



COUNTY OF LOS ANGELES
OFFICE OF INSPECTOR GENERAL

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MAX HUNTSMAN
INSPECTOR GENERAL

MEMBERS OF THE BOARD

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Date June 14, 2018

TO: Supervisor Sheila Kuehl, Chair
Supervisor Hilda L. Solis
Supervisor Mark Ridley-Thomas
Supervisor Janice Hahn
Supervisor Kathryn Barger

FROM: Max Huntsman
Inspector General

SUBJECT: REPORT BACK ON THE SHERIFF'S DEPARTMENT'S ADHERENCE
TO POLICIES REGARDING COOPERATION WITH IMMIGRATION
AUTHORITIES

Purpose of Memorandum

This is a report back to your Board on the Sheriff's Department's (Department) adherence to the policies described in the Sheriff's January 10, 2017 letter and other applicable policies. On January 10, 2017, the Board instructed as follows:

Request the Civilian Oversight Commission, in collaboration with the Inspector General and the Auditor-Controller, review, analyze and make recommendations to the Sheriff's department's adherence to the policies described in his January 10, 2017 letter and any other relevant policies as needed to carry out the intention of this policy and to report back in writing to the Board quarterly . . .

Based on the above, the OIG met and conferred with the Auditor-Controller and members of the Civilian Oversight Commission regarding the issues the Board requested be addressed. A report from the Civilian Oversight Commission is pending and the Office of Inspector General offers this report back as its first ongoing status report. Absent further direction, the OIG will continue to monitor and future updates will be submitted or incorporated into the OIG quarterly report.

The Sheriff's January 10, 2017 letter to the Board of Supervisors addressed the Sheriff's Department's policies, practices and procedures relating to immigrant residents. The Office of Inspector General reviewed Sheriff's Department practices and presents the following:

Policies Affecting Patrol Divisions and Residents

Department policy, last modified in 2015, provides that deputies: 1) shall not initiate police action with the objective of discovering an individual's immigration status; 2) not arrest or book an individual based solely on suspicion of violating a federal immigration law relating to illegal entry, being unlawfully present, or overstaying a visa; and 3) while interviewing victims and witnesses, not inquire about the victim or witness' immigration status unless that information is an essential component in an investigation (e.g., human trafficking, involuntary servitude, etc.).¹ In the last year, the Office of Inspector General community outreach unit has received two complaints alleging Department personnel made inquiries about an individual's immigration status, while on patrol. Both complaints were determined to be unfounded by the Department.

To ensure compliance with these policies, the Department created a brief two-minute training video featuring Assistant Sheriff Eddie Rivero, highlighting the Department's policy on immigration inquiries and notifications. The video was uploaded to the Department's intranet and shown to all Department personnel. In addition, on March 8, 2018, the Sheriff distributed a Department-wide Newsletter listing all actions prohibited by law and by Department policy affecting patrol divisions relevant to immigration inquiries and notifications (attachment A).

In an effort to reassure immigrant communities that there is no need to fear contact with the Department in light of all the new immigration laws, the Department has organized and participated in multiple community outreach programs as well as town hall meetings throughout the County. These public appearances and meetings have involved Department personnel from the Custody Services Division, Countywide Operations, Central Patrol Division, East Patrol Division, and South Patrol Division. From January 1, 2018, through March 31, 2018, the Department has attended or participated in approximately 40 meetings and engagements to discuss immigration issues. The Department also created an Immigration Information Guide to address community concerns (attachment B) which has been distributed at most of

¹Manual of Policies and Procedure (MPP) 5-09/271.00). Last modified on September 21, 2015.

the meetings and appearances. Included in the approximately 40 meetings and engagements the Department has been involved in are the following:

Since March 2017, the Department has been an active member of the Los Angeles Community College District (LACCD) DACA Task Force, which includes select students, staff and administrators from nine different colleges. The members meet once a month to discuss the concerns of undocumented students regarding immigrations laws and other community concerns. The meetings are broadcast live over social media and members of the public are encouraged to attend. In addition, the College Bureau command staff has attended numerous events on LACCD campuses to help educate undocumented students on immigration laws, their rights, and the Department's policies on the issue.

