

January 17, 2017

Sheriff Jim McDonnell  
Chief Eric Parra  
Los Angeles County Sheriff's Department

**Re: Recommendations regarding the Los Angeles Sheriff's Department's  
Collaboration with Immigration Enforcement**

To the Los Angeles Sheriff's Department:

The undersigned civil rights, legal, faith-based, labor and community organizations write to you with our recommendations on whether and how the Los Angeles Sheriff's Department (LASD) should cooperate with federal Department of Homeland Security (DHS) on the issue of immigration enforcement.

On December 6, 2016, the LA County Board of Supervisors passed a motion (4-0, 1 abstention), *Protecting Los Angeles County Residents Regardless of Immigration Status*, which called for public report-backs from County officials within thirty days, in consultation with organizations and local institutional actors, regarding how to protect immigrants and religious minorities from threats to their liberty and security, and ensure that LA County is welcoming to people of all nationalities, ethnicities and religions.

We welcome the efforts of LASD to take concrete steps to protect Los Angeles County's immigrant population from threats of mass deportation, and racial and religious discrimination. Los Angeles has long been a leader in pro-immigrant policies that recognize the contributions of immigrant communities and promote public safety for all. Los Angeles County should continue to protect residents from the dire economic, emotional, and social impacts of deportations. Consistent with the Board's Motion, we provide recommendations to inform the report to the Board, and we urge that these recommendations be implemented before the presidential inauguration.

The enforcement of federal immigration law falls exclusively within the authority of the federal government. Los Angeles County law enforcement should not engage in law enforcement activities based solely on someone's immigration status, or work together with the Department of Homeland Security on deportation efforts. LASD should **establish a bright line between federal immigration enforcement and local law enforcement** by adopting the following policies:

- I. **Prohibit the use of financial or material resources, or local law enforcement personnel, to investigate or assist in the enforcement of federal immigration law**—including responding to hold, notification and transfer requests, and providing federal immigration authorities with non-publicly available information about an individual's date of release from County custody.
- II. **End ICE's access to people in the jail for purposes of carrying out deportation and removal operations.** A May 12, 2015 Board of Supervisors resolution stated, "It is the

intent and understanding of the Board of the Supervisors in terminating the 287(g) program that the ICE office in the Inmate Reception Center (IRC) be closed and that the ICE agents permanently housed in the IRC be removed.” While ICE’s office has been closed, ICE agents are still allowed unfettered access to IRC to conduct interviews and to LASD computer equipment. We believe this violates the spirit and intent of the Board’s resolution.

Pursuant to the intent of the BOS resolution, ICE should not have access to Los Angeles County jails for purposes of carrying out deportation and removal operations. This includes not allowing ICE into the jail for purposes of interviewing people about their removability and not allowing ICE to use LASD’s computers or equipment. Additionally, LASD should refuse to make individuals in County custody available to federal immigration authorities for interviews. **LASD should require ICE to produce a criminal warrant prior to entering LASD facilities.**

- III. **Establish policies to make clear that LASD is not enforcing federal immigration law.** LASD should re-affirm its commitment to not detain anyone for immigration violations or make arrests based on civil immigration warrants which do not meet legal standards for probable cause. Nor should LASD request information about or otherwise investigate the immigration status of any person. Inquiring about immigration status would undermine public trust in LASD and make people less likely to report crimes for fear of being deported.
- IV. LASD should not respond to ANY ICE detainer requests or requests for notification. Any entanglement of LASD in immigration enforcement undermines public safety and community well-being. A recognition of the importance of rebuilding trust between law enforcement and immigrant communities was the driving force behind the California TRUST Act (AB 4) and TRUTH Act (AB 2792).

**We recommend that the LASD decline to detain individuals for ICE in all circumstances.** Detaining individuals at ICE request exposes LASD to legal liability because the legal deficiencies presented by ICE’s form I-247 were not cured by the new I-247D request for detention or I-247X form. Adopting a clear policy of not detaining inmates in LASD custody at ICE’s request would be in line with what other agencies, including the Los Angeles Police Department, have done.

Additionally, we are particularly concerned about certain types of criminal convictions for which LASD currently honors ICE detainers. Any non-violent drug related offenses such as H&S §11351, H&S §11378, and H&S §11379 should not form the basis for LASD to respond to ICE detainer requests. Drug offenses should be responded to with treatment and rehabilitation. Nationally and in California, policies have moved towards de-criminalizing drug offenses and LASD should also move in tandem with this trend.

We are also concerned about property crimes which remain on the list of AB4 crimes and which under Prop 47 can be reduced to misdemeanors. This includes PC §459 (burglary) and PC §487 through 487i (grand theft). Reclassifying property offenses where the

amount taken is less than \$950 as misdemeanors indicates that these crimes are seen as less serious than other types of felonies. LASD should follow this line of reasoning and remove these crimes from the AB4 list.

