



COMPLETED INVESTIGATION



Investigative Services LLC

PI 189176

September 29, 2022

Chaplin & Hill Investigative Services LLC

County of Sacramento

Executive Summary

A. INTRODUCTION

On January 18, 2022, Chaplin and Hill Investigative Services LLC (hereafter C&HIS) was retained by the County of Sacramento to conduct an administrative investigation involving allegations against the Sacramento County Sheriff's Department. The allegations (lodged by the Northern California American Civil Liberties Union) consisted of violations of Senate Bill 54, also known as the California Values Act.

On Tuesday, January 25, 2022, Investigators Hill and Chaplin met with outgoing Inspector General (IG) Mark Evenson. IG Evenson provided an oral summary of events leading up to this investigation. The primary impetus for this investigation stemmed from a Board of Supervisors meeting that took place on December 8, 2021. During that meeting, Sheriff Scott Jones presented the Sacramento County Sheriff's Office's annual Truth Act forum, which was followed by a presentation from the ACLU. IG Evenson provided investigators with a thumb drive containing a variety of related files and documents, including spreadsheets, memos, emails, jail logbooks, annual reports and PowerPoint presentations (see Exhibits 1-15).

Following the meeting with IG Evenson, Investigators reviewed the Board of Supervisors meeting from December 8, 2021. At that meeting, allegations were made by members of the ACLU claiming the Sacramento County Sheriff's Department are: (a) engaging in illegal notifications to ICE, (b) illegally transferring people into ICE custody, and (c) underreporting ICE transfers due in part to ineffective and inaccurate record keeping.

At the conclusion of the presentations by Sheriff Jones and the ACLU, several members of the Sacramento County Board of Supervisors raised questions and expressed concern over the allegations and requested an investigation. Investigators Jay Hill and Thomas Chaplin conducted this investigation.

B. SCOPE OF INVESTIGATION

The catalyst for this investigation were the conflicting presentations by Sheriff Jones and ALCU Legal Policy Analyst (LPA) Erica Ramos on December 8, 2021. The presentation by Sheriff Jones focused on statistics from calendar year 2020. The presentation from LPA Ramos detailed information from the Sheriff's Office's ICE Log Books from calendar years 2019, 2020 and 2021 that purportedly revealed evidence of violations of SB54. In addition, the presentation from LPA Ramos alleged underreporting of ICE transfers in 2019 citing the discrepancy in numbers between Exhibit #1 and Exhibit #8 as evidence to support her claim.

During the subsequent discussion by BOS members at the meeting, Vice Chair Nottoli asked County Counsel Lisa Travis if they could ask for the DOJ Transfer Report for calendar years 2019, 2020 and 2021. Vice Chair Nottoli also specifically asked, "What happened in 2019" (in

reference to the conflicting numbers) and asked for someone to follow-up and report back to the board.

Supervisor Serna said, *“If we're going to set the IG on a course of pursuing some expedited investigation here, I think it's incumbent upon us since we're the ones very interested in what he has to say about it, to take the time, to give him very clear inquiries and perhaps even put them in writing from the individual board members so that he knows exactly what we're asking him to do. So I'd like to accept that responsibility on behalf of myself, but I think that's something that he deserves to have.”*

In an email from IG Evenson to Under Sheriff Erik Maness (Exhibit #5) he wrote *“the log reports indicate that there were at least 4 incidents over **the past 3 years** that appear to have violated SB-54.”* [emphasis added]

In an email from IG Evenson to the members of the BOS (Exhibit #6) he wrote, *“**In addition to the 2020 reporting time frame, The ACLU's presentation also illuminated some other discrepancies in 2019 and 2021.** Those log book entries in 2019 and 2021 seem to be clear violations of SB-54 as well. Finally, the 2019 numbers reported by the Sheriff's Office to the California Department of Justice (DOJ) are inaccurate. From what I understand, the Sheriff has now launched his own investigation into the accuracy of their SB-54 numbers.”* [emphasis added]

Based on the allegations made by the ACLU and the concerns brought forward by members of the Board of Supervisors, investigators conferred with county council and identified the following areas of focus for the investigation:

- 1) Reconcile the difference between the 2019 Values Act: Transfer Reporting to the Attorney General's Office (which shows 52 people transferred into ICE custody) and the FY2019 RCCC/SAC MAIN ARRESTS document (which shows 76 ICE arrests).
- 2) Determine whether the SCSO shares *any* information with ICE about non SB54 qualified inmates, to include release dates/times.
- 3) Determine how ICE finds out about incarcerated inmates.
- 4) Determine whether the SCSO has a “pattern or practice” of transferring non SB54 qualified arrests to ICE custody.
- 5) Determine if the SCSO has a “pattern or practice” of turning inmates over to ICE “outside the gates” in violation of state law.
- 6) Review the 2020 and 2021 “Values Act: Transfer Reporting” form annually submitted to the Attorney General's Office, and the FY2020 and 2021 RCCC/SAC MAIN ARRESTS document and determine if there are any discrepancies between these items (as occurred in 2019) and compare to the data provided by Sheriff Jones in his report to the BOS.

- 7) Determine the cause of the significant decrease in reported SB54 qualified persons between 2019 and 2020.
- 8) Determine the purpose of the “ICE Log Stamp” and the message shared with SCSO staff about this item in an email from Bonnie Lau, dated January 9, 2020.
- 9) Review and address any data discrepancies found between documents provided to investigators and presentations given at the BOS meetings.

