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COUNTY OF ORANGE and SANDRA HUTCHENS,  
8 Sheriff-Coroner for the County of Orange

9  
10 **UNITED STATES DISTRICT COURT**  
11 **EASTERN DISTRICT OF CALIFORNIA**

12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 STATE OF CALIFORNIA; EDMUND  
GERALD BROWN JR., *Governor of*  
16 *California, in his Official Capacity;* and  
XAVIER BECERRA, *Attorney General of*  
17 *California, in his Official Capacity,*

18 Defendants.

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

**DECLARATION OF ROBERT J.  
PETERSON IN SUPPORT OF  
MOTION BY COUNTY OF ORANGE  
AND SANDRA HUTCHENS,  
SHERIFF-CORONER FOR THE  
COUNTY OF ORANGE, FOR  
LEAVE TO INTERVENE**

19  
20 COUNTY OF ORANGE, *a political sub-*  
*division of the State of California;*  
21 SANDRA HUTCHENS, Sheriff-  
Coroner for the County of Orange,

22 Proposed Plaintiffs In Intervention.

23 v.

24 STATE OF CALIFORNIA; EDMUND  
GERALD BROWN JR., *Governor of*  
25 *California, in his Official Capacity;* and  
XAVIER BECERRA, *Attorney General of*  
26 *California, in his Official Capacity,*

27 Proposed Defendants.

1     **DECLARATION OF ROBERT J. PETERSON IN SUPPORT OF MOTION BY**  
2     **COUNTY OF ORANGE AND SANDRA HUTCHENS, SHERIFF-CORONER FOR**  
3     **THE COUNTY OF ORANGE, FOR LEAVE TO INTERVENE**  
4

5             I, Robert J. Peterson, hereby declare that the following statements are true and  
6 correct to the best of my knowledge, information and belief:

7             1.       I am presently employed as an Assistant Sheriff with the Orange County  
8 Sheriff's Department, and I am in charge of the Field Operations and Investigative  
9 Services Command. I have served as Assistant Sheriff over Field Operations and  
10 Investigative Services for just over a month. Prior to this assignment, I was the Assistant  
11 Sheriff in charge of the Custody Operations Command, a position that I held for just over  
12 a year. As the Assistant Sheriff over Custody Operations, I had executive oversight of  
13 the Orange County jails, which include three jail facilities: the Central Jail Complex  
14 (comprised of the Intake Release Center, the Women's Jail, and the Men's Jail), the Theo  
15 Lacy Facility and James A. Musick Facility.

16            2.       During my tenure as the Assistant Sheriff over Custody Operations, I  
17 oversaw the implementation of the California Values Act, including the adoption of  
18 revised policies. I also had oversight of the ongoing contractual obligations of the  
19 Sheriff's Department with ICE in relation to housing detainees. The County of Orange  
20 and the Sheriff-Coroner of the County of Orange are currently in the midst of a Five-Year  
21 Immigration and Customs Enforcement Detainee Agreement for the period of July 20,  
22 2015 through July 19, 2020, approved by the County of Orange Board of Supervisors and  
23 the Sheriff-Coroner on July 14, 2015 and amended on May 9, 2017 and August 22, 2017.  
24 This agreement as amended provides for 958 beds in the County of Orange jail system  
25 reserved for ICE detainees. This agreement provides revenue to the County of Orange in  
26 the range of \$22,000,000 to \$27,000,000 per year. A true and correct copy of the  
27 documents concerning this agreement are incorporated herein and attached hereto as  
28 Exhibit 1 to this declaration.

1           3.     On or about November 16, 2017, Defendant Attorney General Becerra  
2 initiated via letters a request to inspect various ICE detention facilities, including the  
3 Theo Lacy Facility and the James A. Musick Facility, both of which are part of the  
4 County of Orange jail system, as well as a request to inspect Department of Homeland  
5 Security documents concerning aliens detained in these locations. True and correct  
6 copies of the request letters are incorporated herein as though fully set forth and attached  
7 hereto as Exhibit 2 to this declaration.

