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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

10 PILLARS OF THE COMMUNITY, a
11 nonprofit corporation, CHICANXS
12 UNIDXS, an unincorporated association,
13 FRANCISCO ROMERO, a taxpayer,

14 *Petitioners and Plaintiffs,*

15 v.

16 THE CALIFORNIA DEPARTMENT OF
17 JUSTICE, XAVIER BECERRA, in his
18 official capacity as Attorney General, DOES
19 1-20,

20 *Respondents and Defendants.*

Case No.:

Unlimited Jurisdiction

**VERIFIED PETITION FOR WRIT
OF MANDATE [C.C.P. § 1085] AND
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF [C.C.P.
§ 526a]**

21 Petitioners/Plaintiffs Pillars of the Community, Chicanos Unidos, and Francisco
22 Romero (“Plaintiffs”) bring this petition and complaint seeking alternative and
23 peremptory writs of mandate, pursuant to Code of Civil Procedure section 1085, and
24 seeking declaratory and injunctive relief, pursuant to Code of Civil Procedure section
25 526a and the common law authority for taxpayer suits, to compel
26 Respondents/Defendants the California Department of Justice and Attorney General
27 Xavier Becerra (“Defendants”) to implement a moratorium on the use of the CalGang
28 database until its operation complies with Penal Code section 186.36.

Unless explicitly stated to the contrary, all allegations are based on information
and belief. Plaintiffs allege as follows:

1 **INTRODUCTION**

2 1. The Department of Justice administers and oversees the CalGang database,
3 a controversial database used by law enforcement agencies at taxpayers’ expense to share
4 the names and personal information of individuals whom law enforcement officers
5 suspect of gang membership, or whom officers suspect of mere association with a gang,
6 even when those individuals are not suspected of any specific criminal activity. The
7 database currently tracks an estimated 60,000 Californians.

8 2. In 2017, following public outcry against the database and a scathing audit
9 of the database by the California State Auditor,¹ the Legislature enacted the Fair and
10 Accurate Database Act of 2017 (“AB 90”),² which assigns the Department of Justice the
11 tasks of regulating CalGang and other shared gang databases and bringing CalGang into
12 compliance with state and federal law. In AB 90, the Legislature gave the Department of
13 Justice until January 1, 2020, a two-year period, to promulgate regulations for the
14 periodic auditing of CalGang.

15 3. However, the Department of Justice has not promulgated regulations.
16 Without regulations for the periodic audit of CalGang, all use of the CalGang database by
17 law enforcement agencies since January 1, 2020 has been out of compliance with state
18 law.

19 4. Because the Department of Justice has not promulgated regulations for the
20 operation and periodic audits of CalGang, law enforcement agencies continued use of the
21 database lacks the minimum accountability measures required by law. This lack of
22 accountability has had already had serious consequences. Since the Department of Justice
23 missed the statutory deadline for promulgating regulations, the largest scandal in the
24 history of CalGang has come to light as having happened under the Department of
25

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27 ¹ California State Auditor (2016) The CalGang Criminal Intelligence System: As the Result of Its
28 Weak Oversight Structure, It Contains Questionable Information that May Violate Individuals’
Privacy Rights, <https://www.auditor.ca.gov/pdfs/reports/2015-130.pdf>.

² Assem. Bill No. 90 (2017-2018 Reg. Sess.).

1 Justice’s watch but without its knowledge. Through investigation independent of the
2 Department of Justice, the Los Angeles Police Department (“LAPD”) discovered that
3 several of its officers falsified records for entry into CalGang.³ Upon further independent
4 investigation, the LAPD discovered that, even beyond the potentially criminal actions of
5 a few of its officers, there was serious department-wide misuse of the database. The
6 LAPD concluded that “LAPD’s entry of individuals into the database appears haphazard
7 at best” and “LAPD has no knowledge that other [agencies’] entries are not similarly
8 flawed, or unreliable.”⁴ Following the release of the internal audit, the LAPD publicly
9 declared it will no longer participate in the CalGang database. The LAPD had been
10 CalGang’s largest user agency, having added approximately 20,000 records at the time of
11 its withdrawal from participation.

12 5. Despite the clear instruction from the Legislature to the Department of
13 Justice to operate CalGang in compliance with the law or not at all, and despite ongoing
14 and serious failings of CalGang of the type that regulations are intended to stop, neither
15 Attorney General Becerra nor the Department of Justice have fulfilled their duty to
16 prohibit the use of CalGang since January 1, 2020 and until regulations are promulgated.