C. INVESTIGATION

Meeting with ACLU

Throughout the course of this investigation, investigators met with various representatives from the ACLU, but the primary point of contact was Senior Staff Attorney (SSA) Sean Riordan. On February 3, 2022, Investigators met (virtually) with SSA Riordan, LPA Ramos and Carlos Montes-Ponce. The primary purpose for the meeting was to gain a comprehensive understanding of the concerns of the ACLU as they relate to Sacramento County’s compliance with SB54 and the TRUTH Act and to solicit any potential documentary evidence related to those concerns. The meeting focused on a letter written by SSA Riordan to IG Evenson, dated December 17, 2021 (Exhibit #4). In that letter, SSA Riordan expressed concerns regarding following documents:

Documents relevant to notifications and transfers:

- RCCC ICE Log Book copies_Redacted (Sept 2017 to early June 2019) (Exhibit #12)
- ICE Log Book - RCCC (Jan 2019 to Aug 2020) Redacted (Exhibit #7)
- ICE Log Book - RCCC_Redacted (Jan 2020 to March 2021) (Exhibit #8)
- RE_ICE_SB54_Redacted (Exhibit #13)
- ICE LOG STAMP HAS ARRIVED (1) (Exhibit #9)
- SB 54 Cheat Sheet-Notes (Exhibit #15)

Documents relevant to data and information reporting:

- Sacramento County Values Act 2019 Statistics (1) (Exhibit #14)
- 2019 RCCC_SAC MAIN ARRESTS (Exhibit #1)
- Letter dated September 13, 2019 from the Sacramento Immigration Coalition to Sheriff Jones (Exhibit #17)

- Email dated October 2, 2019 in response to the September 13 letter (Exhibit #2)

The concerns expressed by SSA Riordan on behalf of the ACLU are addressed in the Investigation/Evidence section of this report.

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Meeting with Chief Deputy Matt Petersen

On March 17, 2022, Investigators met with Chief Deputy (CD) of Correctional Services Matt Petersen. The purpose of the meeting was to review the exhibits associated with the allegations that were brought forward by the ACLU. The following exhibits were shared with CD Petersen and discussed [see Investigation/Evidence section of this report for full details]:

- Exhibit #1 2019 RCCC Sac Main Arrests spreadsheet
- Exhibit #2 2019.10.03 Email from SCSO CD Freeworth re: Letter from SSA Riordan
- Exhibit #3 2021.04.28 ACLU Letter to Supervisor Kennedy re: Truth Act Forum
- Exhibit #4 2021.12.16 Letter to IG Evenson from SSA Riordan
- Exhibit #9 Email from Bonnie Lau. Subject: ICE LOG STAMP HAS ARRIVED
- Exhibit #10 ACLU PowerPoint Presentation, Truth Act Forum, Dec 8, 2021
- Exhibit #11 SCSO PowerPoint Presentation, Sheriff Scott Jones, Truth Act 2020
- Exhibit #13 Email between Alex McCamy and Patrick Rowe. Subject: RE: ICE / SB54
- Exhibit #14 Sacramento County Values Act 2019 Statistics (1)
- Exhibit #15 SCSO Document titled, "SB 54 Cheat Sheet-Notes"
- Exhibit #17 2019.09.13 Letter to Sheriff Jones from Sac Immigration Coalition
- Exhibit #25 Main Jail ICE logbook 2018-2021
- Exhibit #26 RCCC ICE logbook 2018-2021

CD Petersen answered questions related to the above items and explained relevant departmental policies and procedures. CD Petersen acknowledged when mistakes were made and/or when policies/procedures were not communicated properly or misunderstood. CD Petersen stressed that several steps have been or are being taken to ensure SCSO staff is in compliance with SB54.

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Review of Documents

Ice Log Books

Exhibit #25 is the complete, unredacted logbook from the Main Jail between May 2, 2018 – May 24, 2021. Nothing was found in this logbook that would substantiate or refute the allegations made by the ACLU regarding violations of SB54.

Exhibit #26 is the complete, unredacted logbook from the RCCC between September 8, 2017 – September 13, 2021. This logbook contained multiple instances of proactive communication on the part of the SCSO personnel contacting ICE to advise of non-SB54 qualified inmates release information. There are examples of this occurring in every calendar year between 2018-2021.

Arrest Reports and DOJ Values Act: Transfer Reports

Investigators reviewed the Values Act: Transfer Reporting forms submitted annually by the SCSO to the Attorney General's Office and compared them to the RCCC/SAC MAIN ARRESTS spreadsheets to determine if there are any discrepancies. Investigators also compared this data with the information shared by Sheriff Jones in his annual Truth Act forum presentations to the BOS.

Exhibit #29 – 2018 Values Act: Transfer Reporting

In 2018, the SCSO reported ninety-nine (99) ICE transfers to the DOJ. The listed offense for twenty-six (26) of the transfers were for CVC 23152 (DUI). Misdemeanor DUI is not a qualifying offense for transfer per SB54. When this issue was raised from the Sacramento Immigration Coalition, CD Freeworth responded, "On the form submitted to the Department of Justice, it does indicate the Sheriff's Office had 26 transfers for the violation of driving under the influence (VC 23152). This was an oversight of human error and should have read California Vehicle Code 23153, which is a felony."

Investigators inquired further about this concern during the interview with CD Petersen. CD Petersen said he would look in to it and later advised in an email, "*We do not possess sufficient records with names or identifiers to cross-reference with the limited information on the DOJ reports to assess the allegations properly.*"

Exhibit #14 – 2019 Values Act: Transfer Reporting & Exhibit #1 - 2019 RCCC_Main Arrests

The 2019 Values Act Transfer Report submitted by the SCSO to the DOJ reported 52 ICE transfers (down from 99 the previous year). Of these, two were reportedly for felony DUI (down from 26 the previous year).

The data on the 2019 Values Act Transfer Report (54 transfers) does not match the data on the 2019 RCCC_SAC MAIN ARRESTS spreadsheet, which indicates 76 ICE Arrests. This discrepancy is the source of the ACLU's allegation of "record keeping that results in the underreporting of ICE transfers".

