

**[DRAFT] Report of the Sheriff Civilian Oversight Commission
Immigration Ad Hoc Committee
Regarding the Los Angeles County Sheriff's Department
Cooperation with Immigration and Customs Enforcement (ICE)
and [PROPOSED] Recommendations**



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Executive Summary

In October 2013, Governor Jerry Brown signed the Trust Act. The Trust Act prohibits law enforcement officials from detaining an individual based on an Immigration and Customs Enforcement (ICE) request to hold an inmate at the time he is eligible for release from custody, unless certain conditions are met.¹ The Trust Act provides for discretion to cooperate with ICE, only if the continued detention would not violate any law or any local policy, and where any of the following circumstances are met:²

- 1) The individual has been convicted of a serious or violent felony.
- 2) The individual has been convicted of a felony punishable by imprisonment in the state prison.
- 3) The individual has been convicted within the past five years of a misdemeanor for a crime that is punishable as either a misdemeanor or a felony, or has been convicted at any time of a felony including burglary, theft, crimes endangering children, battery, and vandalism.

In January 2017, the Truth Act placed additional requirements on California law enforcement agencies (LEA) and their dealings with ICE. The Truth Act provides that in advance of any interview between ICE and an inmate regarding civil immigration violations, the LEA shall provide the inmate with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he or she may decline to be interviewed or may choose to be interviewed only with his or her attorney present.³ In addition, the consent form provided to the inmate must be available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean (as well as other languages set forth in Health & Safety Code Section 128552(d)).⁴ Furthermore, the Truth Act requires that upon receipt of any ICE hold, notification, or transfer request, the LEA must provide a copy of the request to the inmate and inform him or her whether the LEA intends to comply with the ICE request.⁵

In recent years, ICE agents have increased their efforts to serve civil detainees on local LEAs such as Los Angeles County, which has nearly 3.5 million immigrants living in the county.^{6,7} ICE civil detainees (Form I-247A) provide notice to LEAs that ICE intends to assume custody of an undocumented person in LEA custody.⁸ As a policy matter, ICE attaches an administrative warrant (Warrant for Arrest or Warrant for Removal/Deportation) to the civil detainee that is signed by an ICE immigration officer.⁹ Administrative warrants signed by an immigration official do not carry the same weight as criminal warrants (judicial warrants), which are issued by judges.¹⁰ In March 2017, ICE issued a policy that took note of their administrative warrant limitations and LEAs ability to decline ICE

¹ California Legislative Information. (2017). Government Code Section 7282.5. Retrieved from https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=7282.5.&lawCode=GOV

² Ibid.

³ California Legislative Information. (2017). Government Code Section 7283.1. Retrieved from https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2792

⁴ Ibid.

⁵ Ibid.

⁶ Los Angeles County Board of Supervisors Motion. (2017). Motion By Supervisors Hilda L. Solis and Sheila Kuehl. Retrieved from <http://file.lacounty.gov/SDSInter/bos/supdocs/110755.pdf>

⁷ U.S. Immigration and Customs Enforcement. (2017). Fiscal Year 2017 ICE Enforcement and Removal Operations Report. Retrieved from <https://www.ice.gov/sites/default/files/documents/Report/2017/iceEndOfYearFY2017.pdf>

⁸ United States Immigration and Customs Enforcement. (2017). Issuance of Immigration Detainers by ICE Immigration Officers. Retrieved from <https://www.ice.gov/sites/default/files/documents/Document/2017/10074-2.pdf>

⁹ Ibid.

¹⁰ Federal Law Enforcement Training Centers. (2017). ICE Administrative Removal Warrants (MP3). Retrieved from <https://www.fletc.gov/audio/ice-administrative-removal-warrants-mp3>

detainers.¹¹ California and local government agencies have elected to re-evaluate their laws, rules, policies and guidelines associated with their interactions with immigrant populations to effectively ensure public safety.

In 2016, the California legislature introduced The California Values Act of 2017 (Senate Bill 54). Among other things and subject to exceptions, SB 54 prohibits the use of state and local resources to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes.¹²

In January 2017, the Los Angeles County Board of Supervisors (Board) passed a motion requesting that the Sheriff Civilian Oversight Commission (COC) and other departments conduct a review and analysis of the immigration policies of the Los Angeles County Sheriff's Department (LASD), and issue associated recommendations.

This report is in response to that Board request and includes a review of related areas that the COC deemed relevant and associated to carry out the intent of the policy.

After reviewing and analyzing LASD's policies, procedures and practices relating to its relationship with ICE, we conclude that LASD has worked diligently and effectively to implement procedures ensuring compliance with both the California Truth Act and the California Values Act. The COC commends LASD for its professionalism in this regard. Indeed, soon after appearing before the Board on January 10, 2018, LASD initiated a review of its own immigration-related policies, procedures and practices, which led to swift actions like taking a decentralized process of addressing ICE detainers and creating a more streamlined and effective centralized process.

Based on the community feedback received by the COC on this issue, our own analysis of the public safety and fiscal issues involved, and a review of how cooperation with ICE has been handled by law enforcement agencies in other jurisdictions, we believe Los Angeles County would be better served by a more robust "bright line" separating the activities of the LASD from those of ICE. To that end, we respectfully submit the following key [draft] recommendations:

1. LASD should not provide ICE with more information than it provides to the public, nor shall LASD disseminate information regarding inmate release status or other confidential information, unless required by federal or state law.
2. LASD should continue to ensure that all department operations (e.g. custody facilities, station jails, and court lock-ups), inmate detainer release procedures, and detainer notifications/ acceptance policies are consistently reviewed and updated in accordance with governing laws.
3. LASD should ensure development of an "Immigration Information" web link for posting information items such as:
 - a. Inmate detainer release procedures and/or detainer policies & flowcharts
 - b. U-Visa and/or related policies and procedures
 - c. Related helpful links including, but not limited to:
 - i. Legal and social-service resources
 - ii. ICE detainee locator system
 - iii. Forms relating to the rights of inmates with detainers

