

1 MICHAEL E. GATES, City Attorney (SBN 258446)
2 Office of the City Attorney
3 2000 Main Street, P.O. Box 190
4 Huntington Beach, CA 92648
5 (714) 536-5555
6 Email: Michael.Gates@surfcity-hb.org

7 Attorneys for Plaintiffs
8 CITY OF HUNTINGTON BEACH, a California Charter City, and
9 Municipal Corporation, HUNTINGTON BEACH CITY COUNCIL,
10 HUNTINGTON BEACH POLICE DEPARTMENT, and the
11 HUNTINGTON BEACH POLICE CHIEF

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**

14 CITY OF HUNTINGTON
15 BEACH, a California Charter
16 City, HUNTINGTON BEACH
17 CITY COUNCIL, HUNTINGTON
18 BEACH POLICE DEPARTMENT,
19 and the HUNTINGTON BEACH
20 POLICE CHIEF, in his official
21 capacity as Chief of Police,

22 Plaintiffs,

23 v.

24 The STATE OF CALIFORNIA,
25 GAVIN NEWSOM, in his official
26 capacity as Governor of the State
27 of California; ROBERT BONTA in
28 his official capacity as Attorney
General of the State of California;
and
DOES 1-50, inclusive,

Defendants.

CASE NO.
**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

1. **VIOLATION OF THE SUPREMECY
CLAUSE – ARTICLE VI, CLAUSE 2
OF THE U.S. CONSTITUTION**
2. **VIOLATION OF THE
NATURALIZATION CLAUSE –
ARTICLE I, SECTION 8, CLAUSE 4
OF THE U.S. CONSTITUTION**
3. **VIOLATION OF U.S. FEDERAL
IMMIGRATION LAWS – 8 U.S.C. §,
1324**
4. **VIOLATION OF U.S. FEDERAL
IMMIGRATION LAWS – 8 U.S.C. §
1373**
5. **VIOLATION OF U.S. FEDERAL
IMMIGRATION LAWS – 18 U.S.C. §§
4, 371, 372**
6. **VIOLATION OF CALIFORNIA
PENAL CODE §§ 31, 32**
7. **VIOLATION OF CALIFORNIA
CONSTITUTION – ARTICLE XX,
SECTION 3**

DEMAND FOR JURY TRIAL

COMPLAINT

CITY OF HUNTINGTON BEACH, a California Charter City, and Municipal Corporation, the HUNTINGTON BEACH CITY COUNCIL, the HUNTINGTON BEACH POLICE DEPARTMENT, and the HUNTINGTON BEACH POLICE CHIEF, in his official capacity as Chief of Police are all collectively hereinafter referred to together as the “City” or together as “Plaintiffs.”

The City brings this lawsuit seeking Declaratory and Injunctive Relief (“Complaint”) against the STATE OF CALIFORNIA, GAVIN NEWSOM, in his official capacity as Governor of the State of California; ROBERT BONTA in his official capacity as Attorney General of the State of California; and DOES 1-50, inclusive (together as “Defendants”), for various violations of law and actual and threatened State enforcement actions against the City in violation of ARTICLE VI, CLAUSE 2 OF THE U.S. CONSTITUTION, ARTICLE I, SECTION 8, CLAUSE 4 OF THE U.S. CONSTITUTION, U.S. Federal Immigration Laws under 8 U.S.C. §§ 1324, 1325, & 1373, under 18 U.S.C. §§ 4, 371, and 372, and causing the City further thereby to violate California Penal Code §§ 31, 32, for Aiding and Abetting and Accessory After the Fact in the Commission of Federal crimes, and violations of City Officials’ Oath of Office pursuant to ARTICLE XX, SECTION 3 OF THE CALIFORNIA CONSTITUTION.

By this Complaint, the City seeks Judicial Declaration invalidating, and an Injunction Order enjoining, California’s “Sanctuary State Law,” which includes, among other operative provisions, California Government Code §§ 7282.5, 7284.4, and 7284.6, against the City, its Police Department, and all City Officials. The City avers the following upon personal knowledge, information,

1 and belief, and based upon the investigation of counsel as to all other
2 facts alleged in this Complaint.

3 INTRODUCTION

4 As a matter of law, the State's "Sanctuary State Law" is
5 unconstitutional and violates other Federal laws; as a matter of
6 enforcement policy, it is a clear and present danger to the health, safety
7 and welfare of the City of Huntington Beach. According to the California
8 Department of Justice, violent crime has risen in California by nearly
9 20% since 2018 (3.3% in 2023, and 15.1% from 2018 to 2023)¹, and
10 aggravated assaults, motor vehicle theft, robbery, and arson throughout
11 the State have increased since 2018.

12 The Nation has seen violent crime committed by illegal immigrants
13 including MS-13² and Tren de Aragua gang members including widely
14 reported rapes, murders, assaults, and other crimes.³ In addition, the
15 reported violent crimes by illegal immigrants includes hostile take-overs
16 by force of apartment buildings and other American establishments seen
17 in Aurora, Colorado⁴ and El Paso, Texas.⁵ According to the U.S.

18
19 ¹<https://data-openjustice.doj.ca.gov/sites/default/files/2024-07/Crime%20In%20CA%202023f.pdf>

20
21 ²<https://judiciary.house.gov/media/in-the-news/house-judiciary-report-faults-biden-admin-release-alleged-ms-13-member-now>

22
23 ³<https://kfoxtv.com/news/instagram/report-tren-de-aragua-member-arrested-for-sex-trafficking-migrant-at-gateway-hotel-la-barbie-el-paso-texas-gang-estefania-primera-border-patrol-dps-border-migrants;> and
24 <https://www.foxnews.com/us/colorado-video-shows-tren-de-aragua-gang-beating-apartment-complex-worker-extortion-bid-company-says>

25
26 ⁴<https://kdvr.com/news/local/ice-16-detained-in-aurora-are-suspected-tren-de-aragua-associates>

27
28 ⁵<https://kvia.com/news/border/2024/09/10/inside-a-downtown-el-paso-hotel-that-is-reportedly-housing-tren-de-aragua-gang-members/>

1 Department of Homeland Security, California leads the nation with the
 2 highest illegal immigrant population of any other state – with 2,600,000
 3 in 2022. See Bryan Baker and Robert Warren, Office of Homeland
 4 Security Statistics, *Estimates of the Unauthorized Immigrant Population*
 5 *Residing in the United States: January 2018–January 2022* (April 2024).⁶

6 Data shows that the flow of mass illegal immigration creates
 7 human trafficking, including increasing a market in the United States
 8 for human trafficking – with “[t]he number of persons prosecuted for
 9 human trafficking more than doubled from 2012 to 2022.”⁷ In a recent
 10 report, the U.S. Congress noted that nearly 60,000 victims of human
 11 trafficking are trafficked into the U.S. annually.⁸

12 Human trafficking, which also results in sex trafficking, hurts
 13 women and children the most⁹ and over 320,000 immigrant children
 14 have gone missing in the United States. According to the Federal
 15 Government, those lost children are now completely unaccounted for and

16 ///

17 ///

18
 19 _____
 20 ⁶https://ohss.dhs.gov/sites/default/files/2024-06/2024_0418_ohss_estimates-of-the-unauthorized-immigrant-population-residing-in-the-united-states-january-2018%25E2%2580%2593january-2022.pdf

22 ⁷[https://bjs.ojp.gov/library/publications/human-trafficking-data-collection-activities-2024#:~:text=The%20number%20of%20persons%20prosecuted,to%201%2C118%20persons%20in%202022](https://bjs.ojp.gov/library/publications/human-trafficking-data-collection-activities-2024#:~:text=The%20number%20of%20persons%20prosecuted,to%201%2C118%20persons%20in%202022;); and <https://kfoxtv.com/news/instagram/report-tren-de-aragua-member-arrested-for-sex-trafficking-migrant-at-gateway-hotel-la-barbie-el-paso-texas-gang-estefania-primera-border-patrol-dps-border-migrants>

26 ⁸<https://www.congress.gov/118/meeting/house/116344/documents/HHRG-118-JU08-20230913-SD003.pdf>

28 ⁹<https://nypost.com/2021/04/17/how-bidens-border-policy-will-increase-child-sex-trafficking-to-us>

1 unable to be protected.¹⁰ Lest it be forgotten, entering the United States
2 illegally in the first place is a Federal crime. 8 U.S.C. § 1325.

3 Protecting the City's 200,000 residents from crime and lawlessness
4 is of the greatest import to, and of the highest order for, Huntington
5 Beach's City leaders and its Police Department. Huntington Beach is
6 the 23rd largest of 482 cities in the State of California.

7 The State's relatively new "Sanctuary State Law" directly conflicts
8 with U.S. Federal immigration laws, including but not limited to 8
9 U.S.C. §§ 1324 and 1373, and 18 U.S.C. §§ 4, 371, and 372.

10 California's Sanctuary State Law not only limits the ability of City
11 officials, including Huntington Beach Police personnel, to engage in
12 fullest of effective law enforcement practices, but it directs City officials,
13 including Huntington Beach Police personnel, to *violate U.S. Federal*
14 *immigration laws*, including and among others, 8 U.S.C. §§ 1324 and
15 1373, and 18 U.S.C. §§ 4, 371, and 372. In fact, the conflict of laws
16 created by the State presents an untenable "Hobson's Choice" for the
17 City of Huntington Beach, e.g., comply with the State's new Sanctuary
18 State Law and violate U.S. Federal immigration laws, or comply with the
19 Federal immigration laws, and violate the Sanctuary State Law. This
20 conflict must be reconciled by this Court.

21 At the passage of California's Sanctuary State Law in 2017, NPR
22 reported that the law "bans state and local agencies... from enforcing
23 'holds' on people in custody. It blocks the deputization of police as
24 immigration agents and bars state and local law enforcement agencies
25 from inquiring into an individual's immigration status... It also
26 prohibits new or expanded contracts with Federal agencies to use

27
28 ¹⁰<https://nypost.com/2024/08/21/us-news/biden-harris-admin-loses-track-of-320000-migrant-children>

1 California law enforcement facilities as detention centers, although it
2 does not force the termination of existing contracts. . . .”¹¹ POLITICO
3 reported that this new law limits “local law enforcement officials’ ability
4 to cooperate with Federal immigration authorities. . . .”¹²

5 Huntington Beach is a City in the County of Orange. As will be
6 presented in greater detail, *infra*, Sheriff Don Barnes reported that the
7 Orange County Sheriff’s Department (hereinafter “OCSD”) is prohibited
8 by State law to notify Immigration Control and Enforcement of the
9 release of inmates with ICE detainers. In 2018, 1,106 inmates in Orange
10 County who had ICE detainers but did not meet eligibility for notifying
11 ICE were released into the community. 173 out of the 1,106 inmates
12 were rearrested “in Orange County for committing 58 different types of
13 crimes, including attempted murder, assault and battery, child
14 molestation, and robbery.” In 2023, there were 547 inmates who had
15 ICE detainers released from Orange County Jail. About 81 of those
16 inmates eligible for notification and transfer to ICE’s custody were not
17 transferred but were released into the community. A total of 40
18 individuals were rearrested for committing new crimes in Orange
19 County. Being prevented from coordinating with Federal agencies by the
20 Sanctuary State Law prevents effective law enforcement, puts the
21 community at risk, and as the data shows, leads to more crimes.

22 In addition to commanding the City to violate U.S. Federal
23 immigration laws, the State’s Sanctuary State Law forces City officials,
24 including Huntington Beach Police personnel, to violate California Penal

26 ¹¹[https://www.npr.org/sections/thetwo-way/2017/10/05/555920658/california-](https://www.npr.org/sections/thetwo-way/2017/10/05/555920658/california-governor-signs-sanctuary-state-bill)
27 [governor-signs-sanctuary-state-bill](https://www.npr.org/sections/thetwo-way/2017/10/05/555920658/california-governor-signs-sanctuary-state-bill)

28 ¹² [https://www.politico.com/story/2017/10/05/california-sanctuary-city-jerry-brown-](https://www.politico.com/story/2017/10/05/california-sanctuary-city-jerry-brown-signs-243503)
[signs-243503](https://www.politico.com/story/2017/10/05/california-sanctuary-city-jerry-brown-signs-243503)

1 Code §§ 31 and 32 for “aiding and abetting” and “accessory after the fact”
2 in harboring, concealing, or protecting the perpetrator who committed a
3 Federal crime. Moreover, the Sanctuary State Law forces City officials,
4 including Huntington Beach Police personnel, to harbor, conceal, or
5 “shield from detection” known unauthorized aliens in their custody. The
6 Sanctuary State Law commands City officials, including Huntington
7 Beach Police personnel, to turn a blind eye to alien smuggling, which in
8 many cases, the individuals who were smuggled into the country would
9 become victims of human trafficking.

10 The State cannot force the City to violate U.S. Federal immigration
11 laws that both the Ninth Circuit Court of Appeal and the United States
12 Supreme Court have held preempted under the Supremacy Clause.

13 To put a fine point, as a Charter City, Huntington Beach’s Police
14 Department does not belong to the State. Rather, the Huntington Beach
15 Police Department belongs to the City – and as such, the Police
16 Department should be free from State interference and control. The City
17 and its Police Department should be, therefore, entirely at liberty to
18 employ *every* lawful means to combat crime and promote public safety for
19 the City’s 200,000 residents.

20 While the Federal Government cannot *commandeer* State and/or
21 local resources to effectuate its operations or achieve its goals, *local*
22 *agencies, like Huntington Beach, should be at liberty to **voluntarily***
23 *cooperate with the Federal Government in its operations* in order to
24 combat local crime and promote local public safety.¹³ As it is now,

25
26
27 ¹³ See *Cal. ex. Rel. Becerra v. Sessions*, 284 F. Supp.3d 1015, 1035 (Cal. N.D. 2018)
28 (“No cited authority holds that the scope of state sovereignty includes the power to
forbid state or local employees from voluntarily complying with a federal
program.”).

1 California's Sanctuary State Law prevents such voluntary cooperation
 2 thereby preventing the City from employing every lawful means
 3 available to combat crime in Huntington Beach and forces City officials
 4 to violate U.S. Federal immigration laws. That the State can stand as a
 5 barrier in between the City and the Federal Government not only shocks
 6 the conscience, but it is also unconstitutional.

7 The "Supremacy Clause" of the U.S. Constitution demands that the
 8 California Sanctuary State Law yield to the Federal Government and not
 9 act as a barrier for the enforcement of U.S. Federal immigration laws.
 10 By enacting its Sanctuary State Law, the State of California exceeded its
 11 authority and is unconstitutionally interfering with U.S. Federal
 12 immigration laws and the City's Charter Home Rule authority.

13 With no other remedy available at law, the City seeks Judicial
 14 Declaration invalidating, and an Injunction Order enjoining, the
 15 State's enforcement of operative portions of California's "Sanctuary
 16 State Law," which includes, among others, California Government
 17 Code §§ 7282.5, 7284.4, and 7284.6, against the City Plaintiffs.

18 PARTIES

19 1. Plaintiff CITY OF HUNTINGTON BEACH is and at all
 20 relevant times was a Municipal Corporation and Charter City¹⁴
 21 organized by the people of the City and existing under a freeholder's
 22 charter and exercising "Home Rule" powers over its Municipal Affairs,
 23 including without limitation local law enforcement as authorized by
 24 Article XI, Section 5 of the California Constitution.

25 2. Plaintiff HUNTINGTON BEACH CITY COUNCIL ("City
 26 Council" or "Council Members") is and at all relevant times the elected
 27 _____

28 ¹⁴ Online: Charter, City of Huntington Beach: https://library.qcode.us/lib/huntington_beach_ca/pub/municipal_code/item/charter-preamble

1 body of seven members, elected by the People of the City pursuant to the
2 Charter of the City of Huntington Beach. *See* Section 300, City
3 Charter¹⁵.

4 3. Plaintiff HUNTINGTON BEACH POLICE DEPARTMENT
5 (“HBPD”) is and at all relevant times the official local municipal law
6 enforcement department of the City of Huntington Beach, organized as a
7 Charter City pursuant to, and authorized as provided in Article XI,
8 including §§ 3 and 5, of the California Constitution.

9 4. Plaintiff HUNTINGTON BEACH POLICE CHIEF (“HBPD
10 Chief”) is the City Council duly appointed Chief of the Huntington Beach
11 Police Department.

12 5. Defendant STATE OF CALIFORNIA is the State of
13 California.

14 6. Defendant GAVIN NEWSOM (“Governor”) is and at all
15 relevant times was the Governor of the State of California. He is being
16 sued in his official capacity.

17 7. Defendant ROBERT BONTA (“Attorney General”) is and at
18 all relevant times was the Attorney General of the State of California.
19 He is being sued in his official capacity.

20 **POTENTIAL PARTIES**

21 8. The City is ignorant of the true names and capacities of those
22 Defendants sued herein as DOES 1 through 50, inclusive, and therefore
23 sue those Defendants by such fictitious names. City will amend this
24 Complaint to allege the true names and capacities of these fictitiously
25 named Defendants when the same have been ascertained.

