

CONTRA COSTA COUNTY: THE TRUTH ACT

Presented by:

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I. Contra Costa Immigrant Rights Alliance (CCIRA)

History

- The Contra Costa Immigrant Rights Alliance (CCIRA) was established in 2017 by legal and community-based organizations aiming to advance immigrant rights and promote resources for all Contra Costa residents regardless of immigration status.
- CCIRA was formed after an article was published in the East Bay Express about the Probation Department and the Custody Alternative Facility turning people over to ICE during appointments.



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Ambushed: Contra Costa County Law Enforcement Sets Up Surprise Stings To Help Federal Immigration Agents Arrest and Deport Immigrants

Chris Kim said his arrest and detention by ICE, with assistance from the Contra Costa Sheriff's Office, cost him his jobs, car, and apartment.

Image credit: Bert Johnson

From:
Story: [Ambushed: Contra Costa County Law Enforcement Sets Up Surprise Stings To Help Federal Immigration Agents Arrest and Deport Immigrants \(January 10, 2017\)](#)

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Credit: Bert Johnson / East Bay Express

Activities and Accomplishments

- In 2017, CCIRA successfully secured funding through a foundation-county partnership to establish Stand Together Contra Costa, a county rapid response system to respond to increasing immigration enforcement.
- In March 2018, Stand Together officially launched with a 24-hour hotline, two attorneys, and a coordinator.
- In 2017, CCIRA advocated for the passage of the CA Values Act (SB 54), which was signed into law on October 5, 2017 and went into effect in Jan. 2018.

Key CA Immigrant Rights Laws

Concerns about ICE Entanglement with Local Law Enforcement

- Fosters distrust between immigrant communities and local law enforcement
 - ▣ Makes immigrant communities view local law enforcement and ICE as the same entity
 - ▣ Makes immigrants afraid to report when they are the victim of or a witness to a crime
- Takes away resources and attention from addressing ongoing concerns of conditions in Contra Costa jails
- Opens local law enforcement up to liability

CA TRUTH Act (AB 2792)

- Effective as of January 1, 2017 (Gov't Code §§ 7283 *et seq.*).
- Requires a person in jail to sign a consent form before an ICE interview that explains the purpose of the interview, that that interview is voluntary, and that the person may decline to be interviewed or interview only with their attorney present.
- Requires local law enforcement agency to inform individual upon receipt of ICE detainer request.
- Requires local law enforcement agency to inform individual and his/her attorney or designee notice if agency agrees to notify ICE of person's release date.

CA TRUTH Act (AB 2792)







- Requires that all records related to ICE access be public records for purposes of the Public Records Act.
 - ICE access is defined as responding to an ICE request; providing notification to ICE about a person's date and time of release; providing non-public personal information to ICE; allowing ICE to interview a person; or providing ICE information about probation/parole check-ins.
- Beginning in 2018, requires that the local governing body where a local law enforcement agency has provided ICE access in the previous year hold a community forum to provide information about ICE's access and allow public comment.

CA Values Act (SB 54)

- The CA Values Act, signed into law by Gov. Brown on October 5, 2017, is a state law that limits state and local resources from being used to carry out immigration detentions and deportations.








Credit: Irfan Khan / Los Angeles Times

<p>Immigration Holds</p> 	<p>Prohibited.</p>
<p>Making arrests on civil immigration warrants</p> 	<p>Prohibited.</p>
<p>287g</p> 	<p>Prohibited.</p>
<p>Asking about immigration status or using immigration agents as interpreters.</p> 	<p>Prohibited.</p>
<p>Sharing personal info with ICE (e.g., work, home addresses)</p> 	<p>Prohibited unless publicly available.</p>
<p>Notifying ICE of release dates</p> 	<p>Prohibited unless:</p> <ul style="list-style-type: none"> • Revised TRUST Act exception applies, including: <ul style="list-style-type: none"> • Conviction for a felony punishable by imprisonment in state prison at any time • Conviction within past 15 years for any other specified felony. The 15-year "wash" is an improvement on the old TRUST Act standard. • Conviction within the past 5 years for a misdemeanor for a specified wobbler offense. • Charges for a crime that is serious, violent, or punishable by a term in state prison if finding of probable cause has been made by a magistrate pursuant to PC 872. • If release dates/times are already publicly available, can be shared

