CORRECTED EXHIBIT O

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THE UNITED STATES OF AMERICA,
JAM-KJN

       Plaintiff,

vs.   Case No. 2:18-cv-00490

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,

       Defendant.

_____

VIDEOTAPED DEPOSITION OF

TOM WONG

TAKEN ON
WEDNESDAY, MAY 30, 2018
1:45 P.M.

US ATTORNEY'S OFFICE
880 FRONT STREET, ROOM 6239
SAN DIEGO, CALIFORNIA 92101

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1 **some research, for example, analyzes by county and some**

2 **by city.**

3   **Have you only done research at the county**

4 **level then?**

5   A   Yes. So my analysis is on the county level.

6   **Q   Okay. Do you have a standard definition that**

7 **you would use, for example, for a sanctuary state or a**

8 **sanctuary county?**

9   A   Yeah, so the definition that I use is one of

10 policy that delimits local cooperation with federal

11 immigration enforcement officials. So we know that

12 delimit can take a lot of different forms; it can be on

13 detainers, it can be on notifications, it can be on the

14 use of public money for federal immigration enforcement

15 functions, so that's my definition. I feel it's a

16 sufficient umbrella to capture the range of different

17 things that localities do.

18   **Q   Okay. Are there any other definitions that**

19 **are used in the academic world to define sanctuary city,**

20 **state, county?**

21   A   Yes, I believe so. So another definition is

22 in my declaration, so I refer to a sanctuary city study

23 and the definition used in that sanctuary study is the

24 passage of an ordinance at the city level that prohibits

25 funding sort of, you know, city funds from going to

1   Q   There were no other documents?

2   A   No other documents.

3   Q   Okay. Is the dataset that you refer to in

4 paragraph 9 one of the documents you brought with you

5 today?

6   A   Yes, it's on that CD rom.

7   Q   Thank you.

8   A   Do they call it CD roms any more? It's on the

9 CD.

10   Q   How recently is the data in that dataset?

11   A   I believe the ILRC obtained the data December

12 2016.

13   Q   Have you ever taken any steps to verify this

14 data?

15   A   No. I got it from the ILRC. I asked them if

16 this was the raw data. They said yes. I don't have any

17 reason to believe that it's not the data that they

18 obtained from the FOIA request. It's also ICE's data,

19 so ICE can verify it, I believe, if they would like to.

20   Q   Have you ever verified whether or not there's

21 any updates to this data?

22   A   I was going to and that's how I came across

23 ILRC's updated FOIA request, so I'm just kind of waiting

24 for them to get that update, and if they get that

25 update, then hopefully I can get my hands on that data

1 as well.

2   Q   And what were you going to do -- when you say

3 you were going to verify it, what steps were you going

4 to take to verify it?

5   A   Well, so I want updated data so I can update

6 the analysis so I can know if we see -- from sort of a

7 research perspective, we're interested in sort of

8 whether or not things hold over time, so that is my

9 interest in getting the updated data.

10   Q   When you say things hold over time, what do

11 you mean?

12   A   So the findings that we see in the initial

13 analysis.

14   Q   Have you ever verified -- for example, in your

15 dataset you say some of these counties are sanctuary

16 because they don't cooperate and some of these are not

17 because they do essentially.

18   A   Okay. I see what you're --

19   Q   Have you ever called the county to verify that

20 they are, in fact, still cooperating or not cooperating?

21   A   No. At the time that I did the analysis, it

22 was about a month after they received the FOIA data. I

23 kind of took ICE at its words.

24   Q   Okay.

25   A   So because -- yeah, you know, ICE is doing the

1 categorization of the places and so in getting this

2 dataset, it's like a, sort of, treasure trove for an

3 academic, especially on a topic where there are no clear

4 definitions because ICE did the defining. I got the

5 data December 2016, December 2016, I was able to analyze

6 that data right away. So in that gap there, I don't

7 believe -- you know, there would have been a lot of

8 movement and -- because ICE was doing the

9 categorization, I took ICE for its word.

