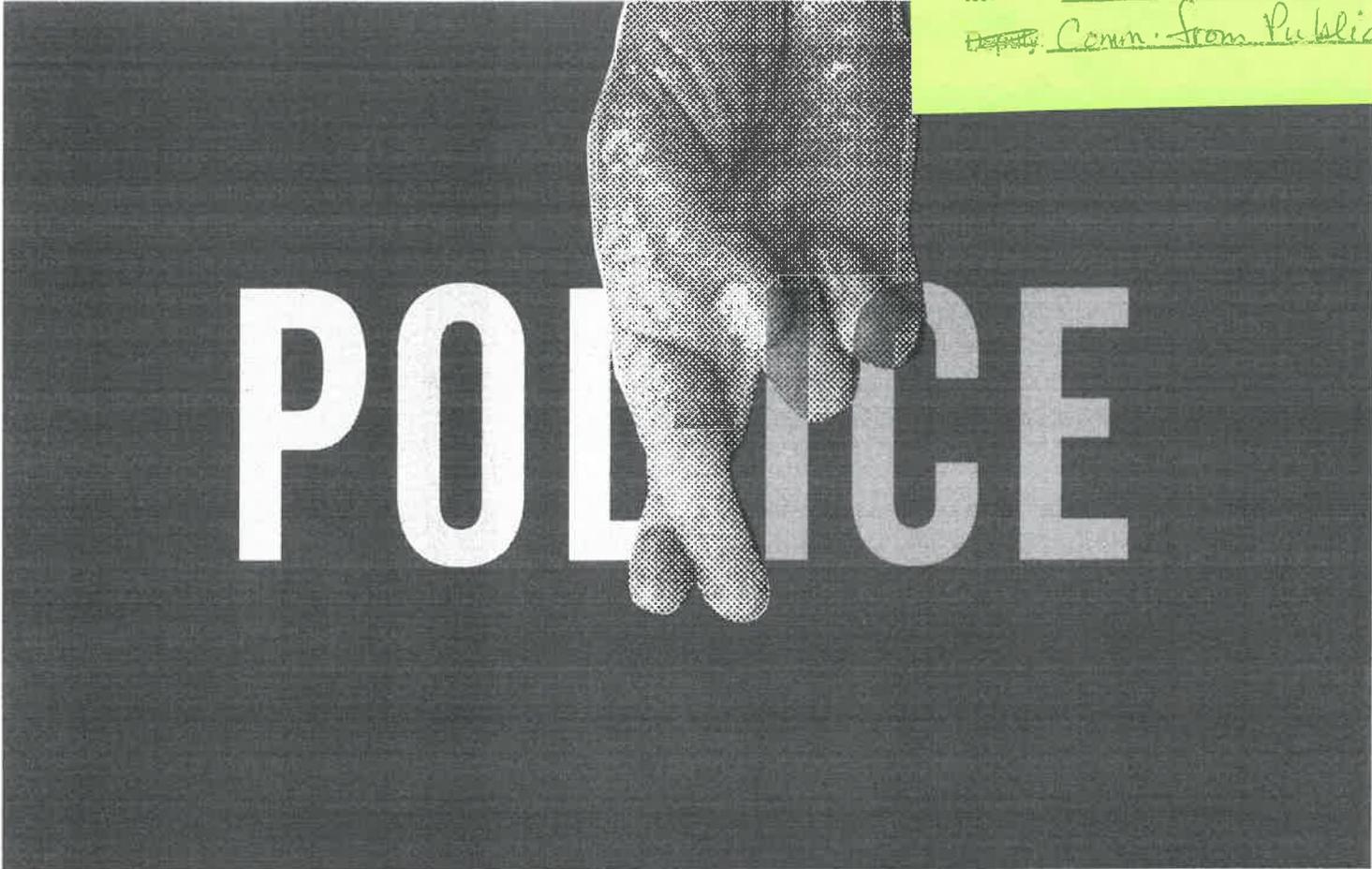


Date: 12/07/2017  
Submitted in IACRE Committee  
Council File No. 17-1040  
Item No. 4  
~~Dep'ty~~ Comm. from Public



BuzzFeed News: Getty

## Under Trump, Sanctuary Cities May Not Be So Safe

A BuzzFeed News investigation shows that the LAPD violated its own rule against cooperating with immigration agents, a scenario that may become more frequent if Trump targets undocumented immigrants.

Posted on December 3, 2016, at 7:21 a.m.



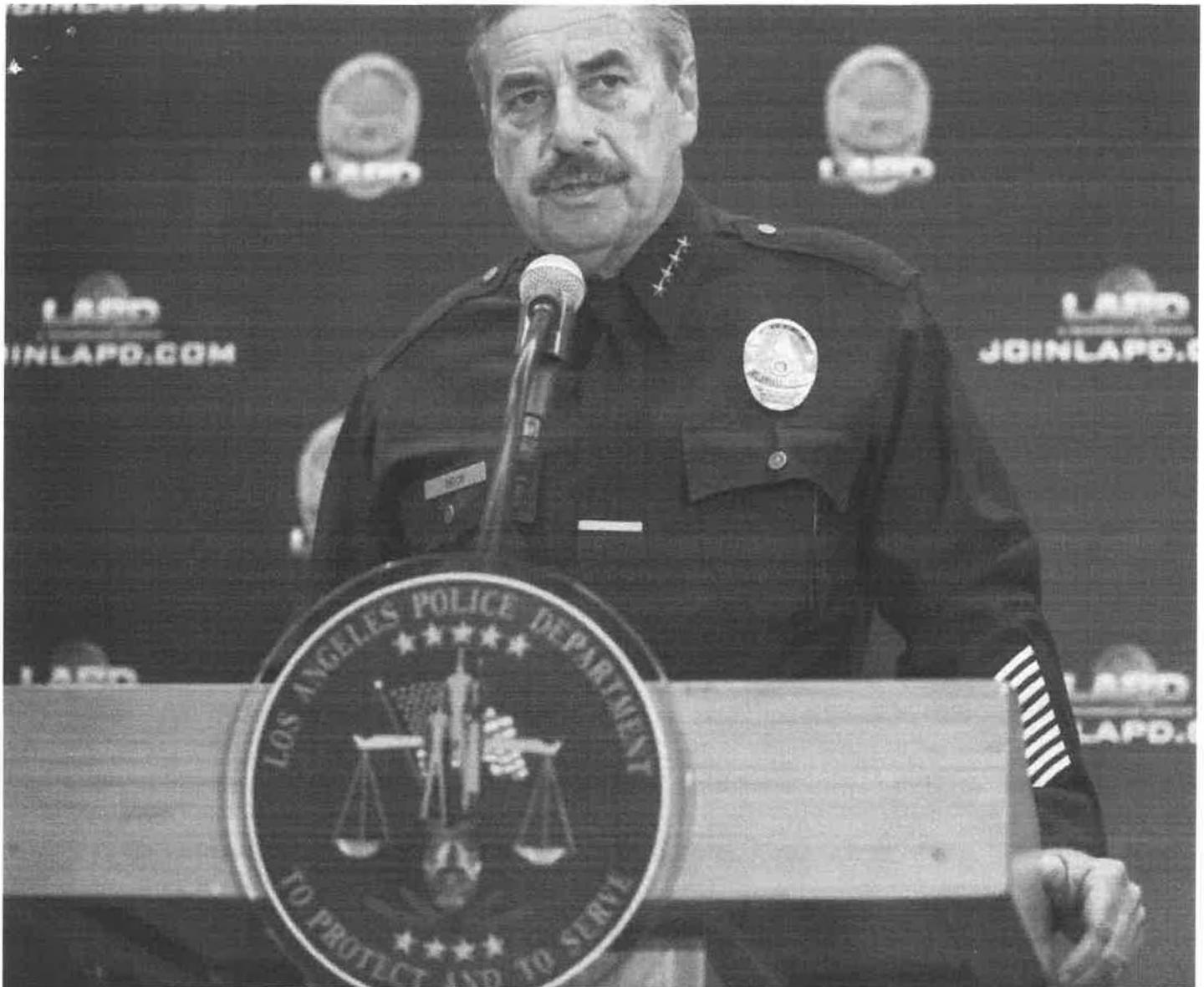
David Noriega  
BuzzFeed News Reporter

**After Donald J. Trump** won the presidential election, the Los Angeles Police Department announced that it would not assist the new administration with its plans for mass deportations.