¹¹ United States Immigration and Customs Enforcement. (2017). Issuance of Immigration Detainers by ICE Immigration Officers. Retrieved from <https://www.ice.gov/sites/default/files/documents/Document/2017/10074-2.pdf>

¹² California Legislative Information. (2017). Senate Bill-54 Law enforcement: sharing data. Retrieved from https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB54

4. LASD should ensure development of social media, instant communications and marketing material to apprise the public of the availability of the "Immigration Information" web link. LASD public website should include, but not be limited to a brief video in English and Spanish highlighting the Department's policy on Immigration inquiries and notifications that is comparable to the video on the intranet for Department personnel.
5. LASD should ensure that appropriate staff acknowledge receipt of these immigration policies and are trained in their application.
6. LASD should not assist ICE in any operation to enforce federal immigration laws. Nothing shall prohibit LASD from continuing to participate in joint task forces with ICE, where allowed by County policy.
7. LASD should disclose, through a publicly accessible website, on a basis consistent with state law, the following data:
 - a. Annual reports to the Department of Justice, if applicable.
 - b. Monthly reports reflecting the number of immigration-related transfers to ICE and the offenses justifying the transfer.
 - c. Monthly report on U-Visa applications submitted for certification and the percentage certified by LASD.
8. The Sheriff should provide the COC with a quarterly report on the number of civil immigration detainees received from ICE and the number of immigration-related transfers to ICE in an effort to increase transparency and accountability.
9. LASD should not provide ICE with access to the Inmate Reception Center unless required by federal or state law.
10. LASD should not honor ICE detainees, unless specifically required by federal or state law.
11. LASD should not approve employee's Requests for Approval of Outside Employment with ICE and/or ICE associated operations if they are incompatible or involve conflicting functions or responsibilities to the Department.
12. We recommend that the Board examine how LASD uses County resources on administrative and/or personnel costs involved in tracking and responding to ICE civil immigration detainees and propriety of seeking reimbursement from the federal government for such costs.

INTRODUCTION

On January 10, 2017, the Board passed a motion¹³ requesting that the COC, in collaboration with the Inspector General and the Auditor-Controller (AC), review, analyze and make recommendations concerning LASD adherence to immigration policies described in their January 10, 2017 letter¹⁴ and any other relevant policies as needed to carry out the intent of the policy and to report back in writing to the Board quarterly.

In their January 10, 2017, letter LASD referred to the following patrol and custody policies:

- Patrol Policies in MPP 5-09/271.00-Immigration Inquiries and Notifications policy
- Custody Policies in CDM 5-12/005.05-Anti-Retaliation Policy and IRC/CRDF Unit Order titled, "Release Area Procedures"

Due to the complexity of this issue the COC conducted its review of this matter over an extended period of time.

ACTIONS OF THE CIVILIAN OVERSIGHT COMMISSION

The COC established an Immigration ad hoc committee comprised of four Commissioners to work with the COC staff, Inspector General and the AC in conducting the review and analysis as requested by the Board. The committee consisted of Commissioners Hernan Vera, Lael Rubin, Heather Miller, Priscilla Ocen and Casimiro U. Tolentino, and was staffed by Tracy Jordan-Johnson. Upon the expiration of Commissioner Miller's term, she was replaced by Commissioner Ocen.

The committee members took the following actions:

1. Initiated contact with Office of Inspector General (OIG) Max Huntsman to collaborate with the COC and the AC in the review and analysis process
2. Initiated contact with AC office Alysa Serdengecti and Steven Lee to collaborate with the COC and the OIG in the review and analysis process
3. Review and analysis of LASD Policy Manuals and related materials from March 2017 to October 2018
4. Conducted on-site facility tours:
 - March 1, 2017 of Men's Central Jail and Twin Towers
 - May 2, 2017 of Inmate Reception Center Release Area/AB4 desk
 - June 15, 2017 of Century Regional Detention Facility
 - August 17, 2017 of Inmate Reception Center Release Area/AB4 desk
 - February 20, 2018 of Inmate Reception Center Release Area/AB4 desk
5. Conducted Town Hall meetings
6. Conducted ride-a-long observations
7. Staff observation and interviews
8. Reviewed LASD public website and related online materials
9. Reviewed relevant legislation, literature and related materials

This report is the outcome of the ad hoc committee review and is to be presented to the Board and the COC.

¹³ Los Angeles County Board of Supervisors Motion. (2017). Motion By Supervisors Hilda L. Solis and Sheila Kuehl. Retrieved from <http://file.lacounty.gov/SDSInter/bos/supdocs/110755.pdf>

¹⁴ Los Angeles County Sheriff's Department. (2017). Los Angeles County Sheriff's Department Report on our Policies, Practices, and Procedures Relating to our Immigrant Residents. Retrieved from <http://file.lacounty.gov/SDSInter/bos/supdocs/110712.pdf>

I. PATROL POLICY & PROCEDURE STATUS

The ad hoc committee and COC staff arranged for a number of patrol ride-a-longs with LASD to determine adherence during the review period. The committee reviewed and analyzed LASD policies, practices and procedures referenced in their January 10, 2017, letter to the Board and any other relevant policies.