17 6. This action challenges Defendants’ continued operation of CalGang
18 without lawful authority and Defendants’ failure to impose a moratorium.

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23 ³ Three of those officers have been criminally charged with 59 counts of falsifying evidence,
24 perjury, or conspiracy between them, all relating to the falsifying of documents used to add
25 individuals’ names and information to CalGang. (*People v. Shaw* (Super. Ct. Los Angeles
26 County, 2020, No. BA488467).) Nineteen more officers were investigated for criminal
27 misconduct and an additional five face administrative allegations; ten of those officers were
28 removed from active duty. (July 9, 2020, Interdepartmental Correspondence from Lizbeth
Rhodes, Director of LAPD’s Office of Constitutional Policing and Policy to Chief Moore, Chief
of LAPD, p. 3 [available at http://www.lapdpolicecom.lacity.org/071420/BPC_20-0078.pdf]).

⁴ July 9, 2020, Interdepartmental Correspondence from Lizbeth Rhodes, supra, p. 8
(capitalization in the first quote has been changed from the original).

1 **PARTIES**

2 **A. Plaintiffs**

3 **i. Pillars of the Community**

4 7. At least one of Pillars of the Community’s members knows the following
5 facts set forth in paragraphs eight through eleven.

6 8. Pillars of the Community is a Muslim organization headquartered in the
7 County of San Diego, formed in 2009, and incorporated in 2011 under the laws of the
8 State of California as a religious non-profit corporation. Pillars of the Community has
9 approximately 200 people whom its organizers consider members, people actively
10 engaged in the organization’s staple programs, with an additional 5,000 people actively
11 engaged in the organization’s other programs.

12 9. As a religious organization, Pillars of the Community’s members believe
13 the organization has a moral duty to challenge unjust systems that hamper community
14 members’ ability to thrive. Pillars of the Community’s work includes advocacy for
15 people negatively impacted by law enforcement and the criminal justice system through
16 community organizing, leadership development, and strategic partnerships.

17 10. Pillars of the Community’s work opposing the criminalization of its
18 community includes sponsoring AB 90, the Fair and Accurate Database Act of 2017,
19 which codified Penal Code section 186.36. Pillars of the Community also provides
20 community legal support for individuals seeking removal from CalGang. Pillars of the
21 Community’s members have met repeatedly with elected officials and members of local
22 law enforcement agencies regarding CalGang policy. In 2017, Pillars of the Community
23 hosted a statewide conference addressing problems related to law enforcement agencies’
24 gang documentation practices which was attended by over 250 people and included an
25 address from California State Assemblymember Shirley Weber, the author of AB 90.

26 11. Pillars of the Community’s members pay income, property, sales, and other
27 taxes in California.

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1 **ii. Chicaxs Unidxs**

2 12. At least one of Chicaxs Unidxs’ members knows the following facts set
3 forth in paragraphs thirteen through sixteen.

4 13. Chicaxs Unidxs is an unincorporated association founded in 2006 and
5 headquartered in the County of Orange. Chicaxs Unidxs is an entirely volunteer,
6 member-run organization with no paid staff. The number of Chicaxs Unidxs’ active
7 members typically fluctuates between twenty to thirty people.

8 14. Chicaxs Unidxs’ mission is to promote cultural and political
9 empowerment for the Chicax/Mexicanx/Indigenous communities of Orange County and
10 to identify and challenge racism, violence, and institutional oppression. Chicaxs Unidxs’
11 members believe that law enforcement’s labelling of people in their community as gang
12 members stereotypes and dehumanizes their community and provides a pretext for
13 discriminatory policing.

14 15. Since 2013, Chicaxs Unidxs has offered “accountability clinics” to
15 support self-help and organize community-based participatory defense for people labelled
16 as gang members and others. At these clinics, individuals whose names and information
17 have been added to CalGang have been provided with legal information and referrals to
18 attorneys when needed.

19 16. Chicax Unidxs’ members pay income, property, sales, and other taxes in
20 California.

21 **iii. Francisco Romero**

22 17. Francisco Romero knows the following facts set forth in paragraphs
23 eighteen through twenty.

24 18. Mr. Romero is a community educator, activist, and organizer. Mr. Romero
25 works to educate community members about their legal and human rights. His work
26 focuses on immigrant communities, students with learning disabilities, and system-
27 impacted youth, including juveniles labeled as gang members.