"We are not going to work in conjunction with Homeland Security on deportation efforts," LAPD Chief Charlie Beck said on Nov. 15. "That is not our job, nor will I make it our job."

Officials in New York, Chicago, and other major cities followed suit, creating the impression that self-proclaimed sanctuary cities would be the first line of defense for undocumented immigrants in the face of a Trump crackdown. In Los Angeles, Chief Beck appealed to a long-standing city policy known as Special Order 40, which prohibits police from approaching people with the sole purpose of determining their immigration status. "I don't intend on doing anything different," Beck said.





Chief Charlie Beck speaks during a press conference in Los Angeles on Oct. 3.  
*Marcus Yam / Getty Images*

But there is a large loophole in the LAPD's stated policy of non-cooperation with federal immigration authorities: extensive operations carried out jointly by the LAPD and Immigration and Customs Enforcement, typically focused on transnational gangs. The justification for these operations is that they target criminal activity rather than immigration status, which is a civil matter. However, a BuzzFeed News investigation found that in two operations conducted jointly by LAPD and ICE in the past year, at least nine undocumented immigrants — who were not charged with, convicted of, or suspected of committing any crimes — were arrested by LAPD officers and immediately transferred to the custody of ICE, which began deportation proceedings against them. The incidents occurred within the framework of routine LAPD-ICE cooperation under patchy oversight from the police department, leading advocates to believe they were not isolated or anomalous.

Legal experts and immigrant rights advocates told BuzzFeed News that these arrests were likely in contravention of Special Order 40 — in some cases appearing to violate the rule outright, and in all cases violating, at minimum, the spirit of the policy. Special Order 40, which dates to 1979, was designed to instill trust between immigrant communities and law enforcement in order to encourage undocumented people and their families to cooperate with police investigations. But joint LAPD-ICE operations involve police officers and federal agents acting in concert, thus eliminating the distinction between the two in the eyes of the immigrants who face deportation as a result.

For several years, ICE has used extensive gang databases collected by local law enforcement to target people for deportation. As

# Santa Ana Sanctuary Ordinance

Passed January 17, 2017

*No entity or personnel shall use City funds, resources, facilities, property, equipment, or personnel to assist in the enforcement of federal immigration law unless such assistance is required by any valid enforceable federal or state law or is contractually obligated. Nothing in this Section shall prevent City personnel from lawfully discharging his or her duties in compliance with and in response to a lawfully issued judicial warrant or subpoena.*

Date: 12/07/2017  
Submitted in IACRE Committee  
Council File No. 17-1198  
Item No. 6  
Deputy Comm. from Public

Date: 12/07/2017

Submitted in IACRE Committee

Council File No. 17-1040

Item No. 4

Deputy: Comm. from Public

December 6<sup>th</sup>, 2017

To the esteemed members of the Los Angeles City Council,

I cannot be physical present here today because I am taking a final as you all meet. But I want to make sure my voice is included in this conversation. It directly concerns me, my family, and our community.

My name is Claudia Rueda. I am a California State University – Los Angeles student, a resident of Boyle Heights, and a graduate of Roosevelt High School. This spring, my mother and I were unjustly arrested by Border Patrol in our neighborhood in Boyle Heights and placed in deportation proceedings after a joint taskforce raid between Border Patrol and the Sheriffs Department targeted others in my neighborhood. My mom was arrested in our own house. After helping to free my mom, I was arrested one morning as I was moving my car to observe the city's street sweeping schedule.

I want to thank the city council members who wrote letters of support on my behalf. Your support was integral in securing my release from immigration jail earlier this year. I also want to thank the Board of Supervisors for recognizing my work to free my mom when they gave me the Yvonne B. Burke Courage Award earlier this year. Now I ask that you further honor my courage and strength by taking action to sever the cooperation between ICE and the LAPD so no one else has to go through what I have been through. The joint raid between the Sheriffs Department and Customs and Border Protection is hard evidence of the overreach and out of control tactics of the Department of Homeland Security. My mom was targeted as a collateral arrest during the joint taskforce raid. I was targeted weeks later because of my activism to release my mom. Border Patrol tried to criminalize me and my mom, but my community knew better. Neither of us had anything to do with the primary purpose of the joint taskforce raid.

Sadly, retaliatory and indiscriminate collateral arrests are now the norm of ICE and CBP's tactics. These are not normal government agencies and can no longer be trusted. They are functioning as a machine to suppress political activism, criminalize people like me, and terrorize poor and working-class immigrant communities. We cannot normalize this kind of terror in our city.

My experiences fighting to free my mom, being detained at an immigration prison only miles from the US-Mexico border, and now having to worry about whether my mom and I am going to be deported, are precisely why the city of Los Angeles must take strong actions to sever all ties and cooperation with ICE and CBP. What I ask now of you, the city council, is to ensure that what happens to me does not happen to anyone in LA ever again. The only way to do this is to pass strong policies that end all forms of collaboration between the city of LA, the LAPD, and ICE and CBP.

Thank you very much for your time.

Sincerely,

Claudia Rueda

## DEFENDING IMMIGRANT RESIDENTS OF LOS ANGELES

### Report to the Los Angeles City Council from Community, Civil and Immigrant Rights Organizations, Faith and Labor Groups

Los Angeles is home to one of the largest populations of immigrants in the country. The Trump Administration—an open defender of white supremacy that has not masked its intolerance of immigrants, refugees, Muslims, and other people of color—poses a grave threat for the City of Los Angeles. In the more than eight months since Trump took office, his administration has unleashed relentless attacks on the most vulnerable communities, and confirmed that his Administration will rely increasingly on local law enforcement to increase the capacity of federal immigration authorities. Immigration enforcement has escalated and ICE and CBP have undertaken unprecedented actions.

This report draws upon the depth and breadth of experience of a diverse coalition of immigrant and civil rights organizations, community and faith groups and leaders, and labor organizations, working with and for immigrant communities. The report seeks to inform the City Council as it considers how best to act to defend and protect the City's residents from the attacks of federal authorities.<sup>1</sup>

The undersigned Coalition of community, civil rights, immigrant rights, faith, and labor organizations support the effort by the LA City Council to defend immigrants by limiting immigration enforcement and disentangling local resources from deportation efforts; increasing protections for immigrants and religious minorities; and enacting important criminal justice reforms in recognition of the links between criminal justice and immigration enforcement. We offer recommendations to complement those of the September 7 report of the City Council's Immigrant Advocate. These are consistent with Executive Directive 20 and the declaration of Los Angeles as a City of Sanctuary—and they could not be more urgent.

This report is divided into six sections, covering the most important issue areas that we believe the City Council must address to protect the City's immigrant residents and religious minorities. It makes the following recommendations.