8           4.     The Theo Lacy Branch Jail and the James A. Musick Branch Jail have both  
9 been inspected since the law's passage. In November, 2017, the Sheriff and the office of  
10 County Counsel received correspondence from the California Attorney General's Office  
11 stating that they intended to review the areas of Theo Lacy and Musick Jails where  
12 immigration detainees are housed and to interview detainees and review detainee records,  
13 as required by AB 103. (See Exhibit 2 referenced above.) The Sheriff's Department  
14 notified ICE of this review. ICE sent correspondence to the Sheriff "remind[ing]  
15 [OCSD] of [its] obligations under the intergovernmental service agreement (IGSA)" with  
16 ICE. A copy of ICE's correspondence is incorporated herein as though fully set forth and  
17 attached hereto as Exhibit 3. ICE objected to the OCSD allowing the Attorney General's  
18 Office access to the detainee areas and the detainees without prior approval by ICE, and  
19 objected to OCSD providing any requested documentation and detainee records to the  
20 Attorney General's Office. The Attorney General's review under AB 103 put the Sheriff  
21 in the untenable position of either (1) breaching the agreement with ICE, or (2) denying  
22 the Attorney General access to the jails and the immigration detainees. Ultimately, the  
23 Sheriff allowed the Attorney General's review of the jails, which took place on December  
24 13, 2017 and December 14, 2017. The Sheriff's Department is waiting for a report from  
25 the Attorney General's Office regarding this review. If the report directs the Sheriff to  
26 take certain steps regarding the immigration detainees, I am informed and believe that  
27 these directives could lead to further interference with the agreement with ICE.  
28

1           5.     I am informed and believe that on March 28, 2018, a Criminal Targeting  
2 Specialist assigned to the U.S. Immigration and Customs Enforcement (ICE) National  
3 Criminal Analysis and Targeting Center requested that a representative of the Orange  
4 County Sheriff's Department provide a booking photo from an arrest of an individual  
5 suspected of immigration violations in January 2017 for bringing controlled substances  
6 into a prison and being under the influence thereof. Providing the photo to ICE would  
7 have placed the Sheriff in the position of violating Government Code section 7284.6  
8 (a)(1)(D) which prohibits law enforcement from providing an individual's personal  
9 information not available to the general public to ICE.

10           6.     The Orange County Sheriff's Department was the only Sheriff's Department  
11 in the State that continued to operate a 287g program in the jails. Under this program,  
12 jail deputies, who had been trained by ICE, reviewed inmates for civil immigration  
13 violations and placed "detainers" on those inmates who qualified under California law to  
14 be transferred to ICE once the inmates were eligible to be released from Sheriff's  
15 custody. SB 54 prohibits law enforcement from participating in the 287g program and  
16 the Sheriff discontinued the program at the end of December 2017. See Exhibit 4, a true  
17 and correct copy of OC Sheriff Sandra Hutchens' Statement on SB 54, which is  
18 incorporated herein as though fully set forth. Additionally, under SB 54, the Sheriff may  
19 no longer provide immigration authorities with release dates of inmates unless those  
20 inmates have certain convictions. The Sheriff may not provide an individual's home  
21 address or work address or other personal information not available to the general public  
22 to immigration authorities. This untenable situation resulted in a decision by the Sheriff,  
23 in order to fulfill her obligations to the federal government, to make public release  
24 information for all persons kept in the custody of her jail system.

25           7.     I am informed and believe from reviewing public news reports and videos,  
26 that upon hearing that this was the Sheriff's intent, the defendant Attorney General at a  
27 press conference was recorded as saying, "State law is state law. And it is my job to  
28 enforce state law. I will do so. And we want to make sure that every jurisdiction,

1 including Orange County, understands what state law requires of the people and the  
2 subdivisions of the State of California.” In response to this statement, a reporter asked:  
3 “Does that mean a lawsuit against the sheriff’s department or the arrest of the sheriff?”  
4 The Attorney General replied, “I think I just answered that.”

5 8. On March 28, 2018, Defendant Attorney General Becerra issued two Law  
6 Enforcement Bulletins providing guidance to California’s Public Safety Authorities under  
7 the Values Act.

8 9. Attached as Exhibit 5 is a true and correct copy of the Attorney General  
9 press release dated “March 28, 2018.”

10 10. Attached as Exhibit 6 is a true and correct copy of the California Department  
11 of Justice, Information Services Division, Information Bulletin No. 18-02-CJIS dated  
12 “03-28-2018” to County Sheriffs and California Law Enforcement Agencies re guidance  
13 on Government Code Section 7284 (Senate Bill 54).

14 11. Attached as Exhibit 7 is a true and correct copy of the California Department  
15 of Justice, Information Services Division, Information Bulletin No. DLE-2018-01 dated  
16 “03-28-2018” to County Sheriffs and California Law Enforcement Agencies regarding  
17 guidance on Senate Bill 54.

18  
19 I declare, under penalty of perjury under 28 U.S.C. § 1746, that the foregoing is  
20 true and correct to the best of my knowledge, information and belief.

21  
22 Executed in Santa Ana, California on this 20<sup>TH</sup> day of April, 2018.

23  
24   
25 Robert J. Peterson

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