28 19. Mr. Romero was born in California and has lived in California his entire

1 life. He is currently a resident of unincorporated Los Angeles County and has been for
2 five years.

3 20. Mr. Romero pays income and sales taxes in California and has been
4 assessed other taxes by California and has paid those taxes since 1993.

5 **B. Defendants**

6 **i. California Department of Justice**

7 21. The California Department of Justice is a statewide investigative law
8 enforcement agency and legal department of the California executive branch under the
9 elected leadership of the California Attorney General. The California Department of
10 Justice oversees the CalGang database, which is used by city and county law enforcement
11 agencies. The Department of Justice serves the residents and taxpayers of California and
12 owes Plaintiffs the duty of ensuring that CalGang is operated in compliance with all state
13 and federal laws.

14 **ii. Attorney General Xavier Becerra**

15 22. Xavier Becerra, sued here solely in his official capacity, is the elected
16 Attorney General of California. Attorney General Becerra is the state's top lawyer and
17 law enforcement official and leads the Department of Justice. In his official capacity, he
18 oversees the CalGang database, which is used by city and county law enforcement
19 agencies. Attorney General Becerra serves the residents and taxpayers of California and
20 owes Plaintiffs the duty of ensuring that CalGang is operated in compliance with all state
21 and federal laws.

22 **JURISDICTION AND VENUE**

23 23. This Court has jurisdiction to issue writs of mandate under Code of Civil
24 Procedure section 1085 and has jurisdiction to issue declaratory and injunctive relief
25 under Code of Civil Procedure sections 410.10, 525, 526, 526a, 1060, and under the
26 common law authority for taxpayer suits.

27 24. Venue is proper in the Superior Court of Los Angeles County under Code
28 of Civil Procedure section 393 because Attorney General Becerra is a public officer and

1 the cause of this action includes the use of CalGang by law enforcement agencies in Los
2 Angeles. Venue is proper in the Superior Court of Los Angeles County under Code of
3 Civil Procedure section 401 because Attorney General Becerra has an office in Los
4 Angeles County.

5 25. Plaintiffs have a clear, present, and beneficial right to the performance of
6 Defendants' duty to ensure that CalGang operates in compliance with all state and federal
7 laws or not at all.

8 26. Plaintiffs have a clear, present, and beneficial right to have their taxes spent
9 without waste or expenditure on programs not within the government's legal power and
10 authority.

11 27. Plaintiffs have no plain, speedy, and adequate remedy at law.

12 **GENERAL ALLEGATIONS**

13 **A. From its Inception, CalGang Has Been Rife with Inaccurate and Unreliable** 14 **Data Because It Has Operated Without Sufficient Auditing and Oversight.**

15 28. The CalGang database is a gang database used by city, county, and state
16 law enforcement agencies across California to document and share allegations of gang
17 membership and to track alleged gang members. In addition to California law
18 enforcement agencies, federal and out-of-state law enforcement agencies may also access
19 the database, though they may not add records. CalGang has been described as a "pointer
20 system" that refers law enforcement investigators to where they can find source
21 documentation supporting allegations of gang membership, but the pertinent information
22 from those source documents is duplicated, stored, and accessed within CalGang.

23 29. The data stored in CalGang includes personal identifying information such
24 as a person's name, address, vehicle license plate number, and also photographs, physical
25 descriptions, descriptions of tattoos and scars. CalGang also stores information about a
26 person's associates, the dates and times of contacts with law enforcement officers, and
27 information about the gangs to which people allegedly belong. CalGang also stores arrest
28 records and reports such as convictions, arrest reports and jail interviews.

