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[CLICK HERE FOR THE SHERIFF's REPORT "ICE 287\(G\) PROGRAM"](#)

[CLICK HERE FOR THE SHERIFF's REPORT DATED SEPTEMBER 18, 2008](#)

## ICE 287(G) PROGRAM

In 2005 the Board approved Custody Assistant interviews of convicted foreign-born inmates. Since that time, the Department, in cooperation with ICE, has interviewed about 20,658 inmates and transferred over 17,000 criminal aliens to Federal custody. The existing MOU between the Sheriff and ICE has no restrictions as to interviews of inmates. The Board, prior to approval, requested and the Sheriff agreed that interviews would be conducted only for those inmates convicted of a crime.

With existing resources and the artificial conviction requirement, we are only able to interview about 30% of inmates eligible for an interview.

Under the existing program, foreign-born inmates who are released from court prior to conviction or at the time their case is otherwise disposed in a manner not resulting in conviction, are not interviewed. Additionally, with the time constraint of post-conviction, the Department is limited in the time period an interview may be conducted and concentrates primarily on inmates in the release process.

Although additional resources will have a measurable impact upon the number of people interviewed, **without cost we can better manage the foreign-born inmate population who are gang members or involved in serious crimes** by modifying the interview process.

We recommend the existing protocol of interviewing only those foreign-born inmates **convicted** of a crime be modified to **interviewing foreign-born inmates identified as gang members or arrested for a serious felony**. See attached list of recommended crimes.

If this proposal were to be articulated as a motion by the Board, the language may read:

*In furtherance of the existing MOU between the United States Department of Homeland Security and the Los Angeles County Board of Supervisors, the Sheriff is authorized to interview foreign-born inmates convicted of a crime and any foreign-born inmate identified as a gang member or arrested for a serious felony as enumerated in an approved list of serious crimes.*

136 PC	PREVENT/DISUADE A WITNESS FROM TESTIMONY
148.10(a)PC	RESISTING PEACE OFFICER RESULTING IN DEATH /SERIOUS INJURY TO P.O.
186.22(a) PC	CRIME OF ACTIVE GANG MEMBER
186.22(b)(1)PC	ENHANCEMENT CRIME TO BENEFIT STREET GANG
187 PC	MURDER
191.5 PC	GROSS VEHICULAR MANSLAUGHTER
192 PC	MANSLAUGHTER
203 PC	MAYHEM
205 PC	AGGRAVATED MAYHEM
207 Pc	KIDNAPING
209 PC	KIDNAPPING FOR RAPE, ROBBERY, RANSOM OR EXTORTION
209.5 PC	KIDNAPPING DURING A CARJACKING
211 PC	ROBBERY
215 PC	CAR JACKING
220 PC	ASSAULT WITH INTENT TO COMMIT RAPE
236 PC	FALSE IMPRISONMENT
243 (B) PC	BATTERY ON A POLICE OFFICER
243 (C) PC	BATTERY ON PEACE OFFICER/EMERGENCY PERSONNEL
243.3 PC	DISCHARGE FIREARM/CAUSE INJURY-DEATH
243.4 PC	SEXUAL BATTERY
245 (A)(2) PC	ASSAULT WITH FIREARM
245 (B) PC	ASSAULT WITH A SEMI-AUTO FIREARM
245 (C) PC	ASSAULT ON PEACE OFFICER FIREMAN
246 PC	SHOOT AT OCCUPIED DWELLING
261 PC	RAPE
273a PC	WILLFUL CRUELTY TO CHILD
273(0) PC	CORPORAL INJURY TO CHILD
273.5 (A) PC	CORP. INJURY ON SPOUSE/ COHABITANT
273.6 PC	VIOL. OF A COURT ORDER TO PREVENT DOMESTIC VIOL
286 PC	SODOMY
288 PC	LEWD OR LASCIVIOUS ACTS WITH A CHILD UNDER 14
289 PC	FORCIBLE PENTRATION BY FOREIGN OBJECT
311 PC	CHILD PORNOGRAPHY
314 PC	LEWD OR OBSCENE CONDUCT/INDECENT EXPOSURE
368 PC	CRUELTY TO AN ADULT DEPENDENT
417 PC	FIREARMS
422 PC	TERRORIST THREATS
451 PC	ARSON
626.9 PC	GUN AT SCHOOL
646.9 PC	STALKING
647.6 PC	ANNOYING OR MOLESTING A CHILD UNDER
3056 PC	PAROLE VIOLATION
12020(A) PC	UNLAWFUL CARRYING OR POSS. OF WEAPONS (KNOWN GANG MEMBERS ONLY)