CD Petersen was asked about the discrepancy between these documents and explained that the spreadsheet showing 76 ICE arrests (Exhibit #1) includes all arrests by ICE in calendar year 2019, including “transfers” and “releases.” The 52 that are reported on the Values Act: Transfer Report only includes transfers. CD Petersen defined a transfer as “someone who was taken into custody by ICE inside one of the SCSO jails who was SB54 qualified.” He defined release as “an inmate who was arrested by ICE outside the gates of the jail after being released from SCSO custody.” CD Petersen said both qualify as “arrests” by ICE but only the “transfers” are included on the DOJ report, thus the discrepancy in the reports.

In his annual presentation to the BOS on December 15, 2020, Sheriff Jones reported 52 transfers to ICE custody. The 52 transfers reported to the BOS match the number reported to the DOJ.

Exhibit #22 – 2020 Values Act: Transfer Reporting & Exhibit #21 – 2020 RCCC_Main Arrests

The 2020 Values Act Transfer Report submitted by the SCSO reported only three ICE transfers (down from 52 the previous year and 99 from 2018). Of the three, two were for felony DUI. This data was compared to the data found on the spreadsheet titled RCCC MJ – 2020 SAC MAIN ARRESTS, which corresponded.

Exhibit #23 – 2021 RCCC Main Arrests and Exhibit #24 – 2021 Values Act: Transfer Reporting

Investigators discovered that Exhibit #23 is different than the 2019 and 2020 arrest spreadsheets (Exhibits #1 and #22) in that it does not list the qualifying SB54 criminal offense, the inmates DOB or their country of citizenship. As a result, there is no way for investigators to ascertain if the transfer is compliant with SB54.

The 2021 Values Act Transfer Report submitted by the SCSO reported only two ICE transfers. This data was compared to the data found on the spreadsheet titled RCCC MJ – 2021 SAC MAIN ARRESTS. This spreadsheet indicated eight SB54 qualifying arrests, but only two ICE transfers. These two transfers correspond to the data reported to the DOJ. As explained by CD Petersen, the arrest reports and transfer reports will not necessarily match as they are not documenting the same information (arrests vs. transfers).

See Investigation/Evidence section of this report for full details of the document review.

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Review of Laws

Investigators conducted an in-depth review of Senate Bill 54 and Assembly Bill 2792 and the laws related to those bills. An overview of these bills and the sources used to create the overview are attached as the following indexes:

Index	Title
1	SB54 & AB 2792 Overview

1.1	AB 2792 Assembly Floor Analyses
1.2	AB 2792 Senate Floor Analyses
1.3	AB 2792 - CA GC Amendments
1.4	AGO IB Information Bulletin titled Responsibilities of Law Enforcement Agencies
1.5	CA VALUES Act Statistical Reporting Information Bulletin from CA AGO
1.6	SB 54 Legislative Counsel Bureau
1.7	SB 54 Senate Floor Analyses
1.8	Today's Law As Amended - SB-54 Law enforcement - sharing data

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Interviews with ICE Detainees

During the interview with SSA Riordan on February 2, 2022, he offered to put investigators in touch with a handful of individuals who claim to have been unlawfully transferred from SCSO custody to ICE custody. On July 8, 2022, Investigators interviewed two of these individuals. See Investigation/Evidence section of this report for further details of the interviews and subsequent information provided by CD Petersen]

██████████ was arrested in 2016 and charged with several felony offenses. Mr. ██████████ was tried for these offenses and found not guilty on the felony counts but was convicted of three misdemeanors, including PC 240 – Assault, and PC 242 – Battery. In February 2018, Mr. ██████████ was arrested by the Sacramento Police Department for a warrant stemming from the above charges and was booked into the custody of the Sacramento County Sheriff’s Department. Upon completing his sentence for the above case, Mr. ██████████ was transferred to ICE custody, where he remained for approximately two to three weeks before being released on bail.

CD Petersen confirmed the information provided to investigators by Mr. ██████████ and cited Government Code 7282.5 as the lawful authority to transfer to ICE under SB54.

Investigators later reviewed portions of the RCCC ICE Log Book from 2018-2021 (Exhibit #26) looking for any entries mentioning ██████████ and found he is not listed.

██████████
 Mr. ██████████ was arrested for misdemeanor DUI by the Sacramento Police Department in March 2019 and was held at the Main Jail in downtown Sacramento for a period of less than 24 hours. He was ultimately sentenced to four days in jail and three years of probation. Mr. ██████████ turned himself in to serve his four-day sentence on August 3, 2019. At the end of the four days, Mr. ██████████ said he was handed his belongings and escorted outside to a parking lot by an officer and was turned over to the custody of ICE, where he was held from August 8, 2019 until April 1, 2020, a total of just under eight months.

CD Petersen confirmed Mr. [REDACTED] was booked into custody on August 3, 2019 and released from custody four days later on August 7, 2019. CD Petersen said Mr. [REDACTED] was "not processed as a transfer to ICE" and did not have any SB 54 qualifying charges. Due to the length of time since this occurred, CD Petersen advised the SCSO does not have CCTV footage to verify whether ICE took custody of Mr. [REDACTED] upon his release at RCCC.

Investigators later reviewed portions of the RCCC ICE Logbook (Exhibit #26) from August 2019 and found the following entry:

8/7/19	1735 HS - CALLED 910-417-10990 ON DUTY ICE AGENT. ADVISED 5137199 [REDACTED] SCHEDULED FOR RELEASE @ RCO - WILL HOLD IF THEY WANT TO COME OUT HERE & PICK-UP. AGENT ADVISED HE WILL RUN [REDACTED] FBI # AND CALL ME BACK IN 3 MINUTES TO ADVISE IF THEY WANT TO PICK HIM UP. AGENT ANTHONY
	1744 ICE AGENT ANTHONY CALLED AND ADVISED THE DO WANT [REDACTED] AND ARE HEADED TO RCCC NOW. THEY REQUESTED PICK-UP IN SALLEY PORT. I ADVISED BOOKING COORDINATOR CAMPBELL AND (WATERHOUSE SO HAD).