### KEY RECOMMENDATIONS

1. The City Council should **enact a strong sanctuary ordinance**, which protects sensitive information of City residents; and prevents the City's participation in immigration enforcement to both protect the City's non-citizen residents and prevent City personnel from being part of deportations.
  - a. City personnel should not collect information related to immigration status, national origin, and place of birth except where required by law.
  - b. The City should not share sensitive information about individuals, including information in databases, for use in immigration enforcement, except where required by law.
  - c. The City should prohibit ICE from accessing non-public City facilities absent a court order. Date: 12/07/2017

Submitted in IACRE Committee

Council File No: 17-1040 1

Item No. 4

Deputy Comm from Public

- d. The City should prohibit local law enforcement from voluntarily participating in immigration enforcement.
  - e. The City should require documentation and public accountability in connection with federal immigration enforcement in Los Angeles.
2. The City Council should **enact urgent criminal justice reforms** to protect public safety, enhance public trust, and effectively and efficiently use scarce law enforcement resources.
- a. The City should decriminalize certain quality of life and other minor offenses, including vending in parks and “peddling.”
  - b. The City Council should prohibit booking for any offenses that may be filed as either an infraction or as a misdemeanor offense. These so-called “woblettes” should always be charged as infractions.
  - c. The City should prohibit booking or fingerprinting for any person who may be cited in lieu of arrest.
  - d. The City Council should prohibit booking or fingerprinting for misdemeanors pursuant to the provisions of Cal. Pen. Code Section 853.6.
  - e. The City Council should permit personnel to have a reasonable opportunity to verify their true identity (e.g., telephone calls; student, consular or alternative forms of identification) in lieu of arrest or booking where they would be released on a citation.
  - f. The City Council should adopt a policy of own recognizance release for all misdemeanor and non-serious felony arrestees immediately following booking for those booked.
  - g. The City should expand pre-charge and pre-plea diversion and treatment programs.
3. Los Angeles should **reject funding based on anti-Muslim animus, including funds from the Countering Violent Extremism (CVE) Program**, which facilitates the targeting and criminalization of religious minorities.
4. Los Angeles should **ensure parity for renters of mixed immigration status** who receive or should receive housing assistance.
5. Los Angeles should **continue—and expand—support of the L.A. Justice Fund**, which should be used to provide both bond and removal defense services, with a particular focus on detained immigrants.
6. Los Angeles should **ensure that any anti-discrimination ordinance include protections based on gender identity, gender expression, and HIV/AIDS status.**

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**I. A STRONG AND BINDING SANCTUARY ORDINANCE LIMITING LOS ANGELES' PARTICIPATION IN IMMIGRATION ENFORCEMENT**

Nearly 40% of Los Angeles County's residents—over 3.5 million people—were born outside the United States. Shifts in federal immigration enforcement priorities have rationally put these communities on edge. An April 2017 survey by the Luskin School of Public Affairs at UCLA found that 37% of Latino residents surveyed said they are afraid “that a friend or family member could face deportation at any moment,” and 80% said that contact with any government agency or program increases that risk.<sup>2</sup> A 2013 study found that more than 40% of Latinos surveyed in Los Angeles reported they were “less likely to volunteer information about crimes because they fear getting caught in the web of immigration enforcement themselves or bringing unwanted attention to their family or friends”—regardless of their immigration status.<sup>3</sup>

One important way that Los Angeles should step forward urgently to protect immigrants is with an ordinance that would make it clear that city officials, and, critically, law enforcement, will not collaborate with ICE. A strict prohibition of this kind will protect the City's residents, limit their risk of deportation; and assure City employees that they are not knowingly or inadvertently participating in immigration enforcement. Such an ordinance would assure our community that our local government will not assist with detentions and deportations, enhancing willingness to engage with local government services and participation in civic life.

Mayor Garcetti and LAPD Police Chief Charlie Beck already took an important step forward in establishing such a policy on March 21, 2017 when they announced Executive Directive 20, “Standing with Immigrants: A City of Safety, Refuge and Opportunity for All.” Executive Directive 20 committed that the “City will not assist or cooperate with any effort by federal immigration agents to use public facilities or resources for the purposes of enforcing federal civil immigration law.”<sup>4</sup>

The City Council should now ensure that the guidance and spirit of Executive Directive 20 are guaranteed through binding City policy in an ordinance. An ordinance should prohibit the unnecessary collection of sensitive information and its disclosure for the purposes of civil immigration enforcement; prohibit immigration agents from accessing non-public City facilities or interrogating individuals in City custody without a warrant or court order; and ensure that local resources are not used directly or indirectly for immigration enforcement.

**a. City personnel should not collect information related to immigration or citizenship status, national origin, and place of birth except where required by law.**

Information regarding a person's immigration status or national origin can be used for immigration enforcement. Information regarding a person's country of origin is also sensitive information which can be used as a proxy for immigration status.<sup>5</sup> Access to this information can lead to targeting by federal immigration authorities; and can be associated with discriminatory police action.

ICE has access to federal law enforcement databases and receives the fingerprints of arrested individuals *automatically* when police run them through FBI databases. Thus, where

local police ask about place of birth or nationality and, by booking an individual, automatically transmit this information to the federal databases, non-citizen residents are placed at risk of severe immigration consequences following even the most minor of encounters with the law. At a minimum, such information provides a basis for ICE to follow up and conduct further investigations.

In addition to the risk of immigration enforcement, asking a person's immigration status, nationality or birthplace risks making the questioned individual feel that she is being profiled on the basis of race, ethnicity or immigration status, whether or not that is the case. The subjective experience of being profiled undermines community trust.<sup>6</sup> Thus, even when done with benign intentions, the practice harms community-police relations. Permitting such questions as a matter of course also risks discriminatory treatment.<sup>7</sup>

Avoiding the risk or appearance of discriminatory government policy and policing, and of collaboration with ICE, is particularly important at this moment, where many Los Angeles residents already live in fear of law enforcement authorities. In order to cultivate trust with Los Angeles communities, no City personnel should ask questions about a person's immigration status, place of birth or nationality unless required by law.

**b. City personnel should not share sensitive information about individuals, including information in databases, for use in federal immigration enforcement, except where required by law.**

All personal identifying information should be protected from disclosure except where "required by law" or as necessary to administer a requested service. There should be no other exception. Specifically, the City Council should also guarantee that no City personnel provide non-publicly available personal information about an individual for the purposes of immigration enforcement.

There is confusion about what states and localities are and are not allowed to do when it comes to communicating with federal immigration authorities, but federal law makes it very clear. City personnel are under *no* legal obligation to communicate with ICE. The relevant law – 8 U.S.C. § 1373 – states that "a Federal, State, or local government entity or official *may not prohibit, or in any way restrict*, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service [which is now ICE, USCIS, or CBP] information regarding the citizenship or immigration status, lawful or unlawful, of any individual." 8 U.S.C. § 1373 *only* concerns information regarding immigration and citizenship status; it does not concern communication of any other type of information. Further, 8 U.S.C. § 1373 does *not* require the Department to collect information about immigration status, nor does it affirmatively require the Department to release an individual's immigration status. This is a *negative obligation* in the sense that state and local entities must simply *refrain* from *restricting* its composite state actors from exchanging information with ICE and other immigration authorities. There is no *positive obligation*—state and local entities are not obliged to act affirmatively to cooperate with ICE and other immigration authorities.<sup>8</sup>

The California Values Act (SB 54) also makes clear that state and local law enforcement

authorities should limit the disclosure of information to ICE for immigration enforcement—and explicitly prohibits the disclosure of certain information to ICE.<sup>9</sup> Further, the California Public Records Act expressly exempts federal agencies from its disclosure requirements: ICE does not have a right to obtain records through this state law. *See* Cal. Gov. Code § 6252(g).<sup>10</sup>

**c. The City should prohibit ICE from accessing non-public City facilities absent a warrant or court order.**

Executive Directive 20 unambiguously prevents City employees from providing ICE access to non-public areas absent a court order—without exception.<sup>11</sup> A City ordinance should do the same. Nothing in federal or state law requires local authorities to permit ICE to enter its non-public facilities. This includes access by ICE to interrogate those in the City’s custody. Jurisdictions across the country have passed measures to prevent ICE from entering jails without a valid judicial warrant.<sup>12</sup> The presence of ICE agents in City facilities undermines the safety of Angelenos as well as the City’s interest in limiting the perception and reality of City participation in federal immigration enforcement.