10   Q   Okay. So are you aware of whether there have

11 been any changes to any of these jurisdictions since the

12 time that your -- since the time you obtained this data?

13   A   I saw a news report of Texas counties joining

14 287-G, and I think that was in 2017, which is what

15 initially got me thinking about updating this dataset

16 here, but, then again, ILRC beat me to the punch.

17   Q   Do you happen to know why ICE collected the

18 data that is in this dataset?

19   A   Yeah.

20   MS. CHUANG: Objection. Calls for

21 speculation.

22 BY MS. BINGHAM:

23   Q   Again, just to be clear, I'm not asking you to

24 speculate, I'm asking just whether or not you know if

25 this was -- if that information was provided to you in

1   Q   "Of California's 58 counties, 53 are

2 characterized by ICE as either not willing to accept

3 notifications or detainer requests."

4   So does that sentence characterize your

5 understanding of the column in the spreadsheet that we

6 previously discussed?

7   A   Yes.

8   Q   And what was that column called in the

9 spreadsheet?

10   A   Current Detainer or Notification Acceptance

11 Status, I believe.

12   Q   Okay.

13   A   Yeah.

14   Q   So moving on to the next sentence, it said,

15 "Of these 53, one is characterized as not willing to

16 accept notification and detainer requests; six are

17 characterized as not willing to accept detainer requests

18 but not notification requests."

19   So I want to ask you about that part

20 specifically that begins on line 14: "Six are

21 characterized as not willing to accept detainer requests

22 but not notification requests."

23   Does that mean that they are not willing to

24 accept detainers but they are willing to accept

25 notification requests?

1   A   Let me see. Excuse me.

2   **Q   Of course.**

3   A   I'm going to reread this.

4   **Q   Take a minute to reread it.**

5   A   I think there's -- I think there's an error

6   here because "not willing to accept detainer requests

7   but not notification requests," I think this should be -

8   - and this is why I needed a second. "Six are

9   characterized as" -- this should be "willing to accept

10 detainer requests but not notification requests."

11   **Q   Okay. So six are characterized as willing to**

12 **accept detainer requests, but not notificationrequests"**

13 **--**

14   A   Yes.

15   **Q   -- is how it should read?**

16   A   Yes.

17   **Q   Okay. So the next line says, "11 are**

18 **characterized as willing to accept notification" --**

19   A   Yeah, so the opposite, yeah.

20   **Q   Okay. That was my confusion.**

21   A   Yeah, sorry. No, thank you for catching that.

22   **Q   Thank you for explaining that.**

23   **So that means that essentially 17 counties of**

24 **the 53 counties are cooperating in one respect but not**

25 **the other?**

1   A   It's a little unclear. There is -- when you

2 think about the different combinations of detainer and

3 notification, there are four different combinations, so

4 both, both, yes, yes, right? No, no, and then yes, no

5 on one or two -- the first dimension, not the second

6 dimension, and then no, yes for first dimension, second

7 dimension.

8   But there's actually five different

9 categories, and five is currently not willing but -- and

10 then in parentheses considering, so that column there is

11 the bulk of California counties.

12   **Q   I understand that, but asking specifically**

13 **about the six counties that are willing to accept**

14 **detainers but not notifications, and the 11 counties**

15 **that are characterized as willing to accept**

16 **notifications but not detainers, those would fall into**

17 **those two squares where they're cooperating on either/**

18 **or, right?**

19   A   That we know of. If the 35 -- because the 35

20 -- the wording in the -- in -- in the fifth category

21 that ICE has in that column is considering but currently

22 not willing to accept notifications and/or detainers, 16

23 and 17, so because there's that and/or, I -- I don't

24 know what it is.

25   Q   So --

1   A   So it could fall as part of the 17 is what I'm

2 saying.