26
27
28 ¹⁵ <https://ecode360.com/43806864#43806864>

1 9. There are several individuals and/or entities whose true
2 names and capacities are currently not known to the City. Evidence may
3 come forth that others are legally responsible and liable to the City to the
4 extent of the liability of the named Defendants. The City will seek leave
5 of the Court to amend this Complaint to reflect the names and capacities
6 should they become known. The City reserves the right to amend this
7 claim pursuant to Fed. R. Civ. P. 15(a) and Fed. R. Civ. P. 21 with leave
8 of the Court to add potential additional defendants and additional
9 allegations and claims.

10 **JURISDICTION AND VENUE**

11 10. This case presents Federal questions arising under the
12 Constitution of the United States and seeks relief for the deprivation of
13 Federal rights under color of state law. This Court accordingly has
14 subject-matter jurisdiction pursuant to 28 U.S.C. §§1331 and 1343.

15 11. This Court has authority to award Plaintiffs declaratory relief
16 pursuant to 28 U.S.C. § 2201, and injunctive relief under 28 U.S.C. §§
17 1343 and 2202, and Rule 65 of the Federal Rules of Civil Procedure.

18 12. Venue is proper in this District under 28 U.S.C. § 1391(b)
19 because a substantial part of the events or omissions giving rise to
20 Plaintiffs' claims occurred in this District.

21 **ALLEGATIONS**

22 **A. Charter City Authority**

23 13. The City of Huntington Beach is a Municipal Corporation
24 formed by the people of the City of Huntington Beach as a "Charter City"
25 pursuant to California Constitution Article XI §§ 3 and 5.

26 14. To compare, "general law" cities are "political subdivisions" of
27 the State and law generally holds that such cities must follow the
28 dictates of the State to execute functions of the State. Accordingly,

1 “political subdivision” is defined to mean “a geographic area of
 2 representation . . . including, but not limited to, a city, a school district, a
 3 community college district, or other district organized pursuant to state
 4 law.” Cal. Elect. Code § 14051(a).

5 15. ***Charter Cities*** on the other hand, being formed by the
 6 people of their city under the California Constitution (and *not* State law),
 7 are *not political subdivisions of the State*. To that end, both the
 8 California Constitution and case law hold that Charter Cities possess
 9 independent authority over Municipal Affairs – so “independent” as to be
 10 free from State Legislative interference and control. *See* Cal. Const. art.
 11 XI, § 5(a) (which expressly states, “***City charters adopted pursuant to***
 12 ***this Constitution shall supersede any existing charter, and with***
 13 ***respect to municipal affairs shall supersede all laws inconsistent***
 14 ***therewith.***” (emphasis added)).

15 16. As the Court of Appeal recently stated, Charter Cities, like
 16 Huntington Beach, “are distinct individual entities and are not connected
 17 political subdivisions of the state.” *Haytasingsh v. City of San Diego*, 66
 18 Cal.App.5th 429, 459 (2021). The Court of Appeal explained that “It is
 19 the free consent of the persons composing them that brings into existence
 20 municipal corporations, and they are used for the promotion of their own
 21 local and private advantage and convenience... *Cities, therefore, are*
 22 *distinct individual entities, and are not connected political subdivisions*
 23 *of the state. As a matter of fact, municipalities, and particularly*
 24 *charter cities, are in a sense independent political organizations*
 25 *and do not pretend to exercise any functions of the state. They*
 26 *exist in the main for the purposes of local government.”* *Id.*,
 27 (emphasis added) (quoting *Otis v. City of Los Angeles*, 52 Cal.App.2d 605,
 28 611-12 (1942)).

1 17. In 2020, the State Court of Appeal recognized that Charter
 2 Cities, far from being creatures of the State, enjoy constitutionally
 3 recognized autonomy (Cal. Const. art. XI) and municipal authority over
 4 certain areas of governance that is “supreme and beyond the reach of
 5 legislative enactment.” *City of Redondo Beach v. Padilla*, 46 Cal.App.5th.
 6 902, 910 (2020) (relying on Cal. Const. art. XI).

7 18. After the California Constitution of 1879 was adopted, the
 8 Supreme Court of California declared it was “manifestly the intent” of
 9 the drafters “to emancipate municipal governments from the authority
 10 and control formerly exercised over them by the Legislature.” *Johnson v.*
 11 *Bradley*, 4 Cal.4th 389, 395 (1992) (quoting *People v. Hoge*, 55 Cal. 612,
 12 618 (1880)).

13 19. Article XI, section 5 of the California Constitution provides in
 14 full:

15 (a) It shall be competent in any city charter to provide
 16 that the city governed thereunder may make and
 17 enforce all ordinances and regulations in respect to
 18 municipal affairs, subject only to restrictions and
 19 limitations provided in their several charters and in
 20 respect to other matters they shall be subject to general
 21 laws. City charters adopted pursuant to this
 22 Constitution shall supersede any existing charter, and
 with respect to municipal affairs shall supersede all
 laws inconsistent therewith.

23 (b) It shall be competent in all city charters to provide,
 24 in addition to those provisions allowable by this
 25 Constitution, and by the laws of the State for: (1) **the**
 26 **constitution, regulation, and government of the**
 27 **city police force** (2) subgovernment in all or part of a
 28 city (3) conduct of city elections and (4) plenary
 authority is hereby granted, subject only to the
 restrictions of this article, to provide therein or by

1 amendment thereto, the manner in which, the method
2 by which, the times at which, and the terms for which
3 the several municipal officers and employees whose
4 compensation is paid by the city shall be elected or
5 appointed, and for their removal, and for their
6 compensation, and for the number of deputies, clerks
7 and other employees that each shall have, and for the
8 compensation, method of appointment, qualifications,
9 tenure of office and removal of such deputies, clerks and
10 other employees.

11 Cal. Const. art. XI, § 5 (emphasis added).

12 20. The California Supreme Court has explained that § 5(a) of
13 Article XI of the California Constitution provides that a Charter City
14 shall not be governed by State law in respect to “Municipal Affairs.”
15 Rather, “so far as ‘Municipal Affairs’ are concerned,” Charter Cities’ laws
16 are “supreme and beyond the reach of [State] legislative enactment.”
17 *California Fed. Savings & Loan Assn. v. City of Los Angeles* 35 Cal.3d 1,
18 12 (1991).

19 21. One of the “core” categories of Municipal Affairs that is
20 specifically described in Article XI, § 5(b) is “the constitution, regulation
21 and government of the city police department.” Cal. Const. art. XI, §
22 5(b)(1).

23 22. The “Home Rule” provision of the California Constitution
24 authorizes a Charter City to exercise plenary authority over Municipal
25 Affairs, free from any constraint imposed by the general law and subject
26 only to constitutional limitations. *See* Cal. Const. art. XI, § 5(a); *Ex Parte*
27 *Braun*, 141 Cal. 204, 209 (1903); *Bishop v. City of San Jose*, 1 Cal. 3d 56,
28 61 (1969); *Comm. of Seven Thousand v. Super. Ct. (City of Irvine)*, 45
Cal.3d 491 (1988).

1 23. As a Charter City, the City of Huntington Beach has supreme
2 authority over its city police force. Cal. Const. art. XI, § 5(b).

3 24. As a Charter City particularly, the City's Police Department
4 does not belong to the State, rather, it belongs to the City – and as such,
5 is free from State interference and control. The City's Police Department
6 engages in local arrests and investigations as Municipal Affairs.

7 25. The independence and Home Rule authority the Constitution
8 provides to Huntington Beach means that the City and its Police
9 Department are, among many other things, at liberty to conduct effective
10 law enforcement practices, including fighting violent crime by all means
11 available, and “free” to comply with Federal laws in addition to its local
12 laws; “free” from State interference.

13 26. The City of Huntington Beach has a duty to protect the
14 health, safety, and welfare of its residents. Part of that duty is to ensure
15 that the police officers have the ability to investigate crimes before it
16 occurs, and arrest and detain individuals who committed those crimes,
17 including incidents involving unauthorized aliens. Part of that duty
18 necessarily involves coordinating with other agencies, whether County,
19 State, or Federal for full enforcement of the laws.

20 27. Article XX, § 3 of the California Constitution provides the
21 Oath of Office that certain City officials, including elected officials and
22 police officers, are required to take in order to be fully vested with
23 authority for the office they are to assume. Cal. Const. art. XX, § 3.

24 28. The Constitutionally required Oath of Office states “I,
25 _____, do solemnly swear (or affirm) that I will support and defend
26 the Constitution of the United States and the Constitution of the State of
27 California against all enemies, foreign and domestic; that I will bear true
28 faith and allegiance to the Constitution of the United States and the

1 Constitution of the State of California; that I take this obligation freely,
2 without any mental reservation or purpose of evasion; and that I will
3 well and faithfully discharge the duties upon which I am about to enter.”

4 29. The Sanctuary State Law forces the City’s officials, including
5 Huntington Beach Police personnel, to violate U.S. Federal immigration
6 laws, in violation of the California Constitution’s Oath of Office.

7 **B. The Sanctuary State Law**

8 30. In 2017, the State of California enacted the “Sanctuary State
9 Law,” presented then as the “California Values Act of 2017.” The
10 Legislative Bill at the time was commonly known as “Senate Bill 54” or
11 “California’s Sanctuary State Law” (hereinafter “Sanctuary State Law”).

12 31. The Sanctuary State Law is unconstitutional. *See* U.S. Const.
13 art. VI, cl. 2; U.S. Const. art. I, § 8, cl. 4; 8 U.S.C. §§ 1324, 1325, 1373; 18
14 U.S.C. §§ 4, 371, 372; *see also*, Cal. Const. art. XI, § 5; Cal. Const. art.
15 XX, § 3.

16 32. The Sanctuary State Law violates the City’s right to fully
17 control its own Police Department and fully and effectively engage in law
18 enforcement. Moreover, neither the State, nor its laws, may prevent the
19 City of Huntington Beach from honoring, following, and/or complying
20 with State and all Federal laws, including Federal laws on immigration,
21 which is the supreme law of the land on immigration.

22 33. The Sanctuary State Law violates the City’s right to fully
23 control its own Police Department and fully and effectively engage in law
24 enforcement. Specifically, California Government Code §§ 7282.5,
25 7284.4, 7284.6, 7285.1, and 7285.2 prohibit local law enforcement officers
26 to cooperate with the Federal Government in criminal immigration
27 investigation.
28

1 34. The Sanctuary State Law bars local jurisdiction from
2 complying with 8 U.S.C. § 1324 or participate in a joint task force that
3 may involve immigration enforcement. *See* Cal. Gov. Code §§ 7282.5,
4 7282.4 7284.6, 7285.1, 7285.2.

5 35. California Government Code §§ 7282.4 and 7282.5 restrict
6 cooperation between local law enforcement agencies and the Federal
7 Government.

8 36. The Sanctuary State Law allows for smugglers to transport
9 individuals into the United States in violation of 8 U.S.C. § 1324 for
10 financial gain.

11 37. The Sanctuary State Law places aliens at risk of harm or
12 being trafficked because California Law Enforcement Agencies cannot
13 engage in the enforcement of 8 U.S.C. § 1324.

14 38. The Sanctuary State Law prohibits local law enforcement
15 agencies from asking employers about a person's immigration status
16 under 8 U.S.C. § 1324(a)(3). *See* Cal. Gov. Code § 7284.6(a)(1)(A).

17 39. In recent years, Defendant Governor Gavin Newsom has
18 taken a series of substantial steps to incentivize the inflow of illegal
19 immigration into California, and to protect and harbor illegal
20 immigrants, with the implementing of policies and laws to hire illegal
21 immigrants in jobs in State government.¹⁶

22 40. Defendant Governor Gavin Newsom also has a new program
23 to give illegal immigrants taxpayer funded downpayments of \$150,000 to
24 buy homes.¹⁷ Defendant Newsom is doing more than simply turning a
25

26 ¹⁶[https://reformcalifornia.org/news/reform-california-slams-bill-to-hire-illegal-](https://reformcalifornia.org/news/reform-california-slams-bill-to-hire-illegal-immigrants-in-ca-state-government)
27 [immigrants-in-ca-state-government](https://reformcalifornia.org/news/reform-california-slams-bill-to-hire-illegal-immigrants-in-ca-state-government)

28 ¹⁷[https://www.hoover.org/research/californias-one-party-state-and-housing-](https://www.hoover.org/research/californias-one-party-state-and-housing-subsidies-undocumented-migrants)
[subsidiess-undocumented-migrants](https://www.hoover.org/research/californias-one-party-state-and-housing-subsidies-undocumented-migrants)

1 blind eye, he is aggressively pursuing policies with taxpayer funds to
2 incentivize illegal immigrants to relocate to his Sanctuary State.

3 41. In 2024, Defendant Governor Gavin Newsom launched a
4 program for California to spend \$2.3 million of taxpayer money to
5 support the relocating and settling of illegal immigrants in rural areas of
6 the State.¹⁸ Defendant Newsom is aggressively pursuing policies to
7 commit taxpayer funds to protecting illegal immigrants.

8 42. In August of 2024, Defendant Governor Gavin Newsom
9 launched another program to offer illegal immigrants home mortgage aid
10 to buy homes.¹⁹ Defendant Newsom is doing more than simply sitting on
11 the sidelines, he is aggressively pursuing policies with taxpayer funds to
12 incentivize illegal immigrants to relocate to his Sanctuary State.

13 43. Most recently, Defendant Governor Gavin Newsom
14 established a \$25 million taxpayer funded legal defense fund for illegal
15 immigrants to fight the Federal government's announced crackdown on
16 illegal immigration, which seeks to combat the violent crimes committed
17 against U.S. citizens.²⁰

18 44. In response to the November 5th election of Donald J. Trump
19 as President of the United States, and with his nomination of Tom
20 Homan as "Border Czar," Defendant Governor Gavin Newsom convened
21
22
23

24 ¹⁸[https://business.ca.gov/supporting-californias-rural-communities-2-3-million-in-](https://business.ca.gov/supporting-californias-rural-communities-2-3-million-in-grants-to-further-expand-immigrant-integration-in-rural-regions)
25 [grants-to-further-expand-immigrant-integration-in-rural-regions](https://business.ca.gov/supporting-californias-rural-communities-2-3-million-in-grants-to-further-expand-immigrant-integration-in-rural-regions)

26 ¹⁹[https://www.latimes.com/california/story/2024-08-29/california-lawmakers-](https://www.latimes.com/california/story/2024-08-29/california-lawmakers-approve-home-mortgage-aid-to-undocumented-immigrants)
27 [approve-home-mortgage-aid-to-undocumented-immigrants](https://www.latimes.com/california/story/2024-08-29/california-lawmakers-approve-home-mortgage-aid-to-undocumented-immigrants)

28 ²⁰[https://www.nationalreview.com/news/california-governor-newsom-requests-25-](https://www.nationalreview.com/news/california-governor-newsom-requests-25-million-from-legislature-for-anti-trump-litigation-fund)
[million-from-legislature-for-anti-trump-litigation-fund](https://www.nationalreview.com/news/california-governor-newsom-requests-25-million-from-legislature-for-anti-trump-litigation-fund)

1 the State Legislature in a Special Session to develop an “Immigrant
2 Support Plan” designed to counter “Trump deportations.”²¹

3 45. It was widely reported that “Gavin Newsom’s administration
4 is drafting a potential plan to help undocumented immigrants who may
5 be threatened by incoming President Donald Trump’s mass deportation
6 threats.” *Id.*

7 46. According to POLITICO, a draft of Defendant Gavin
8 Newsom’s plan entitled “Immigrant Support Network Concept” proposes
9 the “creation of an Immigrant Support Network comprised of regional
10 ‘hubs’ to connect at-risk individuals, their families, and communities
11 with community systems — such as legal services, schools, labor unions,
12 **local governments**, etc.” *Id.* (emphasis added). Clearly, Defendant
13 Gavin Newsom plans to further commandeer local governments to act in
14 violation of U.S. Federal immigration laws in the near future.

15 47. In addition, on December 17, 2024, Defendant Attorney
16 General Robert Bonta issued a Press Release advising illegal immigrants
17 the ways in which his office, and the State, were going to assist in
18 shielding illegal immigrants – “threats of mass detention, arrests, and
19 deportation”²² – from detection and detention by the Federal
20 Government. In that Press Release, Robert Bonta directly advised that
21 “You have the right to apply for and secure housing without sharing your
22 immigration status,” and “You have the right to an attorney.”

23 48. In that same Press Release, Defendant Robert Bonta stated,
24 “State and local law enforcement cannot ask for your immigration
25

26 ²¹[https://www.politico.com/news/2024/12/24/newsom-california-immigrants-trump-](https://www.politico.com/news/2024/12/24/newsom-california-immigrants-trump-00195984)
27 [00195984](https://www.politico.com/news/2024/12/24/newsom-california-immigrants-trump-00195984)

28 ²²[https://oag.ca.gov/news/press-releases/attorney-general-bonta-reminds-california-](https://oag.ca.gov/news/press-releases/attorney-general-bonta-reminds-california-immigrants-their-rights-and)
[immigrants-their-rights-and](https://oag.ca.gov/news/press-releases/attorney-general-bonta-reminds-california-immigrants-their-rights-and)

1 status” and “State and local law enforcement cannot share your personal
2 information” and “State and local law enforcement cannot assist ICE
3 with immigration enforcement.” Not only is what appears in the
4 statement a violation of U.S. Federal immigration law, but his statement
5 also indicates a systematic program by the State to shield illegal
6 immigrants in response to “the President-elect making clear his intent to
7 move forward an inhumane and destructive immigration agenda once he
8 takes office.” Defendant Robert Bonta’s statements make clear that his
9 systematic program to protect illegal immigrants conflicts with the U.S.
10 Federal immigration laws and Federal Government operations.