**d. The City should prohibit local law enforcement from voluntarily participating in immigration enforcement—including through arrests, detentions, and joint task forces.**

For the health and safety of our community, City authorities should have no role in immigration enforcement. Voluntary assistance in the enforcement of federal immigration law detracts from the City’s mission to create safe communities, drains already-limited City resources, and makes it difficult to establish or maintain trust between the City and its residents. Assistance in the enforcement of federal immigration law may also lead to racial and other types of profiling.

The Los Angeles Police Department is the City entity that federal immigration authorities most often seek to collaborate with in immigration enforcement.<sup>13</sup> Immigration authorities are relying increasingly on cooperation with local law enforcement authorities in order to ramp up their enforcement efforts. Binding directives would send a clear and decisive message that the City of Los Angeles is not in the deportation business.

Currently, LAPD does not have an explicit policy prohibiting voluntary participation in immigration enforcement. LAPD’s Special Order 40, established decades ago and commonly understood as containing such a prohibition, in fact does not. However, it does set forth an underlying philosophy that we all share and that is elaborated in the Mayor’s Executive Directive 20: to keep the LAPD out of immigration enforcement for the health and safety of our community. It is imperative that at this moment, the City Council establish protections that will prohibit City personnel, including the LAPD, from direct or indirect participation in immigration enforcement.

Such an ordinance should include a prohibition against interrogating, detaining, or arresting individuals for violation of federal immigration law. Such actions are not required by law and are not a good use of City resources.

An ordinance should also specifically prohibit local participation in criminal immigration enforcement, and a prohibition or limitation of joint task forces with federal immigration authorities. Federal laws that criminalize work and entry of undocumented immigrants are essentially status crimes—they unjustly penalize undocumented immigrants simply because they are undocumented and trying to support their families. Los Angeles has no reason to participate in the enforcement of these outdated and unjust federal criminal laws.<sup>14</sup> Such arrests are not required by law.<sup>15</sup> Any endorsement of participation in federal criminal immigration enforcement is particularly concerning in light of recent changes to federal policy. Under Attorney General Jeff Sessions, the federal government has made clear its intent to rely on criminal prosecution to deter unauthorized immigration generally.<sup>16</sup>

Moreover, the City should prohibit or limit its participation in joint task forces with federal immigration authorities. Advocates have discovered multiple operations where joint task forces including both local law enforcement and federal immigration authorities have resulted in immigration enforcement operations targeting longtime Angelenos. These joint operations have relied on substantial City human and material resources and led to the destruction of Los Angeles families.<sup>17</sup> Other jurisdictions, including Oakland, Santa Ana, and San Francisco, have highlighted the risks associated with participation in joint task forces,<sup>18</sup> and are beginning to prohibit such joint operations.<sup>19</sup> Los Angeles should also prohibit joint task force or law enforcement operations with immigration authorities. If joint task force or law enforcement operations are permitted, there should be a clear prohibition of any civil immigration enforcement actions—by City personnel *or* any agency involved in the operation—and meaningful public oversight, transparency and accountability.

**e. The City should require documentation and public accountability in connection with federal immigration enforcement in Los Angeles.**

City departments, including the LAPD, should be required to document and make public semi-annually:

1. All policies, memoranda, and/or protocols outlining City collaboration or engagement with federal immigration authorities, including concerning access to information or databases, if any exist; and
2. All requests from federal immigration authorities for assistance from the Department – including with arrests, detainers, transfers, information, interrogations, and joint task forces – and the Department’s response.

In this critical moment, transparency and accountability about the City’s role in immigration enforcement is essential.

**II. PROTECTIONS AGAINST OVER-POLICING AND OVER-CRIMINALIZATION WITH DISPROPORTIONATE CONSEQUENCES FOR IMMIGRANTS**

Especially given this federal enforcement background, current LAPD policies expose L.A.’s non-citizen residents to the risk of deportation, and play into the Trump Administration’s

deportation dragnet. National policy changes over the past decade mean that federal immigration authorities automatically receive the fingerprints of those booked into local law enforcement custody. Any booking by the Department effectively notifies DHS and ICE of an individual's current location and arrest record—as well as other booking information, such as home address and date of birth. For immigrants, jail-time—even a single day—can lead to subsequent targeting of an individual by ICE.<sup>20</sup>

This is especially a risk now, given that President Trump signed an immigration-related Executive Order directing that *all* undocumented immigrants are now priorities for removal. In a sign of its expansiveness, the Order identifies as specific targets for deportation people with minor criminal convictions and unresolved criminal charges, anyone who has committed an offense even without having been charged, and anyone any individual officer considers “a risk to public safety.”<sup>21</sup> The Administration's focus on individuals who have *any* interaction with the criminal justice system further criminalizes our immigrant communities; and encourages racially motivated and discriminatory arrests. Moreover, if ICE has knowledge of a non-citizen's contact with the criminal justice system—however minor—ICE can use that information to prioritize that person for deportation and as a reason to deny that person any and all forms of discretionary relief.

As an example of the risks associated with arrests and booking for immigrants, whether or not they are ultimately charged with a crime or convicted:

- Earlier this year, Angelo\* was arrested by LAPD at his home. While he was not ultimately charged with any crime, within weeks of this brief LAPD arrest, he was sought out by ICE from his home, and deported within hours. He had been a decades-long resident of Los Angeles and was the parent of U.S.-citizen children, but as a result of this arrest, fingerprinting, and information-sharing, and due to a decades-old removal order, he is currently in Tijuana and was not given the opportunity to challenge his deportation.<sup>22</sup>
- Luis,\* another longtime Angeleno who had arrived in the United States as a teenager, was recently arrested by LAPD for driving without a license. He was brought to the station apparently because of a probation violation, and transferred to LASD custody. Despite long-term presence in Los Angeles and deep community ties, Luis only narrowly averted a transfer from LASD to ICE custody following a routine traffic stop and a probation violation.<sup>23</sup>

The recognition that booking indirectly, but automatically, notifies ICE of sensitive personal information regarding Angelenos in Department custody should compel the City to enact common-sense criminal justice reforms to police and prosecutorial policies and practices. By decriminalizing certain quality of life crimes, ending unnecessary bookings, and instituting alternatives to criminal prosecutions, the City of Los Angeles can take positive steps toward protecting non-citizen members of our community from deportation. At the same time, Los Angeles would enhance public safety by efficiently and effectively directing scarce law enforcement resources towards more serious crimes.

**a. Los Angeles should decriminalize certain quality of life crimes and other minor offenses.**

Non-violent drug and “quality of life” offenses (which are often considered or related to crimes of poverty) account for a significant quantity of Los Angeles city prosecutions.<sup>24</sup> This results in unnecessary devastation for individuals and families, and may also result in disproportionate and irreparable immigration consequences for non-citizens, including even lawful permanent residents.

Convictions expose individuals to immigration enforcement and the risk of deportation. They can also create a barrier to receiving other forms of immigration relief and can complicate or disqualify an individual from receiving a more secure and permanent status. Even court appearances and fines for minor quality offenses can have devastating consequences, particularly in an era where immigration authorities staunchly defend a policy of targeting immigrants in courthouses.<sup>25</sup> Those who are afraid to go to court or are unable to pay excessive fines may have outstanding arrest warrants for a failure to appear and thus may owe thousands of dollars in unpaid fines, perpetuating a cycle of poverty and criminalization.