There is no mention of [REDACTED] SB54 status or the charges for which he was being held.

Chaplin & Hill Investigative Services LLC

Sacramento County

Findings of Fact

Allegation #1

In a presentation to the Board of Supervisors on December 8, 2021, Legal Policy Assistant Erica Ramos alleged that the “*Sacramento County Sheriff’s Office is engaging in illegal notifications*” by sharing release dates/times of non-SB54 qualified inmates so they can be picked up by ICE “outside the gates”

Summary:

California Government Code 7284.6 (a) provides the legal requirements and restrictions related to this allegation. This statute states that California law enforcement agencies shall not:

(1) Use agency or department moneys or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, including any of the following:
(C) *providing information regarding a person’s release date or responding to requests for notification by providing release dates or other information unless that information is available to the public*, or is in response to a notification request from immigration authorities in accordance with Section 7282.5. Responses are never required, but are permitted under this subdivision, provided that they do not violate any local law or policy.

Public Information

According to Chief Deputy Petersen, the *projected* date of release can be found on the SCSO’s website (<https://www.sacsheriff.com/InmateInformation/>) for those inmates who have projected release dates (those who have been sentenced). The time of release is not available to the public through this website, however, Chief Deputy Petersen advised that if any member of the public calls and inquires about an inmate’s release date/time, that information is provided. Chief Deputy Petersen is not aware of a written policy that addresses this (providing information to the public) but it is the practice of the SCSO to provide this information to any member of the public who inquires, including ICE agents. Since this information is provided to anyone who inquires, the SCSO considers this public information.

A review of the RCCC ICE LOG BOOK (Exhibit #26) revealed multiple instances of members of the SCSO personnel proactively contacting ICE to advise of release dates/times for non-SB54 qualified inmates. This proactive notification differs greatly from responding to inquiries. There are instances of this occurring in every calendar year between 2018-2021. This is a clear violation of SB54. Chief Deputy Petersen acknowledged this occurred on multiple occasions and said *it was a mistake or misunderstanding on the part of the deputy who made the notification and is not the intended practice of the SCSO*. Chief Deputy Petersen advised this issue has been addressed and there are no known occurrences of this happening since January 14, 2021.

Finding of Fact:

This did occur.

Allegation #2

In a presentation to the Board of Supervisors on December 8, 2021, Legal Policy Assistant Erica Ramos alleged that the “Sacramento County Sheriff’s Office is illegally transferring people into ICE custody.”

Summary:

In her presentation to the BOS, Ramos provided several examples from the RCCC Logbooks and alleged “*These logbook entries show how the Sacramento County Sheriff’s Office has a policy and a practice of turning people in to ICE outside the gates, even though state law prohibits their transfer. So long as the person is transferred outside the gates, they believe it’s okay to transfer.*”

There are multiple examples in the RCCC Log Book (Exhibit #26) of contact with ICE being initiated by SCSO employees to advise of non SB54 qualifying inmates being released. These entries appear to show the SCSO was making these notifications in order to facilitate the transfer “outside the gates.”

As stated above in Allegation #1, Chief Deputy Petersen acknowledged these notifications were made by SCSO employees and said *it was a mistake or misunderstanding on the part of the deputy who made the notification and is not the intended practice of the SCSO*. Chief Deputy Petersen advised this issue has been addressed and there are no known occurrences of this happening since January 14, 2021.

Finding of Fact:

This did occur.

Allegation #3

In a presentation to the Board of Supervisors on December 8, 2021, Legal Policy Assistant Erica Ramos alleged that the “Sacramento County Sheriff’s Office’s record keeping results in underreporting of ICE transfers.”

Summary:

To support this allegation, Ramos presented the 2019 Values Act: Transfer Reporting (Exhibit #14) which indicates 52 inmates were *transferred* to ICE custody in 2019. This conflicts with the 76 *arrests* that were reported on the FY2019 RCCC/SAC MAIN ARRESTS document (Exhibit

#1). Ramos stated, *“There were at least 24 arrests by ICE that should have been logged as transfers but were not. We think those 24 transfers are at a minimum, the starting point of thinking about how the illegal transfers are working. **This is the smoking gun as to lack of transparency.** This shows lack of transparency and suspicious record keeping at the Sacramento County Sheriff’s Office.”*

In an interview with Chief Deputy Petersen on March 17, 2022, he was asked about these two documents and the discrepancy between them. Chief Deputy Petersen explained that the spreadsheet showing 76 ICE arrests (Exhibit #1) includes ALL arrests by ICE in calendar year 2019. This includes “transfers” and “releases.” The 52 that are reported on the Values Act: Transfer Report only includes *transfers*. Chief Deputy Petersen defined a transfer as “*someone who was taken into custody by ICE inside one of the SCSO jails who was SB54 qualified.*” He defined release as “*an inmate who was arrested by ICE outside the gates of the jail after being released from SCSO custody.*” Chief Deputy Petersen said both qualify as “arrests” by ICE but only the “transfers” are included on the DOJ report, thus the discrepancy in the reports.

Chief Deputy Petersen acknowledged these “outside the gate” arrests by ICE, if in fact they were the result of proactive notifications by SCSO employees (as evidenced by the logbooks), “should not have occurred.”

According to Chief Deputy Petersen, the logbooks were found to be insufficient to complete the required data necessary on the annual Values Act: Transfer Reporting form to the DOJ. In order to complete this form, the SCSO obtained the arrest data from ICE. This data from ICE, includes ALL arrests (transfers and releases).

Due to the discrepancy noted above for calendar year 2019, a review and comparison of data for calendar years 2020 and 2021 was performed.

