

MICHELE BECKWITH
Acting United States Attorney
501 I Street, Suite 10-100
Sacramento, CA 95814
Telephone: (916) 554-2700
Facsimile: (916) 554-2900

YAAKOV M. ROTH
Acting Assistant Attorney General
Civil Division
SARAH S. WILSON
Assistant Director
NANCY N. SAFAVI
Senior Trial Attorney
TX Bar No. 24042342
U.S. Department of Justice
Office of Immigration Litigation
General Litigation and Appeals Section
P.O. Box 878, Ben Franklin Station
Washington, D.C. 20044
Telephone: (202) 514-9875

Attorneys for Respondent
United States of America

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Y.G.H.,
Petitioner-Plaintiff,

v.

DONALD J. TRUMP, et al.,
Respondents-Defendants

CASE NO. 1:25-CV-435-KES-SKO

REPLY IN SUPPORT OF REQUEST TO SEAL
GOVERNMENT'S DECLARATION

I. INTRODUCTION

Respondents-Defendants ("Respondents") move to seal the documents concurrently filed with the Declaration of Yousuf Khan. The declaration contains law enforcement sensitive information. The compelling need for continued secrecy of law enforcement sensitive information combined with the potential for prejudice against Respondents by public disclosure of the documents outweighs the public interest in the declaration's disclosure. This Court should seal the declaration and the accompanying request, opposition and reply.

II. ARGUMENT

Courts have a “solemn duty” to guard the “public’s right of access” to judicial records and preserve the “public’s faith in our judicial system.” *Binh Hoa Le v. Exeter Fin. Corp.*, 990 F.3d 410, 420–21 (5th Cir. 2021). But “the right to inspect and copy judicial records is not absolute. Every court has supervisory power over its own records and files, and access has been denied where court files might have become a vehicle for improper purposes.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978). This Court must “scrupulously examine each document sought to be sealed,” undertaking a “document-by-document, ‘line-by-line’ balancing of ‘the public’s common law right of access against the interests favoring nondisclosure,’” *June Med. Servs., LLC v. Phillips*, 22 F.4th 512, 521 (5th Cir. 2022) (quoting *Binh Hoa Le*, 990 F.3d at 419). Sealing information is permitted when there is a compelling governmental interest and the seal is narrowly tailored to protect that interest. *Globe Newspaper Co. v. Superior Ct.*, 457 U.S. 596, 606–07 (1982). Courts have found compelling governmental interests in sealing information where disclosing that information could thwart law-enforcement efforts and endanger those involved in law-enforcement operations. *See United States v. Brown*, 447 F. Supp. 2d 666, 670–71 (W.D. Tex. 2006).

Here, Respondents seek an extremely narrow seal to a declaration. *See Globe Newspaper Co.*, 457 U.S. at 606–07; *Brown*, 447 F. Supp. 2d at 670–71. Because Respondents seek a targeted seal on a specific document whose disclosure could lead to identifiable harms, Respondents have identified sufficiently compelling interests to outweigh the starting presumption of disclosure.

Although the public has “had access to the overall subject of this suit,” it has never had access to the specific, sensitive information in the declaration at issue. *See Monbo v. United States*, Civil Action No. 23-2425 (JEB), 2023 WL 7129866, at *2 (D.D.C. Sept. 7, 2023). That the United States has moved to seal the documents “weighs in favor of [Respondents’] motion” to seal. *Zapp v. Zhenli Ye Gon*, 746 F. Supp. 2d 145, 149 (D.D.C. 2010). The privacy interests inherent in intelligence reports are even weightier. *See, e.g., United States v. Hubbard*, 650 F.2d 293, 315–16 (D.C. Cir. 1980) (“The public has in the past

1 been excluded, temporarily or permanently, from court proceedings or the record of court proceedings to
2 protect private as well as public interests: [*e.g.*,] to guard against risks to national security interests . . .”).

3 Disclosure could cause “dire consequences” to Respondents. *See Cable News Network, Inc. v.*
4 *Federal Bureau of Investigation*, 984 F.3d 114, 119 (D.C. Cir. 2021). Loss of trust in the ability of the
5 United States to keep law enforcement operational activities from being publicly disclosed “could well
6 impair intelligence gathering and cause sources to close us like a clam.” *Id.* (quoting *CIA v. Sims*, 471
7 U.S. 159, 175 (1985)). States.

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9 Given the law enforcement sensitive information contained in the recently provided declaration,
10 the factors weigh decisively in favor of sealing.

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15 Indeed, Petitioner does not and cannot contest that information pertaining to a Foreign Terrorist
16 Organization is law enforcement sensitive. Instead, Petitioner mistakenly asserts that the declaration is a
17 judicial document that should be available to the public relying on *J.A.V. v. Trump*, No. 1:25-cv-72 (S.D.
18 Tex., Minute Entry dated Apr. 24, 2025). Opposition at 4. However, in that case, the Court’s
19 jurisdiction was not in question in terms of place of confinement. Moreover, Respondents provided the
20 declaration in response to the Court’s three questions so it could determine its jurisdiction after
21 Respondents filed a motion to dismiss and transfer venue. The declaration and the sensitive nature of
22 the information contained within the declaration pertains to a Foreign Terrorist Organization, which
23 contains law enforcement sensitive information related to an ongoing operation. To disclose which
24 portion of it implicates operational activities would also be law enforcement sensitive. Because
25 Petitioner is detained at Bluebonnet Detention Center and as the declaration notes: Petitioner was
26 detained there at the time the habeas petition was filed, jurisdiction lies with the Northern District of
27 Texas. As such, because this Court lacks jurisdiction, protecting the law enforcement sensitive
28 information leans in favor of Respondents.

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2 **III. CONCLUSION**

3 The motion to seal should be granted.
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5 Dated: May 20, 2025
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7 By: /s/ Nancy Safavi
8 NANCY N. SAFAVI
9 Senior Trial Attorney, DOJ OIL
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