3   **Q   Okay. I might need to ask you another**

4 **question about that to make sure that I'm clear.**

5   A   Okay.

6   **Q   I understand what you're saying, but**

7 **essentially the 53 is broken down here into three**

8 **categories: Six that are willing to accept detainers**

9 **but not notification, 11 that are willing to accept**

10 **notification requests but not detainers, and 35 that are**

11 **considering one or the other.**

12   **So just to make sure I understand your last**

13 **statement, you're saying that of the 35, potentially**

14 **other -- potentially members of that class of 35 could**

15 **be following -- excuse me, could fall into the class of**

16 **six or --**

17   A   Or --

18   **Q   -- in the class of 11?**

19   A   Exactly. Exactly.

20   **Q   So hypothetically there could be more than six**

21 **and there could be more than 11?**

22   A   More than 11, yes.

23   **Q   So it would be accurate to say that at least**

24 **17 are cooperating in one way or another?**

25   A   At least 17, yes. I think you can actually

1 say at least 22.

2   Q   Oh.

3   A   Because there are five that are currently both

4 detainer and notifications.

5   Q   But at least 17 of the 53?

6   A   Of these 53, yeah.

7   Q   Okay. Thank you for explaining that.

8   I want to make sure I go through my questions

9 here.

10   I think I know the answer to this, but I want

11 to make sure. In the considering column, which is 35 as

12 we were just talking about --

13   A   Uh-huh.

14   Q   -- you have not done any follow-up research to

15 verify whether or not they made a decision that -- you

16 know, at the time they were considering?

17   A   No. At the time of the analysis, because it

18 was so close to ICE providing the data, I took ICE at

19 its word that these localities at that point were

20 considering, but at that point also not willing.

21   Q   I want to tie this back to your analysis --

22   A   Okay.

23   Q   -- where here you say that you took ICE at its

24 word as to whether someone was cooperating or not.

25   A   Uh-huh.

1   Q   So that means that according to your

2   interpretation of ICE's data, that 53 were essentially

3   sanctuary jurisdictions; is that right?

4   A   Yeah, 53 in some way delimited how it was

5   going to work with ICE.

6   Q   Okay. So even though they at least -- as we

7   talked about, at least 17 of those 53 were cooperating

8   in some way under your definition of sanctuary

9   jurisdiction county in this instance, they qualified as

10 a sanctuary county?

11   A   No, I wouldn't say that. There were -- there

12 were five that clearly, based on the criteria of

13 notification and detainers where we -- we can't

14 categorize them as sanctuary at all because on both

15 detainer and notifications, they're -- they're

16 complying, but because, again, delimiting can come in a

17 lot of different forms, these 53, if one is saying yes

18 to detainers but no to notifications or vice versa or

19 any sort of combination between, then I categorize them

20 as sanctuary.

21   Q   Okay.

22   A   Yeah.

23   Q   I think we just -- I think maybe I phrased my

24 question badly, so that was the answer I was looking

25 for. Thank you.

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 1                    CERTIFICATE

 2

 3        I, the undersigned, Christian Teare, am a

 4   videographer on behalf of on behalf of NAEGELI DEPOSITION

 5   AND TRIAL.  I do hereby certify that I have accurately

 6   made the video recording of the deposition of Tom Wong,

 7   PHD, in the above captioned matter on the 30th day of May,

 8   2018, taken at the location of US Attorney's Office, 880

 9   Front St, RM 6239, San Diego, CA 92101, consisting of 1

10   DVD(s).

11        No alterations, additions or deletions were made

12   thereto.  I further certify that I am not related to any

13   of the parties in the matter and have no financial

14   interest in the outcome of this matter.

15

16

17

18   _____

19   Christian Teare, Videographer

20

21

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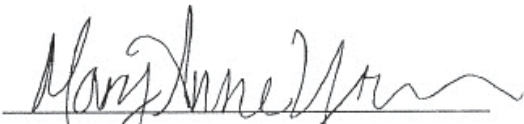
CERTIFICATE

I, Mary Anne Young, do hereby certify that I reported all proceedings adduced in the foregoing matter and that the foregoing transcript pages constitutes a full, true and accurate record of said proceedings to the best of my ability.