East Los Angeles Station hosted its first station open house in more than fifteen years on April 29, 2017. In addition, a neighborhood watch program was started in which residents are educated on how to contact the Sheriff's station to report a crime and are reassured that deputies will not ask for documentation of citizenship or legal status when a crime is reported or if a crime is being investigated.

On January 18 and January 25, 2018, multiple Department leaders set up a two-part immigration town hall meeting at St. Anthony's Parish in San Gabriel. During both meetings, the Department educated community leaders on Department policies (both in custody and on patrol) relevant to immigration issues and answered questions in efforts to reassure the community that there was no need to fear contact with the Department.²

On February 21, 2018, Assistant Sheriff Eddie Rivero attended the 2nd Hispanic Community Leadership Summit. The purpose of the Summit was to provide an opportunity for law enforcement to discuss effective ways to work with immigrant communities and address concerns. The Summit consisted of a round table discussion with federal agencies, local agencies, community groups and advocacy groups, in which the Assistant Sheriff discussed the importance of balancing community trust and public safety.

² The OIG attended the January 25, 2018 meeting.

Custody Operations and Immigration and Customs Enforcement (ICE)

The Sheriff's custody operations were affected by the passage on October 5, 2017, of Senate Bill 54 (California Values Act). The bill is commonly referred to as the "Sanctuary Bill" and took effect on January 1, 2018.

Restrictions on Cooperation with ICE

Senate Bill 54 prohibits the Sheriff from using Department resources to ". . . investigate, interrogate, detain, detect, or arrest persons for immigration purposes . . ." Specifically, the Sheriff is prohibited from: 1) inquiring into an individual's immigration status;³ 2) detaining an individual solely on the basis of a federal immigration hold request; 3) providing immigration authorities with information regarding a person's release date or personal information unless the information is available to the public; 4) participating in arrests based on civil immigration warrants; 5) having department personnel assist or perform the functions of an immigration officer; 6) placing local deputies under the supervision of federal agencies or deputizing deputies as special federal officers or special federal deputies for the purposes of immigration enforcement; 7) using immigration authorities as interpreters; or 8) providing office space to be used exclusively by immigration authorities within a city or county law enforcement facility.

To ensure compliance with Senate Bill 54, on March 8, 2018, the Sheriff distributed a Department-wide Newsletter highlighting its requirements for how custody personnel may cooperate with immigration authorities by honoring hold, notification or transfer requests by immigration authorities (attachment A).

Under Senate Bill 54, the Sheriff is barred from transferring custody of an individual to immigration authorities unless a judicial warrant authorizing the transfer has been issued, a judicial probable cause determination has been issued or the individual "qualifies" under California Government Code section 7282.5(a) as amended by Senate Bill 54.

The amendment to section 7282.5(a) gives the Sheriff discretion, so long as that exercise of discretion does not violate any federal, state or local law, to

³ Under limited circumstances, Senate Bill 54 allows local law enforcement to inquire into an individual's immigration status. For example, during an unrelated criminal investigation, if it is detected that the individual illegally reentered the United States after being deported, an inquiry into his/her immigration status can be made. Also, if an individual has been the victim of a crime victim or human trafficking, inquiries regarding the individual's immigration status may be made for the purposes of obtaining a Visa so they may remain in the country temporarily while assisting law enforcement. See California Government Code section 7284.6(b)(1)&(4).

cooperate with immigration authorities and to transfer custody of a person to immigration authorities if that person:

- 1) has been convicted of a serious or violent felony listed under Penal Code Section 1192.7(c) or 667.5(c);
- 2) has been convicted of a felony punishable by imprisonment in the state prison;
- 3) has been convicted of a misdemeanor within the last five years that is punishable as either a misdemeanor or a felony (commonly known as a "wobbler") or has been convicted of a felony enumerated in SB 54 within the last 15 years;
- 4) is registered on the California Sex and Arson Registry; or
- 5) or has been convicted of certain federal crimes.

The Sheriff must comply with the TRUTH Act and give an individual notice of any immigration transfer requests or holds, allow the individual the opportunity to accept or decline to be interviewed by immigration authorities and provide the name of an attorney or any other person the individual wants notified of the individual's status.

The Sheriff is prohibited from detaining any individual based solely upon a detainer issued by immigration authorities, regardless of whether the individual "qualifies" or is notified of the immigration detainer.