POLICE-ICE TACTIC

UNDER SB 54

<p>Transfers to ICE</p> 	<p>Prohibited unless:</p> <ul style="list-style-type: none">• Revised TRUST Act exception applies (see above under notifications)• Warrant or probable cause determination from a judge that someone has violated federal criminal immigration law. <p>Local law enforcement required to report number of transfers and basis for transfer to Attorney General's Office.</p>
<p>Local arrests for "criminal" violations of immigration law</p> 	<p>Prohibited except local law enforcement may arrest someone for unlawful re-entry following deportation <i>if</i></p> <ul style="list-style-type: none">• The re-entry is detected during an unrelated law enforcement activity, and• The person has a prior "aggravated felony" conviction <p>Any person arrested for unlawful reentry may be transferred to ICE only if a revised TRUST exception applies.</p>
<p>ICE interviews in jail and prison</p> 	<p>TRUTH Act protections essentially expanded to prisons (can't be interviewed by ICE unless sign consent form prior to interview). Prohibition on providing office space exclusively dedicated to ICE in local jails.</p>
<p>Joint Task forces</p> 	<p>Some limitations and reporting requirements imposed.</p> <ul style="list-style-type: none">• Primary purpose of task force must be unrelated to immigration enforcement, and• Participation does not violate any local law or policy.• Local law enforcement required to report information about joint taskforce operations to CA Attorney General and information is available as a public record.
<p>Databases</p> 	<p>Attorney General will draft advisory guidelines to ensure that databases are not used for immigration enforcement. State and local law enforcement agencies are encouraged but not required, to adopt guidelines.</p>

AB 103: Dignity, Not Detention

AB 103 require the California Attorney General to inspect all public and private facilities that house immigrant detainees in the state and prohibits the expansion of detention facilities operated by local governments.

The CA AG must issue a public report annually with findings for each facility regarding:

- (1) conditions of confinement, and
- (2) the standard of care and due process provided to detainees at the facility.

Contra Costa County & ICE

Concerns with Sheriff's Policy

Contra Costa Sheriff's Office Immigration Policy
("CCCSO Immigration Policy"), section IV.B.1:

"A Deputy's suspicion about any person's immigration status shall not be used as a sole basis to initiate contact, detain, or arrest that person unless such status is reasonably relevant to the investigation of a crime, such as trafficking, smuggling, harboring, and terrorism."

Concerns with Sheriff's Policy

1. Encourages racial profiling. How does a deputy develop suspicion of an individual's immigration status?
2. Encourages asking about immigration status even though SB 54 prohibits asking about immigration status. Cal. Gov't Code § 7284.6(a)(1)(A).
3. Allows for enforcement of criminal immigration law even though SB 54 prohibits use of department resources and personnel to conduct both civil and criminal immigration enforcement. Cal. Gov't Code § 7284.4(a).

Concerns with Sheriff's Policy

Recommendation #1:

Delete this provision, CCCSO Immigration Policy,
Section IV.B.1.

Concerns with Sheriff's Policy

CCCSO Immigration Policy, section III.A.1:

“Sheriff’s Personnel may investigate, enforce, or detain upon reasonable suspicion of, or arrest for a violation of 8 USC 1326(a) [illegal reentry by a previously deported or removed alien] that is detected during an unrelated law enforcement activity.”

Concerns with Sheriff's Policy

- SB 54 only permits “[i]nvestigating, enforcing, or detaining upon reasonable suspicion of, or arresting for a violation of, Section 1326(a) of Title 8 of the United States Code that may be subject to the enhancement specified in Section 1326(b)(2) of Title 8 of the United States Code and that is detected during an unrelated law enforcement activity.” Cal. Gov’t Code § 7284.6(b)(1)
- 8 USC 1326(b)(2) = individual was removed because of an aggravated felony conviction
- SB 54 sets the floor, not the ceiling, on limiting involvement in immigration enforcement. Adding this exception into the Sheriff’s Policy is difficult to administer, encourages racial profiling, and undercuts community trust.

Concerns with Sheriff's Policy

Recommendation #2:

- A) Remove this provision, CCCSO Immigration Policy, section III.A.1, or
- B) At minimum, bring this provision into compliance to SB 54 by adding narrowing 8 USC 1326(b)(2) language.

Concerns with Sheriff's Policy

CCCSO Immigration Practice:

Beginning in Feb. 2018, a month after SB 54 went into effect, the Sheriff's Office makes available a pdf with a list of names of individuals and their release date on the Sheriff's website.