The decriminalization of marijuana in Los Angeles, the state and across the country reflects a growing recognition that prosecution of these crimes is not in the interest of our communities. Last summer, representatives of law enforcement officials, including the President of the Association of Prosecuting Attorneys and the President of the National District Attorneys Association, urged the then-leading Presidential candidates to allocate resources away from non-violent crimes, stating: “Too many resources go toward arresting, prosecuting and imprisoning low-level offenders, and those suffering from mental illness and drugs or alcohol addictions.”<sup>26</sup>

In one important example, Los Angeles has pursued a punitive policy of criminalizing sidewalk vending and vending in the parks. Los Angeles is currently the only major city in the United States that does not permit any sidewalk vending. While the City decriminalized Los Angeles Municipal Code (LAMC) Section 42.00(b) and will no longer charge street vendors with misdemeanors for illegal street sales, vendors still face misdemeanor convictions for other charges related to street vending. Vending in parks and “peddling” from vehicles or pushcarts are still chargeable as misdemeanors and infractions. Further, vendors charged with violating Section 42.00(b) of the Los Angeles Municipal Code (prohibiting illegal street sales) are now given administrative citations and civil penalties. These tickets are difficult to contest and there is no provision made for ability to pay the fines and no opportunity to do community service in lieu of paying the fines. To particularly remedy the harms to street vendors, the City Council and City Attorney should do the following:

- Decriminalize LAMC Section 63.44 (vending in parks) and Section 80.73 (“peddling” from vehicles or pushcarts). Until an ordinance is passed legalizing street vending on City sidewalks and in parks, alternative non-criminal enforcement strategies with due process guarantees should be utilized. Ordinance No. 18475 could serve as a model ordinance for shifting enforcement of these sections to the Administrative Citation Enforcement Program.

- Provide a ticket amnesty for street vendors with misdemeanor and infraction citations. Street vendors may have outstanding citations for violating LAMC Section 42.00(b), Section 63.44 and Section 80.73 that transferred to warrants because the vendor failed to appear in court on the tickets and/or were unable to pay the large fine. The City should offer a ticket “amnesty” program to street vendors and give the City Attorney the legal authority to dismiss all misdemeanor and infraction citations pursuant to Penal Code Section 1385. The City Attorney should use this authority, recognizing to the greatest extent possible that post-conviction relief is provided because of a legal invalidity.
- Provide an amnesty for vendors with administrative (ACE) citations. The City attorney should dismiss, in the interest of justice, administrative (ACE) citations for sidewalk vending for individuals who will suffer a significant financial hardship if required to pay the fines.

The City Council should also review and decriminalize other municipal code offenses associated with poverty and homelessness, or other “quality of life” offenses. Among these offenses are: LAMC 41.18, 56.12 – blocking a sidewalk with person or belongings; LAMC 85.02 – living in a vehicle; and LAMC 71.02(a), 71.03(d) – bandit cab violations; illegal vehicle for hire. The public safety benefits of such criminal prosecutions tend to be severely outweighed by the costs.<sup>27</sup> This is even more true for noncitizens. These types of offenses can more appropriately be handled through non-law enforcement tools or through a civil process.

In New York City, the city council, mayor’s office, advocates and the police department stood behind the passage of a package of eight bills geared towards creating a more just criminal justice system and decreasing the backlog in the criminal courts. The series of bills, known as the Criminal Justice Reform Act, work to divert the most common low-level and quality-of-life offenses, like public urination, turnstile jumping and open container offenses, away from the criminal justice system by issuing civil summonses to offenders rather than arresting them, thus more proportionally fitting the penalty to the offense.<sup>28</sup>

- b. Los Angeles should limit unnecessary booking and pre-trial detention—including by expanding citation in lieu of arrest, strictly interpreting the law to cite-and-release for misdemeanor offenses, expanding the acceptable forms of identification permissible for citations, and expanding own recognizance release.**

Arresting and booking a non-citizen automatically shares information with immigration authorities. Moreover, even short durations of pre-trial detention can have destabilizing effects on an individual’s life, and tend to distort the criminal justice process.<sup>29</sup> For immigrants, jail-time—even a single day—can result in fingerprinting an individual and information-sharing with federal immigration authorities. This can lead to subsequent targeting of an individual by ICE at home or in the community, or an interrogation or arrest from jail and ultimate deportation.<sup>30</sup> The City should act to limit the devastating effects of over-incarceration for minor offenses, its distortionary effects on the justice system, and its disproportionate effects for non-citizens who may be deported as a result of bookings and arrests for minor offenses.

One method of preventing pre-trial custody is avoiding arrest altogether. The City should impose strict limits on overcharging and instead identify crimes eligible for citation in lieu of arrest with particular attention to the immigration consequences of the criminal charge. As a coalition of law enforcement professionals, including LAPD Chief Charlie Beck, stated earlier this year: “[w]e need not use arrest, conviction, and prison as the default response for every broken law.”<sup>31</sup>

The City Attorney’s office currently authorizes the LAPD to employ “Direct Citation” for a limited set of 20 crimes.<sup>32</sup> An important step forward, and the basis for further reforms, was the May 22, 2013, Criminal Branch Interoffice Memorandum titled “Los Angeles City Attorney Revised Filing Guidelines for Direct Citations.” This should be further revised to require without exception that LAPD file as infractions (if they charge) any so-called “wobblettes”—offenses which may be filed as misdemeanors or infractions.

The City should also expand “Direct Citation” policy to more closely align with state law, which requires that individuals arrested for misdemeanors be released in most instances.<sup>33</sup> California Penal Code Section 853.6 section states, with certain exceptions, that in any case in which a person is arrested for a misdemeanor that person shall be cited and released instead of being taken into custody, fingerprinted and booked.<sup>34</sup> The City and local law enforcement should narrowly interpret the exceptions in 853.6(i) such that, except where required by law, LAPD should not book or fingerprint for misdemeanors.

The City should also expand the permissible forms of identification for citations in lieu of arrest. If an individual would have otherwise been released for an infraction or misdemeanor on a citation, but faces arrest for failure to prove his or her identity, the person should be given a reasonable opportunity to verify his or her true identity in lieu of arrest or booking (e.g. telephone calls; student, consular or alternative forms of identification). If the person’s identity is reasonably established, the original citation release should be completed without booking or arrest.

Finally, LAPD should adopt a policy of own recognizance release for all misdemeanor and non-serious felony arrestees immediately following booking for those who are booked. Limiting money bail has become a priority for many cities across the country, which have recognized that liberty should not depend on a person’s wealth.<sup>35</sup> Moreover, a single day in jail—or any booking—exponentially increases the risk of associated immigration enforcement. Until an alternative to the money bail system exists, Los Angeles should encourage the use of “own recognizance” release.<sup>36</sup>

**c. Los Angeles should expand alternatives to criminal prosecutions—including pre-filing and pre-plea diversion programs.**

The City currently runs several diversion programs for specific offenses.<sup>37</sup> Following this model, the number of offenses for which pre-filing and pre-plea diversion is available could be expanded.<sup>38</sup> The use of such programs could be designed to avoid imposing immigration consequences on its non-citizen participants.<sup>39</sup>

Seattle’s Law Enforcement Assisted Diversion (LEAD) allows for pre-booking diversion in response to low-level drug and prostitution offenses. Developed with community groups, law enforcement agencies and public officials, the program demonstrated better results – including recidivism rates, costs, and access to services – than the typical criminal justice model.<sup>40</sup> In addition to avoiding unnecessary, costly and debilitating prosecutions, the program proactively diverts offenders to community-based support services, including housing, healthcare, job training, treatment and mental health support.

Specifically, in lieu of filing misdemeanor charges, the City should utilize the City Attorney Neighborhood Justice Program (NJP) and City Attorney hearings, which are pre-filing diversion programs for people who are accused of committing certain misdemeanors. Both avoid court appearances, convictions, and criminal records for those eligible. If the participant completes the obligations of the NJP, no criminal case will be filed. City Attorney hearings are informal proceedings wherein the individual meets informally with a representative of the City. No case is filed if the individual does not commit the same violation within a one-year period. The list of violations eligible for the programs should be expanded.