11 **C. Federal Authorities**

12 **1. U.S. Immigration Laws**

13 49. Article I, Section 8, Clause 4 of the U.S. Constitution provides
14 Congress with the “power... To establish a uniform Rule of
15 Naturalization... throughout the United States.” U.S. Const. art. I, § 8,
16 cl. 4.

17 50. In addition to conferring Congress with power to determine
18 when foreign nationals may obtain U.S. citizenship, the Naturalization
19 Clause is sometimes viewed as contributing to Congress’s power over
20 immigration, including its power to set rules for when aliens may enter
21 or remain in the United States.

22 51. In *Arizona v. United States*, 567 U.S. 387 (2012), the Supreme
23 Court declared that the Federal Government’s “broad, undoubted power”
24 over immigration was partially based “on the national government’s
25 constitutional power to ‘establish a uniform Rule of Naturalization,’ and
26 its inherent power as sovereign to control and conduct relations with
27 foreign nations.” *Id.* at 394–95 (quoting U.S. Const. art. I, § 8, cl. 4).
28

1 52. In *Harisiades v. Shaughnessy*, 342 U.S. 580 (1952), the
2 Supreme Court observed that “[t]he power of Congress to exclude, admit,
3 or deport aliens flows from sovereignty itself and from the power ‘To
4 establish an uniform Rule of Naturalization.’” *Id.* at 599 (quoting U.S.
5 Const. art. I, § 8, cl. 4); *see also INS v. Chadha*, 462 U.S. 919, 940
6 (1983) (“The plenary authority of Congress over aliens under Art. I, § 8,
7 cl. 4 is not open to question”); *Toll v. Moreno*, 458 U.S. 1, 10
8 (1982) (“Federal authority to regulate the status of aliens derives from
9 various sources, including the Federal Government’s power ‘[to] establish
10 [a] uniform Rule of Naturalization’...” (quoting U.S. Const. art. I, § 8, cl.
11 4); *Mathews v. Diaz*, 426 U.S. 67, 79–80 (1976) (“In the exercise of its
12 broad power over naturalization and immigration, Congress regularly
13 makes rules that would be unacceptable if applied to citizens.”).

14 53. Apart from the Naturalization Clause, the Supreme Court
15 has cited Congress’s foreign commerce power as a basis for its
16 immigration power. *See Toll*, 458 U.S. at 10 (observing that Congress’s
17 immigration power also derives from “its power ‘[t]o regulate Commerce
18 with foreign Nations,’ and its broad authority over foreign affairs”)
19 (citing U.S. Const. art. I, § 8, cl. 3); *United States ex rel. Turner v.*
20 *Williams*, 194 U.S. 279, 290 (1904) (recognizing that an immigration
21 statute was based in part “on the power to regulate commerce with
22 foreign nations, which includes the entrance of ships, the importation of
23 goods, and the bringing of persons into the ports of the United
24 States”); *Edye v. Robertson*, 112 U.S. 580, 600 (1884) (“It is enough to say
25 that, Congress having the power to pass a law regulating immigration as
26 a part of the commerce of this country with foreign nations, we see
27 nothing in the statute by which it has here exercised that power
28 forbidden by any other part of the Constitution.”).

1 54. In 1986, Congress enacted the Immigration and
2 Naturalization Act (hereinafter “INA”). 8 U.S.C. §§ 1101-1537. Title 8,
3 U.S.C. § 1324, was enacted to combat human smugglers who commit the
4 crime by “bringing people into the United States, or unlawfully
5 transporting and harboring people already in the United States, in
6 deliberate evasion of immigration law.”²³

7 55. In part, 8 U.S.C. § 1324 makes it a Federal crime for any
8 person to “knowing that a person is an alien, brings to or attempts to
9 bring to the United States in any manner whatsoever such person at a
10 place other than a designated port of entry or place other than as
11 designated by the Commissioner, regardless of whether such alien has
12 received prior official authorization to come to, enter, or reside in the
13 United States and regardless of any future official action which may be
14 taken with respect to such alien” 8 U.S.C. § 1324(a)(1)(A)(i).

15 56. Title 8, U.S.C. § 1324 also makes it a Federal crime for any
16 person to “knowing or in reckless disregard of the fact that an alien has
17 come to, entered, or remains in the United States in violation of law,
18 conceals, harbors, or shields from detection, or attempts to conceal,
19 harbor, or shield from detection, such alien in any place, including any
20 building or any means of transportation” 8 U.S.C. § 1324(a)(1)(A)(iii).

21 57. And, 8 U.S.C. § 1324 makes it a Federal crime for any person
22 to “knowingly hires for employment at least 10 individuals with actual
23 knowledge that the individuals are aliens described in subparagraph
24 (B).” 8 U.S.C. § 1324(a)(3).

25 58. Title 8, U.S.C. § 1373(a) provides, “Notwithstanding any
26 other provision of Federal, State, or local law, a Federal State, or local
27 government entity or official from sending to, or receiving from, the
28

²³ <https://crsreports.congress.gov/product/pdf/IF/IF12539>

1 Immigration and Naturalization Service information regarding the
2 citizenship or immigration status, lawful or unlawful, of any individual.”
3 8 U.S.C. § 1373(a).

4 59. Title 18, U.S.C. § 4 provides, “Whoever, having knowledge of
5 the actual commission of a felony cognizable by a court of the United
6 States, conceals and does not as soon as possible make known the same
7 to some judge or other person in civil or military authority under the
8 United States, shall be fined under this title or imprisoned not more
9 than three years, or both.” 18 U.S.C. § 4.

10 60. Title 18, U.S.C. § 371 provides, “If two or more persons
11 conspire to either commit any offense against the United States, or to
12 defraud the United States, or any agency thereof in any manner or for
13 any purpose...each shall be fined under this title or imprisoned not more
14 than five years, or both.” 18 U.S.C. § 371.

15 61. Title 18, U.S.C. § 372 provides, “If two or more
16 persons...conspire to prevent, by force, intimidation, or threat, any
17 person from accepting or holding any office, trust, or place of confidence
18 under the United States...or impede him in the discharge of his official
19 duties, each of such persons shall be fined under this title or imprisoned
20 not more than six years, or both.” 18 U.S.C. § 372.

21 62. The 10th Amendment of the U.S. Constitution holds that the
22 Federal Government may not commandeer State or local resources to
23 administer or enforce a Federal regulatory program against the will of
24 the State or local resources.

25 63. The 10th Amendment, however, does not allow a State or its
26 officials or its resources to *violate* Federal laws, including U.S. Federal
27 immigration laws.
28

1 64. The 10th Amendment also does not allow a State to direct a
2 city or its local officials or its resources to *violate* Federal laws, including
3 U.S. Federal immigration laws.

4 65. And while the 10th Amendment holds that the Federal
5 Government may not commandeer State and local resources against
6 their will to act at the Federal Government's behest, there is nothing,
7 including the 10th Amendment itself, that *prevents* State or local officials
8 or local resources from *voluntarily cooperating* with the Federal
9 Government in the administration or enforcement of a Federal
10 regulatory program, including U.S. Federal immigration laws. *See Cal.*
11 *ex. Rel. Becerra v. Sessions*, 284 F. Supp.3d at 1035 ("No cited authority
12 holds that the scope of state sovereignty includes the power to forbid
13 state or local employees from voluntarily complying with a Federal
14 program.").

15 66. "Anti-commandeering" under the 10th Amendment is not a
16 barrier to a local jurisdiction's voluntary cooperation with the Federal
17 Government in the administration or enforcement of a Federal
18 regulatory program, including U.S. Federal immigration laws. *See City*
19 *of New York v. United States*, 179 F.3d 29, 35 (2d Cir. 1999) (rejecting the
20 city's argument to turn the 10th Amendment "into a sword allowing
21 states and localities to engage in passive resistance that frustrates
22 Federal programs.").

23 **2. Supremacy Clause of the U.S. Constitution**

24 67. Article VI, Clause 2 of the U.S. Constitution is known as the
25 "Supremacy Clause." The Supremacy Clause holds that Federal law
26 prevails over any conflicting state laws, including immigration laws.

27 68. The Supremacy Clause mandates that "[t]his Constitution,
28 and the Laws of the United States which shall be made in Pursuance

1 thereof . . . shall be the supreme Law of the Land . . . any Thing in the
 2 Constitution or Laws of any State to the Contrary notwithstanding.” U.S.
 3 Const. art. VI, cl. 2.

4 69. The Supremacy Clause “prohibit[s] States from interfering
 5 with or controlling the operations of the Federal Government.” *Geo*
 6 *Group, Inc. v. Newsom*, 50 F.4th 745, 750 (9th Cir. 2022) (quoting *United*
 7 *States v. Washington*, 142 S. Ct. 1976, 1984 (2022)).

8 70. The Constitution affords Congress the power to “establish an
 9 uniform Rule of Naturalization,” and to “dispose of and make all needful
 10 Rules and Regulations respecting the Territory or other Property
 11 belonging to the United States.” U.S. Const. art. IV, § 3. The
 12 Constitution also affords the President of the United States the authority
 13 to “take Care that the Laws be faithfully executed.” U.S. Const. art. II, §
 14 3.

15 71. The Federal Government has the preeminent role to regulate
 16 aliens entering the United States and within its borders. U.S. Const.
 17 art. I, § 8, cl. 4; U.S. Const. art. I § 8, cl. 3.

18 72. In *U.S. v. King County, et al.*, 2024 U.S. App. LEXIS 30299
 19 (9th Cir. Nov. 29, 2024), the Ninth Circuit wrote “In recognition of the
 20 Federal government’s independence from state control, the
 21 intergovernmental immunity doctrine prohibits states from ‘interfering
 22 with or controlling the operations of the Federal Government.” *Id.* at
 23 *27.²⁴

24 73. Recent California legislation that sought to interfere with the
 25 Federal Government’s immigration enforcement efforts was struck down
 26 as unconstitutional “Whether analyzed under intergovernmental
 27

28 ²⁴ <https://cdn.ca9.uscourts.gov/datastore/opinions/2024/11/29/23-35362.pdf>

1 immunity or preemption, California cannot exert this level of control
2 over the Federal government's detention operations... AB 32 therefore
3 violates the Supremacy Clause." *Geo Group, Inc.*, 50 F.4th at 751.

4 74. "Any state regulation that purports to override the Federal
5 government's decisions about who will carry out Federal functions runs
6 afoul of the Supremacy Clause." *Geo Group, Inc.*, 50 F.4th at 750. By
7 purporting to prevent the City of Huntington Beach from voluntarily
8 cooperating with the Federal Government, and by purporting to prevent
9 the City of Huntington Beach from complying with Federal immigration
10 laws under 8 U.S.C § 1324, California's Sanctuary State Law runs afoul
11 of the Supremacy Clause.

12 75. A state enactment is unconstitutional if it is an "obstacle to
13 the accomplishment and execution of the full purposes and objectives of
14 Congress." *Toll*, 458 U.S. at 36 (quoting *Hines v. Davidowitz*, 312 U.S.
15 52, 67 (1941)).

16 76. The United States Government has broad authority to
17 establish immigration laws, which cannot be hindered or obstructed by
18 state law. *Arizona v. United States*, 567 U.S. at 394-95. "Effective
19 immigration law enforcement requires a cooperative effort between all
20 levels of government." *City of New York v. United States*, 179 F.3d at 32-
21 33.

22 77. "The '[p]ower to regulate immigration is unquestionably
23 exclusively a Federal power.'" *De Canas v. Bica*, 424 U.S. 351, 354 (1976)
24 (superseded by statute as stated in *Me. Forest Prods. Council v. Cormier*,
25 586 F. Supp. 3d 22, 39 (Dist. Maine 2022)).

26 78. "[T]he Executive has very broad discretion to determine
27 immigration enforcement priorities." *Arizona Dream Act Coal. v. Brewer*,
28 855 F.3d 957, 967 (9th Cir. 2017). "Congress expressly charged the

1 Department of Homeland Security with the responsibility of
2 ‘[e]stablishing national immigration enforcement policies and priorities.’”
3 *Id.* at 967 (quoting 6 U.S.C § 202(5)). Under President Joe Biden’s
4 Administration, the Department of Homeland Security prioritized the
5 arrest and removal of aliens who poses threat to national security, threat
6 to public safety, and threat to border security “or who have unlawfully
7 entered the country only recently.” *United States v. Texas*, 599 U.S. 670,
8 673 (2023).²⁵

9 79. The U.S. Supreme Court held that Congress intended to
10 preempt the field of immigration. *Arizona v. United States*, 567 U.S. at
11 399. Field pre-emption is the intent to displace state law that is so
12 pervasive that Congress left no room for the state to supplement it or
13 that a Federal interest is so dominant that it will be assumed that state
14 enforcement is precluded. *Id.*

15 80. In *Valle Del Sol Inc. v. Whiting*, 732 F.3d 1006 (9th Cir. 2019),
16 the Ninth Circuit Court of Appeal held that 8 U.S.C. § 1324 preempted
17 state law and that the Federal scheme “reserves prosecutorial power,
18 and thus discretion, over harboring violations to Federal prosecutors.”
19 *Id.* at 1027.

20 81. In an opinion by the California Attorney General in 1992
21 examining a California city’s local sanctuary ordinance, the Attorney
22 General stated that sanctuary law is preempted by 8 U.S.C. § 1324. CA
23 Attorney General Opinions, 75 Ops. Cal. Atty. Gen. 270 (Nov. 19,
24 1992).²⁶ The California Attorney General concluded, “Due to the
25 supremacy clause of the United States Constitution, a city may not
26

27 ²⁵ <https://www.ice.gov/doclib/news/guidelines-civilimmigrationlaw.pdf>

28 ²⁶ <https://oag.ca.gov/system/files/opinions/pdfs/92-607.pdf>

1 prohibit its officers and employees from cooperating in their official
2 capacities with Immigration and Naturalization Service investigation,
3 detention, or arrest procedures relating to alleged violations of the civil
4 provisions of the Federal immigration laws.” *Id.* at *1.

5 82. The Attorney General further stated that “[w]hen a peace
6 officer lawfully comes across information in the course of investigating a
7 crime which reasonably leads to the belief that the person arrested is
8 illegally present in this country, neither the state nor Federal
9 Constitution prevents the officer from advising the INS of such
10 information. *Id.* (citing *Gates v. Superior Court*, 193 Cal.App.3d 205, 219
11 (1987)).

12 83. The California Attorney General concluded that the
13 sanctuary city ordinance conflicts with Federal law because it would
14 “undermine the deterrent effect of the criminal or civil penalties
15 contained in the [Immigration and Naturalization] Act.” CA Attorney
16 General Opinions, 75 Ops. Cal. Atty. Gen. at *2; see *Gates v. Superior*
17 *Court*, 193 Cal.App.3d at 219 (“Where otherwise warranted investigation
18 by local officers leads to evidence of a Federal civil or criminal violation,
19 the local authority has the right to exchange information with Federal
20 authorities; to deny such an exchange is not reasonable and rewards
21 those Federal violators fortunate enough to be arrested by local, rather
22 than Federal, officials.”).

23 84. The California Attorney General also stated, “The
24 Immigration and Naturalization Act is the law of this land and it is the
25 ‘act of responsible citizenship’ and the ‘duty’ and the right of every citizen
26 to assist in prosecuting and securing punishment for its breach by giving
27 whatever information he or she may have in that regard to aid those who
28

1 enforce it.” CA Attorney General Opinions, 75 Ops. Cal. Atty. Gen. at *2
2 (quoting 67 Ops. Cal. Atty. Gen. 331, *12-13 (July 24, 1984)).²⁷

3 85. Additionally, the California Attorney General, concluded in a
4 1984 opinion that, while local authorities are under no legally
5 enforceable duty to report to the INS information about persons who
6 entered the country in violation of 8 U.S.C § 1324, they may do so “as a
7 matter of comity and good citizenship.” See 67 Ops. Cal. Atty. Gen. at
8 *3.²⁸

9 86. The California Attorney General further stated that
10 “Congress surely did not intend that state and local governments would
11 undermine the deterrent effect of the criminal or civil penalties
12 contained in the [Immigration Control Act]. By giving the impression
13 that illegal aliens may obtain refuge from such penalties in a particular
14 locale, the ordinance creates localized immigration policy and dissipates
15 enforcement of Federal laws.” CA Attorney General Opinions, 75 Ops.
16 Cal. Atty. Gen. at *5.

17 87. The California Attorney General determined that a sanctuary
18 city ordinance “concerns a subject matter, immigration, wherein Federal
19 power to regulate is exclusive.” CA Attorney General Opinions, 75 Ops.
20 Cal. Atty. Gen. at *3 (citing *De Canas v. Bica*, 424 U.S. 351, 354-55
21 (1975)). Federal preemption occurs when the local enactment “stands as
22 an obstacle to the accomplishment and execution of the full purposes and
23 objectives of Congress.” *Hines v. Davidowitz*, 312 U.S. at 67.