Patrol Policies

LASD patrol policies and procedures apply to four Patrol Divisions throughout Los Angeles County.¹⁵ Policies that were referenced in the letter to the Board and relevant policies discovered during our review include:

- Immigration Inquires and Notifications Policy in the MPP 5-09/271.00 was last revised September 21, 2015. This policy covers immigration inquires and notifications, and it notes that Department members shall investigate criminal activity without regard to an individual's legal status and shall not initiate police action with the objective of discovering the individual's immigration status. Furthermore, this policy clearly notes that Department members shall neither arrest nor book an individual solely on suspicion of violating a federal immigration law relating to illegal entry, being unlawfully present, or overstaying a visa.
- U-Visa Policy in the MPP 5-09/271.00 was last revised September 21, 2015. This policy covers U-Visas by noting that nothing in their policies is intended to interfere with Department responsibility to assist undocumented immigrants who are victims and/or witnesses in certain criminal matters in obtaining U-Visas under the Victims of Trafficking and Violence Protection Act of 2000. LEA's such as LASD provide certification that the undocumented victim is helping in the investigation and prosecution of the crime of which he or she was a victim.¹⁶ The U-visa allows eligible undocumented crime victims to live and work in the United States for up to four years with the possibility of obtaining permanent resident status.¹⁷
- Emergency Operations Bureau Policy in MPP Policy 2-11/040.00 was last revised January 31, 2007. This policy covers LASD Joint Regional Intelligence Center working together with various agencies such as, but not limited to, the Federal Bureau of Investigation and the Department of Homeland Security. This policy in part notes that they work to develop and maintain a liaison information sharing process, which includes law enforcement and public safety. LASD services associated with this area of policy involve participation in the Operation Stonegarden (OPSG) Grant Program, which may include the participation in task force operations related to Homeland Security. LASD participation in the OPSG is to enhance law enforcement preparedness and operational readiness along the land and water borders of the United States. LASD OPSG participation only consists of enforcing local and state laws and will not consist of enforcing immigration laws.¹⁸

During our research and request for follow-up information from LASD, the COC received a copy of Field Operations Directive 09-002 on Procedures for Law Enforcement Certification for U Nonimmigrant Status that was dated May 18, 2016. The date of this policy directive precedes the

¹⁵ Los Angeles County Sheriff's Department. (2010). Overview of LASD Patrol Stations. Retrieved from http://www.la-sheriff.org/s2/page_render.aspx?pagename=patrol_detail_01

¹⁶ Los Angeles County District Attorney's Office. (2017). U Visas. Retrieved from <http://da.lacounty.gov/vwap/uvisa>

¹⁷ Ibid.

¹⁸ Los Angeles County Sheriff's Department. (2017). Letter seeking Authority to Execute Agreement for Participation in Operation Stonegarden. Retrieved from <http://file.lacounty.gov/SDSInter/bos/supdocs/111889.pdf>

Board passing of the January 10, 2017 motion. However, directive was not previously presented to the Board or the COC.

- Procedures for Law Enforcement Certification for U Nonimmigrant Status in Field Operations Directive (FOD) 09-002 were last revised on May 18, 2016. This policy gives background information on the creation of the U Visa and the U Visa Rules. This FOD further describes the Detective Bureau Responsibilities related to completion of certification forms.

Patrol Procedure Status

LASD Patrol Policy observation consisted of more than a dozen COC staff ride-a-longs with deputies who provided insight into a day on duty as deputies perform their patrol duties without inquiring about immigration status. Staff ride-a-longs involved observation of personnel at stations throughout the county including deputies assigned to Mental Evaluation Teams. Ride-a-long opportunities also provided the ability to view station lobbies and observe wall postings or lack thereof of materials displayed for community members related to relevant matters impacting their communities such as LASD interactions with ICE. During the review period, COC staff held more than ten (10) Town Halls or similar events throughout Los Angeles County for community engagement purposes. Residents were given the opportunity to provide public comments during these events but did not specifically complain about LASD deviating from their patrol policy and procedure adherence requirements referenced in the board letter.

In May 2018, LASD personnel attended a COC Town Hall and distributed brochures titled "Immigration Information Guide" in English¹⁹ and Spanish²⁰ to attendees. During the review period, a number of LASD immigration policies, procedures and guidelines were not readily accessible online for public access similar to other LEAs. At the time of the review, the LASD public website homepage (first page individuals see) and Patrol Station Operations homepage (first page individuals see associated with patrol operations) did not have links to immigration information and/or policies. Further review of the LASD public website also revealed that viewers would have to search through the public data sharing links to eventually locate the Manual of Policies and Procedures (MPP) before they then had to further search for immigration information and/or policies. MPP information that viewers see provide limited information about the U-Visa process and/or who to contact for further information. A search of the LASD public website did not return a copy of FOD 09-002 associated the U-Visa rules, qualifying crimes, how to apply or any of the attachments. In addition, the LASD public website MPP information that viewers see does not alert them to when the policies became effective, when they were last revised and/or if they are current. Further search of the LASD public website public data sharing section reflected the absence of data related to U-Visa applications submitted for certification and participation or lack thereof in any taskforces involving ICE. COC staff also registered to receive reliable high-speed important local law enforcement information by cellphone, email and over the web from NIXLE.²¹ During the review period, COC staff received a number of

¹⁹ Los Angeles County Sheriff's Department. (2017). Immigration Information Guide. Retrieved from <http://lasd.org/pdfjs/web/viewer.html?file=ccb.pdf>

²⁰ Los Angeles County Sheriff's Department. (2017). Guia Informativo De Inmigracion. Retrieved from <http://lasd.org/pdfjs/web/viewer.html?file=ccbSP.pdf>

²¹ NIXLE. (2018). FAQs (Resident). Retrieved from <http://www.nixle.com/resident-faqs/>

LASD NIXLE advisories and community information distributions. However, none of the distributions consisted of immigration information and/or policies.

II. CUSTODY POLICY & PROCEDURE STATUS

The ad hoc committee and COC staff arranged for a number of jail facility tours with LASD to determine adherence during the review period. The committee reviewed and analyzed LASD policies, practices and procedures referenced in their January 10, 2017, letter to the Board and any other relevant policies.