### **III. REJECTION OF POLICIES BASED ON ANTI-MUSLIM ANIMUS— INCLUDING FUNDS USED TO TARGET AND SURVEIL MUSLIM COMMUNITIES**

The City of Los Angeles should refuse to participate in any way in any policies or programs whose purpose or effect is to target Muslim communities for heightened scrutiny, including any federal Countering Violent Extremism (CVE) related programs, that are funded either through federal funds or the City’s own resources.

Los Angeles – a place where the world gathers – is a City with a significant Muslim population who contribute to the City’s rich diversity and signature multiculturalism. Despite the fact that religious freedom is one of our founding Constitutional values, we have yet to live up to this ideal. We are living in an era of unprecedented levels of anti-Muslim sentiment, fueled both by hateful political rhetoric that has translated into an all-time spike in hate incidents, and over fifteen years of government policies that disproportionately target Muslim communities in the name of national security. These threats to Muslim communities have intensified under the Trump administration, which has specifically considered instituting a “Muslim registry,” and on three occasions has banned or restricted travel from several Muslim-majority countries.

Countering Violent Extremism (CVE) is another federal program that unfairly targets members of Muslim communities whom the federal government perceives as more likely to be prone to violent extremism,<sup>41</sup> despite the fact that – as evidenced by the recent deadly rally in Charlottesville – white supremacist groups pose a greater threat.<sup>42</sup> CVE’s stated goal is to combat domestic terrorism by encouraging local communities to identify people who they think are on a path to radicalization and/or violent extremism, and refer them to social services and/or law enforcement.<sup>43</sup> Despite the government’s efforts to frame CVE programs through a “public health” lens, and as “community led,” particularly here in Los Angeles, CVE programs were designed by and connected to law enforcement objectives, including “intervention” and “interdiction” of suspected terrorists.<sup>44</sup>

CVE is problematic for many reasons, including: (1) it targets the Muslim community and stigmatizes them as being inherently suspect, (2) it is based on debunked radicalization theories that provide no evidence that the CVE framework actually works, and (3) CVE's underlying ties to law enforcement make it an ineffective community engagement tool, as has been demonstrated in other countries that adopted CVE programs, where people were more suspicious and less likely to cooperate with law enforcement.<sup>45</sup>

In light of the foregoing, the City should cease implementing CVE programs, and disavow any further programs, whether funded by the federal government or its own resources, that target Muslim communities for heightened scrutiny. Specifically, in June 2017, the Trump administration awarded the Los Angeles Mayor's Office a \$425,000 CVE grant to "manage interventions." The CVE grant is conditioned on cooperation with law enforcement, and is subject to stringent evaluation requirements to ensure it is supporting the Trump administration's policy objectives.<sup>46</sup> Pre-existing CVE related programming administered through the City includes the Mayor's "Building Healthy Communities" program, as well as the LAPD's Recognizing Extremist Network Early Warnings (RENEW) program. The City should immediately and permanently cease these programs, and return any funds it has yet to expend in furtherance of them.

#### **IV. THE PROTECTION OF MIXED-IMMIGRATION-STATUS FAMILIES IN PUBLIC HOUSING**

**Federal immigration restrictions for certain HUD-administered housing programs result in disproportionately high rent for mixed-status families receiving rental subsidies; the City of Los Angeles should adopt policies that rectify this disparity.**

The Housing Authority for the City of Los Angeles, HACLA, locally administers several Department of Housing and Urban Development (HUD) programs. In order to participate in programs such as public housing, the housing choice voucher (Section 8), Section 8 Project-based housing, at least one member of the household must have eligible immigration status, typically demonstrated by providing a valid social security number. Although otherwise ineligible household members may reside in the subsidized household with an eligible family member, the amount of assistance the household receives will be prorated. The rent is adjusted based on the number of household members, the total household income, the number of eligible members of the household and the type of rent subsidy in the covered unit. In practice, this means that members of mixed-status families pay a pro-rated rent that exceeds 30% of their income—the percentage the formula that HUD aims for—because the entire family is not eligible for rental assistance. In some instances, this rental payment has even exceeded 100% of the household's income.

The calculation of rents for mixed status households has led to the displacement of families from their homes, increased homelessness, and the division of family units. In other cases, an undocumented family member may be forced to stay with an eligible abusive spouse, or forced to live apart from her ineligible children, in order to maintain affordable rent. This

policy severely endangers our city's immigrant families and undermines L.A.'s efforts to lead the way on immigrants' rights issues.

Thousands of mixed-status families rely on subsidized housing, and are therefore affected by this policy. HACLA is a state-chartered entity that can act independently to administer locally funded programs while discharging its duties to administer HUD programs. Thus, HACLA can administer a local subsidy to make the city's housing affordable to mixed-status families. Any local program established should contain tenant protections that mirror federal programs, including due process rights. Moreover, the details of the administration of the program should be established with the input of experts and community members.

**To prevent irreparable harm to our city's immigrant families living in public housing, we demand that the City of Los Angeles establish parity between mixed-status families and fully subsidize renters in all federally subsidized housing through a local program.**

#### **V. A STRONG AND EFFECTIVE LOS ANGELES JUSTICE FUND**

Currently, nearly 70% of detained immigrants in the Los Angeles area lack counsel in their deportation proceedings.<sup>47</sup> The LA City Council has shown important leadership in its establishment of the LA Justice Fund earlier this year. In committing \$2 million over two years to the Justice Fund, the City has already recognized the immense need facing its community members in these proceedings. Those funds will soon be disbursed, and programs established. The City should continue its strong support for this Fund, and, indeed, expand it in the future so that no Angeleno faces exile without a lawyer.

The consequences of deportation are, in some cases, literally life and death.<sup>48</sup> In many more cases, as the Supreme Court has recognized, deportation "may result in loss of . . . all that makes life worth living."<sup>49</sup> And yet, despite these grave consequences, there is no recognized right to counsel for immigrants facing deportation, even though the federal government has a trained prosecutor representing its interests in every proceeding. Counsel, the data show, is crucial: whereas unrepresented detained immigrants succeed only 6% of the time, those who have lawyers succeed *more than five times as often*.<sup>50</sup> The federal government's attacks are worsening what was already a due process crisis. For all of these reasons, removal defense is the most pressing legal need facing our immigrant community members.

Detained immigrants especially require the assistance of counsel. Those who are detained are often held in remote facilities, far from family and community resources. They lack internet access, and even phone calls are extremely expensive. Thus isolated, it becomes nearly impossible for them to assemble the requisite evidence and legal arguments to establish their defenses, even though many have some defense to deportation.<sup>51</sup> Especially given the increased enforcement, collateral arrests, and the new enforcement Executive Order (effectively making *everyone* a priority for deportation), attorneys who frequent detention centers are seeing more and more individuals with multiple available avenues of relief.

Detained immigrants require counsel in their bond proceedings and in their merits proceedings. While the grounds for mandatory detention are broad, and encompass individuals with nothing more than a drug possession conviction,<sup>52</sup> recent jurisprudence makes clear that the ground only applies to those whom ICE detains immediately upon their release from criminal custody.<sup>53</sup> Therefore, many immigrants are eligible for bond. However, immigration bonds can be expensive—regularly in excess of \$5,000—and financing options are limited. An important factor in determining whether a detained immigrant will receive a bond, and a bond low enough that the person can pay it, is whether or not that person is represented by counsel in her deportation case. Immigration Courts consider whether or not someone is a “flight risk” in determining bond,<sup>54</sup> and having counsel for the deportation proceeding proper is a crucial indicator that the individual will attend future hearings that Immigration Judges consider in making this assessment. Moreover, people’s financial circumstances can be desperate—particularly if they are required to pay exorbitant bonds—limiting access to counsel.

The City of Los Angeles should continue its support of the L.A. Justice Fund and expand it in the future, until no Angeleno faces imprisonment and exile without a lawyer. Los Angeles’ leadership should help to pave the way to supporting a right to counsel for immigrants facing deportation.