Source: Contra Costa Sheriff's Office Website, "Generate Report,"
<http://63.192.159.75/PublicReport/>

Concerns with Sheriff's Policy

- Encourages ICE to engage in racial profiling because release date information is posted in list form with full names of each individual.
- Encourages ICE to show up at the jail at the point of release to conduct immigration arrests.
- Increased ICE presence means family and community members are fearful of going to the jail to pick up an individual who is getting released.
- In practice, individuals are often held for extra time for ICE, which violates SB 54's prohibition on ICE holds
- In practice, ICE often is allowed into the jail to arrest the individual, which violates SB 54's prohibition on ICE transfers if the individual does not have criminal history that falls into an SB 54 carve out.
- Posting release date information only after SB 54 went into effect could be construed as using resources to engage in immigration enforcement, which is prohibited by SB 54.

Concerns with Sheriff's Policy

Recommendation #3:

- A) Eliminate practice of posting release dates online, or
- B) At minimum, rather than publish online a list of all individuals who are scheduled to be released and their release date, require website visitors to submit the full name of the individual (not just last names), their birth date, and their inmate number before the release date information is provided for that individual.

SB 54 Complaint Filed

- 19-year-old passenger in a car stopped by a police officer in Berkeley in May 2018.
- Taken to West County Detention Facility because of a bench warrant for failing to comply with juvenile probation requirements stemming from a juvenile adjudication.
- Protected by SB 54 against ICE holds, transfers, or notifications. No prior convictions, only a juvenile adjudication.
- After 4 days at West County, he was ordered released on an ankle monitor by a juvenile judge.
- Instead of being released, Sheriff's Office turned him over to ICE in a locked part of the jail in violation of SB 54.

CA AG's AB 103 Findings Regarding West County Detention Facility

- From Sept. 2009 to July 2018, the Sheriff's Office's contracted with the federal government to rent beds to ICE for immigration detention purposes at the West County Detention Facility
- Cal DOJ selected West County for a comprehensive review due to allegations reported in a series of articles in November 2017 in San Francisco Chronicle describing troubling conditions of confinement for female detainees

Source: Otis R. Taylor Jr., "Deportation chosen over Richmond jail; complaints under investigation," *San Francisco Chronicle* (Nov. 2, 2017), available at <https://www.sfchronicle.com/news/article/Deportation-chosen-over-Richmond-jail-complaints-12324755.php>.

CA AG's AB 103 Findings Regarding West County Detention Facility

On December 22, 2017, the Sheriff's Office announced:

“[th]e investigation found that nearly all of the complaints were unfounded and unsubstantiated,” however, “[s]ome issues were identified, such as the use of profanity by a staff member.”

Source: Contra Costa County Office of the Sheriff, “Contra Costa Sheriff Announces Findings in Investigation into ICE Detention Complaints,” Dec. 22, 2017).

CA AG's AB 103 Findings Regarding West County Detention Facility

Female detainee population faced:

- extended count lockdowns,
- limited access to restrooms,
- shortening or cancellation of free time,
- lack of a timely orientation and dissemination of information. Detainees had to learn the facility's policies and procedures by word of mouth,
- limited access to timely and adequate medical care,
- lack of language accessible resources for Limited English Proficient detainees.

Source: Attorney General Xavier Becerra, "The California Department of Justice's Review of Immigration Detention in California," February 2019, available at <https://oag.ca.gov/sites/all/files/agweb/pdfs/publications/immigration-detention-2019.pdf>.

Concerns with West County Detention Facility Conditions

Recommendation #4:

Because the WCDF continues to house detainees in criminal custody, establish an independent civilian oversight body to receive, investigate, and adjudicate complaints regarding detention conditions at all CCSO detention facilities. Findings should be publicly reported on a regular basis.

Questions?

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Questions for Contra Costa Sheriff's Department

1. Will you make the three recommended changes to your immigration policy? Why or why not?
2. Do you support establishing a civilian oversight body, why or why not?
3. How many ICE detainer/transfer/notification requests did the Sheriff's Office receive in 2018?
4. How many ICE detainer/transfer/notification requests did the Sheriff's Office comply with?
5. How many people were arrested by ICE because of the posting of release date information on your website?

Questions for Contra Costa Sheriff's Department

5. How many ICE interviews took place with individuals in the Sheriff's Office's custody in 2018?
6. How many instances did the Sheriff's Office provide TRUTH Act forms to individuals in custody in 2018?
7. Aside from release dates, did the Sheriff's Office share any other inmate information with ICE in 2018? If so, what information did it share and how?
8. In 2018, how much money did the Sheriff's Office expend on ICE communications? How many officers communicated directly with ICE or managed ICE requests? How much of these officer's time went toward these tasks?