Custody Policies

LASD custody policies and procedures apply to several jail facilities throughout Los Angeles County. The LASD Inmate Reception Center (IRC) custodial personnel are responsible for processing hundreds of new bookings, moving thousands of inmates to court, transferring inmates to the custody of Federal, State and other County agencies.²² Policies that were referenced in the letter to the Board and relevant policies discovered during our review include:

- IRC Unit Order “Release Area Procedures”-Unit Order 5-22/001.10 policy was last revised October 27, 2015. This policy covers, but is not limited to ICE detainer processing and release procedures and notes that an ICE Department of Homeland Security I-274D form, dated May of 2015, shall only be honored if it meets all of the following three (3) qualifying criteria: (1) Electronic database screening by ICE agents indicating a “high likelihood of the inmate being in the United States illegally”, (2) Inmate’s criminal history meets the Priority Enforcement Program “PEP” (priority category 1, 2, or 3), and (3) Inmate’s current or past history meets the qualifying criteria of the “Trust Act” (Assembly Bill 4 (AB4)), pursuant to California Government Code Section 7282.5(a), as set forth in the LASD list of qualifying AB4 charges. This area of policy refers to LASD providing ICE agents with a seven (7) day notice list of all inmates scheduled for release and that such list is sent on a daily basis to the message center. The IRC Unit Order also notes that agents have the opportunity to electronically screen the list of inmates to establish the PEP priority, high likelihood of being illegally in U.S. and criminal history.
- CRDF Release Area Procedures policy was last revised October 24, 2014. This policy covers, but is not limited to ICE detainer release and court procedures and notes that an ICE Department of Homeland Security I-274D form, dated December 2012, shall only be honored if it meets all of the following three (3) qualifying criteria: (1) ICE telephonically requests the person be detained for pickup by ICE, (2) ICE can meet booking’s six hour time limit (three hours for Bail, Bond, 849(b)(1) and 849(b)(2) releases and, (3) IRC approves the transfer to ICE.
- Anti-Retaliation policy in Custody Division Manual (CDM) 5-12/005.05 was last revised November 17, 2015. This policy covers anti-retaliation and notes that inmates shall not be subjected to retaliation for any reason. This policy further notes that inmates shall not be deprived of basic human necessities as a form of retaliation such as housing.

²² Los Angeles County Sheriff’s Department. (2014). Custody Services Division. Retrieved from <http://shq.lasdnews.net/pages/PageDetail.aspx?id=1716>

- ICE Detainer Notifications policy in CDM Policy 4-06/005.00 was last revised March 11, 2013. This policy covers immigration detainees that are sent to Department locations such as station jails, court lock-ups, and custody facilities. This policy notes: (1) If an inmate receives an “Immigration Detainer” and claims to be in the U.S. legally, personnel shall immediately notify the watch commander who shall immediately notify the IRC and (2) IRC personnel shall log notifications in the log book used exclusively to record ICE Detainer Disputes.
- ICE Detainer Acceptance and Processing Procedures in CDM 4-06/005.05 were last revised March 13, 2013. This policy covers immigration detainees acceptance by IRC. This policy does not refer to AB4 (Trust Act). LASD later provided a copy of this policy that was revised July 6, 2017 that did refer to AB4.

LASD initiated review, revision and implementation of a number of the above referenced policies soon after the Board passed the January 10, 2017 motion.

Custody Procedure Status

During the August 2017 COC staff jail facility tour at the Inmate Reception Center (IRC), LASD personnel advised that the release process had been centralized via a “Release Compliance Desk” (RCD), which has been in operation since May 2017. The RCD is the LASD centralized process for ensuring consistency in addressing the acceptance and processing of ICE detainees. The RCD has a total of eight custody assistants assigned and the IRC Release Area (IRC-RA) component has a total of six custody assistants assigned. LASD personnel assigned to work in this operation primarily carry out duties associated with inmate releases, which is associated with ICE civil detainer requests (ICE notice to LEAs that ICE intends to assume custody of an undocumented person in the LEA’s custody). RCD staff electronically receives two types of ICE civil detainer requests: (1) Pacific Enforcement Response Center (PERC) detainer requests (associated with booking and fingerprints), and (2) ICE/L.A. County Jail detainer requests (associated with Custody Reports-Inmates Pending Release) for undocumented persons. The RCD staff does not require the ICE civil detainees be accompanied by proof signed by a judge. When an ICE civil detainer is received, RCD staff review to determine if certain conditions are met associated with the involved inmate’s past or current criminal history that would meet the qualifying criteria specified in the Trust Act²³ such as: convicted of a serious or violent felony and/or convicted of a felony punishable by imprisonment in state prison.

In 2017, ICE sent LASD more than 1,800 PERC detainer requests, which is a 68.9% increase in the receipt of PERC detainees from 2016 (Table 1). In 2017, ICE also issued more than 1,120 ICE/L.A. County Jail detainer requests (ICE knowledge of inmates pending release), which is a 110.4% increase in the number of such detainees received in 2016 (Table 2). ICE detainees received by LASD recently resulted in more than 1,140 individuals being placed in ICE custody as of October 2017.²⁴ At the time of this review, the LASD public website Custody Operations homepage (first page individuals see associated with detention operations) did not have links to “Release Compliance Desk” information and/or other custody operation immigration information or policies. In addition, an October 2018 search of the LASD public website public data sharing ICE Statistics-Custody data

²³ California Legislative Information. (2017). Government Code Section 7282.5. Retrieved from https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=7282.5.&lawCode=GOV

²⁴ Los Angeles County Sheriff’s Department. (2017). U.S. Immigration and Customs Enforcement Stats 2017. Retrieved from <http://lasd.org/>

reflected that the data ceased update in February 2018. At the time of this report, COC staff is pending response from LASD on updated ICE Statistics.