I further certify that I am neither related to counsel or any party to the proceedings nor have any interest in the outcome of the proceedings.

IN WITNESS HEREOF, I have hereunto set my hand this 1st day of June, 2018.

_____
Mary Anne Young

1   CORRECTION SHEET

2 Deposition of: Tom Wong   Date: 05/30/18

3 Regarding: United States vs. State of California

4 Reporter: Young

5 _____

6 Please make all corrections, changes or clarifications

7 to your testimony on this sheet, showing page and line

8 number. If there are no changes, write "none" across

9 the page. Sign this sheet on the line provided.

10 Page   Line   Reason for Change

11 19   11   Wrong word: should be "ports" of entry instead of "points" of entry

12 22   22   Wrong word: should be "No, only the dataset, the FOIA data"

13 33   9   Wrong word: should be "counties" instead of "kinds"

14 44   18   Wong word: should be "because all of the…" instead of "but all of the…"

15 55   1   Wrong word: should be "multivariate" instead of "multi-variant"

16 55   7   Wrong word: should be "multivariate" instead of "multi-variable"

17 58   15   Wrong word: should be "omitted" variable bias instead of "admitted"

18 58   18   Wrong word: should be "omitted" variable bias instead of "admitted"

19 58   20   Wrong word: should be "omitted" variable bias instead of "admitted"

20 60   9   Wrong word: should be "omitted" variable bias instead of "admitted"

21 62   3   Wrong word: should be "do file" instead of "due file"

22 63   12   Wrong word: should be "We can't" instead of "We can"

23 76   19   Wrong word: should be "see less crime" instead of "say less crime"

24   Signature_____

25   Tom Wong

```
 1                    CORRECTION SHEET

 2   Deposition of: Tom Wong           Date: 05/30/18

 3   Regarding:     United States vs. State of California

 4   Reporter:      Young

 5   _____

 6   Please make all corrections, changes or clarifications

 7   to your testimony on this sheet, showing page and line

 8   number.  If there are no changes, write "none" across

 9   the page.  Sign this sheet on the line provided.

10   Page     Line    Reason for Change

11   87       4       Typo: should be "DHS" instead of "DHA"

12   97       7       Wrong word: should be deportation "raids" not "rates"

13   122      13      Wrong word: should be "— I don't think" instead of "— I think"

14   123      14      Wrong word: should be deportation "raid" not "rate"

15   151      2       Wrong word: should be "packet" instead of "pocket"

16   152      9       Typo: should be "U.S. citizen children" instead of "U.S. citizen, children"

17   158      9       Wrong word: should be "bivariate" instead of "by variant"

18   170      1       Wrong word: should be "discrete" instead of "discreet"

19   175      11      Wrong word: should be "do file" instead of "due file"

20   177      2       Wrong word: should be "deposition" instead of "definition"

21   ____     ____    _____

22   ____     ____    _____

23   ____     ____    _____

24                    Signature_____

25                         Tom Wong
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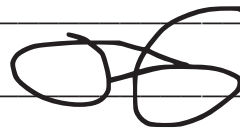
1   DECLARATION
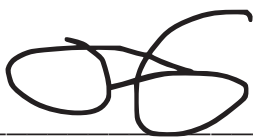
2   Deposition of: Tom Wong   Date: 05/30/18

3   Regarding: United States vs. State of California

4   Reporter: Young

5   _____

6

7   I declare under penalty of perjury the following to

8   be true:

9

10 I have read my deposition and the same is true and

11 accurate save and except for any corrections as made

12 by me on the Correction Page herein.

13

14 Signed at San Diego   , California

15 on the Seventh   day of June   , 2018.

16

17

18

19

20

21

22

23

24   Signature_____

25   Tom Wong