



# OFFICE OF THE SHERIFF

COUNTY OF LOS ANGELES

HALL OF JUSTICE

JIM McDONNELL, SHERIFF



September 22, 2015

The Honorable Board of Supervisors  
County of Los Angeles  
383 Kenneth Hahn Hall of Administration  
Los Angeles, California 90012

Dear Supervisors:

## THE LOS ANGELES COUNTY SHERIFF'S DEPARTMENT REPORT BACK REGARDING THE PRIORITY ENFORCEMENT PROGRAM

On May 12, 2015, the Board voted to end a prior Memorandum of Agreement (MOA) entered into with the United States Immigration and Customs Enforcement (ICE), a component of the United States Department of Homeland Security (DHS), pursuant to Section 287(g) of the Immigration and Nationality Act. The Board requested that the Sheriff cooperate with DHS to implement the President's new Priority Enforcement Program (PEP) and further requested that the Los Angeles County (County) Sheriff's Department (Department) report back to the Board in regard to policies, practices and procedures it develops relating to the Department's cooperation with DHS.

When the Board considered this matter in May, I noted my commitment to work closely and cooperatively with federal authorities to identify and assist with the lawful investigation and prosecution of undocumented persons who pose a danger to our community. I also acknowledged that the Department must partner with some of the most diverse and immigrant-rich communities in the world. Serving the community, reducing crime, and promoting public safety is immeasurably harder if law enforcement fails to maintain relationships with -- and the trust of -- our community. With all of these objectives in mind, I noted the need to develop policies and procedures that appropriately balance *both* promoting and preserving public safety and fortifying trust within the multiethnic communities that make up Los Angeles County.

Following the Board's May 12<sup>th</sup> action, the Department sought input from a variety of stakeholders throughout the region. Department leaders facilitated three community

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meetings, seeking input from the diverse communities we serve. Over 375 individuals attended and 90 individuals spoke and offered their views at these town halls. We also conducted smaller meetings with key advocates, experts, and stakeholders including representatives from the District Attorney's Office, the Public Defender's Office, the Alternate Public Defender, ICE, six neighboring County Sheriff's Departments, the Los Angeles Police Department, the American Civil Liberties Union, ICE out of LA, the Coalition for Humane Immigrant Rights of Los Angeles, the Youth Justice Coalition and the National Immigration Law Center. I personally participated in a number of these meetings, as did DHS Deputy Secretary Mayorkas. These were meaningful and important conversations that resulted in valuable sharing of information and perspectives.

Following these many meetings, the Department carefully analyzed the multifaceted information we received, weighing in the equally complex and passionate positions of groups on both sides of the immigration debate. As a result of that process, the Department has developed a series of guidelines and policies, as described in this letter. These policies are the result of careful consideration of all key factors, including – most importantly -- the needs of the community we serve and our sworn duty to promote public safety.

At the Board's request, this letter summarizes the parameters of our intended implementation of the President's PEP. I should note that the fundamental starting point of mutual cooperation, to the extent appropriate and feasible, is not simply the framework for the Department's interaction with ICE, but also defines the relationships we seek to establish and maintain with other justice system partners at the local, state and federal level as we work together to promote public safety. That cooperation, however, must be in accordance with state law and legal precedent.

While I have made clear my desire to abide by and implement PEP as it applies to the County's jails, the Department will not do so when and if that program conflicts with the California Trust Act or applicable case law. Our federal and state leaders have developed approaches in regard to this important issue that are at times in tension with each other. It is the Department's aim to balance and reconcile these provisions, while also keeping foremost in mind the needs, safety, and vitally important trust of our community. With these objectives in mind, inmates who are subject to a detainer by ICE and also meet the criteria previously established by our state legislature as part of the California Trust Act will be made available for potential ICE transfer. The Department will not, however, make available to ICE for transfer individuals that fall under the PEP but fail to meet the standards established by our state's legislature under the Trust Act. Nor will the Department detain individuals beyond their date of release solely based on an ICE request (as contemplated in some instances under the PEP). Finally, we have determined that the appropriate guiding principles for offenses that will subject individuals to ICE transfer should be the provisions of the Trust Act rather than

any other local determination that we might seek to overlay on top of that state enactment.