Table 1. LASD ICE Statistics-Custody-PERC Detainers (data & logo retrieved from <http://lasd.org/>)

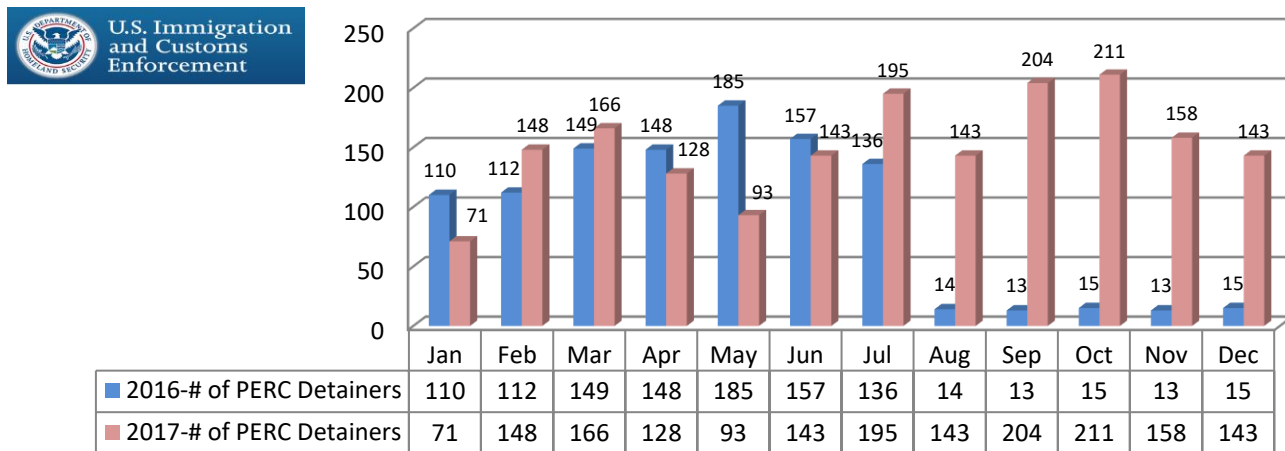
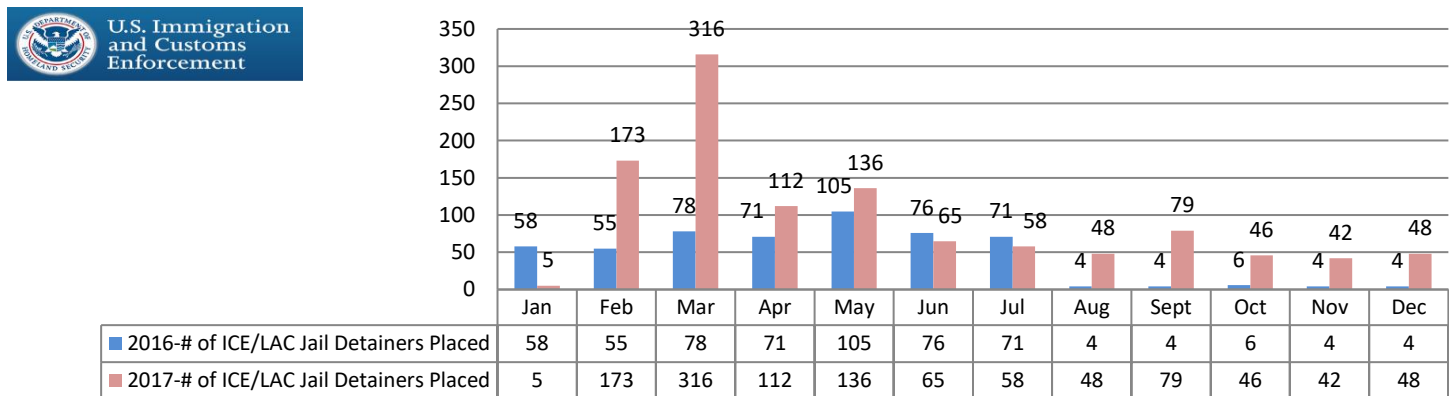


Table 2. LASD ICE Statistics-Custody-LAC Jail Detainers (data & logo retrieved from <http://lasd.org/>)



LASD staff (IRC-RA) is also responsible for notifying inmates of the receipt of ICE detainers and providing them with a consent form (Truth Act form). The Truth Act provides that in advance of any interview between ICE and an inmate regarding civil immigration violations, the LEA shall provide the inmate with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he or she may decline to be interviewed or may choose to be interviewed only with his or her attorney present.²⁵ In addition, the consent form that the LEA provides to the inmate must be available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean (as well as other languages per Health & Safety Code Section 128552(d)).²⁶ During the August 2017 tour, COC staff noticed that copies of translated Truth Act forms were not readily accessible and that there was a “general/outside law enforcement use room” (e.g. room all law enforcement officers have access to

²⁵ California Legislative Information. (2017). Government Code Section 7283.1. Retrieved from https://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2792

²⁶ Ibid.

when conducting official business) in the IRC release area. During this tour, LASD updated COC staff on the status of policy revisions and noted that updated forms were still pending approval.

During our February 2018 jail facility tour of IRC, LASD personnel advised that policies were still pending. COC staff was advised that ICE agents still have physical access to the general/outside law enforcement use room in IRC release area, but ICE computers have been removed. COC staff observed that Truth Act forms were available in the release area only in English and Spanish. LASD advised a business decision was made for cost effectiveness to only print forms in the other languages as needed.

Effective January 1, 2018, Senate Bill 54, The California Values Act prohibits law enforcement agencies from using public resources to investigate, interrogate, detain, detect or arrest persons for immigration purposes, including:²⁷

- Cooperating in any case with ICE associated individuals convicted of misdemeanors that were previously felonies prior to the passage of Proposition 47,
- Providing information regarding inmates' release dates or other information unless that information is available to the public or in response to ICE in accordance with the Trust Act,
- Transferring an individual to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination, or in accordance with Government Code Section 7282.5,
- Providing office space exclusively dedicated for immigration authorities for use within a city or county law enforcement agency, and
- Places conditions on joint law enforcement task force activities whose primary purpose shall not be immigrant enforcement
 - If a law enforcement agency chooses to participate in a joint law enforcement task force, it shall submit a report annually to the Department of Justice

LASD policies and procedures now include:

- Custody Services Division Unit Order 5-22/001.10-Release Procedures Related to the Trust and Truth Acts.
- Lists of all inmates "Pending Release" and "Released" from Sheriff's custody are updated daily and made available to all members of the public on the LASD website Public Data Sharing Custody Reports homepage. This homepage does not consist of links to resources or the ICE detainee locator system to aid individuals in potentially locating released inmates that may have been detained by ICE after release.
- A centralized process for addressing immigration detainers and advising LASD personnel to contact the IRC Release Compliance Desk for assistance minimizes the chance for varying practices by facility.
- Not giving ICE agents release passes, SI01 print outs (which includes inmate information), or any other documents printed from an LASD database.
- The release area has a new electronic board that displays inmates' booking number, last name and first name.