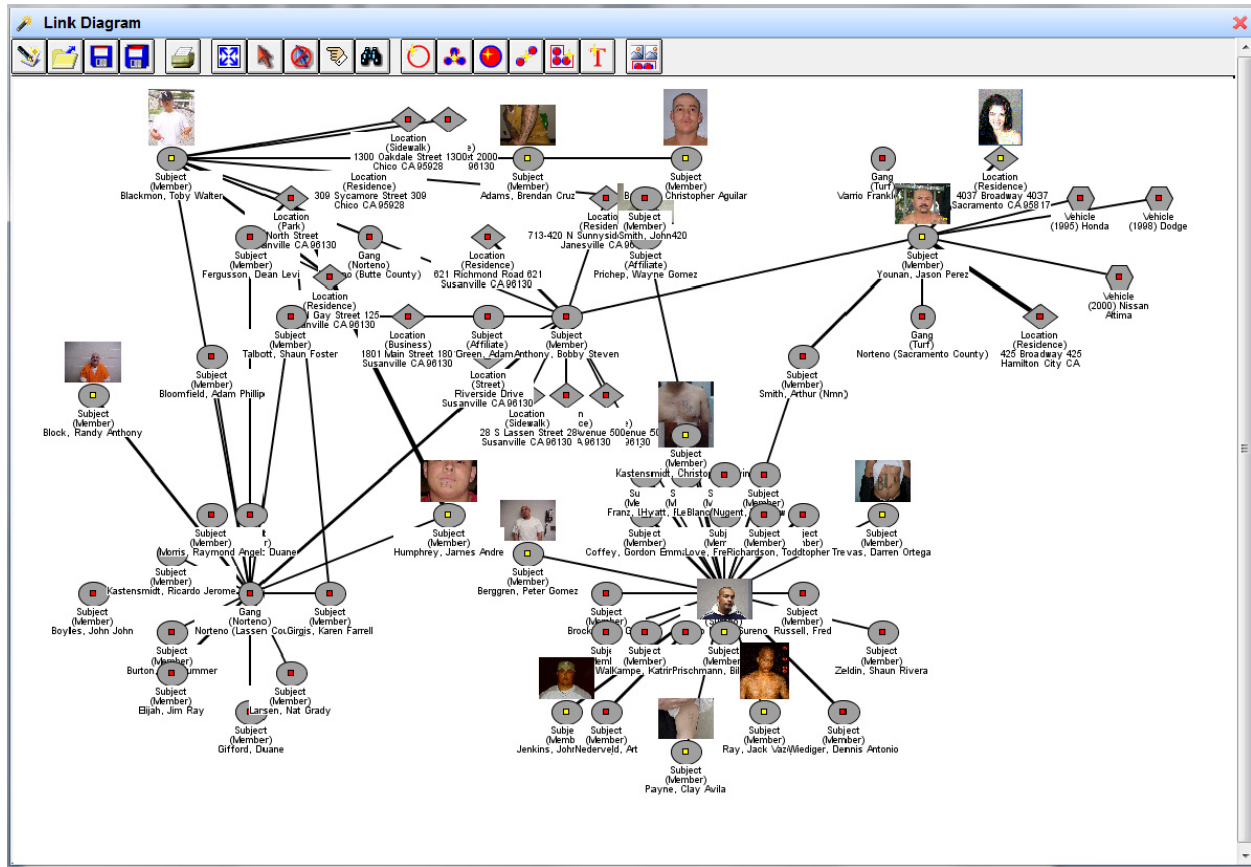


Figure 1: Screenshot showing CalGang’s ability to track a person’s associates. (SRA International Inc., Gang Net White Paper (2013) p.9).

30. The CalGang database was created in 1988 and modelled on the Gang Reporting, Evaluation, and Tracking (“G.R.E.A.T.”) system that was previously used to share gang allegations between law enforcement agencies in Los Angeles County. This type of gang database, a database modelled on G.R.E.A.T., has long been criticized as tracking people based on insufficient evidence to reliably support allegations of gang membership. Such databases have also been criticized because law enforcement agencies typically audit the databases themselves, resulting in little more than paper compliance with policies designed to protect the public’s privacy rights.

31. When using CalGang or another database modelled after G.R.E.A.T., law enforcement officers typically enter records based on nothing more than brief encounters between officers and suspected gang members during consensual or investigative stops in public, even when an officer has no suspicion of any specific criminal activity. Officers

1 typically document these encounters on postcard-sized field investigation (“F.I.”) cards
 2 which include a few words describing an individual’s appearance and dress, their
 3 location, and the identities of anyone with whom they may have been stopped. Based on
 4 nothing more than these cursory observations and an officer’s otherwise unarticulated
 5 suspicion of gang membership, officers may document a person in a shared gang
 6 database as a gang member. Law enforcement officers may then refer to the person in
 7 official documents and public statements as a “known and documented gang member.”