Calendar Year 2020

The 2020 Values Act: Transfer Report (Exhibit #22) submitted by the SCSO reported only three ICE transfers. This data was compared to the data found on the spreadsheet titled RCCC MJ – 2020 SAC MAIN ARRESTS (Exhibit #21). Both reports indicated three arrests/transfers. However, in his annual presentation to the BOS on December 8, 2021 (Exhibit #11), Sheriff Jones reported five qualified notifications to ICE but only three transfers. The three transfers reported by Sheriff Jones match the number reported to DOJ. Sheriff Jones explained there were two SB54 eligible transfers that ICE elected not to pick up, for a total of five SB54 eligible transfers. If this is the case, the RCCC MJ 2020 arrest report (Exhibit #21) should indicate five arrests¹ but it only lists three. It is unclear where Sheriff Jones received the information about the two qualified transfers that were not picked up by ICE since they do not appear in the RCCC MJ 2020 arrest report.

¹ Chief Deputy Petersen explained that the arrest reports include ALL arrests, while the Value Act: Transfer Reporting only includes transfers. If that is the case, the arrest report should show five, while the DOJ report should show three.

Calendar Year 2021

The 2021 Values Act: Transfer Report (Exhibit #24) submitted by the SCSO reported only two ICE transfers. This data was compared to the data found on the spreadsheet titled RCCC MJ – 2021 SAC MAIN ARRESTS (Exhibit #23). This spreadsheet indicated eight SB54 qualifying arrests, but only two ICE transfers. These two transfers correspond to the data reported to the DOJ. As explained by Chief Deputy Petersen, the arrest reports and transfer reports will not necessarily match as they are not documenting the same information (arrests vs. transfers).

This disparity in data between the Values Act: Transfer Reports and the ICE Arrest Reports does not appear to be a “smoking gun” but instead a misunderstanding of terms. The Values Act: Transfer Reports list the number of inmates transferred to ICE custody annually with qualifying SB54 offenses, while the Arrest Reports document all arrests made by ICE from the Sacramento County jails and includes “outside the gate” releases (may or may not have SB54 qualifying offenses). Since the DOJ form only asks for data related to transfers to ICE custody, it is likely that this number will not always correspond to the number of ICE arrests.

These “outside the gates” releases were likely the result of SCSO employees proactively notifying ICE about inmate’s release date/time. According to Chief Deputy Petersen, this has been addressed and there is no evidence to indicate this has occurred since January 14, 2021.

Finding of Fact:

This investigation found that there were discrepancies in data reported to the DOJ and the arrest reports. This discrepancy was attributed to the difference between “transfers” and “arrests”. It was explained to investigators that not all ICE arrests resulted in transfers, which created the discrepancy in reporting data.

Year	Reported Arrests	Reported Transfers
2019	76	54
2020	5 or 3	3
2021	8	2

Allegation #4

It is alleged that the Sacramento County Sheriff’s Department miscategorized inmates as SB54 qualified when in fact they are not.

Summary:

California Government Code 7282.5 (a) provides the legal requirements and restrictions related to this allegation. This statute states that a law enforcement official shall have discretion to cooperate with immigration authorities only if doing so would not violate any federal, state, or

local law, or local policy, and where permitted by the California Values Act (Chapter 17.25 (commencing with Section 7284)). Additionally, the specific activities described in subparagraph (C) of paragraph (1) of subdivision (a) of, and in paragraph (4) of subdivision (a) of, Section 7284.6 shall only occur under the following circumstances:

- (1) The individual has been convicted of a serious or violent felony identified in subdivision (c) of Section 1192.7 of, or subdivision (c) of Section 667.5 of, the Penal Code.
- (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 within the last 15 years of a felony for, any of the offenses enumerated in Govt. Code 7282.5 (3)(A-AE).
- (4) The individual is a current registrant on the California Sex and Arson Registry.
- (5) The individual has been convicted of a federal crime that meets the definition of an aggravated felony as set forth in subparagraphs (A) to (P), inclusive, of paragraph (43) of subsection (a) of Section 101 of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101), or is identified by the United States Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.
- (6) In no case shall cooperation occur pursuant to this section for individuals arrested, detained, or convicted of misdemeanors that were previously felonies, or were previously crimes punishable as either misdemeanors or felonies, prior to passage of the Safe Neighborhoods and Schools Act of 2014 as it amended the Penal Code.

In a letter dated September 13, 2019 from the Sacramento Immigration Coalition to Sheriff Jones (Exhibit #17), the letter notes a potentially large number of DUI transfers in 2018.

Many of the offenses that your Department reported as the basis for transfers are *misdemeanors that do not qualify or may be misdemeanors*. For example, your Department reported 26 transfers under Vehicle Code § 23152. But convictions under § 23152 are nearly always misdemeanor convictions – a violation of the statute can only be punished as a felony if the offense occurred within ten years of three or more separate, specified Vehicle Code convictions. See Vehicle Code § 23550. Your department also reported at least one transfer under a number of Penal Code provisions that are either nearly always misdemeanors and are only punishable as felonies under certain particular aggravating circumstances or based on certain other predicate convictions. See Penal Code § 148 (resisting or obstructing an officer).

In an email dated October 2, 2019 (Exhibit #2), Chief Deputy Freeworth responded with the following:

You mention our agency routinely violated the California Values Act by transferring individuals for misdemeanor violations. On the form submitted to the Department of Justice, it does indicate the Sheriff's Office had 26 transfers for the violation of driving under the influence (VC 23152). This was an oversight of human error and should have read California Vehicle Code 23153, which is a felony."