²⁷ California Legislative Information. (2017). Senate Bill-54 Law enforcement: sharing data. Retrieved from https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201720180SB54

- Personnel may only participate in joint task forces with federal immigration officials where the purpose of the task force is to investigate violations of local, state or federal criminal laws unrelated to immigration enforcement.

On October 8, 2017, the OIG provided the COC with their “Immigration: Public Safety and Public Trust” report. Although we will not summarize the report, the OIG’s key findings and recommendations are available online at <https://oig.lacounty.gov/Reports>. Sheriff Jim McDonnell concurred with the OIG’s recommendations and thanked the OIG staff for their efforts. On June 14, 2018, the OIG presented their report to the Board on LASD adherence to its policies.²⁸ This report identified one significant issue related to an adult being released to ICE at a juvenile delinquency court and noted that LASD is no longer posting information regarding appearances in the juvenile delinquency court on the LASD public website. The OIG continues to monitor LASD jail facilities and patrol operations.

Based upon our observations, the COC agrees with the OIG’s recommendations and further concludes that LASD has made substantial improvement to ensure adherence with policies, practices and procedures and the development of other relevant policies associated with immigrant populations. The COC should continue to monitor the LASD operations for adherence.

III. JURISDICTIONS RESTRICTING COOPERATION WITH ICE

In March 2018, the California Department of Justice (CA-DOJ) issued an information bulletin to executives of State and Local Law Enforcement Agencies in an effort to clarify their responsibility to respond to ICE civil detainer requests and advised them that, “California law enforcement agencies are never *required* to respond to transfer or notification requests – under the Values Act they retain the discretion to decline these requests for any reason”.²⁹ Thus, the discretion lies with agencies such as LASD to honor civil immigration detainers and such discretion would be limited by the Trust Act.³⁰

In California, there are a number of LEAs that make use of their discretion in not honoring ICE civil detainers while referencing complying with the California Values Act. The Los Angeles Police Department is one of the largest LEAs in the state and Former Chief Charlie Beck prohibited cooperation with ICE by not allowing staff to:³¹

- Detain an individual based on an ICE detainer without a probable cause determination or judicial warrant that authorizes an officer to arrest and take the individual into custody for a federal criminal immigration offense or other crime
- Permit ICE agents access to LAPD Department jail facilities to transfer custody, except pursuant to judicial warrant or judicial probable cause determination for a criminal offense that authorizes an officer to arrest and take the individual into custody for a federal criminal immigration offense

²⁸ Office of Inspector General. (2018). Report Back on the Sheriff’s Department’s Adherence to Policies Regarding Cooperation with Immigration Authorities. Retrieved from <https://oig.lacounty.gov/Reports>

²⁹ California Department of Justice. (2018). Responsibilities of Local Law Enforcement Agencies under California Values Act, California TRUST Act, and the TRUTH Act. Retrieved from https://oag.ca.gov/sites/all/files/agweb/pdfs/law_enforcement/dle-18-01.pdf

³⁰ Ibid.

³¹ Los Angeles Police Department. (2017). Immigration Enforcement Procedures. Retrieved from <https://scng-dash.digitalfirstmedia.com/wp-content/uploads/2018/02/immigrationocop.pdf>

Other LEAs in California that have made discretionary decisions to prohibit cooperation with ICE involving areas that include:

- Not honoring ICE civil detainers, unless they are accompanied with proof signed by judges:
 - Santa Cruz County Sheriff's Office³²
 - Tulare County Sheriff's Office³³
- Prohibiting the release of information for inmates released on bail or their own recognizance:
 - San Mateo County Sheriff's Office³⁴

Other law enforcement jurisdictions such as Chicago Police Department³⁵ do not allow personnel to:

- Permit ICE agents access to a person being detained by or in the custody of the Department
- Use facilities for investigative interviews or other investigative purposes
- While on duty, expend time responding to ICE inquiries or communicating with ICE regarding a person's custody status or release date

In Arizona, the Pima County Sheriff's Office shares approximately 125 miles of border with Mexico and is cooperating with federal authorities, but still has a policy that their department members shall not inquire about immigration status during consensual contacts.³⁶ El Paso County Sheriff Richard Wiles reviewed his policies in 2018 and made a decision there was a need to ban his employees from working off-duty security at ICE tent facilities for immigration children.³⁷

LASD has a policy that generally relates to employees working off-duty, but it is not as specific as the measure employed by El Paso County Sheriff Wiles. LASD Manual of Policies and Procedures in MPP 3-01/060.30 provides for department approval of outside of employment and bestows upon unit commanders the ability to make approval decisions when outside employment duties are incompatible or involve conflict with functions or responsibilities to the Department.

LEAs within California and other states have employed a number of measures to prohibit personnel cooperation with ICE as a means to further public safety in their jurisdictions. The CA-DOJ clarification of LEAs responsibilities to respond to ICE provides assistance to agencies in their ability to develop sound policies.

Based upon our observations, this is an area where LASD can benefit from making greater use of existing policies and discretionary options.

