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

15 **THE UNITED STATES OF AMERICA,**  
16  
17 Plaintiff,  
18  
19 **v.**  
20 **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,**  
21  
22 Defendants.

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

**DECLARATION OF ARIF ALIKHAN  
IN SUPPORT OF DEFENDANTS'  
OPPOSITION TO PLAINTIFF'S  
MOTION FOR PRELIMINARY  
INJUNCTION**

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

1 I, Arif Alikhan, declare as follows:

2 1. I have personal knowledge of all facts stated except for those facts specifically  
3 stated to be based on information and belief. If called as a witness, I could and would testify  
4 competently to the information set forth in this Declaration.

5 2. I have been employed with the Los Angeles Police Department ("LAPD") since  
6 February of 2014. I am the Director of the Office of Constitutional Policing and Policy and serve  
7 as the highest-ranking civilian in the LAPD.

8 3. I have previously served as a federal prosecutor in Los Angeles where I prosecuted  
9 numerous federal immigration and violent crime offenses. In addition, I served in senior policy  
10 positions at the United States Department of Justice and United States Department of Homeland  
11 Security in both the Bush and Obama Administrations, and have extensive experience and  
12 knowledge of federal law enforcement and federal immigration enforcement law. I also served as  
13 the Deputy Mayor for Homeland Security and Public Safety for the City of Los Angeles where I  
14 oversaw community policing and gang reduction efforts by the City's law enforcement and city  
15 services agencies.

16 4. As the Director of Constitutional Policing and Policy, I am aware of and familiar  
17 with LAPD's various policies and practices including those regarding criminal immigration  
18 enforcement, joint operations and task forces with federal law enforcement agencies such as U.S.  
19 Immigration and Customs Enforcement, the transfer of arrestees to other agencies, and the  
20 sharing of criminal investigative and custodial information with other entities and the public. I  
21 am also familiar with local, state, and federal law involving the detention, arrest, transfer, and  
22 sharing of information with the other law enforcement entities.

23 5. The mission of the LAPD is to protect and to serve all community members from  
24 crime and disorder regardless of an individual's race, ethnicity, or civil immigration status. For  
25 over forty years, the LAPD has implemented numerous policies and procedures to ensure that its  
26 enforcement of the law is consistent with local, state, and federal restrictions and is done so in a  
27 constitutional and just manner.

28

1           6.       The LAPD has implemented numerous policies and programs that promote  
2 partnership, collaboration, and transparency with the communities it serves to reduce crime and  
3 improve the public's trust in law enforcement actions. Through a robust community policing  
4 strategy implemented since the civil disturbances of 1992, the LAPD and community members  
5 have driven down violent crime to record lows. In addition, the LAPD, in collaboration with  
6 community members, has dramatically reduced the level of gang violence to previously-  
7 unexpected lows, especially in areas with large concentrations of immigrant communities.

8           7.       In 1979, the LAPD began a policy known as Special Order 40 – adopted by the  
9 Los Angeles Board of Police Commissioners and signed by then-Chief of Police Daryl Gates.  
10 Special Order 40 restricted an officer from initiating a police action with the objective of  
11 discovering a person's immigration status, and also prohibited misdemeanor arrests for violations  
12 of Title 8, United States Code Section 1325 (Improper Entry).

13           8.       This policy was adopted to ensure that individuals, regardless of their civil  
14 immigration status, would report crimes to the LAPD and assist the LAPD in apprehending and  
15 prosecuting those individuals responsible for criminal acts.

16           9.       The provisions of Special Order 40, which are reflected in various forms in  
17 LAPD's existing policies and procedures, are also consistent with current federal and state law  
18 since the policy restricts initiating a detention based on an individual's civil immigration status or  
19 arresting an individual for a misdemeanor violation that did not occur in the officer's presence.

20           10.      In 2014, LAPD adopted a practice of no longer detaining individuals otherwise  
21 eligible for release from custody under state law on the basis of requests from U.S. Immigration  
22 and Customs Enforcement ("ICE"). LAPD ceased detaining individuals based on these agency  
23 requests unless they were accompanied by a judicial determination of probable cause that the  
24 arrestee was involved in a criminal offense or an otherwise valid warrant from a judicial officer.  
25 This practice was developed in response to judicial decisions holding that such detentions were  
26 unconstitutional. In addition, this practice further supports LAPD's robust community policing  
27 strategy focused on preventing crime through community partnerships, collaborative problem  
28

1 solving, and building public trust—essential components to reducing crime and protecting the  
2 public from harm.