OP. LIC. NO. O		STATE F	NAME (LAST, FIRST, MIDDLE) N		SUFFIX (JR., ETC.) J					
RESIDENCE ADDRESS A				CITY C	STATE	SEX S	DESCENT D	HAIR H	EYES E	
HEIGHT T	WEIGHT W	BIRTHDATE B		CLOTHING						
PERSONAL ODDITIES							PHONE NO.			
BUSINESS ADDRESS/SCHOOL/UNION AFFIL.							SOC. SECURITY Z			
MONIKER/ALIAS				GANG/CLUB						
SUBJ		1 LOITERER		3 SOLICITOR		5 GANG ACTIVITY		7 ON PAROLE		<input type="checkbox"/> DRIVER
INFO		2 PROWLER		4 WITNESS		6 HAS RECORD		8 ON PROBATION		<input type="checkbox"/> PASSENGER
V	YEAR	MAKE	MODEL	TYPE	COLOR	VEH. LIC. NO.		TYPE	STATE	
E	INT COLOR	I	1 BUCKET SEAT	E	1 CUST. WHEELS	3 LEVEL ALTER	5 CUST. PAINT			
		N	2 DAMAGED INSIDE	T	2 PAINTED MURAL	4 RUST/PRIMER	6 VINYL TOP			
H	BODY	1 DAMAGE	3 STICKER	4 LEFT	6 FRONT	WIN-	1 DAMAGE	3. CURTAINS	4 LEFT	6 FRONT
		2 MODIFIED		5 RIGHT	7 REAR	DOWNS	2 CUST. TINT		5 RIGHT	7 REAR

Persons with subject				
NAME (LAST, FIRST)		DOB	SEX	GANG/MONIKER
NAME (LAST, FIRST)		DOB	SEX	GANG/MONIKER
SUBJECT'S	CITY	COUNTY	STATE	COUNTRY
BIRTHPLACE:				
ADDITIONAL INFO [ADDITIONAL PERSONS, BOOKING NO., NARRATIVE, E-MAIL, SOCIAL MEDIA ACCOUNT(S) (E.G., TWITTER, INSTAGRAM, FACEBOOK), ETC.]				
DATE	TIME	LOCATION		RD
OFFICER		SERIAL NO.		OFFICER
				SERIAL NO.
FIELD INTERVIEW	INCIDENT NO.		DIVISION	DETAIL
15.43.00 (09/15)				SUPV. INITS.

28 **Figure 2: Typical F.I. card that may serve as the sole evidence of gang membership.**

1 32. Data has supported the criticism of the accuracy of shared gang databases
2 like CalGang since the first publicly released audit of the G.R.E.A.T. system. A 1992
3 audit conducted by the Los Angeles District Attorney found that "... a common estimate
4 is that no more than 2% of all young men are hardcore gang members";⁵ however,
5 "[a]lmost one-half of all young Black men [in L.A. County] are in the gang database."⁶

6 33. The first public accounting of the number of people tracked in the CalGang
7 database, published in 2012, revealed that there were 201,094 people whose names and
8 information were documented in CalGang, some as young as 10 years old.⁷ Since the
9 publication of those numbers, scrutiny of CalGang has increased, resulting in the number
10 of records in the database dropping to a currently estimated 60,000 people. This drop of
11 over 70 percent in the number of records undercuts any claim that the process for
12 determining who should and should not be documented as a gang member in the database
13 is reliable.

14 **B. The Legislature Has Repeatedly Acted to Reform Law Enforcement's Shared**
15 **Gang Databases, Including by Assigning the Department of Justice Oversight of**
16 **CalGang and Directing the Department of Justice to Implement Reforms.**

17 34. Following the 2012 publication of the number of people tracked in the
18 CalGang database, the Legislature embarked on a series of reforms. During three of the
19 last four legislative cycles, the Legislature passed laws attempting to rein in the abuses of
20 the CalGang database.⁸ As a result of this legislation, sections 186.34 through 186.36
21 were added to the Penal Code, dealing with shared gang databases.

24 ⁵ Reiner, *Gangs, Crime and Violence in Los Angeles: Findings and Proposals from the District*
25 *Attorney's Office* (1992) p. 155.

26 ⁶ *Id.* at p. 121.

27 ⁷ Youth Justice Coalition, *Tracked and Trapped: Youth of Color, Gang Databases and Gang*
28 *Injunctions* (2012) p. 8, <https://youthjusticela.org/wp-content/uploads/2013/07/Tracked-and-Trapped.pdf>

⁸ Assem. Bill 458 (2013-2014 Reg. Sess.); Assem. Bill. 2298 (2015-2016 Reg. Sess.); Assem.
Bill No. 90 (2017-2018 Reg. Sess.).