12028.5 PC WEAPONS AT SCENE OF DOMESTIC VIOLENCE  
12022.53 PC USE OF A FIREARM IN THE COMMISSION OF A FELONY  
12031 PC CARRY LOADED FIREARM  
12040PC CRIMINAL POSS. OF FIREARM WHILE WEARING A MASK  
12070PC ILLEGAL SALE OF FIREARMS  
2800.1(A)VC EVADING ARREST  
2800.2(A)VC EVADING PEACE OFFICER :DISREGARD TO SAFETY  
20001 (A) VC HIT AND RUN CAUSING GBI OR DEATH  
NARCOTICS VIOLATIONS (SALES AND POSSESSION)

# Jamiel Shaw Murder

The Crime and its Relationship to the  
Immigration and Customs Enforcement  
(ICE) 287(g) Program

# Issues

- Initial Arrest and Release of Pedro Espinoza
- Murder of Jamiel Shaw
- Arrest of Pedro Espinoza for the murder of Jamiel Shaw
- Sheriff's Department and the ICE 287(g) Program
- High Intensity Criminal Alien Apprehension and Prosecution (HICAAP)
- Special Order 40 (LAPD)
- Jamiel's Law
- Local Enforcement of Immigration Laws

- Initial Arrest of Pedro Espinoza

- November 18, 2007, Pedro Espinoza was arrested for 245 PC by the Culver City Police.
- January 22, 2008 he was convicted of 69 PC (obstructing a police officer in the performance of his duties) and sentenced to 180 days.
- March 1, 2008 he was released from custody.
  - He served 105 days, receiving 60 days of State mandated “good time/work time” and a 15 day reduction due to percentage release.
    - Male inmates meeting certain criteria serve 70% of their sentence.

- **Murder of Jamiel Shaw**

- Jamiel Shaw Jr., 17, was shot in the head and back at 2150 Fifth Ave. in Arlington Heights at about 2040 hours on Sunday, March 2, 2008.
- Jamiel was walking home when two Latino men jumped out of a white car and approached him. He was asked what gang he belonged to; when he failed to respond quickly enough, he was shot by Pedro Espinoza.
- At the time of the shooting, Jamiel Shaw's mother was a sergeant in the armed forces deployed overseas.



- Subsequent Arrest of Pedro Espinoza
  - The Los Angeles Police Department investigated the death of Jamiel Shaw and arrested Pedro Espinoza for the murder on March 7, 2008.
  - Following the arrest, Immigration and Customs Enforcement agents determined that he was born in Mexico and placed an immigration hold on him.

# ICE 287(g) Program

- In 2005 the Board of Supervisors approved an MOU between the Sheriff and ICE allowing Custody Assistants to interview convicted foreign born inmates.
  - There are 4,000 self-declared foreign born inmates (21% of the total) in the county jail system.
  - About 3,100 (16%) are deportable
    - Only those convicted of a crime may ultimately be interviewed by custody assistants.
- There are 7 Custody Assistants and 1 ICE Agent assigned.
  - At one point, there were 10 ICE Agents assigned.

- Who is interviewed under the ICE 287(g) Program?
  - Custody Assistants interview self-declared foreign-born inmates convicted of a crime.
    - A list of convicted inmates declaring to be foreign-born is generated daily.
  - Custody Assistants also interview inmates issued an Alien Registration Number.
    - This list is generated using an interface with an ICE database.

- How many inmates are interviewed?
  - Custody Assistants interviewed 3,946 inmates and placed 2,140 holds (year to date).
  - ICE Agents interviewed 2,326 inmates and placed 1,371 holds (year to date).
  - Since the inception of the program, January 30, 2006, personnel have conducted over 20,658 interviews and over 17,000 foreign-born criminal aliens were transferred to Federal custody under this program.

- Since all convicted foreign-born inmates are not interviewed, how are inmates identified for an interview?
  - Identified gang members are high priority targets for interviews.
  - The seriousness of the offense is the next level, with violent crimes at the highest priority.

- Immigration Status for Pedro Espinza

- When Pedro Espinoza was arrested in November 2007, by the Culver City Police Department for assault with a deadly weapon, he claimed US citizenship and, therefore, was not flagged as foreign born.
- He was previously booked 5 times as a juvenile and claimed he was born in Mexico. In those cases, he was nevertheless released to his parents and not referred to ICE.
- Because he was not previously interviewed by ICE, he did not have an Alien Registration Number.

- Why was Pedro Espinoza not interviewed by ICE prior to his release?
  - Pedro Espinoza claimed to be a US citizen when arrested by the Culver City Police Department.
  - Pedro Espinoza did not have an Alien Registration Number, therefore, his claim of US citizenship was not in dispute.