Nor should LASD honor detainer requests if the basis for the request is an allegation that the person has “intentionally participated in a criminal street gang.” As shown by a recent California State Audit of the Calgang database system, the requirements for designation as an active gang member, affiliate or associate are overly broad and sweep thousands of people into a classification system that lacks due process.<sup>1</sup> PC §186.22 (felony criminal street gang) and PC 186.22(A) (participate in a known street gang) are purely associational crimes, which, on their own, are non-violent offenses. These charges are rarely used and, when they are, it is usually in combination with other charges for criminal activity. These on their own should not be a basis for transfer to ICE.

**At minimum, LASD should remove these crimes – all non-violent drug-related offenses, property crimes, and associational gang convictions – from the AB4 crimes list.**

- V. It is our position that no one should be held for ICE for prior crimes. Community members who may have very old convictions and have long since rehabilitated and are contributing members of the community would be at risk of double punishment and separation from their families. **Should LASD continue to honor some detainer requests, LASD should adopt a wash out period/statute of limitations of three years for detainer requests**, which is the time period recognized under the common law definition of “recidivism.”<sup>2</sup>

Three years is the standard definition of “recidivism” on the local, state, and federal level. The Board of State and Community Corrections defines recidivism as, “conviction of a new felony or misdemeanor committed within three years of release from custody or within three years of placement on supervision for a previous criminal conviction.”<sup>3</sup> The California Department of Corrections and Rehabilitation (CDCR) defines a recidivist as, “a convicted felon who was released from CDCR in FY 2008-09 and subsequently returned to CDCR within a three-year follow-up period.”<sup>4</sup>

The three year period is echoed on the federal level. According to the National Institute of Justice, “Recidivism is measured by criminal acts that resulted in rearrest, reconviction or return to prison with or without a new sentence during a three-year period following the prisoner's release.”<sup>5</sup>

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<sup>1</sup> See <https://www.auditor.ca.gov/pdfs/reports/2015-130.pdf>.

<sup>2</sup> At minimum, the wash out period cannot be anything more than 5 years because this is the limitation already set by California law under the TRUST Act. See Gov. Code § 7282.5(a)(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 for, or has been convicted at any time of a felony for, any of the following offenses...”).

<sup>3</sup> <http://www.bscc.ca.gov/downloads/Recidivism%2011.13.14.pdf>.

<sup>4</sup> [http://www.cdcr.ca.gov/Adult\\_Research\\_Branch/Research\\_documents/Outcome\\_evaluation\\_Report\\_2013.pdf](http://www.cdcr.ca.gov/Adult_Research_Branch/Research_documents/Outcome_evaluation_Report_2013.pdf).

<sup>5</sup> <http://www.nij.gov/topics/corrections/recidivism/pages/welcome.aspx>

- VI. Adopt and implement formal policies for local law enforcement to **cease engaging with Immigration and Customs Enforcement (ICE)** (including Homeland Security Investigations and Enforcement and Removal Operations) **in any joint operations**, and refuse to permit any collateral arrests for immigration enforcement purposes in connection with local law enforcement operations, or operations in which local law enforcement is associated.
- VII. LASD should continue to collect and share data in order to promote transparency. Currently, LASD publishes monthly statistics on the number of people whom ICE issues PERC detainees, interviews, and takes into custody. This data does not capture all interactions between ICE and the LASD, and fails to provide sufficient detail to assess the impact that LASD's involvement in immigration enforcement is having on the county. We, therefore, ask for greater transparency and more meaningful reporting, including but not limited to:
- The following data sets by race, age, gender, national origin and address (zip code)
  - Aggregate data on the basis for probable cause for all requests for detention, according to the new I-247D form (broken down by the 4 categories on the form);
  - Aggregate data on the basis for the request for detention or request for notification based on ICE's prioritization categories (broken down by the 6 categories on both the I-247D and I-247N forms);
  - Information about how the Sheriff's department's budget is being allocated towards involvement in immigration enforcement;
  - Information about which databases (CalGang, local gang databases, DNA, sex offender, other) ICE has access to;
  - The process of notifying ICE about an inmate's release date, home address, and other information sharing between LASD and ICE;
  - Confirmation that the advisal form is given to inmates before an ICE interview takes place, pursuant to AB 2792; and
  - Confirmation that LASD called the person's attorney/designee and informed the individual if they plan to respond to an ICE request, pursuant to AB 2792.
- VIII. On December 12, 2016, advocates sent the attached letter to the LASD with our recommendations on implementing the TRUTH Act (AB 2792). As AB 2792 became law on January 1, 2017, we urge you to immediately implement these recommendations.

Finally, we ask that LASD publicly affirm its commitment to maintain each and every one of the above policies in the face of any threats from President-elect Trump, including threats to withdraw federal funding.

We look forward to further dialogue with you about the recommendations in this letter. Please contact Shiu-Ming Cheer from the National Immigration Law Center at (213) 674-2833 or [cheer@nilc.org](mailto:cheer@nilc.org) should you wish to discuss anything in this letter.

Sincerely,