24 88. The California Attorney General further determined “[T]hat
25 Congress has placed great importance on the immigration detection
26

27 ²⁷ <https://oag.ca.gov/system/files/opinions/pdfs/92-607.pdf>

28 ²⁸ https://oag.ca.gov/system/files/opinions/pdfs/83-902_0.pdf

1 effort is evidenced by the criminal penalties which have been established
2 for those who assist illegal aliens in escaping detection.” CA Attorney
3 General Opinions, 75 Ops. Cal. Atty. Gen. at *5 (citing 8 U.S.C § 1324);
4 *see United States v. Rubio-Gonzales* (5th Cir. 1982) 674 F.2d 1067, 1073;
5 *United States v. Cantu* (5th Cir. 1977) 557 F.2d 1173, 1180; *United*
6 *States v. Lopez* (2d Cir. 1975) 521 F.2d 437, 444; 67 Ops. Cal. Atty. Gen.
7 at *10, n. 16.

8 89. The California Attorney General found the local sanctuary
9 ordinance to be “an obstacle to the accomplishment and execution of the
10 full purposes and objectives of Congress.” CA Attorney General
11 Opinions, 75 Ops. Cal. Atty. Gen. at *6 (quoting *Hines v. Davidowitz*, 312
12 U.S. at 67). “A *direct* conflict with a Federal or state statute or
13 regulation presents a separate and distinct basis for the preemption of a
14 local ordinance.” (CA Attorney General Opinions, 75 Ops. Cal. Atty. Gen.
15 at *6, n. 9 (citations omitted).²⁹

16 90. The Sanctuary State Law is no different than the city
17 ordinance discussed in the Attorney General’s opinion. As the Attorney
18 General has correctly opined that Federal law preempted local sanctuary
19 ordinance, that conclusion also applies to the state sanctuary law.
20 Congress intends to preempt state law over criminal immigration
21 enforcement because it “surely did not intend that state and local
22 governments would undermine the deterrent effect of the criminal or
23 civil penalties contained in the [Immigration Control Act]. By giving the
24 impression that illegal aliens may obtain refuge from such penalties in a
25 particular locale, [Sanctuary State Law] creates localized immigration
26
27

28 ²⁹ <https://oag.ca.gov/system/files/opinions/pdfs/92-607.pdf>

1 policy and dissipates enforcement of Federal laws.” CA Attorney General
2 Opinions, 75 Ops. Cal. Atty. Gen. at *5.³⁰

3 **D. Obstruction Caused by the Sanctuary State Law**

4 91. Among many things, the Sanctuary State Law’s interference
5 with the City’s coordination with the Federal Government in order to
6 “protect” illegal immigrants from the Federal Government’s enforcement
7 of the U.S. Federal immigration laws as Defendants Governor Newsom
8 and Attorney General Robert Bonta explain, amounts to “harboring” of
9 illegal aliens by the State of California.

10 92. The Ninth Circuit joined the Third, Fourth, and Eleventh
11 Circuit in concluding that the Federal scheme on harboring under 8
12 U.S.C. § 1324 is comprehensive and field preemptive. *Valle Del Sol Inc.*,
13 732 F.3d at 1025-26; *see Lozano v. City of Hazleton*, 724 F.3d 297, 315-16
14 (3rd Cir. 2013) (joining the Eleventh Circuit in finding that state law
15 proscribing harboring or sheltering aliens infringes upon a
16 “comprehensive statutory scheme”) (citing *United States v. Alabama*, 691
17 F.3d 1269, 1285-87 (11th Cir. 2012)); *United States v. South Carolina*,
18 906 F. Supp. 2d 463, 468 (D.S.C. 2012), *aff’d*, 720 F.3d 518 (11th Cir.
19 July 23, 2013).

20 93. “INA provides a comprehensive framework to penalize the
21 transportation, concealment, and inducement of unlawfully present
22 aliens.” Under this statutory scheme (8 U.S.C. § 1324(a)(1)(A)(ii)-(iv)),
23 the “Federal government has clearly expressed more than a ‘peripheral
24 concern’ with the entry, movement, and residence of aliens within the
25 United States and the breadth of these laws illustrates an
26 overwhelmingly dominant Federal interest in the field. *Georgia Latina*

27 _____
28 ³⁰ <https://oag.ca.gov/system/files/opinions/pdfs/92-607.pdf>

1 *Alliance for Human Rights v. Governor of GA*, 691 F.3d 1250, 1263-64
2 (11th Cir. 2012) (*GLAHR*).

3 94. The Sanctuary State Law prohibits the cooperation between
4 City officials, including the Huntington Beach Police personnel, and the
5 Federal Government on Federal immigration laws enforcement.

6 95. Under the Supremacy Clause, any state law “which interferes
7 with or is contrary to Federal law, must yield.” *Gade v. National Solid*
8 *Wastes Management Association*, 505 U.S. 88, 108 (1992).

9 96. Similar to Arizona’s statute in *Valle Del Sol*, the Sanctuary
10 State Law is preempted because it prohibits Huntington Beach police
11 officers to notify Federal authorities of any unauthorized aliens in its
12 custody and violates 8 U.S.C. § 1324(a)(1)(iii) when they “knowingly or in
13 reckless disregard” “conceals, harbors, or shields from detection” in its
14 City Jail or “any means of transportation.”

15 97. “Given the Federal primacy in the field of enforcing
16 prohibitions on the transportation, harboring, and inducement of
17 unlawfully present aliens, the prospect of 50 individual attempts to
18 regulate immigration-related matters cautions against permitting states
19 to intrude into this area of dominant Federal concern.” *Valle Del Sol*,
20 732 F. 3d at p. 1027 (quoting *GLAHR*, 691 F.3d at 1266).

21 98. The Sanctuary State Law frustrates the Department of
22 Homeland Security’s enforcement priorities to arrest or removal
23 individuals who are a threat to national security, public safety, or
24 recently entered the United States unlawfully. In fact, the California
25 Attorney General Bonta supports DHS’s enforcement priorities to arrest
26 or remove individuals who pose risk to public safety, terrorist, or recently
27 arrived.

1 99. City officials, including Huntington Beach Police personnel,
2 cannot obey the Sanctuary State Law without violating 8 U.S.C, §
3 1324(a)(1)(iii) when they have knowledge or in reckless disregard that an
4 individual in their custody is in violation of law and are prohibited from
5 sharing the information with the Federal authorities.

6 100. The Orange County Sheriff, Don Barnes, is required to report
7 annually to the Orange County Board of Supervisor on the county's
8 compliance with California Government Code §§ 7283 and 7283.1
9 ("California's Transparent Review of Unjust Transfers and Holds
10 ("TRUTH") Act).

11 101. Sheriff Barnes stated that OCSD is prohibited by State law to
12 notify Immigration Control and Enforcement of the release of inmates
13 with ICE detainers. In 2018, 1,106 inmates who had ICE detainers but
14 did not meet eligibility for notifying ICE were released into the
15 community. 173 out of the 1,106 inmates were rearrested "in Orange
16 County for committing 58 different types of crimes, including attempted
17 murder, assault and battery, child molestation, and robbery." (Exhibit
18 "A.")

19 102. In 2019, OCSD released 1,015 inmates had ICE detainers into
20 the community without notifying ICE of their release because they did
21 not meet state law requirement for notification. "Of the 1,015 inmates
22 with ICE detainers who were released back into the community, 238
23 have been rearrested in Orange County for committing new crimes,
24 including assault and battery, rape, and robbery." (Exhibit "B.")

25 103. In 2020, OCSD released 168 inmates who had ICE detainers
26 but did not meet the state law's requirement for notifying ICE were
27 released into the community. Out of the 168 inmates, 36 were rearrested
28 for new crimes in Orange County. (Exhibit "C.")

1 104. In 2021, OCSD released 199 inmates who had ICE detainers.
2 In compliance with state law, 143 of these 199 inmates met the state's
3 requirement for transfer to ICE's custody. Only 73 out of the 143
4 individuals were transferred to ICE's custody. The 70 individuals who
5 were eligible for transfer to ICE, but were not, were released into the
6 community. A total of 24 out of the 70 individuals were re-arrested for
7 committing new crimes in Orange County. (Exhibit "D.")

8 105. In 2021, there were 56 inmates who had ICE detainers but
9 did not meet state law requirements for notifying ICE of their release.
10 Of the 56 released into the community, three were rearrested for
11 committing new crimes in Orange County. (Exhibit "D.")

12 106. In 2022, 272 inmates were released from Orange County jail
13 had ICE detainers. OCSD notified ICE of the inmates who were eligible
14 for transfer to ICE's custody. Of the 155 individuals who met the
15 eligibility, only 17 were transferred to ICE's custody. The other 138
16 individuals were released into the community. A total of 20 individuals
17 were rearrested for committing new crimes in Orange County. (Exhibit
18 "E.")

19 107. In 2022, there were 117 inmates who had ICE detainers, but
20 state law prohibited OCSD from notifying ICE. They were released into
21 the community. A total of 13 were rearrested for new crimes in Orange
22 County. (Exhibit "E.")

23 108. In 2023, there were 547 inmates who had ICE detainers
24 released from Orange County Jail. OCSD notified ICE of the inmates
25 who were eligible for transfer to ICE's custody under state law. About 81
26 of those inmates eligible for notification and transfer to ICE's custody
27 were not transferred and released into the community. A total of 40
28

1 individuals were rearrested for committing new crimes in Orange
2 County. (Exhibit “F.”)

3 109. In 2023, there were 245 inmates with ICE detainers who were
4 not eligible for notifying ICE and were released into the community. 27
5 were rearrested for new crimes in Orange County. These crimes were
6 robbery, carjacking, kidnapping, parole or probation violation, sales or
7 transport of narcotics, domestic violence, assault with a deadly weapon,
8 felony driving under the influence. (Exhibit “F.”³¹)

9 110. Huntington Beach police officers cannot comply with both
10 State and Federal laws while carrying out their duty. For example, an
11 unauthorized alien who was arrested for allegedly committing petty theft
12 and placed in city jail, the Sanctuary State Law prohibits Huntington
13 Beach Police officers from sharing with ICE or if ICE requests
14 information about the individual, Huntington Beach cannot provide
15 information about the individual, and thus, concealing, harboring or
16 shielding from detection an unauthorized alien in its “building” under 8
17 U.S.C. § 1324(a)(1)(iii). And if ICE arrives at the jail facility, Huntington
18 Beach authority must refuse assumption of custody, as mandated by the
19 Sanctuary State Law. Huntington Beach is in violation of 8 U.S.C. §
20 1324(a)(1)(iii).

21 ///

22 ///

23 ///

24
25
26 ³¹ During his presentation to the Orange County Board of Supervisors, Sheriff
27 Barnes reported that 27 inmates who were released into the community committed
28 new crimes. Sheriff Barnes specified the types of crimes that these 27 individuals
committed. However, these crimes were not specified in the staff report (Exhibit
“F”). See https://ocgov.granicus.com/player/clip/5109?view_id=8&redirect=true

111. Compliance with 8 U.S. Code, Section 1324(a)(1)(ii) is vital to stopping human smuggling. The Sanctuary State Law mandates that law enforcement does not cooperate with Federal authorities over immigration matters, including joining a task force.

112. Huntington Beach, City officials, including Huntington Beach Police Department personnel are prohibited from cooperating, detaining, or investigating whether there is a potential for human trafficking. City officials, including Huntington Beach Police Department personnel, are prohibited from informing the Federal Government that an alien engaged in smuggling individuals into the United States who are not otherwise engaged in human trafficking for forced labor or sex services.

113. Under the Sanctuary State Law, Huntington Beach Police Officers are prohibited from asking the immigration status of aliens working for an employer. Cal. Gov. Code § 7284.6 (a)(1)(A).

FIRST CAUSE OF ACTION

VIOLATION OF THE SUPREMECY CLAUSE

ARTICLE VI, CLAUSE 2 OF THE U.S. CONSTITUTION

Title 8, U.S.C. § 1324

(Against All Defendants)

114. Plaintiffs hereby incorporate the allegations made in each preceding paragraph of this Complaint as if fully set forth herein.

115. The Sanctuary State Law is unconstitutional. *See* U.S. Const. art. VI, cl. 2; U.S. Const. art. I, § 8, cl. 4; 8 U.S.C. §§ 1324, 1325, 1373; 18 U.S.C. §§ 4, 371, 372; *see also* Cal. Const. art. XI, § 5; Cal. Const. art. XX, § 3.

116. The Supremacy Clause mandates that “[t]his Constitution, and the Laws of the United States which shall be made in Pursuance

1 thereof . . . shall be the supreme Law of the Land . . . any Thing in the
2 Constitution or Laws of any State to the Contrary notwithstanding.” U.S.
3 Const. art. VI, cl. 2.

4 117. The Supremacy Clause “prohibit[s] States from interfering
5 with or controlling the operations of the Federal Government.” *Geo*
6 *Group, Inc.*, 50 F.4th at 750 (quoting *United States v. Washington*, 142 S.
7 Ct. at 1984).

8 118. The Sanctuary State Law violates the Supremacy Clause
9 precisely because it interferes with, in fact it obstructs, the Federal
10 Government’s efforts to coordinate to enforce U.S. Federal immigration
11 laws, including but not limited to 8 U.S.C. § 1324. *See* Cal. Gov. Code §§
12 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.

13 119. Under the Sanctuary State Law, City officials, including
14 Huntington Beach Police personnel, are mandated to “conceal, harbor, or
15 shield from detection” any alien in their custody in violation of 8 U.S.C. §
16 1324(a)(1)(iii). *See* Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1,
17 7285.2.

18 120. City officials, including Huntington Beach Police personnel,
19 are unable to fulfill their duty to investigate or detain individuals having
20 committed crimes without violating the Sanctuary State Law. *See* Cal.
21 Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.)

22 121. The Sanctuary State Law prohibits local law enforcement
23 officers to cooperate with the Federal Government in criminal
24 immigration investigation. *See* Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6,
25 7285.1, 7285.2.

26 122. The Sanctuary State Law bars local jurisdiction from
27 complying with 8 U.S.C. § 1324 or participate in a joint task force. *See*
28 Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.

1 123. The Sanctuary State Law restricts cooperation between local
2 law enforcement agencies and the Federal Government. *See* Cal. Gov.
3 Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.)

4 124. The Sanctuary State Law’s interference with the City’s
5 coordination with the Federal Government in order to “protect” illegal
6 immigrants from the Federal Government’s enforcement of the U.S.
7 Federal immigration laws as Defendants Governor Newsom and
8 Attorney General Robert Bonta stated, amounts to “harboring” of illegal
9 aliens by the State of California.

10 125. City officials, including Huntington Beach Police personnel,
11 are unable to stop crime before it occurs. Instead, they must sit idly by
12 and wait for a human smuggling incident to become a human trafficking
13 situation in order to intervene and comply with California Government
14 Code §§ 7282.5, 7284.4, 7284.6.

15 126. The Sanctuary State Law is an obstacle to the City’s ability to
16 comply with U.S. Federal immigration laws. It prevents City officials,
17 including Huntington Beach Police personnel, from full, effective law
18 enforcement and obstructs the City’s ability to coordinate and cooperate
19 with Federal law enforcement agencies. As U.S. Federal immigration
20 law, according to the Supremacy Clause, is supreme, the Sanctuary State
21 Law is an unconstitutional barrier to the City’s effective law enforcement
22 efforts.

23 127. Plaintiffs have no adequate remedy at law. Absent relief,
24 Defendants’ actions continue to harm and threaten to harm Plaintiffs by
25 impairing enjoyment of this right.

26 ///

27 ///

28 ///

1 **SECOND CAUSE OF ACTION**
2 **VIOLATION OF THE NATURALIZATION CLAUSE**
3 **ARTICLE I, SECTION 8, CLAUSE 4 OF THE U.S. CONSTITUTION**
4 **Title 8, U.S.C. § 1324**
5 **(Against All Defendants)**

6 128. Plaintiffs hereby incorporate the allegations made in each
7 preceding paragraph of this Complaint as if fully set forth herein.

8 129. The Sanctuary State Law is unconstitutional. *See* U.S. Const.
9 art. VI, cl. 2; U.S. Const. art. I, § 8, cl. 4; 8 U.S.C. §§ 1324, 1325, 1373; 18
10 U.S.C. §§ 4, 371, 372; *see also* Cal. Const. art. XI, § 5; Cal. Const. art. XX,
11 § 3.

12 130. Article I, Section 8, Clause 4 of the U.S. Constitution provides
13 Congress with the “power... To establish a uniform Rule of
14 Naturalization... throughout the United States.” U.S. Const. art. I, § 8,
15 cl. 4.

16 131. In addition to conferring Congress with power to determine
17 when foreign nationals may obtain U.S. citizenship, the Naturalization
18 Clause is viewed as contributing to Congress’s power over immigration,
19 including its power to set rules for when aliens may enter or remain in
20 the United States.

21 132. In *Arizona v. United States*, 567 U.S. at 387, the Supreme
22 Court declared that the Federal Government’s “broad, undoubted power”
23 over immigration was partially based “on the national government’s
24 constitutional power to ‘establish a uniform Rule of Naturalization,’ and
25 its inherent power as sovereign to control and conduct relations with
26 foreign nations.” *Id.* at 394–95 (quoting U.S. Const. art. I, § 8, cl. 4).

27 133. The Sanctuary State Law violates the City’s right to fully
28 control its own Police Department and fully and effectively engage in law

1 enforcement. Moreover, neither the State, nor its laws, may prevent the
2 City of Huntington Beach from honoring, following, and/or complying
3 with State and all Federal laws, including Federal laws on immigration,
4 which is the supreme law of the land on immigration.