The following is from a letter to Inspector General Evenson from ACLU Senior Staff Attorney Sean Riordan dated December 17, 2021

Investigation of this issue is warranted because in 2019 SCSO reported only 2 transfers for felony DUI under VC 23153 (see "Sacramento County Values Act 2019 Statistics," above). While it is possible SCSO's explanation of the issue is accurate, it is difficult to believe that there were 13 times more felony DUI transfers in 2018 than in 2019 (26 to 2). Another possible explanation is that many of those 26 reported DUI transfers from 2018 were in fact for misdemeanors.

Investigators found that between 2019-2021 there were only four felony DUI's listed on Values Act: Transfer Reporting. Investigators explored this stark contrast in felony DUI arrests/transfers which amounted to 26 transfers for felony DUI in 2018 but only four in the following three years combined.

During the interview with Chief Deputy Petersen, he was asked about this significant difference in felony DUI statistics following 2018 and he was asked if he could provide documentation to offer evidence of the twenty-six felony DUI's. Chief Deputy Petersen said he would look into this and report back. On June 2, 2022, Chief Deputy Petersen responded in an email (Exhibit #35) by saying, "We do not possess sufficient records with names or identifiers to cross-reference with the limited information on the DOJ reports to assess the allegations properly."

Finding of Fact:

In 2018, there were 99 reported transfers to ICE (Exhibit #29) for a variety of offenses, including several possible misdemeanor offenses, which on their own, may not qualify as SB54 eligible (PC 148, PC 422, PC 647, PC 23152, PC 242). The most glaring is the 26 reported transfers for DUI.

Government Code 7284.6 allows for transfers "If 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 within the last 15 years of a felony for any of the offenses enumerated in Govt. Code 7282.5 (3)(A-AE).

Investigators were not provided with the records to definitively determine whether any of the transferred inmates were improperly miscategorized as SB54 qualified and were advised, "We

do not possess sufficient records with names or identifiers to cross-reference with the limited information on the DOJ reports to assess the allegations properly.”

In 2019, there were 52 reported transfers to ICE (Exhibit #14) for a variety of offenses, including several misdemeanors (243(e)(1) PC, 242 PC, 148(a)(1) PC, 647.6(a) PC and 487(a) PC).

In order to determine whether any of these inmates were improperly miscategorized as SB54 qualified, additional criminal history data is needed. Investigators do not possess records to definitively determine whether any of the transferred inmates were improperly miscategorized as SB54 qualified.

In 2020, there were only three reported transfers to ICE (Exhibit #22), all of which were SB54 qualified.

In 2021, there were eight ICE arrests listed on the spreadsheet (Exhibit #23) but only two were reported as ICE transfers (Exhibit #24), both of which were SB54 qualified. The spreadsheet (Exhibit #23) does not list the qualifying offense and as a result, investigators are not able to determine whether the offense is SB54 qualified.

Allegation #5

It is alleged that the Sacramento County Sheriff’s Department provided instruction (via the email about the ICE Log Stamp – Exhibit #9) to deputies on how to transfer people to ICE who were not SB54 qualified, “so long as the transfer occurs outside the gate of the jail.”

Summary:

During her presentation to the BOS, Legal Policy Assistant Erica Ramos presented an email from SCSO Records Supervisor Bonnie Lau with the subject “ICE LOG STAMP HAS ARRIVED”. Ramos alleged, “This appears to be direction from a higher officer instructing other officers on how to transfer people to ICE who are not SB54 qualified, so long as the transfer occurs outside the gate of the jail.” This item was also the subject of comments and questions from members of the BOS during their discussion at the December 8, 2021 meeting.

In the email, Supervisor Lau writes:

Hello everyone,

In addition to the ICE Binder, please utilize the ICE Log Stamp for the ICE Log Book, which are all located at the release desk station. The log stamp ensures that all the pertinent information is recorded. Please continue to log the time, the ICE agent you contacted, and put your name and badge#.

Also, please make sure that the Booking Sergeant is aware of either the ICE transfer if the inmate does not meet SB54 qualifications (outside the gate) as they must sign off on your ICE log entry.

Chief Deputy Petersen was asked about this item and email during an interview on March 17, 2022. Chief Deputy Petersen said this stamp came on the heels of creating the 2019 Values Act Transfer Report. It was apparent that the logbook was insufficient for completing the report and information had to be gathered from ICE to complete this report. This stamp was created in order to define the necessary information to include in the logbook and simplify the procedure going forward.

Chief Deputy Petersen was asked what was meant by, "Please make sure that the Booking Sergeant is aware of either the ICE transfer or if the inmate does not meet SB54 qualifications (outside the gate) as they must sign off on your ICE log entry." Chief Deputy Petersen said that Supervisor Lau may have been one of the many people who misunderstood when and how notifications are to be made. According to Chief Deputy Petersen, Lau is one of the people who made entries into the logbook and indicated she notified ICE about release information, making it apparent she did not understand the procedure.

In a follow-up email to Chief Deputy Petersen dated March 23, 2022, he was asked, "Was there a procedure in place for the booking sergeant to "sign off" on the ICE log entries as Lau mentioned? And if so, did it occur?"

On June 2, 2022, Chief Deputy Petersen provided the following answer:

We were unable to find any other written direction related to having booking sergeants "sign off" on log entries. However, upon reviewing the logbook, I noticed several Sgt signatures beginning in December 2020, so I can only assume some direction to do this was likely given. Still, it appears to have been somewhat inconsistent.

Finding of Fact:

Chief Deputy Petersen explained that the ICE Log Stamp was created on the heels of completing the 2019 Values Act Transfer Report and this stamp was created in order to define the necessary information to include in the logbook and simplify the procedure going forward.

In the email to the department from Supervisor Lau, she writes "The log stamp ensures that all the pertinent information is recorded. Please continue to log the time, the ICE agent you contacted, and put your name and badge#." The request for this data seems to corroborate the purpose of the stamp as described by Chief Deputy Petersen.