³² Santa Cruz County Sheriff's Office. (2018). Immigration Detainers 502.3.1. Retrieved from <http://scsheriff.com/Portals/1/County/sheriff/CorrectionsPolicyManual.pdf>

³³ Tulare County Sheriff's Office. (2017). Release to other agencies. Retrieved from http://www.iceoutofca.org/uploads/2/5/4/6/25464410/tulare_sheriffs_department_policy_604.pdf

³⁴ San Mateo County Sheriff's Office. (2018). ICE Holds, Requests for Notification, and ICE Interviews. Retrieved from http://www.iceoutofca.org/uploads/2/5/4/6/25464410/san_mateo_4_09_ice_policy_1-2-18.pdf

³⁵ Chicago Police Department. (2017). Responding to Incidents Involving Citizenship Status. Retrieved from <http://directives.chicagopolice.org/directives/data/a7a57b42-12ab41ab-48212-ab41-c1f5b5ad5c097076.pdf?hl=true>

³⁶ Pima County Sheriff's Department. (2018). Arrest, Detention, and Transportation Procedures. Retrieved from https://www.pimasheriff.org/files/2815/2597/9631/Chapter_10_050818.pdf

³⁷ Governing. (2018). Border Sheriff Bans Deputies From Working At Shelter for Immigration Children. Retrieved from http://www.governing.com/topics/public-justice-safety/tns-el-paso-sheriff-wiles.html?utm_term=Border%20Sheriff%20Bans%20Deputies%20From%20Working%20at%20Shelter%20for%20Immigrant%20Children&utm_campaign=States%20Can%20Now%20Tax%20Online%20Sales.%20What%20Happens%20Next&utm_content=email&utm_source=Act-On+Software&utm_medium=email

IV. FISCAL IMPACT/COST

The LASD RCD/IRC-RA operation is responsible for acceptance and processing ICE civil detainees is comprised of a total of 14 custody assistants. We estimate the current fiscal impact from ICE-related work of the RCD/IRC-RA on the LASD budget is well over one million dollars given associated salaries and benefits.³⁸

Table 1.LASD ICE Statistics-Custody-PERC Detainers and Table 2.LASD ICE Statistics-Custody-LAC Jail Detainers reflect that the RCD/IRC-RA staff accept and process hundreds of ICE civil detainee requests annually. However, the costs that LASD incurs associated with operations are currently not reimbursed by ICE at a county rate or Federal Government rate.

Our research has found that there are a number of government entities concerned about the potential fiscal impact that receiving and processing ICE civil detainees have on their operations.³⁹ As a result, several government entities have taken proactive measures to implement bills and/or ordinances to prohibit the use of government resources to assist in the enforcement of federal law, unless such assistance is required by federal or state law or contractually obligated.

V. COMMUNITY FEEDBACK

On January 25, 2018, the COC announced that they were interested in hearing from community members in a special meeting on LASD immigration issues and policies scheduled to take place on January 30, 2018.

The Immigration Ad Hoc Committee conducted the “Community Feedback Speakers” meeting on January 30, 2018. Sixteen speakers represented an array of community member views from Los Angeles County. Speakers included representatives from organizations such as the National Immigration Law Center, University of California Los Angeles (UCLA) - Law School, American Civil Liberties Union (ACLU), Stop LAPD Spying Coalition, Remembrance Project, American Freedom Alliance, We the People Rising and many concerned citizens. The speakers offered views on this issue and wanted to ensure the COC understood their concerns as follows:

- Five speakers voiced their support of the draft ad hoc committee recommendations as verbally referenced in the January 25, 2018 COC meeting, while two speakers said they were against the draft recommendations.
- “Kids should know that LASD is not here to get the kids or family.”
- “We want more public support from LASD...like a public campaign with immigration information.”
- “The Sheriff said if we don’t give them access they will have to go into the communities and do raids...I thought...they already do that!”
- “ICE doesn’t have to sit and wait for law enforcement.”
- “All things you recommended are detrimental to public safety.”

³⁸ See Addendum A for calculations supporting this estimate.

³⁹ See City of Santa Ana. (2017). Ordinance No. NS-2908. City of Santa Ana Procedures Concerning Sensitive Information and the Enforcement of Federal Immigration Law. Retrieved from https://library.municode.com/ca/santa_ana/ordinances/code_of_ordinances?nodeId=811808; Denver City Council. (2017). Ordinance-Council Bill No. 17-0940 Public Safety Enforcement Priorities Act. Retrieved from <https://denver.legistar.com/LegislationDetail.aspx?ID=3128614&GUID=3A568876-8302-4856-AFA4-F505A637FFD9&Options=ID|Text|&Search=immigration>; Santa Clara Board of Supervisors. (2017). Resolution No. 2010-316-Advancing Public Safety and Affirming the Separation between County Services and the Enforcement of Federal Civil Immigration Law. Retrieved from <http://sccgov.igm2.com/Citizens/FileOpen.aspx?Type=4&ID=18010>

- “Whose side are you on...citizens or criminals?”
- “If someone has a football game party and ICE shows up...it could create more stress on others and children in the house if ICE comes out in the community.”
- A number of immigration law experts mentioned government entities that have policies and ordinances related to law enforcement agencies not using their resources for ICE services.
- A few speakers voiced an expectation that LASD should cooperate with ICE, and they based their view on residents that have allegedly lost their lives at the hands of removable persons not turned over to ICE.

Almost all speakers voiced concerns regarding the impact immigration policy compliance could have on public safety.

One community perspective that was voiced centered around the idea that LASD immigration policies that limit ICE to SB 54, the Trust and Truth Acts may negatively impact public safety as removable persons are believed (falsely, in fact) to have high crime rates and criminal background histories.