5 134. The Sanctuary State Law violates the City's right to fully
6 control its own Police Department and fully and effectively engage in law
7 enforcement. Specifically, California Government Code §§ 7282.5,
8 7284.4, 7284.6, 7285.1, and 7285.2 prohibit local law enforcement officers
9 to cooperate with the Federal Government in criminal immigration
10 investigation.

11 135. Under the Sanctuary State Law, City officials, including
12 Huntington Beach Police personnel, are mandated to "conceal, harbor, or
13 shield from detection" any alien in their custody in violation of 8 U.S.C. §
14 1324(a)(1)(iii). *See* Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1,
15 7285.2.

16 136. The Sanctuary State Law bars local jurisdiction from
17 complying with 8 U.S.C. § 1324 or participate in a joint task force. *See*
18 Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.

19 137. California Government Code §§ 7284.4 and 7282.5 restrict
20 cooperation between local law enforcement agencies and the Federal
21 Government.

22 138. The Sanctuary State Law allows for smugglers to transport
23 individuals into the United States in violation of 8 U.S.C. § 1324 for
24 financial gain.

25 139. The Sanctuary State Law places aliens at risk of harm or
26 being trafficked because California Law Enforcement Agencies cannot
27 engage in the enforcement of 8 U.S.C. § 1324.
28

1 140. The Sanctuary State Law prohibits local law enforcement
2 agencies from asking employers about a person's immigration status
3 under 8 U.S.C. § 1324(a)(3). Cal. Gov. Code § 7284.6(a)(1)(A).

4 141. In recent years, Defendant Governor Gavin Newsom has
5 taken a series of substantial steps to incentivize the inflow of illegal
6 immigration into California, and to protect and harbor illegal
7 immigrants, with the implementing of policies and laws to: hire illegal
8 immigrants in jobs in State government, give illegal immigrants
9 taxpayer funded downpayments of \$150,000 to buy homes, spend \$2.3
10 million of taxpayer money to support the relocating and settling of illegal
11 immigrants in rural areas of the State, give illegal immigrants home
12 mortgage aid to buy homes, newly allocating \$25 million in taxpayer
13 funded legal defense fund for illegal immigrants to fight the Federal
14 government's announced crackdown on illegal immigration, which seeks
15 to combat the violent crimes committed against U.S. citizens, and the list
16 goes on.

17 142. In addition, on December 17, 2024, Defendant Attorney
18 General Robert Bonta issued a Press Release advising illegal immigrants
19 the ways in which his office, and the State, were going to assist in
20 shielding illegal immigrants – “threats of mass detention, arrests, and
21 deportation” – from detection and detention by the Federal Government.
22 In that Press Release, Robert Bonta directly advised that “You have the
23 right to apply for and secure housing without sharing your immigration
24 status,” and “You have the right to an attorney.”

25 143. Defendant Robert Bonta has stated, “State and local law
26 enforcement cannot ask for your immigration status” and “State and
27 local law enforcement cannot share your personal information” and
28 “State and local law enforcement cannot assist ICE with immigration

1 enforcement.” Not only does his statement reflect a violation of Federal
2 immigration law, his statement also indicates a systematic program by
3 the State to shield illegal immigrants in response to “the President-elect
4 making clear his intent to move forward an inhumane and destructive
5 immigration agenda once he takes office.” Defendant Robert Bonta’s
6 statements make clear that his systematic program to protect illegal
7 immigrants conflicts with U.S. Federal immigration laws and Federal
8 Government operations.

9 144. “Effective immigration law enforcement requires a
10 cooperative effort between all levels of government.” *City of New York v.*
11 *United States*, 179 F.3d at 32-33.

12 145. The Sanctuary State Law violates Article I, Section 8, Clause
13 4 of the U.S. Constitution by actively obstructing the authority of the
14 Federal Government and obstructing the City’s ability to employ all laws
15 available, including U.S. Federal immigration laws, to combat crime and
16 ensure public safety by coordinating with the Federal Government to
17 deal with certain individuals committing crime and who are subject to
18 U.S. Federal immigration laws.

19 146. Plaintiffs have no adequate remedy at law. Absent relief,
20 Defendants’ actions continue to harm and threaten to harm Plaintiffs by
21 impairing enjoyment of this right.

22
23 **THIRD CAUSE OF ACTION**

24 **VIOLATION OF U.S. FEDERAL IMMIGRATION LAWS**

25 **TITLE 8, U.S.C. § 1324**

26 **(Against All Defendants)**

27 147. Plaintiffs hereby incorporate the allegations made in each
28 preceding paragraph of this Complaint as if fully set forth herein.

1 148. The Sanctuary State Law is unconstitutional. *See* U.S. Const.
2 art. VI, cl. 2; U.S. Const. art. I, § 8, cl. 4; 8 U.S.C. §§ 1324, 1325, 1373; 18
3 U.S.C. §§ 4, 371, 372; *see also* Cal. Const. art. XI, § 5; Cal. Const. art. XX,
4 § 3.

5 149. In 1986, Congress enacted the Immigration and
6 Naturalization Act. 8 U.S.C. §§ 1101-1537. Title 8, U.S.C. § 1324 was
7 enacted to combat human smugglers who commit the crime by “bringing
8 people into the United States, or unlawfully transporting and harboring
9 people already in the United States, in deliberate evasion of immigration
10 law.”

11 150. In part, 8 U.S.C. § 1324 makes it a Federal crime for any
12 person to “knowing that a person is an alien, brings to or attempts to
13 bring to the United States in any manner whatsoever such person at a
14 place other than a designated port of entry or place other than as
15 designated by the Commissioner, regardless of whether such alien has
16 received prior official authorization to come to, enter, or reside in the
17 United States and regardless of any future official action which may be
18 taken with respect to such alien.” 8 U.S.C. § 1324(a)(1)(A)(i).

19 151. Title 8, U.S.C. § 1324 also makes it a Federal crime for any
20 person to “knowing or in reckless disregard of the fact that an alien has
21 come to, entered, or remains in the United States in violation of law,
22 conceals, harbors, or shields from detection, or attempts to conceal,
23 harbor, or shield from detection, such alien in any place, including any
24 building or any means of transportation.” 8 U.S.C. § 1324(a)(1)(A)(ii).

25 152. And, 8 U.S.C. § 1324 makes it a Federal crime for any person
26 to “knowingly hires for employment at least 10 individuals with actual
27 knowledge that the individuals are aliens described in subparagraph
28 (B).” 8 U.S.C. § 1324(a)(3)(A).

1 153. Under the Sanctuary State Law, City officials, including
2 Huntington Beach Police personnel, are mandated to “conceal, harbor, or
3 shield from detection” any alien in their custody in violation of 8 U.S.C. §
4 1324(a)(1)(iii). *See* Cal. Gov. Code §§ 7284.4, 7282.5, 7284.6, 7285.1,
5 7285.2.

6 154. City officials, including Huntington Beach Police personnel,
7 are unable to fulfill their duty to investigate or detain individuals having
8 committed crimes without violating the Sanctuary State Law. *See* Cal.
9 Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.

10 155. The Sanctuary State Law prohibits local law enforcement
11 officers to cooperate with the Federal Government in criminal
12 immigration investigation. *See* Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6,
13 7285.1, 7285.2.

14 156. The Sanctuary State Law bars local jurisdiction from
15 complying with 8 U.S. Code, Section 1324 or participate in a joint task
16 force. *See* Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.

17 157. The Sanctuary State Law restricts cooperation between local
18 law enforcement agencies and the Federal Government. *See* Cal. Gov.
19 Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.

20 158. The Sanctuary State Law’s interference with the City’s
21 coordination with the Federal Government in order to “protect” illegal
22 immigrants from the Federal Government’s enforcement of the U.S.
23 Federal immigration laws as Defendants Governor Newsom and
24 Attorney General Robert Bonta have declared is “harboring” of illegal
25 aliens by the State of California.

26 159. City officials, including Huntington Beach Police personnel,
27 are unable to stop crime before it occurs. Instead, they must sit idly by
28 and wait for a human smuggling incident to become a human trafficking

1 situation in order to intervene and comply with California Government
2 Code §§ 7282.5, 7284.4, 7284.6.

3 160. The Sanctuary State Law is an obstacle to the City's ability to
4 comply with U.S. Federal immigration laws. It prevents City officials,
5 including Huntington Beach Police personnel, from full, effective law
6 enforcement and obstructs the City's ability to coordinate and cooperate
7 with Federal law enforcement agencies. Pursuant to the Supremacy
8 Clause, U.S. Federal immigration law is supreme, and the Sanctuary
9 State Law is an unconstitutional barrier to the City's effective law
10 enforcement efforts.

11 161. Plaintiffs have no adequate remedy at law. Absent relief,
12 Defendants' actions continue to harm and threaten to harm Plaintiffs by
13 impairing enjoyment of this right.

14
15 **FOURTH CAUSE OF ACTION**

16 **VIOLATION OF U.S. FEDERAL IMMIGRATION LAWS**

17 **TITLE 8, U.S.C. § 1373**

18 **(Against All Defendants)**

19 162. Plaintiffs hereby incorporate the allegations made in each
20 preceding paragraph of this Complaint as if fully set forth herein.

21 163. The Sanctuary State Law is unconstitutional. *See* U.S. Const.
22 art. VI, cl. 2; U.S. Const. art. I, § 8, cl. 4; 8 U.S.C. §§ 1324, 1325, 1373; 18
23 U.S.C. §§ 4, 371, 372; *see also* Cal. Const. art. XI, § 5; Cal. Const. art. XX,
24 § 3.

25 164. Title 8, U.S.C. § 1373(a) provides, "Notwithstanding any other
26 provision of Federal, State, or local law, a Federal State, or local
27 government entity or official from sending to, or receiving from, the
28

1 Immigration and Naturalization Service information regarding the
2 citizenship or immigration status, lawful or unlawful, of any individual.”

3 165. Under the Sanctuary State Law, City officials, including
4 Huntington Beach Police personnel, are mandated to “conceal, harbor, or
5 shield from detection” any alien in their custody in violation of 8 U.S.C. §
6 1324(a)(1)(iii). *See* Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1,
7 7285.2.

8 166. The Sanctuary State Law prohibits local law enforcement
9 officers to cooperate with the Federal Government in criminal
10 immigration investigation. *See* Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6,
11 7285.1, 7285.2.

12 167. The Sanctuary State Law’s interference with the City’s
13 coordination with the Federal Government in order to “protect” illegal
14 immigrants from the Federal Government’s enforcement of the Federal
15 immigration laws as Defendants Governor Newsom and Attorney
16 General Robert Bonta have declared is “harboring” of illegal aliens by the
17 State of California.

18 168. The Sanctuary State Law is an obstacle to the City’s ability to
19 comply with U.S. Federal immigration laws. It prevents City officials,
20 including Huntington Beach Police personnel, from full, effective law
21 enforcement and obstructs the City’s ability to coordinate and cooperate
22 with Federal law enforcement agencies. Pursuant to the Supremacy
23 Clause, U.S. Federal immigration law is supreme, and the Sanctuary
24 State Law is an unconstitutional barrier to the City’s effective law
25 enforcement efforts.

26 169. Plaintiffs have no adequate remedy at law. Absent relief,
27 Defendants’ actions continue to harm and threaten to harm Plaintiffs by
28 impairing enjoyment of this right.

FIFTH CAUSE OF ACTION
VIOLATION OF U.S. FEDERAL IMMIGRATION LAWS
TITLE 18, U.S.C. §§ 4, 371 AND 372
(Against All Defendants)

170. Plaintiffs hereby incorporate the allegations made in each preceding paragraph of this Complaint as if fully set forth herein.

171. The Sanctuary State Law is unconstitutional. *See* U.S. Const. art. VI, cl. 2; U.S. Const. art. I, § 8, cl. 4; 8 U.S.C. §§ 1324, 1325, 1373; 18 U.S.C. §§ 4, 371, 372; *see also* Cal. Const. art. XI, § 5; Cal. Const. art. XX, § 3.

172. Title 18, U.S.C. § 4 provides, “Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.” 18 U.S.C. § 4.

173. Title 8, U.S.C. § 371 provides, “If two or more persons conspire to either commit any offense against the United States, or to defraud the United States, or any agency thereof in any manner or for any purpose...each shall be fined under this title or imprisoned not more than five years, or both.” *See United States v. Tuohey*, 867 F.2d 534, 536 (9th Cir. 1989) (“conspiracy to defraud the United States is not limited to common-law fraud but reaches ‘any conspiracy for the purpose of impairing, obstructing or defeating the lawful function of any department of government.’ [Citation.]”).

174. Title 8, U.S.C. § 372 provides, “If two or more persons...conspire to prevent, by force, intimidation, or threat, any

1 person from accepting or holding any office, trust, or place of confidence
2 under the United States...or impede him in the discharge of his official
3 duties, each of such persons shall be fined under this title or imprisoned
4 not more than six years, or both.”

5 175. Under the Sanctuary State Law, City officials, including
6 Huntington Beach Police personnel, are mandated to “conceal, harbor, or
7 shield from detection” any alien in their custody in violation of 8 U.S.C. §
8 1324(a)(1)(iii). *See* Cal. Gov. Code §§ 7282.5, 7284.6, 7284.4, 7285.1,
9 7285.2.

10 176. City officials, including Huntington Beach Police personnel,
11 are unable to fulfill their duty to investigate or detain individuals having
12 committed crimes without violating the Sanctuary State Law. *See* Cal.
13 Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.

14 177. The Sanctuary State Law prohibits local law enforcement
15 officers to cooperate with the Federal Government in criminal
16 immigration investigation. *See* Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6,
17 7285.1, 7285.2.

18 178. The Sanctuary State Law bars local jurisdiction from
19 complying with 8 U.S. Code, Section 1324 or participate in a joint task
20 force. *See* Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.

21 179. The Sanctuary State Law restricts cooperation between local
22 law enforcement agencies and the Federal Government. *See* Cal. Gov.
23 Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.

24 180. The Sanctuary State Law’s interference with the City’s
25 coordination with the Federal Government in order to “protect” illegal
26 immigrants from the Federal Government’s enforcement of the U.S.
27 Federal immigration laws as Defendants Governor Newsom and
28

1 Attorney General Robert Bonta have declared is tantamount to
2 “harboring” of illegal aliens by the State of California.

3 181. City officials, including Huntington Beach Police personnel,
4 are unable to stop crime before it occurs. Instead, they must sit idly by
5 and wait for a human smuggling incident to become a human trafficking
6 situation in order to intervene and comply with California Government
7 Code §§ 7282.5, 7284.4, 7284.6.

8 182. The Sanctuary State Law is an obstacle to the City’s ability to
9 comply with U.S. Federal immigration laws. It prevents City officials,
10 including Huntington Beach Police personnel, from full, effective law
11 enforcement and obstructs the City’s ability to coordinate and cooperate
12 with Federal law enforcement agencies. Pursuant to the Supremacy
13 Clause, U.S. Federal immigration law is supreme, and the Sanctuary
14 State Law is an unconstitutional barrier to the City’s effective law
15 enforcement efforts.

16 183. Plaintiffs have no adequate remedy at law. Absent relief,
17 Defendants’ actions continue to harm and threaten to harm Plaintiffs by
18 impairing enjoyment of this right.

19
20 **SIXTH CAUSE OF ACTION**

21 **AIDING AND ABETTING, ACCESSORY AFTER THE FACT**
22 **VIOLATION OF CALIFORNIA PENAL CODE §§ 31, 32**
23 **(Against All Defendants)**

24 184. Plaintiffs hereby incorporate the allegations made in each
25 preceding paragraph of this Complaint as if fully set forth herein.

26 185. California Penal Code § 31 provides, “All persons concerned in
27 the commission of a crime, whether it be felony or misdemeanor, and
28 whether they directly commit the act constituting the offense, or aid and

1 abet in its commission, or, not being present, have advised and
2 encouraged its commission, and all persons counseling, advising, or
3 encouraging children under the age of fourteen years, or persons who are
4 mentally incapacitated, to commit any crime, or who, by fraud,
5 contrivance, or force, occasion the drunkenness of another for the
6 purpose of causing him to commit any crime, or who, by threats,
7 menaces, command, or coercion, compel another to commit any crime,
8 are principals in any crime so committed.”

9 186. California Penal Code § 32 provides: “Every person who, after
10 a felony has been committed, harbors, conceals or aids a principal in
11 such felony, with the intent that said principal may avoid or escape from
12 arrest, trial, conviction or punishment, having knowledge that said
13 principal has committed such felony or has been charged with such
14 felony or convicted thereof, is an accessory to such felony.”

15 187. Under the Sanctuary State Law, City officials, including
16 Huntington Beach Police personnel, are mandated to “conceal, harbor, or
17 shield from detection” any alien in their custody in violation of 8 U.S.C.
18 §1324(a)(1)(iii). *See* Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1,
19 7285.2.

20 188. City officials, including Huntington Beach Police personnel,
21 are unable to fulfill their duty to investigate or detain individuals having
22 committed crimes without violating the Sanctuary State Law. *See* Cal.
23 Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.

24 189. The Sanctuary State Law prohibits local law enforcement
25 officers to cooperate with the Federal Government in criminal
26 immigration investigation. *See* Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6,
27 7285.1, 7285.2.