The key practices and principles governing Department policy are more fully outlined below:

- The Department will provide ICE with notification up to seven days prior to an inmate's release. Full access into the County's jails and our databases will also be authorized in order for ICE to conduct thorough investigations, ensuring timeframes and procedures are met. During this period of time, ICE will have the ability to interview both inmates who have ICE detainers issued through PEP and certain other inmates, as discussed below.
- At the suggestions of immigrant advocacy groups, the Department will implement a system for notifying inmates when an ICE detainer is issued. In addition to the notification, inmates will be advised of their opportunity to consult legal counsel. The Department is also committed to working with advocacy groups and County Counsel to develop an information sheet with other key information that inmates could be provided.
- During the release process at the Department's Inmate Reception Center, ICE agents will be allowed access to all inmates who are being released, including bonds, bails, citations, and own recognizance releases. In an effort to identify any and all individuals who may pose a danger and who are appropriately within the purview of both PEP and the Trust Act, this access will not be limited to individuals who have completed their sentence.
- ICE agents will be authorized to interview specific inmates who do not have ICE detainers issued through the Pacific Enforcement Response Center (PERC). Those inmates without PERC detainers must be screened by ICE to confirm they have a high likelihood of being in the United States illegally, meet a PEP priority category, and have a conviction that qualifies them under the California Trust Act. After inmates have been screened by ICE and prior to any interview, Department personnel will verify the inmate is validated for transfer under the California Trust Act. ICE interviews of these inmates will allow violent and serious felons who are being released from the County's jails to be transferred to ICE if the designated criteria are met. The Department also retains the authority to allow law enforcement officers, including ICE agents, access to interview any inmate in regard to criminal investigations outside the scope of PEP.
- Prior to any in-custody transfer to ICE, Department personnel will validate an inmate's qualification under the California Trust Act. All crimes allowable by the Trust Act will be eligible for in-custody transfer. Consistent with the Trust Act's

provisions, the Department will not seek to craft its own limitations on when a crime was committed in an inmate's criminal history in order to determine eligibility for an in-custody transfer to ICE; the determinations made by the California legislature and memorialized in the Trust Act will be the governing principles.


- Qualified inmates will be transferred to the custody of ICE only during the standard amount of time it would normally take to release an inmate. No inmate will be held beyond the release date based solely on an ICE request.
- In order to promote enhanced transparency and accountability, monitoring, and public posting of information will be instituted. These efforts will include monthly audits to ensure only California Trust Act qualified inmates are transferred to ICE and only during the standard time period it would normally take to release an inmate. In addition, the Department will request monthly statistical reports from ICE and ask that they are posted on a website to inform not only the Board, but the public of relevant transfer information.

Finally, let me note that earlier this month I approved a new Department policy to reinforce existing practices and make abundantly clear that Department members shall investigate criminal activity without regard to an individual's legal status, shall not initiate police action with the objective of discovering an individual's immigration status, and shall not arrest an individual solely on suspicion of violating a federal immigration law relating to illegal entry, being unlawfully present, or overstaying a visa. The policy is scheduled to be implemented this week.

Through all of these policies and practices, it is my goal to ensure that the Los Angeles County Sheriff's Department continues to fulfill its mission of promoting public safety, investigating crimes regardless of the victim's or offender's immigration status, enforcing the law fairly and within constitutional authority, and maintaining public trust through our ongoing partnerships with all of the communities we serve.

Thank you for your interest in this important issue and your support of the process that enabled us to reach out to the necessary stakeholders and impacted communities to thoroughly address all aspects of these policies.

Sincerely,



JIM McDONNELL  
SHERIFF