# High Intensity Criminal Alien Apprehension and Prosecution (HICAAP)

- HICAAP targets inmates convicted of violent felonies, serious charges involving weapons, or trafficking of controlled substances when the inmate was previously deported by ICE.
- When a suspect is booked, automatic inquiries are made into a variety of databases, including the ICE Deported Felon File. If the inmate falls within the guidelines, ICE automatically sends an electronic hold.
  - The Department is working with ICE to renew the MOU and update the Deported Felon File.



# Special Order 40 (LAPD)

- Special Order 40 was issued on Nov. 27, 1979 by former Chief Daryl Gates.
- The order prohibits officers from initiating police action where the objective is to discover the alien status of a person and from arresting or booking people for illegal entry.
- Officers are neither prevented from providing information to ICE nor asking an arrestee about where they were born.

# Special Order 40 (LAPD)

- Special Order 40 is incorporated into the LAPD manual through various sections, however, this is the original:

Spec40orig

Page 1 of 2

Original Special Order 40 put into LAPD policy by former Chief of Police, Daryl Gates, on November 27, 1979

OFFICE OF THE CHIEF OF POLICE  
SPECIAL ORDER NO. 40 NOVEMBER 27, 1979

SUBJECT: UNDOCUMENTED ALIENS

PURPOSE: The Los Angeles community has become significantly more diverse during the past several years with substantial numbers of people from different ethnic and sociological backgrounds migrating to this City. Many aliens, whether from Latin American, African, Asian or European countries, are legal residents. Others are undocumented and are residing in the City without legal sanction.

On March 20, 1979, the Board of Police Commissioners adopted a policy statement concerning undocumented aliens. This order incorporates the policy into The Department Manual and amends related Manual provisions.

POLICY: The Department is sensitive to the principle that effective law enforcement depends on a high degree of cooperation between the Department and the public it serves. The Department also recognizes that the Constitution of the United States guarantees equal protection to all persons within its jurisdiction. In view of these principles, it is the policy of the Los Angeles Police Department that undocumented alien status in itself is not a matter for police action. It is, therefore, incumbent upon all employees of this Department to make a personal commitment to equal enforcement of the law and service to the public, regardless of alien status.

The Department acknowledges the existence of social issues involving problems of health, welfare, education, housing and employment which are related to the assimilation of large numbers of persons with varied cultural heritages. Further, as the Department identifies and distinguishes police problems from social problems, it will continue to cooperate with those persons and agencies responsible for resolving these social issues.

In fulfilling its obligations, the Department will provide courteous and professional service to any person in Los Angeles, while taking positive enforcement action against all individuals who commit criminal offenses, whether they are citizens, permanent legal residents or undocumented aliens. In addition, the Department will provide special assistance to persons, groups, communities and businesses who, by the nature of the crimes being committed upon them, require individualized services. Since undocumented aliens, because of their status, are often more vulnerable to victimization, crime prevention assistance will be offered to assist them in safeguarding their property and to lessen their potential to be crime victims. To ensure that these principles can be effective, the Department will encourage the willing cooperation of all persons in programs designed to enhance community-police cooperation. Police service will be readily available to all persons, including the undocumented alien, to ensure a safe and tranquil environment. Participation and involvement of the undocumented alien community in police activities will increase the Department's ability to protect and to serve the entire community.

PROCEDURE:

- I. ENFORCEMENT OF UNITED STATES IMMIGRATION LAWS. Officers shall not initiate police action with the objective of discovering the alien status of a person. Officers shall not arrest nor book persons for violation of Title 8, Section 1325 of the United States Immigration Code (Illegal Entry).
- II. ALIEN ARREST INFORMATION-NOTIFICATION. When an undocumented alien is booked for multiple misdemeanor offenses, a high grade misdemeanor or a felony offense, or has been previously arrested for a similar offense, the arresting officer shall:
  - \* Telephonically notify the Headquarters Section Desk Officer, Detective Headquarters Division, of the arrest, the arrestee's name, booking number, charge and location booked.
  - \* Mark the arrest face sheet "Undocumented Alien."

# Jamiel's Law

- Following the murder of Jamiel Shaw, an ordinance was proposed by Walter Moore, a candidate for Mayor of Los Angeles.
- The proposed ordinance would deny “sanctuary city” protection to illegal aliens in gangs.
- The following is an excerpt from Mr. Moore’s description of the proposed ordinance:
  - If a gang member is in our country illegally, we should deport him BEFORE he commits a murder or other crime, *not wait until afterwards*.