1 190. The Sanctuary State Law bars local jurisdiction from
2 complying with 8 U.S.C. § 1324 or participate in a joint task force. *See*
3 Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.

4 191. The Sanctuary State Law restricts cooperation between local
5 law enforcement agencies and the Federal Government. *See* Cal. Gov.
6 Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.

7 192. The Sanctuary State Law’s interference with the City’s
8 coordination with the Federal Government in order to “protect” illegal
9 immigrants from the Federal Government’s enforcement of the U.S.
10 Federal immigration laws as Defendants Governor Newsom and
11 Attorney General Robert Bonta have declared is “harboring” of illegal
12 aliens by the State of California and amounts to a violation of California
13 Penal Code §§ 31 and 32.

14 193. The Sanctuary State Law causes City officials, including
15 Huntington Beach Police personnel, to violate California Penal Code §§
16 31 and 32 by aiding and abetting the commission of a crime and
17 accessory after the fact in the commission of a crime, i.e., the violation of
18 U.S. Federal immigration laws, including but not limited to 8 U.S.C. §§
19 1324 and 1325.

20 194. Plaintiffs have no adequate remedy at law. Absent relief,
21 Defendants’ actions continue to harm and threaten to harm Plaintiffs by
22 impairing enjoyment of this right.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

SEVENTH CAUSE OF ACTION
VIOLATION OF OATH OF OFFICE
ARTICLE XX, § 3 OF THE CALIFORNIA CONSTITUTION
(Against All Defendants)

195. Plaintiffs hereby incorporate the allegations made in each preceding paragraph of this Complaint as if fully set forth herein.

196. The Sanctuary State Law is unconstitutional. *See* U.S. Const. art. VI, cl. 2; U.S. Const. art. I, § 8, cl. 4; 8 U.S.C. §§ 1324, 1325, 1373; 18 U.S.C. §§ 4, 371, 372; *see also* Cal. Const. art. XI, § 5; Cal. Const. art. XX, § 3.

197. Article XX, § 3 of the California Constitution provides the Oath of Office that certain City officials, including elected officials and police officers, are required to take in order to be fully vested with authority for the office they are to assume. Cal. Const. art. XX, § 3.

198. The Constitutionally required Oath of Office states “I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter.”

199. The Sanctuary State Law forces the City’s officials, including Huntington Beach Police personnel, to violate their legal obligations and their Oaths of Office to the U.S Constitution, the California Constitution, and U.S. Federal immigration laws in violation of the California Constitution’s Oath of Office.

1 200. Under the Sanctuary State Law, City officials, including
2 Huntington Beach Police personnel, are mandated to “conceal, harbor, or
3 shield from detection” any alien in their custody in violation of 8 U.S.C. §
4 1324(a)(1)(iii). *See* Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1,
5 7285.2.

6 201. City officials, including Huntington Beach Police personnel,
7 are unable to fulfill their duty to investigate or detain individuals having
8 committed crimes without violating the Sanctuary State Law. *See* Cal.
9 Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.

10 202. The Sanctuary State Law prohibits local law enforcement
11 officers to cooperate with the Federal Government in criminal
12 immigration investigation. *See* Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6,
13 7285.1, 7285.2.

14 203. The Sanctuary State Law bars local jurisdiction from
15 complying with 8 U.S.C. § 1324 or participate in a joint task force. *See*
16 Cal. Gov. Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.

17 204. The Sanctuary State Law restricts cooperation between local
18 law enforcement agencies and the Federal Government. *See* Cal. Gov.
19 Code §§ 7282.5, 7284.4, 7284.6, 7285.1, 7285.2.

20 205. The Sanctuary State Law’s interference with the City’s
21 coordination with the Federal Government in order to “protect” illegal
22 immigrants from the Federal Government’s enforcement of the U.S.
23 Federal immigration laws causes City officials, including Huntington
24 Beach Police personnel, to violate the terms of their Oath of Office
25 required by the California Constitution, i.e., that they swear to “support
26 and defend the Constitution of the United States and the Constitution of
27 the State of California against all enemies, foreign and domestic; that
28 [they] will bear true faith and allegiance to the Constitution of the

1 United States and the Constitution of the State of California; that [they]
2 take this obligation freely, without any mental reservation or purpose of
3 evasion; and that [they] will well and faithfully discharge the duties
4 upon which [they] a[re] about to enter,” causing violations of U.S.
5 Federal immigration laws, including but not limited to 8 U.S.C. §§ 1324
6 and 1325.

7 206. Plaintiffs have no adequate remedy at law. Absent relief,
8 Defendants’ actions continue to harm and threaten to harm Plaintiffs by
9 impairing enjoyment of this right.

10
11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiffs pray for relief as follows:

13 1. Preliminary and permanent injunctive relief preventing
14 Defendants from enforcing the Sanctuary State Law (SB 54), or,
15 alternatively, from enforcing the California statutes and constitutional
16 provisions upon which the Sanctuary State Law is based to the extent
17 those statutes and provisions violate the Supremacy Clause, the afore
18 U.S. Federal immigration laws, the afore California Penal Code(s), and
19 other provisions of the U.S. Constitution and California Constitution;

20 2. An order and judgment declaring that the Sanctuary State
21 Law (SB 54), or, alternatively, the California statutes and constitutional
22 provisions upon which the Sanctuary State Law is based, violate the
23 Supremacy Clause, the afore U.S. Federal immigration laws, the afore
24 California Penal Code(s), and other provisions of the U.S. Constitution
25 and California Constitution;

26 3. An order and judgment declaring that the Sanctuary State
27 Law (SB 54) provides no obstacle to Huntington Beach’s cooperation with
28

1 the Federal Government and acts to comply with all U.S. Federal
2 immigration laws, or, alternatively, the California statutes and
3 constitutional provisions upon which AB 1955 is based, violate the
4 Supremacy Clause, the afore U.S. Federal immigration laws, the afore
5 California Penal Code(s), and other provisions of the U.S. Constitution
6 and California Constitution;

7 4. Reasonable attorneys' fees and costs pursuant to 42 U.S.C. §
8 1988 and other applicable laws; and

9 5. Such other and further relief as the Court may deem just and
10 proper.

11
12 DATED: January 7, 2025

MICHAEL E. GATES, City Attorney

13
14
15 By: /s/ Michael E. Gates

16 Michael E. Gates, City Attorney
17 Attorney for Plaintiffs

18 CITY OF HUNTINGTON BEACH,
19 HUNTINGTON BEACH CITY
20 COUNCIL, HUNTINGTON BEACH
21 POLICE DEPARTMENT, and the
22 HUNTINGTON BEACH POLICE
23 CHIEF
24
25
26
27
28

DEMAND FOR JURY TRIAL

Plaintiffs, CITY OF HUNTINGTON BEACH, HUNTINGTON BEACH CITY COUNCIL, HUNTINGTON BEACH POLICE DEPARTMENT, and the HUNTINGTON BEACH POLICE CHIEF hereby demand trial by jury in the above-entitled action pursuant to Federal Rules of Civil Procedure 38(b) and Local Rule 38-1.

DATED: January 7, 2025

MICHAEL E. GATES, City Attorney

By: /s/ Michael E. Gates

Michael E. Gates, City Attorney

Attorney for Plaintiffs

CITY OF HUNTINGTON BEACH,
HUNTINGTON BEACH CITY
COUNCIL, HUNTINGTON BEACH
POLICE DEPARTMENT, and the
HUNTINGTON BEACH POLICE
CHIEF

ORANGE COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

April 23, 2019

Submitting Agency/Department: County Counsel

Pursuant to Government Code Section 7283.1, conduct public hearing regarding Transparent Review of Unjust Transfers and Holds (TRUTH) Act and receive and file information from County law enforcement departments regarding Immigration and Customs Enforcement's access to individuals in 2018 - All Districts

The following is action taken by the Board of Supervisors:

APPROVED AS RECOMMENDED ☒ OTHER ☐

Unanimous ☒ (1) DO: Y (2) STEEL: Y (3) WAGNER: Y (4) CHAFFEE: Y (5) BARTLETT: Y

Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order

Documents accompanying this matter:

- ☐ Resolution(s)
- ☐ Ordinances(s)
- ☐ Contract(s)

Item No. S49C

Special Notes:

Copies sent to:

CoCo – Nicole Sims

4/25/19



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.
Robin Stieler, Clerk of the Board

By: [Signature]
Deputy



County Executive Office

Memorandum

April 16, 2019

To: Clerk of the Board of Supervisors
From: Frank Kim, County Executive Officer
Subject: Exception to Rule 21

A handwritten signature in black ink, appearing to read "Frank Kim", is written over the "From:" line.

RECEIVED
2019 APR 18 PM 2:25
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

549C

The County Executive Office is requesting a Supplemental Agenda Staff Report (ASR) for the April 23, 2019, Board Hearing Meeting.

Agency: County Counsel
Subject: Transparent Review of Unjust Transfers and Holds (TRUTH) Act Community Forum
Districts: All Districts

Reason for supplemental: Conducting the public hearing and receiving and filing information regarding access to individuals that has been provided to Immigration and Customs Enforcement by County law enforcement departments during 2018 will meet the requirements of California's Transparent Review of Unjust Transfers and Holds (TRUTH) Act, Government Code sections 7283 and 7283.1.

Concur:

A handwritten signature in black ink, appearing to read "Lisa Bartlett", is written over a horizontal line.

Chairwoman Lisa Bartlett, Supervisor, Fifth District

cc: Board of Supervisors
County Executive Office
County Counsel

Agenda Item
Clerk's Use Only

549C



SUPPLEMENTAL AGENDA ITEM AGENDA STAFF REPORT

MEETING DATE: 4/23/19

LEGAL ENTITY TAKING ACTION: Board of Supervisors

BOARD OF SUPERVISORS DISTRICT(S): All Districts

SUBMITTING AGENCY/DEPARTMENT: County Counsel

DEPARTMENT HEAD REVIEW: *Leon Page*
Department Head Signature

DEPARTMENT CONTACT PERSON(S): Leon J. Page (714) 834-3300
Nicole A. Sims (714) 834-3319

RECEIVED
2019 APR 18 PM 2:26
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

SUBJECT: Transparent Review of Unjust Transfers and Holds (TRUTH) Act Community Forum

CEO CONCUR

CEO Signature

COUNTY COUNSEL REVIEW

no legal objection

Action

County Counsel Signature

CLERK OF THE BOARD

Public Hearing

3 Votes Board Majority

Budgeted: N/A

Current Year Cost: N/A

Annual Cost: N/A

Staffing Impact: N/A

of Positions:

Sole Source: N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A

County Audit in last 3 years N/A

Prior Board Action: 12/04/2018 #S40A

RECOMMENDED ACTION(S)

1. Pursuant to Government Code section 7283.1, conduct public hearing regarding access to individuals that has been provided to Immigration and Customs Enforcement by County law enforcement departments during 2018.
2. Receive and file information from County law enforcement departments regarding Immigration and Customs Enforcement's access to individuals in 2018.

SUMMARY:

California's Transparent Review of Unjust Transfers and Holds (TRUTH) Act (Government Code sections 7283 and 7283.1) requires that a Community Forum be held each year, to provide the public with information about what access to individuals had been provided to Immigration and Customs Enforcement by County law enforcement departments during the preceding year.

BACKGROUND INFORMATION:

Government Code section 7283, subdivision (d), defines "ICE access" as follows:

- "ICE access" means, for the purposes of civil immigration enforcement, including when an individual is stopped with or without their consent, arrested, detained, or otherwise under the control of the local law enforcement agency, all of the following:
- (1) Responding to an ICE hold, notification, or transfer request.
 - (2) Providing notification to ICE in advance of the public that an individual is being or will be released at a certain date and time through data sharing or otherwise.
 - (3) Providing ICE non-publicly available information regarding release dates, home addresses, or work addresses, whether through computer databases, jail logs, or otherwise.
 - (4) Allowing ICE to interview an individual.
 - (5) Providing ICE information regarding dates and times of probation or parole check-ins.

Sheriff's Department

Following the enactment of state laws limiting law enforcement agencies' cooperation with ICE except as provided, the Sheriff's Department (OCSD) implemented a jail policy and created forms to meet the laws' requirements. OCSD's jail policy 1206 (Attachment D) prohibits any transfer of an inmate to ICE's custody unless in accordance with state law. Following the enactment of the Transparent Review of Unjust Transfers and Holds (TRUTH) Act, OCSD created forms by which OCSD requests an inmate's written consent to be interviewed by ICE ("TRUTH Act Interview Consent Form") and also notifies an inmate if the inmate qualifies to be transferred to ICE's custody following the inmate's release from OCSD's custody ("TRUTH Act Notification Form") (Attachment E).

OCSD provided the following information:

- In 2018, a total of 1,823 inmates in the Orange County Jail had ICE detainers, meaning ICE requested that OCSD notify them when the inmates were being released and transfer the inmates to ICE's custody. The OCSD transferred 717 inmates to ICE upon completion of their time in local custody from January 1 to December 31, 2018. Those transferred were all individuals whose criminal convictions met the state law's requirement for transfer to ICE's custody.
- State law prohibited OCSD from notifying ICE of the release of 1,106 inmates who had ICE detainers. Of the 1,106 inmates with ICE detainers who were released back into the community, 173 have been rearrested in Orange County for committing 58 different types of crimes, including attempted murder, assault and battery, child molestation, and robbery.

Probation Department

The Probation Department does not permit ICE to have access to any juvenile in Probation's custody or under Probation's supervision. This is in accord with Welfare and Institutions Code section 831, which prohibits disclosure of juvenile information to federal officials absent a court order from the Juvenile Court.

The Probation Department has briefed its Probation Officers about the legal requirements for ICE access to adults. The Probation Department has not had a situation where it has allowed ICE access to an adult in Probation's custody or under Probation's supervision in 2018.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

REVIEWING AGENCIES:

Sheriff's Department
Probation Department

ATTACHMENT(S):

Attachment A – Government Code section 7283
Attachment B – Government Code section 7283.1
Attachment C – Welfare and Institutions Code section 831
Attachment D – OCSD's Jail Policy Section 1206 (Immigration)
Attachment E – OCSD's Inmate Interview Consent Form and Notification Form

ORANGE COUNTY BOARD OF SUPERVISORS
MINUTE ORDER
December 08, 2020

Submitting Agency/Department: County Counsel

Pursuant to Government Codes Section 7283.1 conduct public hearing regarding Transparent Review of Unjust Transfers and Holds (TRUTH) Act and receive and file information from County law enforcement departments regarding Immigration and Customs Enforcement's access to individuals in 2019 - All Districts

The following is action taken by the Board of Supervisors:

APPROVED AS RECOMMENDED ☒ OTHER ☐

Unanimous ☒ (1) DO: Y (2) STEEL: Y (3) WAGNER: Y (4) CHAFFEE: Y (5) BARTLETT: Y

Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order

Documents accompanying this matter:

- ☐ Resolution(s)
- ☐ Ordinances(s)
- ☐ Contract(s)

Item No. S34A

Special Notes:

Copies sent to:

CoCo – Leon Page

12/11/20



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.
Robin Stieler, Clerk of the Board

By: 
Deputy



County Executive Office

Memorandum

November 30, 2020

To: Clerk of the Board of Supervisors
From: Frank Kim, County Executive Officer
Subject: Exception to Rule 21

DO NOT REPRODUCE
FOR ETC-1 11/12/20
S34A

The County Executive Office is requesting a Supplemental Agenda Staff Report (ASR) for the December 8, 2020, Board Hearing Meeting.

Agency: County Counsel
Subject: TRUTH Act Community Forum
Districts: All Districts

Reason for supplemental: Conducting the public hearing and receiving and filing information regarding access to individuals that has been provided to Immigration and Customs Enforcement by County law enforcement departments during 2019 will meet the requirements of California's Transparent Review of Unjust Transfers and Holds (TRUTH) Act, Government Code sections 7283 and 7283.1.

Concur:

Chairwoman Michelle Steel, Supervisor, Second District

cc: Board of Supervisors
County Executive Office
County Counsel

Agenda Item
Clerk's Use Only

S341A



SUPPLEMENTAL AGENDA ITEM AGENDA STAFF REPORT

MEETING DATE: 12/08/20

LEGAL ENTITY TAKING ACTION: Board of Supervisors

BOARD OF SUPERVISORS DISTRICT(S): All Districts

SUBMITTING AGENCY/DEPARTMENT: County Counsel

DEPARTMENT HEAD REVIEW: Leon Page
Department Head Signature

DEPARTMENT CONTACT PERSON(S): Leon J. Page (714) 834-3300
Nicole A. Sims (714) 834-3319

2020 DEC - 1 PM 12:05
 CLERK OF THE BOARD
 PUBLIC HEARING

SUBJECT: Transparent Review of Unjust Transfers and Holds (TRUTH) Act Community Forum

CEO CONCUR

CEO Signature

COUNTY COUNSEL REVIEW

No legal objection
Action
Nicole A. Sims

County Counsel Signature

CLERK OF THE BOARD

Public Hearing

3 Votes Board Majority

Budgeted: N/A

Current Year Cost: N/A

Annual Cost: N/A

Staffing Impact: N/A

of Positions:

Sole Source: N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A

County Audit in last 3 years N/A

Prior Board Action: N/A

RECOMMENDED ACTION(S)

1. Pursuant to Government Code section 7283.1, conduct public hearing regarding access to individuals that has been provided to Immigration and Customs Enforcement by County law enforcement departments during 2019.
2. Receive and file information from County law enforcement departments regarding Immigration and Customs Enforcement's access to individuals in 2019.