1 35. The first bill to address shared gang databases was SB 458, a 2013 bill
2 which gave juveniles the right to notice and administrative appeal when their names and
3 information were added to a shared gang database.⁹ Three years later, in 2016, AB 2298
4 expanded the right to notice to adults and provided for judicial review of removal
5 requests.¹⁰

6 36. When sponsors of AB 2298 complained that there remained rampant abuse
7 of the database, the California State Auditor conducted an audit of the CalGang database.
8 In 2015, after AB 2298 had been introduced, but before it was chaptered, the State
9 Auditor published a report on CalGang, titled “The CalGang Criminal Intelligence
10 System As the Result of Its Weak Oversight Structure, It Contains Questionable
11 Information That May Violate Individuals’ Privacy Rights.” The report was received as a
12 scathing critique of the database,¹¹ with such shocking facts as that the database included
13 “42 individuals in CalGang whose birthdates indicated that they were less than one
14 year old at the time their information was entered, 28 of whom were entered into
15 the system in part because they admitted to being gang members.”¹² Among the
16 report’s key findings were that (1) the database lacked sufficient oversight to protect
17 peoples’ privacy rights, (2) operation of the database lacked statutory authority and
18 public engagement, (3) only one of the nine gangs reviewed had been properly entered,
19 (4) audited agencies were unable to substantiate 23% of the entry criteria they claimed
20 were met, (5) purge dates for 250 people were set for over 100 years in the future instead
21 of 5 years, (6) audited agencies had not implemented juvenile notice requirements, and
22 (7) none of the agencies adequately audited records before or after entry.¹³

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26 ⁹ Assem. Bill 458 (2013-2014 Reg. Sess.).

¹⁰ Assem. Bill 298 (2015-2016 Reg. Sess.).

27 ¹¹ Winton, *California Gang Database Plagued With Errors, Unsubstantiated Entries, State Auditor*
28 *Finds*, Los Angeles Times (Aug. 11, 2016).

¹² California State Auditor, *The CalGang Criminal Intelligence System*, *supra*, p. 39

¹³ California State Auditor, *The CalGang Criminal Intelligence System*, *supra*, p. 1-4.

1 37. Following the audit, the Legislature passed AB 90, which mandated many
2 of the reforms recommended in the State Auditor’s report. These included (1) removing
3 oversight power from the CalGang Executive Board and vesting that power in the
4 Department of Justice; (2) directing the Department of Justice to impose a moratorium on
5 the database beginning January 1, 2018 while an audit was performed and records
6 removed; (3) directing the Department of Justice to convene a Gang Database Technical
7 Advisory Committee (“GDTAC”) to advise the Department in drafting regulations; and
8 (4) directing the Department of Justice to commence rulemaking actions to promulgate
9 regulations for the use of CalGang and other shared gang databases. Among other things,
10 the Legislature determined that the new regulations must “provide for periodic audits of
11 each CalGang node and user agency to ensure the accuracy, reliability, and proper use of
12 the CalGang database,”¹⁴ and include “[c]riteria for designating a person as a gang
13 member or associate that are unambiguous, not overbroad, and consistent with empirical
14 research on gangs and gang membership.”¹⁵

15 38. In adopting AB 90, the Legislature debated whether to impose a
16 moratorium on the use of CalGang until an audit could be completed, new regulations
17 promulgated, and users re-trained. In the end, the Legislature decided to impose a
18 moratorium only while the initial audit took place and then allow use of the database
19 during the process of promulgating regulations. However, the Legislature limited that
20 permission by imposing a January 1, 2020 deadline for the promulgation of regulations
21 for the database’s periodic audit and conditioning the continued use and operation of
22 CalGang on meeting that deadline.

23 **C. The Department of Justice Has Had Years to Implement the Legislature’s**
24 **Reforms, but Has So Far Failed to Do So.**

25 39. Among the first actions taken by the Department of Justice once it assumed
26 _____
27

28 ¹⁴ Penal Code section 186.36(n)n

¹⁵ Penal Code section 186.36(1)(2).

1 responsibility to oversee the CalGang database was to impose the moratorium mandated
2 by AB 90. The database was made inaccessible to user agencies for approximately four
3 months. During that time, the Department of Justice removed records whose entry was
4 based on jail classification, frequenting gang neighborhoods, or on the basis of an
5 untested informant if that record would not satisfy the criteria for entry without relying on
6 those bases. The four-month moratorium ended when Attorney General Becerra certified
7 that those records were removed. While the moratorium was in effect, investigators could
8 not access CalGang but could access the original documents on which the CalGang
9 entries were based by searching their agency's local records management system.