Sheriff's Implementation of Senate Bill 54

The Sheriff has implemented the use of three "qualifying" lists reflecting the requirements imposed by Senate Bill 54 to determine whether an individual is "qualified" for transfer to immigration authorities.

List 1: If an individual has been convicted of a felony, the Department reviews the conviction against a list entitled "SB54 2018 – Serious/Violent Crimes" (attachment C). This list contains all serious and felony crimes identified in Penal Code sections 1192.7(c) and 667.5(c).

If the individual has a qualifying conviction under this list, no further inquiry is made and the individual is deemed "qualified" for transfer. Otherwise, the Department proceeds to list 2.

List 2: If an individual's felony conviction does not qualify under the list of serious and violent crimes, it is reviewed under this second list entitled "SB54 2018 – Felony Charge List" (attachment D). This list includes all of the felony crimes enumerated in Government Code section 7282.5(a)(3), but is used primarily to identify a non-serious and/or non-violent qualifying felony conviction which occurred within the last 15 years.

If the individual has a qualifying conviction under this list, no further inquiry is made and the individual is deemed qualified for transfer. Otherwise, the Department proceeds to list 3.

List 3: The third list used by the Department is entitled "SB54 2018 – Misdemeanor Crimes" (attachment E). This list is used to review and qualify any conviction which occurred within the past five years for a misdemeanor offense punishable as either a misdemeanor or a felony (wobbler).

If the individual has a qualifying conviction under this list, the individual qualifies for transfer. Otherwise, the Sheriff releases the individual.

Although the Sheriff has the discretion to also qualify individuals who have been convicted of any crime *punishable* by confinement in state prison and those who have been convicted of certain federal statutes, the Sheriff has exercised his discretion to qualify only those individuals who qualify pursuant to one of the three lists above.

Significant Issues Encountered

In February, Interim Public Defender Nichole Davis Tinkham reported that an adult was released to immigration authorities at the juvenile delinquency court. This adult had been returned by the Sheriff to the juvenile delinquency court to clear an outstanding arrest warrant in a juvenile case the adult had incurred as a minor.

The person had been detained on a valid judicial warrant, all notifications had been made in compliance with the TRUTH Act and the person was qualified for transfer to immigration authorities under the provisions of Senate Bill 54. The Sheriff's Department's public website showed the adult's name, the next court date and the juvenile delinquency court department number, thereby giving immigration authorities access to that information.

Unlike adult criminal matters, juvenile matters are generally not public. Welfare and Institutions Code section 827 limits access to juvenile files to specific individuals and agencies. All others must petition the juvenile court to gain access to a juvenile file, barring access to the general public.

The Department reports that the Sheriff will no longer post on the Department's public website information regarding appearances in the juvenile delinquency court of those adults confined whose only remaining court appearance is in the juvenile delinquency court. Only the person's name and release date will be posted.

MH:DB:

- c: Jim McDonnell, Sheriff
- Sachi A. Hamai, Chief Executive Officer
- Celia Zavala, Acting Executive Officer
- Mary C. Wickham, County Counsel
- Brian Williams, Executive Director, Civilian Oversight Commission

REFERENCES

TRUTH ACT, enacted sections 7283, 7283.1, and 7283.2 of the California Government Code

CALIFORNIA VALUES ACT, Senate Bill 54, commonly referred to as the Sanctuary Bill, amended sections 7282 and 7282.5 of the Government Code and repealed section 11369 of the Health and Safety Code

PENAL CODE section 667.5, designates certain crimes to be a "violent felony."

PENAL CODE section 1192.7(c), designates certain crimes to be a "serious felony."

Los Angeles County Sheriff's Department

NEWSLETTER

Field Operations Support Services, (323) 890-5411



VOLUME 18 NUMBER 06

DATE: March 8, 2018

IMMIGRATION POLICIES, PROTOCOLS, AND PROCEDURES

The purpose of this Newsletter is to advise and update Department personnel about the Department's policies, protocols, and procedures relating to interactions with individuals in the immigrant communities since the enactment of the California Values Act (SB54) and other relevant state legislation on January 1, 2018.

Los Angeles County is home for residents that come from more than 200 countries around the world. The Department invites all persons, including those who are undocumented, to come forward to report crimes without fear of deportation. The Department is committed to impartial enforcement of the law and to treating all persons with dignity and respect regardless of their race, ethnicity, national origin, or civil immigration status.