3 11. When a member of LAPD arrests an individual in connection with a criminal  
4 offense, the arrestee may be cited and released in the field, or taken to one of LAPD’s ten jail  
5 detention facilities for booking. Those LAPD jail facilities are local detention facilities used for  
6 the temporary, short-term detention of person who are generally not held for more than 96 hours.  
7 In most instances, persons arrested by LAPD officers are released on bail or transferred to the  
8 custody of the Los Angeles County Sheriff’s Department within 48 hours. In many instances,  
9 arrestees are eligible for release from custody within a few hours of arrest and booking, including  
10 by posting bail or bond, on their own recognizance, or by a certificate of release. The short-term  
11 nature of LAPD’s detention therefore makes it impractical for LAPD to provide notice to ICE in  
12 advance of releasing a detainee.

13 12. While arrestees are in LAPD custody, LAPD permits personnel from the U.S.  
14 Department of Homeland Security (“DHS”) and ICE access to LAPD detention facilities to  
15 interview individual arrestees. LAPD does so consistent with California law which requires  
16 obtaining informed, written consent prior to any such interview. If the arrestee declines the  
17 interview, the LAPD does not provide DHS or ICE personnel access to its facilities in order to  
18 interview that individual.

19 13. LAPD also has a policy, consistent with state and federal law, against participating  
20 with ICE to enforce civil immigration law. This includes participation in the federal  
21 government’s voluntary program authorized under Section 1357(g) of Title 8 of the United States  
22 Code. Otherwise known as “287(g) authority,” this program authorizes local law enforcement  
23 officers to perform civil immigration enforcement if the agencies meet the qualification and  
24 training requirements and are granted the civil enforcement authority by the federal government.

25 14. I am familiar with the provisions Senate Bill 54 (“SB 54”), adopted by the State  
26 Legislature and approved by the Governor on October 5, 2017. The mandates adopted in SB 54  
27 largely are consistent with LAPD’s previous and often long-standing, policies regarding civil and  
28 criminal immigration enforcement.

1           15.     SB 54 prohibits local law enforcement agencies from inquiring into an individual's  
2 immigration status, detaining an individual on the basis of a hold request, allowing federal  
3 immigration authorities access to interview an individual in custody unless in compliance with  
4 state statutory requirements, and performing the functions of an immigration officer pursuant to  
5 Section 1357(g) of Title 8 of the United States Code. As discussed above, LAPD's existing  
6 policies and procedures already provide for these restrictions and therefore SB 54 does not  
7 substantially change LAPD's practices regarding these activities.

8           16.     SB 54's mandates relating to the treatment of information regarding individuals in  
9 LAPD custody also do not change existing LAPD policies and practices in a meaningful way. SB  
10 54's restrictions against providing the release date of a person in LAPD custody or personal  
11 information such as an individual's home or work address generally are consistent with existing  
12 LAPD policies limiting public disclosure of personal information concerning inmates and do not  
13 change LAPD's practices regarding such information. SB 54's limitations on transferring  
14 individuals in LAPD custody to federal immigration authorities also do not change existing  
15 LAPD policies or practices.


16           17.     LAPD's policies regarding immigrant communities are rooted in a commitment to  
17 constitutional policing and to the principle that all of Los Angeles is safer when our officers  
18 maintain a relationship of trust, respect and cooperation with the City's residents. The  
19 cooperation of immigrant communities to report crimes and assist in the investigation and  
20 prosecution of criminals is critical to the fair and effective enforcement of the law and the safety  
21 of all members of the community. When people feel confident they can come forward as a victim  
22 or a witness to a crime, irrespective of civil immigration status, LAPD's ability to reduce violent  
23 crimes, especially those involving violent gang members, is significantly improved.

24           18.     The policy behind Special Order 40, as expressed by the LAPD Board of Police  
25 Commissioners nearly forty years ago, is "the principle that effective law enforcement depends  
26 on a high degree of cooperation between the Department and the public it serves." The State  
27 Legislature expressed a similar policy in adopting SB54: "A relationship of trust between  
28

1 California's immigrant community and state and local agencies is central to the public safety of  
2 the people of California." (Cal. Gov't Code § 7284.2(b)).

3 19. Trust, respect and cooperation are essential to public safety in Los Angeles.  
4 LAPD's long-standing policies and practices promote and maintain those principles. On the other  
5 hand, if immigrant communities fear that LAPD officers are acting as agents of federal  
6 immigration authorities, the relationship between the police and these communities will erode.  
7 Immigrant communities will be less willing to report crimes and cooperate with criminal  
8 investigations – and threaten the public safety of all who live and work in Los Angeles.

9  
10 I declare under penalty of perjury under the laws of the United States that the foregoing is  
11 true and correct and that this declaration was executed on April 30, 2018 in Los Angeles,  
12 California.

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15   
16 Arif Alikhan