10 40. The Department of Justice also convened the Gang Database Technical
11 Advisory Committee as mandated by AB 90. For approximately one year, the GDTAC
12 met publicly to discuss recommendations for regulations of the database. At the end of
13 that year, the GDTAC stopped meeting without making a formal recommendation to the
14 Department of Justice.

15 41. Following the last meeting of the GDTAC, the Department of Justice began
16 the rulemaking process for promulgating regulations for CalGang and for other shared
17 gang databases. The Office of Administrative Law published the Department of Justice's
18 Notice of Proposed Rulemaking Action on May 10, 2019.

19 42. The Department of Justice initially proposed regulations that were
20 substantially similar to the past policy and procedures for the use of CalGang. For
21 example, the proposed regulations used most of the same criteria for entry, though these
22 criteria were spelled out in more specific language. This first proposal was met with
23 highly critical public comment from the sponsors of AB 90.

24 43. On July 31, 2019, the Department published its first modified proposal for
25 regulations which responded to much of the criticism offered by AB 90's sponsors. For
26 example, several of the criteria for entry criticized as overbroad and unreliable were
27 removed. However, a second public comment period followed this first modification
28 where law enforcement agencies criticized the removal of those criteria. On December

1 31, 2019, the Department of Justice published a second modified proposal that reinstated
2 the removed criteria.

3 44. On February 25, 2020, the Department of Justice submitted its proposed
4 regulations to the Office of Administrative Law. However, on April 3, 2020, the
5 Department of Justice withdrew the submission.

6 45. On May 20, 2020, more than one year after the publication of the Notice of
7 Proposed Rulemaking Action, the Department proposed a third modification of the
8 proposed regulations. Then, on July 28, 2020, the Department proposed a fourth
9 modification of the proposed regulations and began a fifth public comment period, which
10 ended on August 12, 2020.

11 46. While the Department of Justice has spent these years preparing, drafting,
12 and revising regulations but never finally submitting them to the Office of Administrative
13 Law, law enforcement agencies have continued to use CalGang under the same policies
14 and procedures disapproved by the Legislature.

15 **D. The Recent Scandal in the LAPD's Use of CalGang Demonstrates That the**
16 **Harm of Operating the Database Without Sufficient Oversight and Regulation is as**
17 **Great as Ever.**

18 47. On January 7, 2020, the LAPD publicly announced that it had begun an
19 internal affairs investigation into three officers it had discovered falsifying information
20 that had been used to add individuals' names and information to CalGang. Over the
21 following months, LAPD Police Chief Michel Moore announced that the investigation
22 had expanded to include dozens of officers. At the request of the LAPD's Board of
23 Police Commissioners, the LAPD's audit division conducted a review of the use of
24 CalGang by the LAPD's Metro Division and Gang Enforcement Details.

25 48. On July 9, 2020, the Los Angeles District Attorney filed a Felony
26 Complaint for Arrest Warrant for three LAPD officers, alleging the officers had
27 committed a total of 59 counts of falsifying evidence, perjury, or conspiracy all relating
28 to the falsifying of documents used to add individuals' names and information to

1 CalGang.¹⁶

2 49. According to the LAPD, this scandal was not uncovered as a result of the
3 oversight of the Department of Justice or through any type of audit or review mandated
4 by the Department of Justice. The LAPD states that they uncovered the scandal when the
5 mother of a young man who received notice of entry into CalGang asked officers to
6 review the body worn camera recording of the stop, and a review of the recording
7 revealed that the documenting officer had falsified his account of the stop. According to
8 the LAPD, investigation into the officer who had falsified this stop led to an investigation
9 into other stops by this officer and by his partners, which revealed more falsified
10 evidence, which in turn led to a widening investigation into the entire department's use of
11 CalGang. This investigation was independent of the Department of Justice, though on
12 February 10, 2020, Attorney General Becerra publicly announced that he intended to also
13 audit the LAPD's use of CalGang.¹⁷

14 50. On July 10, 2020 Chief Moore publicly announced the findings of the
15 LAPD's Audit Division's reports and the conclusion of the LAPD's Office of
16 Constitutional Policing and Policy. The LAPD concluded that "LAPD's entry of
17 individuals into the database appears haphazard at best" and that "LAPD has no
18 knowledge that other [agencies'] entries are not similarly flawed, or unreliable."¹⁸

19 51. Based on this finding, Chief Moore stated that, "Given the extent of the
20 inaccurate information found, including instances of false information, I have decided to
21 permanently withdraw the Department's participation in the Database System."¹⁹

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24 ¹⁶ *People v. Shaw* (Super. Ct. Los Angeles County, 2020, No. BA488467).

