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

15 **THE UNITED STATES OF AMERICA,**

16 **Plaintiff,**

17
18 **v.**

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

22 **Defendants.**
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Case No. 2:18-cv-00490-JAM-KJN

**DECLARATION OF JOE DOMINIC IN
SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTION**

Judge: Honorable John A. Mendez
Action Filed: March 6, 2018

1 I, Joe Dominic, declare as follows:

2 1. I am a resident of the State of California. I have personal knowledge of the facts
3 set forth in this declaration. If called as a witness, I could and would testify competently to the
4 matters set forth below.

5 2. I am currently employed by the California Department of Justice ("CalDOJ") as
6 the Chief of the California Justice Information Services ("CJIS") Division, a position that I have
7 held since October 5, 2015. I have served at CalDOJ, in CJIS for 25 years. Before assuming my
8 current role, I was the Director of the Criminal Justice Information Technology Services Branch.

9 3. I am familiar with Senate Bill 54 ("SB 54"), California Government Code section
10 7282 *et seq.*, which I understand is being challenged in this case. Moreover, I have reviewed the
11 Amended Declaration of Thomas Homan filed in this matter on April 2, 2018 (ECF No. 46-2).

12 4. CJIS is responsible for providing criminal justice intelligence, identification,
13 information and technology services to law enforcement, regulatory agencies and the public. As
14 part of those responsibilities, CJIS maintains databases into which state and local law
15 enforcement agencies input criminal justice data. CJIS serves as the administrator of these
16 databases, and allows law enforcement agencies—federal, state, and local—to have access to the
17 information contained in those databases.

18 5. Law enforcement agencies may access California's databases through the
19 California Law Enforcement Telecommunications System ("CLETS"), which is managed by
20 CJIS. The purpose of CLETS is to provide an efficient law enforcement communications
21 network that is accessible to all law enforcement agencies within the state. CLETS provides the
22 network mechanism for law enforcement agencies to access and conduct queries into the 54
23 databases used by California law enforcement agencies.

24 **Information Accessible Via CLETS**

25 6. Several of the databases available through CLETS contain addresses for persons
26 who have had interactions with the criminal justice system. For example, the Supervised Release
27 File ("SRF") is a California criminal justice database accessible via CLETS with information
28 about active parolees, probationers, sex and arson registrants, violent offenders, and career

1 criminals. The SRF allows law enforcement agencies to input messages into the database about
2 encounters with subjects. The SRF contains data fields for the subject's address for officers to
3 input into the database. The SRF also contains mandatory fields for "Start Date of Supervision,"
4 which means the date under which a person begins his or her probationary period. Under some
5 circumstances, this would correlate with the date that a person is scheduled to be released from
6 custody.

7 7. In addition, the California Sex Arson Registry ("CSAR") is California's repository
8 for sex and arson registration information that is accessible via CLETS. Local law enforcement
9 agencies are required to use CSAR to register, track, and monitor their sex and arson registrants
10 after they are convicted of qualifying offenses. Upon registration, sex and arson registrants must
11 provide their address, which is input into CSAR.

12 8. Users with access to CLETS may conduct queries across all the databases
13 available, or conduct queries through specific databases. For instance, a law enforcement officer
14 with access to CLETS may conduct a query for a person by his or her name and/or date of birth
15 throughout all of the databases available via CLETS to identify the person who is the subject of
16 the law enforcement officer's inquiry, and any information that is available about that person. If
17 the person's address or start date of supervision was input into SRF or the CSAR database, then
18 the inquiring law enforcement agency would be able to identify that information through CLETS.

19 **Immigration Authorities' Access to CLETS**

20 9. Any law enforcement officer who seeks access to CLETS must agree in writing to
21 the terms and conditions of using CLETS prior to having access to the CLETS and the
22 information contained therein. Officers with federal agencies may access CLETS in the same
23 manner as state and local law enforcement officers. Specifically, officers with the Department of
24 Homeland Security ("DHS"), including Immigration and Customs Enforcement ("ICE") and
25 Customs and Border Protection ("CBP"), are eligible to access CLETS. They may access CLETS
26 through their own offices and equipment, and do not need to go through a California state or local
27 law enforcement agency in order to obtain access.