Supervisor Lau continued, "Also, please make sure that the Booking Sergeant is aware of either the ICE transfer if the inmate does not meet SB54 qualifications (outside the gate) as they must sign off on your ICE log entry." Chief Deputy Petersen was asked about this portion of the email and he said that Supervisor Lau may have been one of the many people who misunderstood

when and how notifications are to be made and it is apparent she did not understand the procedure.

According to Chief Deputy Petersen, all the recipients of this email are records officers (non-sworn). Investigators are not aware of any follow-up emails sent by anyone within the SCSO to attempt to correct the information contained in the email sent out by Supervisor Lau.

ADDITIONAL DETAILS RELATED TO SCOPE OF INVESTIGATION

In addition to investigating the allegations above, the following items were outlined in the scope of investigation that was sent to County Counsel Lisa Travis and approved by Supervisor Serna:

1. Reconcile the difference between the 2019 Values Act: Transfer Reporting to the Attorney General's Office (which shows 52 people transferred into ICE custody) and the FY2019 RCCC/SAC MAIN ARRESTS document (which shows 76 ICE arrests).

See Allegation #3

2. Determine whether the SCSO shares *any* information with ICE about non SB54 qualified inmates, to include release dates/times.

See Allegation #1

3. Determine how ICE finds out about incarcerated inmates.

This question was asked of Sheriff Jones by Supervisor Nottoli during the Board of Supervisors meetings on December 15, 2020. Sheriff Jones said, "I can only speculate, but all of our people that we arrest is public information. We have everybody from reporters and all sorts of different people scouring our arrest records everyday so my guess is the easiest way to do it would be to monitor the people we arrested the previous day and try to compare that to people they might be interested in. All that information is available online."

Chief Deputy Petersen was asked this same question during an interview on March 17, 2022 and it was his belief that ICE finds out about an inmate's incarceration when an inmate is fingerprinted, and the fingerprint is submitted to confirm identification (through CAL ID). ICE has access to this system and can use it to see who has been booked by the SCSO. They then compare those arrests to their own database and determine if the individual is someone they are interested in. If the inmate is someone they are interested in, they submit a detainer (I-247). Chief Deputy Petersen was not certain but believes this is how ICE obtains their information.

Investigators made several attempts to contact ICE to inquire about their procedures for determining custody status, but phone messages went unanswered. This is one of the

questions posed to ICE via a Freedom of Information Act request. The response to the FOIA is pending.

[Investigators note: Investigators reviewed a publicly available TRUTH Act forum from the Alameda County Sheriff's Department and during their presentation, they explained that ICE learns of custody status through the shared fingerprinting database.]

4. Determine whether the SCSO has a "pattern or practice" of transferring non SB54 qualified arrests to ICE custody?

See Allegation #4.

In addition to the DUI arrests outlined in Allegation #4, there were other misdemeanors listed on the 2019 Values Act: Transfer Reporting (Exhibit #14) that may or may not qualify under SB54. These offenses include:

243(e)(1) PC – Misdemeanor domestic battery
242 PC – Misdemeanor batter
148(a)(1) PC – Misdemeanor resisting arrest
647.6(a) PC – Misdemeanor annoying or molesting child
487(a) PC – Misdemeanor grand theft

A qualifying offense under Government Code 7285.5, section (3) states: 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 within the last 15 years of a felony for, any of the offenses enumerated in Govt. Code 7282.5 (3)(A-AE).

Without additional information regarding the inmate's criminal history, it is impossible to tell whether the misdemeanor transfers listed on the 2019 Values Act: Transfer Reporting were lawful under SB54.

There were no misdemeanor offenses listed on the 2020 or 2021 Values Act: Transfer Reporting documents. If there *was* a "pattern or practice" of transferring non SB54 qualified inmates to ICE custody, there is no evidence it has continued beyond 2019.

5. Determine if the SCSO has a "pattern or practice" of turning inmates over to ICE "outside the gates" in violation of state law.

See Allegations #1 and #2.

6. Review the 2020 and 2021 "Values Act: Transfer Reporting" form annually submitted to the Attorney General's Office, and the FY2020 and 2021 RCCC/SAC MAIN ARRESTS document and determine if there are any discrepancies between these items (as occurred in 2019) and compare to the data provided by Sheriff Jones in his report to the BOS.

The 2020 Values Act: Transfer Reporting (Exhibit #22) submitted by the SCSO reported only three ICE transfers. This data was compared to the data found on the spreadsheet titled RCCC MJ – 2020 SAC MAIN ARRESTS (Exhibit #21). Both reports indicated three arrests/transfers.

In his annual presentation to the BOS on December 8, 2021 (Exhibit #11), Sheriff Jones reported five qualified notifications to ICE but only three transfers. The three transfers reported by Sheriff Jones match the number reported to DOJ in Exhibit #22. However, Sheriff Jones explained there were two SB54 eligible transfers that ICE elected not to pick up, for a total of five SB54 eligible transfers. Based on this information, the RCCC MJ 2020 arrest report (Exhibit #21) should indicate five arrests, but it only lists three. It is unclear where Sheriff Jones received the information about the two qualified transfers that were not picked up by ICE.

The 2021 Values Act: Transfer Reporting (Exhibit #24) submitted by the SCSO reported only two ICE transfers. This data was compared to the data found on the spreadsheet titled RCCC MJ – 2021 SAC MAIN ARRESTS (Exhibit #23). This spreadsheet indicated eight SB54 qualifying arrests, but only two ICE transfers. These two transfers correspond to the data reported to the DOJ.

The 2021 Truth Act forum has yet to be presented by Sheriff Jones so at this point there is nothing to compare.

