–99 (9th Cir. 2010).

16 Accordingly, the United States respectfully requests that this Court take judicial notice of the  
17 documents referenced in this motion.

18  
19 DATED: June 8, 2018

Respectfully Submitted,

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