The community perspective that was most voiced involved the idea that LASD immigration policies be consistent with SB 54, the Trust and Truth Acts. This community perspective is consistent with the 65% of residents in California that are in favor of local governments making their own policies to protect the legal rights of undocumented immigrants.⁴⁰ Residents who voice this perspective often further note that LASD strict immigration policies will have no public safety impact and could even be harmful to the community. Individuals who present this perspective often refer to state and local level data such as in March 2017 when Los Angeles Police Department Former Chief Charlie Beck voiced concern over a decline in the reporting of crime among Hispanic populations.⁴¹ Former Chief Beck further noted his concern that there was almost a 10% decline in reporting of spousal abuse and a 25% decline in the reporting of rape.⁴² Almost 52% of law enforcement officers recently surveyed believes that barriers that immigrant victims face such as fear that police will inquire about their immigration status result in a greater number of perpetrators at large in their communities.⁴³ Many officers believe that without vital intelligence produced by community collaboration with all sectors of the community including immigrants, criminal acts will continue and will likely increase.⁴⁴

The public generally agreed that LASD had work to be done on their immigration policies and are optimistic that LASD is willing to engage them in ensuring public safety.

⁴⁰ Public Policy Institute of California. (2018). Californians & Their Government. Retrieved from <http://www.ppic.org/wp-content/uploads/s-118mbs.pdf>

⁴¹ Los Angeles Police Department News Release. (2017). Decline in Reporting of Crime Among Hispanic Population. Retrieved from http://www.lapdonline.org/march_2017/news_view/61998

⁴² Ibid.

⁴³ National Immigrant Women's Advocacy Project. (2018). Promoting Access to Justice for Immigrant and Limited English Proficient Crime Victims in an Age of Increased Immigration Enforcement: Initial Report from a 2017 National Survey. Retrieved from <http://library.niwap.org/wp-content/uploads/Immigrant-Access-to-Justice-National-Report.pdf>

⁴⁴ The Police Chief. (2018). Overcoming Fear and Building Trust with Immigrant Communities and Crime Victims. Retrieved from http://library.niwap.org/wp-content/uploads/PoliceChief_April-2018_Building-Trust-With-Immigrant-Victims.pdf

RECOMMENDATIONS

Our review and analysis of LASD policies, practices and procedures has resulted in the following recommendations:

1. LASD should not provide ICE with more information than it provides to the public, nor shall LASD disseminate information regarding inmate release status or other confidential information, unless required by federal or state law.
2. LASD should continue to ensure that all department operations (e.g. custody facilities, station jails, and court lock-ups), inmate detainer release procedures and detainer notifications/ acceptance policies are consistently reviewed and updated in accordance with governing laws.
3. LASD should ensure development of an “Immigration Information” web link for posting information items such as:
 - A. Inmate detainer release procedures &/or detainer policies & flowcharts
 - B. U-Visa and/or related policies & procedures
 - C. Related helpful links including, but not limited to:
 - i. Legal & social-service resources
 - ii. ICE detainee locator system
 - iii. Forms relating to the rights of inmates with detainers
4. LASD should ensure development of social media, instant communications and marketing material to apprise the public of the availability of the “Immigration Information” web link. LASD public website should include, but not be limited to a brief video in English and Spanish highlighting the Department’s policy on Immigration inquiries and notifications that is comparable to the video on the intranet for Department personnel.⁴⁵
5. LASD should ensure that appropriate staff acknowledge receipt of these immigration policies and are trained in their application.
6. LASD should not assist ICE in any operation to enforce federal immigration laws. Nothing shall prohibit LASD from continuing to participate in joint task forces with ICE, where allowed by County policy.
7. LASD should disclose, through a publicly accessible website, on a basis consistent with state law, the following data:
 - A. Annual reports to the Department of Justice, if applicable.
 - B. Monthly reports reflecting the number of immigration-related transfers to ICE and the offenses justifying the transfer.
 - C. Monthly report on U-Visa applications submitted for certification and the percentage certified by LASD.
8. The Sheriff should provide the COC with a quarterly report on the number of civil immigration detainees received from ICE and the number of immigration-related transfers to ICE in an effort to increase transparency and accountability.

⁴⁵ Office of Inspector General. (2018). Report Back on the Sheriff’s Department’s Adherence to Policies Regarding Cooperation with Immigration Authorities. Retrieved from <https://oig.lacounty.gov/Reports>

9. LASD should not provide ICE with access to the Inmate Reception Center unless required by federal or state law.
10. LASD should not honor ICE detainers, unless specifically required by federal or state law.
11. LASD should not approve employee's Requests for Approval of Outside Employment with ICE and/or ICE associated operations if they are incompatible or involve conflicting functions or responsibilities to the Department.
12. We recommend that the Board examine how LASD uses County resources on administrative and/or personnel costs involved in tracking and responding to ICE civil immigration detainers and propriety of seeking reimbursement from the federal government for such costs.

CONCLUSION

In its mission to provide public safety, LASD has reviewed its policies and ensured that they are consistent with the general expectations established in The California Values Act. In the process of conducting their in-house review, LASD also considered feedback from meetings that Sheriff Jim McDonnell had with community members. The efforts of LASD personnel are to be commended. LASD is the largest Sheriff's Department in the world⁴⁶, and is one recognized for being proactive in its approach in many areas.⁴⁷ Many LEAs have used their discretion to prohibit cooperation with ICE without proof signed by judges. Some have restricted ICE access to their facilities and others have restricted the use of municipal funds related to the ICE civil detainer process. LASD should be more proactive in its approach to its immigration policies, procedures and practices as well as work in partnership with its communities.

⁴⁶ Los Angeles County Sheriff's Department. (2018). About us. Retrieved from http://lasd.org/about_us.html

⁴⁷ Los Angeles County Sheriff's Department. (2018). Our Mission, Creed, and Core Values. Retrieved from http://lasd.org/about_us_mission_creed_core.html

ADDENDUM-"A"

ESTIMATED FISCAL IMPACT/COST
Associated with LASD RCD/IRC-RA Operation
(Responsible for acceptance and processing ICE civil detainees)

Type of Position (s) Used	Number of Positions	Annual Salary & Benefits (S & EB) for 1-Position*	Total Cost for S & EB for All Positions in the Operation
Custody Assistant	14	\$104,601	\$1,464,414.00

*Phillips, Rene. (2018, October 30). County of Los Angeles CEO-Public Safety