7. Determine the cause of the significant decrease in reported SB54 qualified persons between 2019 and 2020.

Calendar Year	Reported Ice Transfers
2018	99
2019	52
2020	3
2021	2

Chief Deputy Petersen was asked if he knew why there was such a significant drop off in ICE transfers after 2019 and he said the SCSO has been receiving fewer and fewer detainees each year. Chief Deputy Petersen speculated one of the reasons could be that so many agencies are no longer cooperating with ICE, so they (ICE) are submitting fewer and fewer detainees. Another possible explanation could be attributed to COVID, but both answers were speculative.

8. Determine the purpose of the “ICE Log Stamp” and the message shared with SCSO staff about this item in an email from Bonnie Lau, dated January 9, 2020.

See Allegation #5

Chaplin & Hill Investigative Services LLC

Sacramento County

Methodology

A. Persons Interviewed

Date Interviewed	Interview Subject	Position	Involvement
1/25/22	Mark Evenson	Inspector General (retired)	Witness
2/2/22	Sean Riordan	ACLU Senior Staff Attorney	Witness
2/2/22	Erica Ramos	ACLU Legal Policy Assistant	Witness
2/2/22	Carlos Montes-Ponce	ACLU	Witness
3/18/22	Matt Petersen	Chief Deputy	Witness
7/8/22	[REDACTED]	ICE Detainee	Witness
7/8/22	[REDACTED]	ICE Detainee	Witness

The audio of the interviews with [REDACTED] and [REDACTED] were recorded and are included with this investigation at Media #2 and Media #3. Each of the above interviews were summarized and are included in the Evidence section of this investigation.

B. Documents Reviewed

As noted in the Executive Summary, investigators were provided with several documents related to this investigation, all of which have been thoroughly reviewed.

[Investigators note, for ease of incorporation into this investigative report, all documents that were provided that were not in PDF format were converted to PDF. This includes items with the following extensions: .xlsx, .docx, .msg, .ppt]

The following documents were provided by outgoing Inspector General Mark Evenson on January 25, 2022.

Exhibit	Title
1	2019 RCCC SAC MAIN ARRESTS.pdf
2	2019.10.03 Email from SCSO re Letter.pdf
3	2021.04.28_ACLU-NC SIC Ltr to Supervisor Kennedy re Truth Act Forum.pdf.pdf
4	2021.12.16 Ltr to IG.docx
5	FW Truth Act Hearing - email
6	FW Truth Act Hearing - Investigation
7	ICE Log Book - RCCC (Jan 2019 to Aug 2020) Redacted.pdf
8	Ice Log Book - RCCC Redacted (Jan 2020 to March 2021).pdf
9	ICE LOG STAMP HAS ARRIVED (1).pdf
10	PPT - ACLU-NC TRUTH ACT FORUM.pdf
11	PPT - Truth Act 2020 Stats PP.ppt.pdf

12	RCCC ICE Log Book copies (Sept 2017 to early June 2019)Redacted.pdf
13	RE ICE SB54 Redacted.pdf
14	Sacramento County Values Act 2019 Statistics (1).pdf
15	SB 54 Cheat Sheet-Notes.pdf

The following documents were provided by ACLU Legal Policy Assistant Erica Ramos on February 2, 2022.

Exhibit	Title
17	2019.09.13 Letter to Sheriff Jones Final[97].pdf
18	PPT - Sacramento TRUTH Act Forum 2019 Coalition Presentation Part 1.pptx
19	Coalition Public Comment - TRUTH ACT FORUM 10-8-19 rrk slides .pptx
20	Sacramento Truth Act Forum 2020.pptx

The following documents were provided at the request of investigators by Chief Deputy Matt Peterson on March 3, 2022.

Exhibit	Title
21	RCCC MJ - 2020 SAC MAIN ARRESTS.pdf
22	2020 SB 54 Values Act Transfer Report - amended 3-22-21.pdf
23	RCCC MJ - 2021 SAC ARRESTS
24	2021 SB 54 Values Act Transfer Report - Amended 2-4-22.pdf
25	MJ ICE logbook 2018-2021.pdf
26	RCCC ICE LOG BOOK 2018-2022.pdf
27	MJ Ice Post Order 3-2019 Final.pdf
28	RCCC ICE POST Order 3-2019 Final.pdf

The following documents were provided at the request of investigators by Chief Deputy Matt Peterson on March 16, 2022.

Exhibit	Title
29	2018 DOJ Report[7].pdf
30	PPT Item No. 39 - Truth Act 2018 Stats.pdf

C. Archived Meetings Reviewed

In addition to reviewing the documents provided above, Investigators also viewed the archived videos of the Board of Supervisors meetings related to the Truth Act forums from October 8, 2019, December 15, 2020 and December 8, 2021. Those archived meetings can be found at the following web links:

Exhibit	Board of Supervisors Meetings Reviewed
30	October 8, 2019 - PowerPoint Presentation used by Sheriff Jones included

	<u>Link to presentation: 10/8/19 BOS Meeting</u>
31	December 15, 2020 - PowerPoint Presentation used by Sheriff Jones included <u>Link to presentation: 12/15/20 BOS Meeting</u>
11	December 15, 2020 - PowerPoint Presentation used by Sheriff Jones included <u>Link to presentation: 12/8/21 BOS Meeting</u>

D. Review of Laws

Investigators conducted an in-depth review of Senate Bill 54 and Assembly Bill 2792 and the laws related to those bills. An overview of these bills and the sources used to create the overview are attached as the following indexes:

Index	Title
1	SB54 & AB 2792 Overview
1.1	AB 2792 Assembly Floor Analyses
1.2	AB 2792 Senate Floor Analyses
1.3	AB 2792 - CA GC Amendments
1.4	AGO IB Information Bulletin titled Responsibilities of Law Enforcement Agencies
1.5	CA VALUES Act Statistical Reporting Information Bulletin from CA AGO
1.6	SB 54 Legislative Counsel Bureau
1.7	SB 54 Senate Floor Analyses
1.8	Today's Law As Amended - SB-54 Law enforcement - sharing data