**VI. AN INCLUSIVE ANTI-DISCRIMINATION ORDINANCE**

Anti-discrimination protections at the local level are highly needed, and should further include protections based on gender identity and expression and HIV/AIDS status.

**CONCLUSION**

Now is the time for Los Angeles to lead in protecting all of the city’s residents and in upholding our values of inclusion, diversity, and justice.

**SIGNED**

American Civil Liberties Union of Southern California (ACLU SoCal)  
A New PATH (Parents for Addiction Treatment and Healing)  
A New Way of Life Re-Entry Project  
Asian Americans Advancing Justice  
Black Alliance for Just Immigration  
Council on American-Islamic Relations - Greater LA (CAIR-LA)  
California Immigrant Policy Center  
California Immigrant Youth Justice Alliance  
Californians for Progress  
Californians United for a Responsible Budget (CURB)  
Central American Resource Center (CARECEN-LA)  
Clergy & Laity United for Economic Justice (CLUE)  
Community Development Technologies (CDTech)  
Democratic Socialists of America - Los Angeles

East LA Community Corporation  
Esperanza Community Housing Corp  
Ground Game LA  
Homeboy Industries  
Human Rights First  
Immigrant Defenders Law Center  
Indivisible Highland Park  
Instituto de Educación Popular del Sur de California (IDEPSCA)  
Korean Immigrant Workers Alliance (KIWA)  
LA Forward  
Loyola Immigrant Justice Clinic  
March and Rally Los Angeles  
National Day Laborer Organizing Network (NDLON)  
National Immigration Law Center  
National Lawyers Guild—Los Angeles  
People Organized for Westside Renewal (POWER)  
Pilipino Workers Center  
Public Counsel  
SEIU United Service Workers West (SEIU USWW)  
Strategic Actions for a Just Economy (SAJE)  
United Teachers Los Angeles (UTLA)  
UCLA Labor Center  
UCLA Law Students for Immigrant Justice  
Vigilant Love Coalition  
Youth Justice Coalition

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<sup>1</sup> On September 7, 2017, City Councilmember Gil Cedillo and Council President Herb Wesson co-authored a Resolution declaring Los Angeles a “City of Sanctuary,” acknowledging Mayor Garcetti’s March 21, 2017 Executive Directive 20, *Standing with Immigrants: A City of Safety, Refuge and Opportunity for All*. The same day, the City Council’s Immigrant, Civil Rights and Equity Committee reviewed Special Report No. 1 of the Council’s Immigrant Advocate Peter Schey. On September 20, 2017, Councilmember Cedillo introduced a motion before the Committee, seconded by Council President Wesson, instructing the Chief Legislative Analyst, in consultation with the City Attorney, to review Special Report No. 1 to consider how to adopt the report’s recommendations.

<sup>2</sup> Mike McPhate: *California Today: Worries Over Deportation*, N.Y. Times, April 5, 2017, <https://www.nytimes.com/2017/04/05/us/california-today-worries-over-deportation.html>.

<sup>3</sup> Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement*, Univ. Ill. at Chicago, 7 (May 2013), [https://greatcities.uic.edu/wp-content/uploads/2014/05/Insecure\\_Communities\\_Report\\_FINAL.pdf](https://greatcities.uic.edu/wp-content/uploads/2014/05/Insecure_Communities_Report_FINAL.pdf).

<sup>4</sup> Among other things, Executive Directive 20 provides:

“No person acting in his or her capacity as a City employee shall assist or cooperate with, or allow any City monies or resources to be used to assist or cooperate with, any federal agent or agency in any action where the primary purpose is federal civil immigration enforcement.”

“No City employee shall grant any federal immigrant agent access to any City facility not open to the general public unless such access is legally required.”

“No City employee shall collect information from individuals that is not necessary to perform the employee’s duties. In particular, no City employee shall collect information regarding a person’s citizenship or immigration status unless legally required to do so or mandated by policy to protect victims and witnesses of crimes.”

“[A]ll Angelenos must have confidence that [availing themselves of City services, programs, and resources] will not place themselves or their families in peril due to their immigration status being unnecessarily solicited or their personal data left unprotected.”

“All City employees shall treat [Personally Identifiable Information] as Confidential Information as allowed by law and shall handle, maintain, and secure such information according to [the relevant] standards.”

All City entities “shall report . . . any efforts by federal immigration enforcement officials . . . to enforce federal civil immigration laws with the cooperation, support, or use of City resources or facilities.”

<sup>5</sup> See George Joseph, “Where ICE Already Has Direct Lines to Law-Enforcement Databases with Immigrant Data,” *NPR* (May 12, 2017), <http://www.npr.org/sections/codeswitch/2017/05/12/479070535/where-ice-already-has-direct-lines-to-law-enforcement-databases-with-immigrant-d>. Additionally, DHS and ICE have access to FBI databases that the LAPD uses each time they run fingerprints or conduct warrant checks. See *The Promise of Sanctuary Cities and the Need for Criminal Justice Reforms in an Era of Mass Deportation*, Fair Punishment Project, 6 (2017) <https://www.ilrc.org/sites/default/files/resources/fpp-sanctuary-cities-report-final.pdf>.

<sup>6</sup> See generally, Tom R. Tyler and Cheryl J. Wakslak, *Profiling and Police Legitimacy: Procedural Justice, Attributions of Motive, and Acceptance of Police Authority*, 42 *CRIMINOLOGY* 253 (2004).

<sup>7</sup> See generally, Sherry F. Colb, *Innocence, Privacy, and Targeting in Fourth Amendment Jurisprudence*, 96 *COLUM. L. REV.* 1456 (1996).

<sup>8</sup> While the California Public Records Act (CPRA), Cal. Gov. Code 6254(f)(1), does provide that local authorities may be required by law to provide the public with certain information, important exceptions apply. The CPRA only requires that local authorities make publicly available on request certain categories of information where disclosing it would not endanger the safety of a person in an investigation or the successful completion of an investigation. At a minimum, City policy should require that a supervisor determine that is not the case before providing any information to ICE upon request. Moreover, local authorities should not provide preferential treatment to federal immigration authorities in the disclosure of sensitive information. Federal immigration authorities should be obligated to seek information through the same processes as others soliciting information from local government. Local authorities should not affirmatively provide this information to ICE, or provide ICE with any expedited access to information where such information may be subject to public disclosure under the CPRA.

<sup>9</sup> SB 54 explicitly prohibits the use of local law enforcement personnel and resources for immigration enforcement purposes, including the disclosure of certain information to ICE. See Cal. Gov. Code § 7284.6(a)(1)(C), (D). First, SB 54 prohibits the disclosure of “release dates or other information” unless “that information is available to the public” or if TRUST Act criteria are met. Cal. Gov. Code § 7284.6(a)(1)(C). Second, SB 54 prohibits the sharing of a broad range of information covered by California Civil Code § 1798.3—including “any information that is maintained by an agency that identifies or describes an individual,” as well as the person’s name, address and physical description—only if such information is already “available to the public.” Cal. Gov. Code § 7284.6(a)(1)(D). Critically, under SB 54, information that “is available to the public” does not mean information that is subject to disclosure under the CPRA. This is made clear by the terms of SB 54 itself. By protecting information that is otherwise subject to the disclosure under the CPRA, the Legislature could not have intended to create an exception that would have eliminated this very protection.

<sup>10</sup> Cal. Gov. Code § 6252(b) provides that, for purposes of the Act, a “‘member of the public’ means any person, **except** a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.” (Emphasis added.) The California Attorney General’s CPRA Guide confirms that “[g]overnment employees acting in their official capacity are not considered to be members of the public” with enforceable rights under the CPRA. California Attorney General’s Office, *Summary of the California Public Records Act 2004*, [http://ag.ca.gov/publications/summary\\_public\\_records\\_act.pdf](http://ag.ca.gov/publications/summary_public_records_act.pdf), at 4. There is an exception to this exemption for local and state officials in Cal. Gov. Code § 6252.5, but there is no exception to this exemption for federal employees acting in their official capacity.