Laws, Policies, and Procedures Affecting Our Patrol and Countywide Operations

Legal Prohibitions: The following are specifically prohibited by law:

- Detaining an individual during a field contact on the basis of an immigration hold request;
- Arresting an individual on a civil immigration warrant;
- Arresting an individual for a criminal violation of an immigration law unless the arrest is for unlawful re-entry and the re-entry is detected during an unrelated law enforcement activity and the person has a prior aggravated felony conviction;
- Using immigration authorities as interpreters;
- Detaining an individual for an actual or suspected immigration violation; and
- Detaining a victim or witness to a crime who is not charged or convicted of committing any crime under state law for a suspected immigration violation or turning the individual over to immigration authorities without a judicial warrant (Penal Code section 679.015).

Immigration Inquiries and Notifications (MPP section 5-09/271.00): This policy was implemented on September 21, 2015. The main provisions of this policy are as follows:

- 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;

- 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;
- Department members shall not inquire about any person's immigration status; and
- While interviewing victims and witnesses, Department members shall not inquire about a victim's or a witness' immigration status unless that information is an essential component in their investigation (e.g., human trafficking, involuntary servitude, etc.).

Place of Birth Inquires: Some members of the public may misperceive the purpose of inquiring about a person's birthplace when questioned during a law enforcement contact, especially when contacting the police as a victim or witness. To minimize the potential misperception and possible degradation of public trust, the following procedures shall take effect:

- Victims, witnesses, and temporarily-detained suspects shall not be asked their place of birth unless necessary under the particular circumstances to investigate a criminal offense; and
- Arrestees may be asked their place of birth when necessary to the booking process, when necessary to comply with consular notification obligations, when necessary to investigate a criminal offense, or when otherwise required by law.

Booking/LiveScan process: Arrestees shall not be asked their legal immigration status nor whether they are documented or not.

U-Visas: Some undocumented victims and witnesses of certain enumerated crimes may request the Department certify a U-Visa application. The certification does not guarantee they will receive a U-Visa, it's simply one of the criteria required by the U.S. Citizenship and Immigration Services (USCIS) to apply for a U-Visa. The Department member reviewing the request for certification may inquire as to the requested person's immigration status, when necessary, to complete the U-Visa certification. See FOD 09-002 (revised May 18, 2016) for more information and guidelines on the certification process.

Custody Division

Personnel may cooperate with immigration authorities by honoring hold, notification, or transfer requests when one of the following conditions are met:

- Inmate has been convicted of a serious felony (Penal Code section 1192.7(c)) or a violent felony (Penal Code section 667.5(c)) regardless of the conviction date;
- Inmate has been convicted of a non-violent and non-serious felony within the past 15 years which is listed in Government Code section 7282.5, subdivision (a)(3); or

- Inmate has been convicted of a misdemeanor punishable as either a misdemeanor or a felony (wobbler) within the past 5 years.

The California Values Act (SB54) specifically prohibits the following:

- Honoring requests for inmates with convictions for misdemeanors that were previously punishable as misdemeanors or felonies (wobblers) prior to the passage of Proposition 47;
- Detaining individuals solely on the basis of an immigration detainer;
- Sharing the personal information of inmates with immigration authorities;
- Providing office space that is exclusively dedicated to immigration authorities; and
- Providing the release dates of inmates to immigration authorities unless the release date is available to the public.

Questions regarding the California Values Act (SB54) and cooperation with immigration authorities in Custody Operations should be directed to the Inmate Reception Center (IRC) Release Compliance Desk, at (213) 473-6505.

Joint Task Force Participation

Department personnel may participate in joint task forces with federal immigration officials only where the purpose of the task force is to investigate violations of local, state, or federal criminal laws unrelated to immigration enforcement. An annual report shall be submitted by the Department to the California Department of Justice for each task force of which it is a member. The report must include the purpose of the task force, the agencies involved, the number of arrests made, and the number of people arrested for immigration enforcement purposes. Personnel assigned to a task force shall notify Detective Division headquarters they are on a task force. Personnel on a task force shall provide to Detective Division headquarters the statistical information required by the California Department of Justice.

If you have any questions, please call or email Field Operations Support Services, at (323) 890-5411 or foss@lasd.org.