SUMMARY:

California's Transparent Review of Unjust Transfers and Holds (TRUTH) Act (Government Code sections 7283 and 7283.1) requires that a Community Forum be held each year, to provide the public with

information about what access to individuals had been provided to Immigration and Customs Enforcement (ICE) by County law enforcement departments during the preceding year.

BACKGROUND INFORMATION:

Government Code section 7283, subdivision (d), defines “ICE access” as follows:

- “ICE access” means, for the purposes of civil immigration enforcement, including when an individual is stopped with or without their consent, arrested, detained, or otherwise under the control of the local law enforcement agency, all of the following:
- (1) Responding to an ICE hold, notification, or transfer request.
 - (2) Providing notification to ICE in advance of the public that an individual is being or will be released at a certain date and time through data sharing or otherwise.
 - (3) Providing ICE non-publicly available information regarding release dates, home addresses, or work addresses, whether through computer databases, jail logs, or otherwise.
 - (4) Allowing ICE to interview an individual.
 - (5) Providing ICE information regarding dates and times of probation or parole check-ins.

Sheriff-Coroner Department

Following the enactment of state laws limiting law enforcement agencies’ cooperation with ICE except as provided, the Sheriff-Coroner Department (OCSD) implemented a jail policy and created forms to meet the laws’ requirements. OCSD’s jail policy 1206 (Attachment B) prohibits any transfer of an inmate to ICE’s custody unless in accordance with state law. Following the enactment of the Transparent Review of Unjust Transfers and Holds (TRUTH) Act, OCSD created forms by which OCSD requests an inmate’s written consent to be interviewed by ICE (TRUTH Act Interview Consent Form) and also notifies an inmate if the inmate qualifies to be transferred to ICE’s custody following the inmate’s release from OCSD’s custody (TRUTH Act Notification Form) (Attachment C).

OCSD provided the following information for 2019:

- In 2019, a total of 1,507 inmates in the Orange County Jail had ICE detainers, meaning ICE requested that OCSD notify them when the inmates were being released and transfer the inmates to ICE’s custody. OCSD transferred 492 inmates to ICE upon completion of their time in local custody from January 1, 2019, to December 31, 2019. Those transferred were all individuals whose criminal convictions met the state law’s requirement for transfer to ICE’s custody.
- State law prohibited OCSD from notifying ICE of the release of 1,015 inmates who had ICE detainers. Of the 1,015 inmates with ICE detainers who were released back into the community, 238 have been rearrested in Orange County for committing new crimes, including assault and battery, rape and robbery.

Probation Department

The Probation Department (Probation) does not permit ICE to have access to any juvenile in Probation's custody or under Probation's supervision. This is in accord with Welfare and Institutions Code section 831, which prohibits disclosure of juvenile information to federal officials absent a court order from the Juvenile Court.

Probation has briefed its Probation Officers about the legal requirements for ICE access to adults. Probation has not had a situation where it has allowed ICE access to an adult in Probation's custody or under Probation's supervision in 2019.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

REVIEWING AGENCIES:

Sheriff-Coroner Department
Probation Department

ATTACHMENT(S):

Attachment A – Government Code sections 7283, 7283.1 & Welfare and Institutions Code section 831
Attachment B – OCSD's Jail Policy Section 1206 (Immigration)
Attachment C – OCSD's Inmate Interview Consent Form and Notification Form

ORANGE COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

February 23, 2021

Submitting Agency/Department: County Counsel

Pursuant to Government Code Section 7283.1, conduct public hearing regarding Transparent Review of Unjust Transfers and Holds (TRUTH) Act and receive and file information from County law enforcement departments regarding Immigration and Customs Enforcement's access to individuals in 2020 - All Districts

The following is action taken by the Board of Supervisors:

APPROVED AS RECOMMENDED ☐ OTHER ☒

RECEIVED AND FILED

Unanimous ☐ (1) DO: (2) VACANT: (3) WAGNER: (4) CHAFFEE: (5) BARTLETT:

Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order

Documents accompanying this matter:

- ☐ Resolution(s)
- ☐ Ordinances(s)
- ☐ Contract(s)

Item No. S15C

Special Notes:

Copies sent to:

CoCo – Nicole Sims

2/26/21



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.
Robin Stieler, Clerk of the Board

By: *Robin Stieler*
Deputy



County Executive Office

Memorandum

915C

February 17, 2021

To: Clerk of the Board of Supervisors
From: Frank Kim, County Executive Officer
Subject: Exception to Rule 21

Michelle
Aguirre

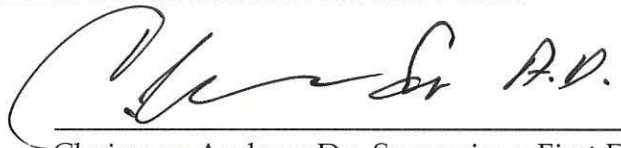
Digitally signed by Michelle Aguirre
DN: cn=Michelle Aguirre, ou=County
Executive Office, ou=Chief Financial
Officer,
email=mmichelle.aguirre@ocgov.com,
c=US
Date: 2021.02.17 15:51:45 -0800

The County Executive Office is requesting a Supplemental Agenda Staff Report (ASR) for the February 23, 2021, Board Hearing Meeting.

Agency: County Counsel
Subject: Transparent Review of Unjust Transfers and Holds (TRUTH) Act
Community Forum
Districts: All Districts

Reason for supplemental: Conducting the public hearing and receiving and filing information regarding access to individuals that has been provided to Immigration and Customs Enforcement by County law enforcement departments during 2020 will meet the requirements of California's Transparent Review of Unjust Transfers and Holds (TRUTH) Act, Government Code sections 7283 and 7283.1.

Concur:


Chairman Andrew Do, Supervisor, First District

cc: Board of Supervisors
County Executive Office
County Counsel

Agenda Item
Clerk's Use Only

315C



SUPPLEMENTAL AGENDA ITEM AGENDA STAFF REPORT

MEETING DATE: 02/23/21

LEGAL ENTITY TAKING ACTION: Board of Supervisors

BOARD OF SUPERVISORS DISTRICT(S): All Districts

SUBMITTING AGENCY/DEPARTMENT: County Counsel

DEPARTMENT HEAD REVIEW: 
Department Head Signature

DEPARTMENT CONTACT PERSON(S): Leon J. Page (714) 834-3300
Nicole A. Sims (714) 834-3319

RECEIVED
 FEB 17 PM 4:17
 CLERK OF THE BOARD

SUBJECT: Transparent Review of Unjust Transfers and Holds (TRUTH) Act Community Forum

CEO CONCUR

Michelle
Aguirre

Digitally signed by Michelle Aguirre
DN: cn=Michelle Aguirre, o=County
Executive Office, ou=Chief Financial
Officer,
email=Michelle.Aguirre@ocgov.com,
c=US
Date: 2021.02.17 15:51:06 -0800

CEO Signature

COUNTY COUNSEL REVIEW

No legal objection
Action


County Counsel Signature

CLERK OF THE BOARD

Public Hearing

3 Votes Board Majority

Budgeted: N/A

Current Year Cost: N/A

Annual Cost: N/A

Staffing Impact: N/A

of Positions:

Sole Source: N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A

County Audit in last 3 years N/A

Prior Board Action: 12/08/2020 #S34A, 04/23/2019 #S49C, 12/04/2018 #S40A

RECOMMENDED ACTION(S)

1. Pursuant to Government Code Section 7283.1, conduct public hearing regarding access to individuals that has been provided to Immigration and Customs Enforcement by County law enforcement departments during 2020.
2. Receive and file information from County law enforcement departments regarding Immigration and Customs Enforcement's access to individuals in 2020.

SUMMARY:

California's Transparent Review of Unjust Transfers and Holds Act (Government Code sections 7283 and 7283.1) requires that a Community Forum be held each year, to provide the public with information about what access to individuals has been provided to Immigration and Customs Enforcement by County law enforcement departments during the preceding year.

BACKGROUND INFORMATION:

Government Code section 7283, subdivision (d), defines Immigration and Customs Enforcement (ICE) access as follows:

- “ICE access” means, for the purposes of civil immigration enforcement, including when an individual is stopped with or without their consent, arrested, detained, or otherwise under the control of the local law enforcement agency, all of the following:
- (1) Responding to an ICE hold, notification, or transfer request.
 - (2) Providing notification to ICE in advance of the public that an individual is being or will be released at a certain date and time through data sharing or otherwise.
 - (3) Providing ICE non-publicly available information regarding release dates, home addresses, or work addresses, whether through computer databases, jail logs, or otherwise.
 - (4) Allowing ICE to interview an individual.
 - (5) Providing ICE information regarding dates and times of probation or parole check-ins.

Sheriff-Coroner Department (OCSD)

Following the enactment of state laws limiting law enforcement agencies’ cooperation with ICE except as provided, OCSD implemented a jail policy and created forms to meet the laws’ requirements. OCSD’s Jail Policy 1206 (Attachment B) prohibits any transfer of an inmate to ICE’s custody unless in accordance with state law. Following the enactment of the Transparent Review of Unjust Transfers and Holds (TRUTH) Act, OCSD created forms by which OCSD requests an inmate’s written consent to be interviewed by ICE (TRUTH Act Interview Consent Form) and also notifies an inmate if the inmate qualifies to be transferred to ICE’s custody following the inmate’s release from OCSD’s custody (TRUTH Act Notification Form) (Attachment C).

OCSD provided the following information for 2020 (see Attachment D):

- In calendar year 2020, a total of 393 inmates released from the Orange County Jail had ICE detainers, meaning ICE requested that OCSD notify them when the inmates were being released and transfer the inmates to ICE’s custody. In 2020, OCSD released 225 of those 393 inmates to ICE upon completion of their time in local custody. Those transferred were all individuals whose criminal convictions met the state law’s requirement for transfer to ICE’s custody.
- State law prohibited OCSD from notifying ICE of the release of 168 inmates who had ICE detainers. Of the 168 inmates with ICE detainers who were released back into the community, 36 were re-arrested for new crimes in Orange County.
- The 2020 statistics are significantly lower than previous years. The difference in numbers is largely due to factors associated with the pandemic. The total Orange County Jail population was 5,303 on March 7, 2020. Efforts to reduce the population to mitigate against the spread of COVID-19 occurred through much of 2020. By December 31, 2020, the jail population was 3,407. A temporary order suspending bail, court-ordered jail releases and the release of certain low-level offenders done through the Sheriff’s discretion all resulted in a lower jail population. Additionally, litigation that limited capacity at ICE facilities has also been a factor in the reduced numbers.

Probation Department (Probation)

Probation does not permit ICE to have access to any juvenile in Probation's custody or under Probation's supervision. This is in accord with Welfare and Institutions Code section 831, which prohibits disclosure of juvenile information to federal officials absent a court order from the Juvenile Court.

Probation has briefed its Probation Officers about the legal requirements for ICE access to adults. Probation has not had a situation where it has allowed ICE access to an adult in Probation's custody or under Probation's supervision in 2020.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

REVIEWING AGENCIES:

Sheriff-Coroner Department
Probation Department

ATTACHMENT(S):

Attachment A – Government Code Sections 7283 and 7283.1; Welfare & Institutions Code Section 831
Attachment B – OCSD's Jail Policy Section 1206 (Immigration)
Attachment C – OCSD's Inmate Interview Consent Form and Notification Form
Attachment D – Orange County Jail – Immigration Detainer Data – 2020

ORANGE COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

March 22, 2022

Submitting Agency/Department: County Counsel

Pursuant to Government Code Section 7283.1, conduct public hearing regarding Transparent Review of Unjust Transfers and Holds (TRUTH) Act and receive and file information from County law enforcement departments regarding Immigration and Customs Enforcement's access to individuals in 2021 - All Districts

The following is action taken by the Board of Supervisors:

APPROVED AS RECOMMENDED ☐ OTHER ☒

RECEIVED AND FILED

Unanimous ☐ (1) DO: (2) FOLEY: (3) WAGNER: (4) CHAFFEE: (5) BARTLETT:

Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order

Documents accompanying this matter:

- ☐ Resolution(s)
- ☐ Ordinances(s)
- ☐ Contract(s)

Item No. S46A

Special Notes:

Copies sent to:

CoCo – Nicole Sims

3/28/22



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.
Robin Stieler, Clerk of the Board

By: Alberto Scvello

Deputy



County Executive Office

Memorandum

March 15, 2022

To: Clerk of the Board of Supervisors

From: Frank Kim, County Executive Officer

Subject: Exception to Rule 21

A handwritten signature in blue ink, appearing to read "Frank Kim", is written over the "From:" line.

Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County of
Orange, ou=CEO,
email=frank.kim@ocgov.com,
c=US
Date: 2022.03.15 08:43:13 -0700

RECEIVED
2022 MAR 15 PM 4:01
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

S46A

The County Executive Office is requesting a Supplemental Agenda Staff Report for the March 22, 2022, Board Hearing.

Agency: County Counsel
Subject: TRUTH Act Community Forum
Districts: All Districts

Reason Item is Supplemental: This item is a supplemental item to allow the Sheriff's Department time to gather data about the access to individuals provided to Immigration and Customs Enforcement (ICE) during 2021 and to accommodate the Sheriff's schedule.

Justification: This item must be heard on March 22, 2022, because the 30-day public notice required by Government Code Section 7283.1 specified that date. If it is continued, the 30-day public notice must be given anew. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur:

A handwritten signature in blue ink, appearing to read "Doug Chaffee", is written over a horizontal line.
Doug Chaffee, Chairman of the Board of Supervisors

cc: Board of Supervisors
County Executive Office
County Counsel

Agenda Item
Clerk's Use Only

S46A



SUPPLEMENTAL AGENDA ITEM AGENDA STAFF REPORT

MEETING DATE: 03/22/22

LEGAL ENTITY TAKING ACTION: Board of Supervisors

BOARD OF SUPERVISORS DISTRICT(S): All Districts

SUBMITTING AGENCY/DEPARTMENT: County Counsel

DEPARTMENT HEAD REVIEW: Leon J. Page
Department Head Signature

DEPARTMENT CONTACT PERSON(S): Leon J. Page (714) 834-3300
Nicole A. Sims (714) 834-3319

RECEIVED
2022 MAR 15 PM 4:02
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS

SUBJECT: Transparent Review of Unjust Transfers and Holds (TRUTH) Act Community Forum

CEO CONCUR

Frank Kim
Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County of
Orange, ou=CEO,
email=frank.kim@ocgov.com,
c=US
Date: 2022.03.15 08:32:48 -0700

CEO Signature

COUNTY COUNSEL REVIEW

No legal objection
Action
Nicole A. Sims

County Counsel Signature

CLERK OF THE BOARD

Public Hearing
3 Votes Board Majority

Budgeted: N/A

Current Year Cost: N/A

Annual Cost: N/A

Staffing Impact: N/A

of Positions:

Sole Source: N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A

County Audit in last 3 years N/A

Prior Board Action: 4/23/2019, Item #S49C, 12/08/2020, Item #S34A, 02/23/2021, Item #S15C

RECOMMENDED ACTION(S)

1. Pursuant to Government Code section 7283.1, conduct public hearing regarding access to individuals that has been provided to Immigration and Customs Enforcement by County law enforcement departments during 2021.
2. Receive and file information from County law enforcement departments regarding Immigration and Customs Enforcement's access to individuals in 2021.

SUMMARY:

California's Transparent Review of Unjust Transfers and Holds (TRUTH) Act (Government Code sections 7283 and 7283.1) requires that a Community Forum be held each year, to provide the public with information about what access to individuals had been provided to Immigration and Customs Enforcement (ICE) by County law enforcement departments during the preceding year.

BACKGROUND INFORMATION:

In accord with Government Code sections 7283, subdivision (a) and 7283.1, subdivision (d), the Board has held a public hearing at its meetings on April 23, 2019, December 8, 2020, and February 23, 2021, to provide the public with information about what access to individuals had been provided to ICE by County law enforcement departments during the preceding year.

Government Code section 7283, subdivision (d), defines “ICE access” as follows:

- “ICE access” means, for the purposes of civil immigration enforcement, including when an individual is stopped with or without their consent, arrested, detained, or otherwise under the control of the local law enforcement agency, all of the following:
- (1) Responding to an ICE hold, notification, or transfer request.
 - (2) Providing notification to ICE in advance of the public that an individual is being or will be released at a certain date and time through data sharing or otherwise.
 - (3) Providing ICE non-publicly available information regarding release dates, home addresses, or work addresses, whether through computer databases, jail logs, or otherwise.
 - (4) Allowing ICE to interview an individual.
 - (5) Providing ICE information regarding dates and times of probation or parole check-ins.

Sheriff's Department (OCSD)

Following the enactment of state laws limiting law enforcement agencies' cooperation with ICE except as provided, OCSD implemented a jail policy and created forms to meet the laws' requirements. OCSD's jail policy 1206 (Attachment B) prohibits any transfer of an inmate to ICE's custody unless in accordance with state law. Following the enactment of the Transparent Review of Unjust Transfers and Holds (TRUTH) Act, OCSD created forms by which OCSD requests an inmate's written consent to be interviewed by ICE (“TRUTH Act Interview Consent Form”) and also notifies an inmate if the inmate qualifies to be transferred to ICE's custody following the inmate's release from OCSD's custody (“TRUTH Act Notification Form”) (Attachment C).