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1 10. SB 54 has not changed ICE or CBP's access to the databases available in CLETS.
2 My understanding is that SB 54 provides some limitations on the use of "agency or department
3 moneys or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration
4 enforcement purposes." The databases that are available via CLETS are maintained for criminal
5 justice purposes only, and not for immigration enforcement purposes. My understanding is that
6 SB 54 also explicitly authorizes criminal history information accessed through CLETS to be
7 shared with immigration authorities to the extent otherwise permitted by state law.

8 11. Data collected by CJIS shows that DHS agencies have continued to access CLETS
9 since January 4, 2018. Each agency that accesses CLETS is assigned an originating agency
10 identifier ("ORI") by the FBI. Each CLETS terminal within an ORI is assigned a Terminal
11 Mnemonic ("MNE"). CJIS is able to track every time that a specific MNE conducts a query in
12 CLETS.

13 12. Between October 1, 2017 and December 31, 2017, DHS agencies collectively
14 conducted 69,189 queries in CLETS.

15 13. By comparison, between January 1, 2018 and March 31, 2018, DHS agencies
16 collectively conducted 89,223 queries in CLETS.

17 **Immigration Authorities' Access to the CalGang Database**

18 14. Thomas Homan makes allegations in paragraphs 33, 34, and 79 of his declaration
19 about California purportedly denying ICE access to the CalGang database. My understanding is
20 that the California provisions that govern CalGang are not at issue in this case. Nonetheless, my
21 declaration provides a true and accurate account of the administration of the CalGang database,
22 prior to the passage of AB 90 and presently.

23 15. CalGang is a criminal intelligence database that contains information for persons
24 who law enforcement agencies have designed as a gang member or associate. CalGang is not
25 accessible via CLETS. As of October 2017, law enforcement users sought access to CalGang
26 through nine node administrators, consisting of local law enforcement agencies throughout the
27 State of California. Prior to January 1, 2018, those node administrators controlled access to
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1 CalGang. Before January 1, 2018, no State of California agency, including CalDOJ, was
2 responsible for providing oversight of the CalGang database.

3 16. On October 12, 2017, the Governor signed Assembly Bill 90 ("AB 90") into law,
4 which changed the administration of CalGang in several respects. First, effective January 1,
5 2018, the authority to administer CalGang was transferred to CalDOJ, which assigned
6 responsibility to CJIS for administering the database. Second, AB 90 imposed a moratorium on
7 the use of CalGang for all users effective January 1, 2018 until the Attorney General certified that
8 specified information from CalGang had been purged from the database. Third, AB 90 provides
9 that CalDOJ shall temporarily suspend access to CalGang for any user who shares information for
10 federal immigration law purposes, unless required by state or federal statute or regulation.

11 17. I have been informed by my team that after the passage of AB 90, in October
12 2017, two of the node administrators located within the Orange County District Attorney's office
13 and the San Diego Police Department suspended ICE from having access to CalGang. These
14 node administrators did not consult with CJIS before denying access to ICE.

15 18. On January 1, 2018, the CalGang database vendor disabled the system and
16 prevented access for all users of the database to allow for the specified information to be purged
17 from the database as required under AB 90. On March 28, 2018, the Attorney General certified
18 that this information had been purged from the database. On April 4, 2018, CalGang was
19 reactivated to all users who had access to the database prior to the moratorium, including ICE and
20 CBP.

21 19. On April 25, 2018, CJIS communicated to each of the remaining eight node
22 administrators, including the node administrators located in Orange and San Diego Counties,
23 informing them that DHS agencies are not presumptively precluded from using CalGang so long
24 as they, like all other users, use CalGang data in a manner consistent with state law.

25 20. There are thirty-three DHS users with active accounts for CalGang. They have all
26 had access to CalGang since the passage of AB 90 except during the general moratorium
27 described above. Eleven of those users have accessed CalGang collectively over forty times since
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1 October 2017. Four of those occasions have occurred on April 6, 11, and 13, after CalGang was
2 re-activated.

3 21. Currently, node administrators, not CJIS, are responsible for allowing access to
4 any user of CalGang. CJIS has not, at any time, denied any DHS agency or user access to
5 CalGang.

6 22. If a node administrator were to deny access to a DHS user, and the DHS user were
7 to reach out to CJIS, my division would assist in obtaining access to the database through a
8 different node administrator, subject to state law limits on access and use.

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11 I declare under penalty of perjury under the laws of the United States that the foregoing is
12 true and correct and that this declaration was executed on 4/30/18, 2018 in
13 Sacramento, California.

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18 JOE DOMINIC
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