SEJ:JER:jr

Frequently asked Questions

Does the Sheriff's Department assist ICE with civil immigration enforcement operations?

Answer: No. The Sheriff's Department does not participate in or assist ICE with immigration enforcement operations. We may participate in federal task force operations, which include ICE, purely to investigate criminal activity.

What is the procedure for a victim of a crime to apply for a "U Visa"?

Answer: The person must be a victim of a qualifying crime. In some cases, witnesses and/or family members may be eligible to apply for a U Visa. The petitioner or station detective can initiate the U Visa application (USCIS Form I-918). The form must be filled out and presented to the handling detective. The detective will review the case file and determine if the petitioner was a victim of a qualifying charge and was helpful in the investigation. The filing of criminal charges and a criminal prosecution are not requirements for our certification of the U Visa application. If all requirements are met on the application, the station or bureau captain will certify the application, by signing it on the Sheriff's behalf. The original signed application is returned to the petitioner or the advocate. The petitioner shall send all applicable documents to the USCIS.



NOTE: All forms can be downloaded on the United States Citizenship & Immigration Services (USCIS) website at uscis.gov

For Questions or Complaints please call

**Sheriff's Information Bureau
(213) 229-1700**

**Internal Affairs Bureau
(800) 698-8255**



We welcome you to contact any local Sheriff's Station for additional questions or concerns.

"This pamphlet was created to provide information regarding our immigration policy, and to reassure everyone in the community there is no need to fear contact with your Sheriff's Department.

Our goal is to protect all people in Los Angeles County regardless of background or immigration status."

Jim McDonnell, Sheriff



Los Angeles County
Sheriff's Department

www.lasd.org

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08/2017

Immigration Information Guide



Jim McDonnell, Sheriff

Message from Sheriff Jim McDonnell

As Sheriff of one of the most diverse counties in the nation, I want to assure our residents and immigrant communities the Los Angeles County Sheriff's Department is deeply committed to providing professional law enforcement services to everyone regardless of their immigration status.

Enforcement of immigration laws is the responsibility of the federal government. The men and women of the Sheriff's Department are focused on keeping our local communities safe, and will not detain or arrest any individual solely on suspicion of illegal presence in the United States.

***"This is our promise.
It is our Department policy.
Most importantly,
it is the law."***

Deputies are neither instructed nor trained to ask for a victim's or witness' legal residency status. The trust we have earned from the community is critical in providing the highest level of service.



Los Angeles County Sheriff's Department policy regarding immigration inquiries and notification

This policy is intended to reassure immigrant communities that there is no need to fear contact with the Sheriff's Department.

Policy Section 05-09/271.00
"Immigration Inquiries and Notifications."

- Department members shall investigate criminal activity without regard for individual's legal status.
- Department members shall not initiate police action with the objective of discovering the individual's immigration status.
- Deputies shall not arrest an individual solely on suspicion of violating a federal immigration law relating to illegal entry, being unlawfully present, or overstaying a visa.
- Department members shall not inquire about individual's immigration status unless that information is essential to their investigation. (e.g., human tracking investigation)
- If a victim's or witness' immigration status is discovered during an investigation, deputies shall not forward that information to the US Immigration and Customs Enforcement (ICE).
- For additional policy information visit www.lascd.org

Frequently Asked Questions

Can I be deported during a routine traffic stop or call for help?

Answer: No. Deputies from the Los Angeles County Sheriff's Department do not inquire about a person's immigration status during routine traffic stops or calls for service. The Sheriff's Department does not enforce federal immigration laws.

If a deputy discovers I am an undocumented immigrant, can I be arrested solely for federal immigration laws?

Answer: No. Sheriff's Department policy prohibits deputies from arresting or booking an individual solely on suspicion of violating federal immigration laws.

Can I be deported when reporting a crime or call for help?

Answer: No. The mission of the Sheriff's Department is to enforce the law fairly and within constitutional authority. When receiving a call for service, the focus of the Sheriff's Department is helping the victim, not enforcing federal immigration laws. We have built trust within our communities, which is the basis for our "Immigration Inquiries and Notifications Policy."

What happens to a deputy who asks about my immigration status without legal cause?

Answer: A deputy sheriff who inquires about immigration status without merit is subject to administrative discipline.