25 ¹⁷ Press Release from Attorney General Xavier Becerra: *Attorney General Xavier Becerra*
26 *Announces Independent Review of the Los Angeles Police Department's CalGang Records and*
Policies, February 10, 2020

27 ¹⁸ July 9, 2020, Interdepartmental Correspondence from Lizbeth Rhodes, *supra*, p. 8
(capitalization from the first quote has been changed from the original).

28 ¹⁹ July 10, 2020 Interdepartmental Correspondence from Chief Moore, Chief of LAPD, to the
LAPD Board of Police Commissioners, p.1 (Attachment B).

1 **SECOND CAUSE OF ACTION**

2 **(Taxpayer Action to Restrain Waste and Illegal Expenditure of Funds Pursuant to**
3 **Code of Civil Procedure Section 526a and the Common Law Authority for**
4 **Taxpayer Suits by all Plaintiffs against all Defendants)**

5 58. Plaintiffs re-allege and incorporate by reference each of the allegations
6 above as if fully set forth herein.

7 59. Francisco Romero has and does pay taxes to the State of California such as
8 income tax and other taxes. Members of Pillars of the Community and Chicanxs Unidxs
9 have and do pay taxes to the State of California such as income tax and other taxes.

10 60. Defendants' operation of CalGang after January 1, 2020 without having
11 promulgated regulations for periodic audits as required by Penal Code section 186.36 is
12 beyond Defendants' legal power and authority and is therefore illegal.

13 61. Defendants wastefully and illegally expends state funds, resources, and
14 employee time to allow law enforcement agencies to illegally access and use the CalGang
15 database. In overseeing and operating the CalGang database for use by local and county
16 law enforcement agencies, Defendants act as agents for the wasteful and illegal
17 expenditure of local city and county agencies. Defendants' policies, practices, and actions
18 as stated in this complaint constitute an illegal or wasteful expenditure of public funds
19 justifying an injunction under California Code of Civil Procedure section 526a.

20 62. There is no adequate remedy at law if the requested injunction does not
21 issue to prevent the illegal or wasteful expenditure of taxpayer monies.

22 **PRAYER FOR RELIEF**

23 **WHEREFORE, Plaintiffs pray for relief as follows:**

- 24 a. Under both causes of action, that this Court declares that, at least since January 1,
25 2020, compliance with Penal Code section 186.36 requires having promulgated
26 regulations for periodic audits.
- 27 b. Under the First Cause of Action, that this Court issues a peremptory writ of
28 mandate commanding Defendants to immediately prohibit all law enforcement

1 agencies from accessing the CalGang database until operation of the CalGang
2 database complies with Penal Code section 186.36.

3 c. Under the Second Cause of Action, that this Court declares Defendants' use of
4 funds, resources, and employee time to allow access to the CalGang database by
5 law enforcement agencies, while CalGang is operated out of compliance with
6 Penal Code section 186.36, constitutes waste and an illegal expenditure of funds.

7 d. Under the Second Cause of Action, that this Court issues an injunction enjoining
8 Defendants from expending any funds, resources, or employee time on allowing
9 any law enforcement agency to access the CalGang database until operation of the
10 CalGang database complies with Penal Code section 186.36.

11 e. That this Court award reasonable attorneys' fees and costs pursuant to California
12 Code of Civil Procedure sections 1021, 1021.5, and any other applicable law.

13 f. That this Court orders all other relief the Court deems just and proper.
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16 Respectfully submitted,

17 Dated: September 20, 2020

Sean Garcia-Leys

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Attorney for Plaintiffs/Petitioners
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1 **VERIFICATION OF PETITIONER/PLAINTIFF FRANCISCO ROMERO**

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3 I, Francisco Romero, declare:
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5 1. I am a petitioner/plaintiff in the above-titled action.

6 2. I have read the forgoing Verified Petition for Writ of Mandate and
7 Complaint for Declaratory and Injunctive Relief.

8 3. As to facts alleged on information and belief, I am informed and believe the
9 matters therein to be true and on that ground allege that the matters stated therein are true.

10 4. As to facts alleged in paragraphs eighteen through twenty, I know the
11 matters therein to be true on my own knowledge.
12

13 I declare under penalty of perjury under the laws of the State of California that the
14 foregoing is true and correct.
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18 Executed this 22nd day of September, 2020, at Los Angeles, California.
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23 Francisco Romero
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