- Generally, the law requires the Mayor and the Chief of Police to implement a plan for LAPD, in cooperation with ICE and the United States Attorney, to:
  - Identify, arrest, deport and/or prosecute and imprison gang members who are in the country illegally, without waiting to catch them committing murders or other crimes before enforcing the immigration laws against them.

- The text of Jamiel's Law follows:

INITIATIVE MEASURE  
TO BE SUBMITTED DIRECTLY TO THE VOTERS

Committee of proponents, who are registered voters of the City of Los Angeles, sponsoring the petition:  
Jamiel Shaw, Sr., Anita Shaw, Althea Shaw, Walter Moore and Judy Moore

As required by the Charter the City Attorney has prepared the following official petition title, and official petition summary of the primary provisions of this initiative ordinance measure to be adopted by the City Council or submitted directly to the voters.

**Los Angeles Police Department; Federal Immigration Laws. Initiative Ordinance**

The proposed ordinance provides that neither the Mayor, Chief of Police nor any other City employee shall prohibit or inhibit Los Angeles Police Department officers from investigating possible violations of immigration laws by gang members. The proposed ordinance also requires the City to develop and implement a plan for the Los Angeles Police Department, in cooperation with other government officials, to identify, arrest, deport and/or prosecute and imprison gang members who are in the country illegally. The proposed ordinance also requires the Mayor to provide the City Council and public with quarterly reports on the City's efforts to implement this proposed ordinance.

**Text Of The Proposed Ordinance**

**JAMIEL'S LAW**

This is a proposed ordinance to deny "sanctuary city" protection to illegal aliens in gangs in the City of Los Angeles.

WHEREAS, the City of Los Angeles is now a "sanctuary city" for illegal aliens due to City policies that prohibit and inhibit the Los Angeles Police Department from investigating violations of federal immigration law (*e.g.*, LAPD Manual Vol. 1, § 390 and Vol. 4, §§ 264.50, 647.35);

WHEREAS, the City of Los Angeles is unsafe for law-abiding citizens, legal aliens and illegal aliens due to the prevalence of gangs that routinely commit crimes including but not limited to murder, extortion, robbery, rape, theft, drug-trafficking, and vandalism;

WHEREAS, many, if not most, of the members of the gangs in Los Angeles are illegal aliens; and

WHEREAS, there is no legitimate public policy reason for the City to extend "sanctuary city" protection to illegal aliens in the gangs that are ravaging our city;

# Local Enforcement of Immigration Laws

- State and local officers must “...cooperate with the Attorney General in the identification, apprehension, detention, or removal of aliens not lawfully present in the United States.” (8 U.S.C. § 1357(g)(10)(B).)
- A local officer may arrest for a felony violation of federal immigration law any time the officer has reasonable cause to believe such a violation has occurred. (Gates v. Superior Court, supra, 193 Cal.App.3d at p. 215.)
  - A person’s mere appearance would not constitute reasonable suspicion to detain the person to investigate their immigration status. The detention must be for otherwise valid purposes (*criminal activity may be afoot and the person you are about to detain is connected with that possible criminal activity.*)



LEROY D. BACA, SHERIFF

County of Los Angeles  
Sheriff's Department Headquarters  
4700 Ramona Boulevard  
Monterey Park, California 91754-2169



September 18, 2008

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

Dear Supervisors:

**INFORMATION REGARDING FOREIGN BORN INMATES IN CUSTODY**

During the August 12, 2008, Board of Supervisors meeting, your Board asked the Los Angeles County Sheriff's Department (Department) to modify the 287g Program by giving priority interviews to known gang members, thereby ensuring that all such gang members are interviewed prior to their release. This request was implemented.

United States Immigration and Customs Enforcement (ICE) agents are interviewing pre-sentenced foreign-born gang members on a priority basis; and the custody assistants who are assigned to the Department's 287g Program are preferentially interviewing sentenced, foreign-born gang members prior to release. Existing resources, which include the five recently authorized custody assistants, are sufficient to ensure all foreign-born gang members are interviewed. However, to increase the number of foreign-born inmate interviews to 100 percent, we would need additional Sheriff's Department and ICE personnel.

There are 3,347 declared foreign-born inmates in custody (17 percent of the total inmate population). Of that number, 473 (14 percent) are identified gang members; 124 are fully sentenced, and therefore eligible for interview by the Department's 287g Program personnel.

If you have any questions or concerns, please call me or Chief Alexander R. Yim, Correctional Services Division, at (213) 893-5017.

Sincerely,

LEROY D. BACA  
SHERIFF

*A Tradition of Service*