OCSD provided the following information for 2021 (see Attachments D and E):

- In calendar year 2021, a total of 199 inmates released from the Orange County Jail had ICE detainers, meaning ICE requested that OCSD notify them when the inmates were being released and transfer the inmates to ICE's custody. OCSD notified ICE about 143 of those 199 inmates upon the inmates' completion of their time in local custody. Those inmates were all individuals whose criminal convictions met the state law's requirement for transfer to ICE's custody. Of the 143 individuals, only 73 or 51 percent were transferred to ICE's custody. With respect to the other 70 individuals who, under state law, were eligible for transfer to ICE, ICE took no action and these individuals were released back into the community. A total of 24 of these individuals were re-arrested for new crimes in Orange County.
- State law prohibited OCSD from notifying ICE of the release of 56 inmates who had ICE detainers. Of the 56 inmates with ICE detainers who were released back into the community, 3 were re-arrested for new crimes in Orange County.

Probation Department (Probation)

Probation does not permit ICE to have access to any juvenile in Probation's custody or under Probation's supervision. This is in accord with Welfare and Institutions Code section 831, which prohibits disclosure of juvenile information to federal officials absent a court order from the Juvenile Court.

Probation has briefed its officers about the legal requirements for ICE access to adults. Probation has not had a situation where it has allowed ICE access to an adult in Probation's custody or under Probation's supervision in 2021.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

REVIEWING AGENCIES:

Sheriff's Department
Probation Department

ATTACHMENT(S):

Attachment A – Government Code sections 7283 and 7283.1; Welfare & Institutions Code section 831
Attachment B – OCSD's Jail Policy Section 1206 (Immigration)
Attachment C – OCSD's Inmate Interview Consent Form and Notification Form
Attachment D – Orange County Jail – Immigration Detainer Data – 2021
Attachment E – Inmates with Immigration Detainers – 2021

ORANGE COUNTY BOARD OF SUPERVISORS
MINUTE ORDER
March 14, 2023

Submitting Agency/Department: County Counsel

Pursuant to Government Code Section 7283.1 conduct public hearing regarding Transparent Review of Unjust Transfers and Holds (TRUTH) Act and receive and file information from County law enforcement departments regarding Immigration and Customs Enforcement's access to individuals in 2022 - All Districts

The following is action taken by the Board of Supervisors:

APPROVED AS RECOMMENDED ☐ OTHER ☒

RECEIVED AND FILED

Unanimous ☐ (1) DO: (2) SARMIENTO: (3) WAGNER: (4) CHAFFEE: (5) FOLEY:

Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order

Documents accompanying this matter:

- ☐ Resolution(s)
- ☐ Ordinances(s)
- ☐ Contract(s)

Item No. S38G

Special Notes:

Copies sent to:

CoCo – Nicole Sims

3/17/23



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.
Robin Stieler, Clerk of the Board

By: 
Deputy



County Executive Office

Memorandum

March 8, 2023

To: Clerk of the Board of Supervisors
From: Frank Kim, County Executive Officer
Subject: Exception to Rule 21

Digitally signed by Frank Kim
DN: cn=Frank Kim, o=County
of Orange, ou=CEO,
email=frank.kim@ocgov.com,
c=US
Date: 2023.03.08 16:42:06
+08'00'

S386

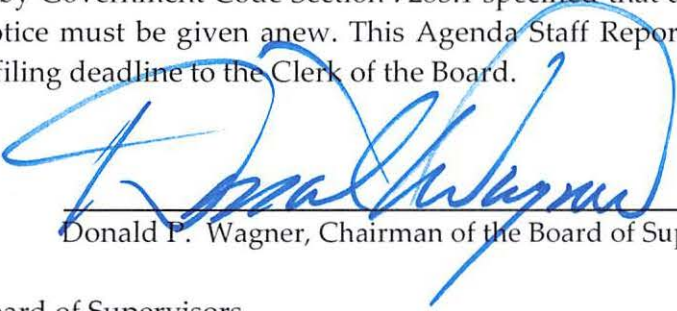
The County Executive Office is requesting a Supplemental Agenda Staff Report for the March 14, 2023, Board Hearing.

Agency: County Counsel
Subject: Transparent Review of Unjust Transfers and Holds (TRUTH) Act Community Forum
Districts: All

Reason Item is Supplemental: This item is a supplemental item to allow the Sheriff's Department time to gather data about the access to individuals provided to Immigration and Customs Enforcement (ICE) during 2022 and to accommodate the Sheriff's schedule.

Justification: This item must be heard on March 14, 2023, because the 30-day public notice required by Government Code Section 7283.1 specified that date. If it is continued, the 30-day public notice must be given anew. This Agenda Staff Report and attachments were finalized after the filing deadline to the Clerk of the Board.

Concur:


Donald P. Wagner, Chairman of the Board of Supervisors

cc: Board of Supervisors
County Executive Office
County Counsel

EXHIBIT E

Agenda Item
Clerk's Use OnlyS38G**SUPPLEMENTAL AGENDA ITEM
AGENDA STAFF REPORT**

MEETING DATE: 03/14/23

LEGAL ENTITY TAKING ACTION: Board of Supervisors

BOARD OF SUPERVISORS DISTRICT(S): All Districts

SUBMITTING AGENCY/DEPARTMENT: County Counsel

DEPARTMENT HEAD REVIEW: Leon J. Page
Digitally signed by Leon J. Page
DN: cn=Leon J. Page, ou=County of Orange, ou=County
Counsel, email=leon.page@co.orange.ca.us, c=US
Date: 2023.03.08 15:46:17 -0800

DEPARTMENT CONTACT PERSON(S): Leon J. Page (714) 834-3300
Nicole A. Sims (714) 834-3319

RECEIVED
CLERK OF THE BOARD
ORANGE COUNTY
BOARD OF SUPERVISORS
2023 MAR -9 PM 12:50

SUBJECT: Transparent Review of Unjust Transfers and Holds (TRUTH) Act Community Forum**CEO CONCUR**

Digitally signed by Frank Kim
DN: cn=Frank Kim, ou=County of
Orange, ou=CEO,
email=frank.kim@ocgov.com,
c=US
Date: 2023.03.08 16:44:06 -0800

CEO Signature

COUNTY COUNSEL REVIEW

No Legal Objection

Action

Leon J. Page

Digitally signed by Leon J. Page
DN: cn=Leon J. Page, ou=County of Orange,
ou=County Counsel,
email=leon.page@co.orange.ca.us, c=US
Date: 2023.03.08 16:53:40 -0800

County Counsel Signature

CLERK OF THE BOARD

Public Hearing

3 Votes Board Majority

Budgeted: N/A**Current Year Cost:** N/A**Annual Cost:** N/A**Staffing Impact:** N/A**# of Positions:****Sole Source:** N/A**Current Fiscal Year Revenue:** N/A**Funding Source:** N/A**County Audit in last 3 years** N/A**Prior Board Action:** 12/8/2020, Item #S34A, 2/23/2021, Item #S15C, 3/22/22, Item #S46A**RECOMMENDED ACTION(S)**

1. Pursuant to Government Code section 7283.1, conduct public hearing regarding access to individuals that has been provided to Immigration and Customs Enforcement by County law enforcement departments during 2022.
2. Receive and file information from County law enforcement departments regarding Immigration and Customs Enforcement's access to individuals in 2022.

SUMMARY:

California's Transparent Review of Unjust Transfers and Holds (TRUTH) Act (Government Code sections 7283 and 7283.1) requires that a Community Forum be held each year, to provide the public with information about what access to individuals had been provided to Immigration and Customs Enforcement (ICE) by County law enforcement departments during the preceding year.

BACKGROUND INFORMATION:

In accord with Government Code sections 7283, subdivision (a) and 7283.1, subdivision (d), the Board has held a public hearing at its meetings on December 8, 2020, February 23, 2021, and March 22, 2022, to provide the public with information about what access to individuals had been provided to ICE by County law enforcement departments during the preceding year.

Government Code section 7283, subdivision (d), defines “ICE access” as follows:

“ICE access” means, for the purposes of civil immigration enforcement, including when an individual is stopped with or without their consent, arrested, detained, or otherwise under the control of the local law enforcement agency, all of the following:

- (1) Responding to an ICE hold, notification, or transfer request.
- (2) Providing notification to ICE in advance of the public that an individual is being or will be released at a certain date and time through data sharing or otherwise.
- (3) Providing ICE non-publicly available information regarding release dates, home addresses, or work addresses, whether through computer databases, jail logs, or otherwise.
- (4) Allowing ICE to interview an individual.
- (5) Providing ICE information regarding dates and times of probation or parole check-ins.

Sheriff's Department (OCSD)

Following the enactment of state laws limiting law enforcement agencies' cooperation with ICE except as provided, OCSD implemented a jail policy and created forms to meet the laws' requirements. OCSD's jail policy 1206 (Attachment B) prohibits any transfer of an inmate to ICE's custody unless in accordance with state law. Following the enactment of the Transparent Review of Unjust Transfers and Holds (TRUTH) Act, OCSD created forms by which OCSD requests an inmate's written consent to be interviewed by ICE (“TRUTH Act Interview Consent Form”) and also notifies an inmate if the inmate qualifies to be transferred to ICE's custody following the inmate's release from OCSD's custody (“TRUTH Act Notification Form”) (Attachment C).

OCSD provided the following information for 2022 (see Attachments D and E):

- In calendar year 2022, a total of 272 inmates released from the Orange County Jail had ICE detainers, meaning ICE requested that OCSD notify them when the inmates were being released from OCSD's custody. OCSD notified ICE about 155 of those 272 inmates upon the inmates' completion of their time in local custody. Those inmates were all individuals whose criminal convictions met the state law's requirement for transfer to ICE's custody. Of the 155 individuals, only 17 or 10.9 percent were transferred to ICE's custody. With respect to the other 138 individuals who, under state law, were eligible for transfer to ICE, ICE took no action and these individuals were released back into the community. A total of 20 of these individuals were re-arrested for new crimes in Orange County.
- State law prohibited OCSD from notifying ICE of the release of 117 inmates who had ICE detainers. Of the 117 inmates with ICE detainers who were released back into the community, 13 were re-arrested for new crimes in Orange County.

Probation Department (Probation)

Probation does not permit ICE to have access to any juvenile in Probation's custody or under Probation's supervision. This is in accord with Welfare and Institutions Code section 831, which prohibits disclosure of juvenile information to federal officials absent a court order from the Juvenile Court.

Probation has briefed its officers about the legal requirements for ICE access to adults. Probation has not had a situation where it has allowed ICE access to an adult in Probation's custody or under Probation's supervision in 2022.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

REVIEWING AGENCIES:

Sheriff's Department
Probation Department

ATTACHMENT(S):

Attachment A – Government Code sections 7283 and 7283.1; Welfare & Institutions Code section 831
Attachment B – OCSD's Jail Policy Section 1206 (Immigration)
Attachment C – OCSD's Inmate Interview Consent Form and Notification Form
Attachment D – Orange County Jail – Immigration Detainer Data – 2022
Attachment E – Inmates with Immigration Detainers – 2022

ORANGE COUNTY BOARD OF SUPERVISORS
MINUTE ORDER
March 26, 2024

Submitting Agency/Department: County Counsel

Pursuant to Government Code Section 7283.1 conduct public hearing regarding Transparent Review of Unjust Transfers and Holds (TRUTH) Act; and receive and file information from County law enforcement departments regarding Immigration and Customs Enforcement's access to individuals in 2023 - All Districts

The following is action taken by the Board of Supervisors:

APPROVED AS RECOMMENDED ☐ OTHER ☒

RECEIVED AND FILED

Unanimous ☐ (1) DO: (2) SARMIENTO: (3) WAGNER: (4) CHAFFEE: (5) FOLEY:

Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order

Documents accompanying this matter:

- ☐ Resolution(s)
- ☐ Ordinances(s)
- ☐ Contract(s)

Item No. 38

Special Notes:

Copies sent to:

County Counsel

4/1/24



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.
Robin Stieler, Clerk of the Board

By: Alessandra Esquivel
Deputy B3412D28E08E475...

Agenda Item



AGENDA STAFF REPORT

ASR Control 24-000182

MEETING DATE: 03/26/24

LEGAL ENTITY TAKING ACTION: Board of Supervisors

BOARD OF SUPERVISORS DISTRICT(S): All Districts

SUBMITTING AGENCY/DEPARTMENT: County Counsel (Approved)

DEPARTMENT CONTACT PERSON(S): Leon J. Page (714) 834-3300
Nicole A. Sims (714) 834-3300

SUBJECT: Transparent Review of Unjust Transfers and Holds (TRUTH) Act Community Forum

CEO CONCUR
Concur

COUNTY COUNSEL REVIEW
No Legal Objection

CLERK OF THE BOARD
Public Hearing
3 Votes Board Majority

Budgeted: N/A

Current Year Cost: N/A

Annual Cost: N/A

Staffing Impact: No

of Positions:

Sole Source: N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A

County Audit in last 3 years: No

Levine Act Review Completed: N/A

Prior Board Action: 3/14/2023 #S38C, 3/22/2022 #S46A, 2/23/2021 #S15C

RECOMMENDED ACTION(S):

1. Pursuant to Government Code section 7283.1, conduct public hearing regarding access to individuals that has been provided to Immigration and Customs Enforcement by County law enforcement departments during 2023.
2. Receive and file information from County law enforcement departments regarding Immigration and Customs Enforcement's access to individuals in 2023.

SUMMARY:

California's Transparent Review of Unjust Transfers and Holds (TRUTH) Act (Government Code sections 7283 and 7283.1) requires that a Community Forum be held each year, to provide the public with information about what access to individuals had been provided to Immigration and Customs Enforcement by County law enforcement departments during the preceding year.

BACKGROUND INFORMATION:

In accord with Government Code sections 7283, subdivision (a) and 7283.1, subdivision (d), the Board has held a public hearing at its meetings on February 23, 2021, March 22, 2022, and March 14, 2023, to provide the public with information about what access to individuals had been provided to Immigration and Customs Enforcement (ICE) by County law enforcement departments during the preceding year.

Government Code section 7283, subdivision (d), defines “ICE access” as follows:

“ICE access” means, for the purposes of civil immigration enforcement, including when an individual is stopped with or without their consent, arrested, detained, or otherwise under the control of the local law enforcement agency, all of the following:

- (1) Responding to an ICE hold, notification, or transfer request.
- (2) Providing notification to ICE in advance of the public that an individual is being or will be released at a certain date and time through data sharing or otherwise.
- (3) Providing ICE non-publicly available information regarding release dates, home addresses, or work addresses, whether through computer databases, jail logs, or otherwise.
- (4) Allowing ICE to interview an individual.
- (5) Providing ICE information regarding dates and times of probation or parole check-ins.

Sheriff's Department (OCSD)

Following the enactment of state laws limiting law enforcement agencies' cooperation with ICE except as provided, OCSD implemented a jail policy and created forms to meet the laws' requirements. OCSD's jail policy 1206 (Attachment B) prohibits any transfer of an inmate to ICE's custody unless in accordance with state law. As required by the TRUTH Act, OCSD uses forms by which OCSD requests an inmate's written consent to be interviewed by ICE (“TRUTH Act Interview Consent Form”) and also notifies an inmate if the inmate qualifies to be transferred to ICE's custody following the inmate's release from OCSD's custody (“TRUTH Act Notification Form”) (Attachment C).

OCSD provided the following information for 2023 (also see Attachment D):

- In calendar year 2023, a total of 547 inmates released from the Orange County Jail had ICE detainers, meaning ICE requested that OCSD notify them when the inmates were being released from local custody. The purpose of this notification is for ICE to meet their responsibility to take the released inmate into their custody. OCSD notified ICE about 302 of those 547 inmates upon the inmates' completion of their time in local custody. Those inmates were all individuals whose criminal convictions met the state law's requirement for transfer to ICE's custody. Of the individuals eligible for notification, 221 were transferred to ICE's custody. With respect to the other 81 individuals who, under state law, were eligible for transfer to ICE, ICE took no action and these individuals were released back into the community. A total of 40 of these individuals were re-arrested for new crimes in Orange County.

- State law prohibited OCSD from notifying ICE of the release of 245 inmates who had ICE detainers. Of the 245 inmates with ICE detainers who were released back into the community, 27 were re-arrested for new crimes in Orange County.

Probation Department (Probation)

Probation does not permit ICE to have access to any juvenile in Probation's custody or under Probation's supervision. This is in accord with Welfare and Institutions Code section 831, which prohibits disclosure of juvenile information to federal officials absent a court order from the Juvenile Court.

Probation has briefed its officers about the legal requirements for ICE access to adults. Probation has not had a situation where it has allowed ICE access to an adult in Probation's custody or under Probation's supervision in 2023.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

REVIEWING AGENCIES:

Orange County Sheriff's Department
Orange County Probation Department

ATTACHMENT(S):

Attachment A – Government Code sections 7283 and 7283.1; Welfare & Institutions Code section 831
Attachment B – OCSD's Jail Policy Section 1206 (Immigration)
Attachment C – OCSD's Inmate Interview Consent Form and Notification Form
Attachment D – Orange County Jail – Immigration Detainer Data – 2023