<sup>11</sup> Executive Directive 20 provides: “No City employee shall grant any federal immigration agent access to any City facility not open to the general public unless such access is legally required.”

<sup>12</sup> Policies include, for instance: *Chicago*: Ordinance, Welcoming City Ordinance, Jul. 25, 2012, Sec. 2-173-042(b), at [https://www.ilrc.org/sites/default/files/resources/06\\_-\\_chicago\\_ordinance.pdf](https://www.ilrc.org/sites/default/files/resources/06_-_chicago_ordinance.pdf). *Cook County*: Policy for Responding to ICE Detainers, Sec. 46-37(b), at [https://www.ilrc.org/sites/default/files/resources/07\\_-\\_cook\\_county\\_ordinance.pdf](https://www.ilrc.org/sites/default/files/resources/07_-_cook_county_ordinance.pdf). *Denver*: “Denver Passes Immigrant Protections Amid White House Threats,” *SEATTLE TIMES*, Aug. 28, 2017. *Lawrence, Mass.*: Lawrence Trust Ordinance 133, Jun. 8, 2015. *New Orleans*: New Orleans Police Department Operations Manual, Policy 41.6.1: Immigration Status, Sec. 5-6, <https://www.nola.gov/getattachment/NOPD/NOPD-Consent-Decree/Chapter-41-6-1-Immigration-Status-approval.pdf>. *Orleans Parish*: Orleans Parish Sheriff’s Office, Policy: Immigration and

Customs Enforcement Procedures, June 21, 2013, Sec. 4, <https://www.clearinghouse.net/chDocs/public/IM-LA-0009-0002.pdf>. *Richmond*: Richmond Police Department Policy Manual, Aug. 2013. *Santa Ana*: Ordinance No. NS-2908, Dec. 20, 2016, Sec. 6, <http://voiceofoc.org/wp-content/uploads/2017/01/Santa-Ana-sanctuary-city-ordinance-adopted.pdf>. *Santa Clara County*: Policy Resolution No. 2011-504, Oct. 18, 2011, Sec. 3, [https://www.ilrc.org/sites/default/files/resources/santa\\_clara\\_ordinance.pdf](https://www.ilrc.org/sites/default/files/resources/santa_clara_ordinance.pdf). *Santa Fe*: See Vic Vela, “NM Jail Blocks Access for ICE, Claiming Racial Profiling,” ALBUQUERQUE JOURNAL, June 26, 2010, available at <http://uncoverthetruth.org/press/press-new-mexico/nm-jail-blocks-access-for-ice-claiming-racial-profiling-santa-fe-jails-director-contends-u-s-immigration-and-customs-enforcement-authorities-rationally-profile-inmates-albuquerque-journal/>. *Washington, D.C.*: Immigration Detainer Compliance Emergency Amendment Act of 2012, June 15, 2012, Sec. 23-1331(d)(1), [https://www.ilrc.org/sites/default/files/resources/21-washington\\_dc\\_ordinance.pdf](https://www.ilrc.org/sites/default/files/resources/21-washington_dc_ordinance.pdf); and Mayoral Order re Disclosure of Status of Individuals, Oct. 19, 2011, Sec. B.3, <http://dcregs.dc.gov/Gateway/NoticeHome.aspx?NoticeID=1784041>.

<sup>13</sup> Federal authorities have emphasized their intent to rely increasingly on collaboration with local law enforcement authorities for immigration enforcement. See Exec. Order 13,768, *Enhancing Public Safety in the Interior of the United States*, 82 FR 8799 (Jan. 30, 2017); DHS Sec’y John Kelly, *Memorandum re: Enforcement of the Immigration Laws to Serve the National Interest*, Dep’t of Homeland Sec. (Feb. 20, 2017), [https://www.dhs.gov/sites/default/files/publications/17\\_0220\\_S1\\_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf](https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf); U.S. Dep’t of Justice, *Attorney General Jeff Sessions Delivers Remarks at the Opening of the National Summit on Crime Reduction and Public Safety*, (June 20, 2017), <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-opening-national-summit-crime-reduction>.

<sup>14</sup> See Human Rights Watch, *Turning Migrants Into Criminals* (May 2013), at [https://www.hrw.org/sites/default/files/reports/us0513\\_ForUpload\\_2.pdf](https://www.hrw.org/sites/default/files/reports/us0513_ForUpload_2.pdf). The indiscriminate use of criminal unlawful reentry charges is especially of concern given Attorney General Sessions’ policy directing AUSA offices throughout the country to prioritize the prosecution of immigrants for criminal immigration violations. See “Memo: Renewed Commitment to Immigration Enforcement, April 11, 2017, at <https://www.justice.gov/opa/speech/file/956856/download>; see also “Attorney General Jeff Sessions Delivers Remarks Announcing the Department of Justice’s Renewed Commitment to Criminal Immigration Enforcement,” Nogales, AZ, Apr. 11, 2017, at <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-deliversremarks-announcing-department-justice-s-renewed> (“It is here, on this sliver of land, where we first take our stand against this filth.”).

<sup>15</sup> While CPC § 836 says officers “*may* arrest a person in obedience to a warrant” (emphasis added), the case law is clear that “the discretionary language used in CPC § 836(a)(2) clearly does not establish a mandatory duty.” *Chavira v. Chavez*, 2014 WL 12576819 (C.D. Cal. 2014). LAPD’s current policy authorizes the warrantless arrest and subsequent transfer to ICE of individuals for violations of 8 U.S.C. § 1326(a), (b)(2) (unlawful reentry following conviction for a so-called “aggravated felony”). Current LAPD policy authorizes more federal criminal immigration enforcement arrests than were endorsed by the Mayor, the Council and the LAPD Chief in their endorsement of earlier iterations of SB 54 than that which was ultimately passed. The Council and the Mayor endorsed prohibiting police from transferring individuals to ICE for unlawful reentry; and the Chief endorsed such arrests only after a prior conviction for a violent felony listed in subdivision (c) of Section 667.5 of the California Penal Code. The Chief’s position reflected an understanding that an “aggravated felony” is *not* necessarily a serious offense. Rather, aggravated felony is a term of art that encompasses many offenses that are *not* considered to be aggravated, or even felonies, under California law. It includes theft, filing a fax return, and failing to appear in court. See American Immigration Council, *Aggravated Felonies: An Overview*, <https://www.americanimmigrationcouncil.org/research/aggravated-felonies-overview>.

<sup>16</sup> Dep’t of Justice, “Attorney General Jeff Sessions Delivers Remarks Announcing the Department of Justice’s Renewed Commitment to Criminal Immigration Enforcement,” Apr. 11, 2017, <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-announcing-department-justice-s-renewed>; Matt Zapotosky & Sari Horwitz, *Sessions Tells Prosecutors to Bring More Cases against those Entering U.S. Illegally*, WASH. Post, Apr. 11, 2017, [https://www.washingtonpost.com/world/national-security/sessions-tells-prosecutors-to-bring-more-cases-against-those-entering-us-illegally/2017/04/11/9fc6e964-1eb7-11e7-ad74-3a742a6e93a7\\_story.html?utm\\_term=.7f3105d5ad4b](https://www.washingtonpost.com/world/national-security/sessions-tells-prosecutors-to-bring-more-cases-against-those-entering-us-illegally/2017/04/11/9fc6e964-1eb7-11e7-ad74-3a742a6e93a7_story.html?utm_term=.7f3105d5ad4b) (“The Trump administration—and Sessions in particular—has taken a hard-line stance on immigration, alarming activists who say U.S. officials are testing legal boundaries and implementing policies contrary to American values”).

<sup>17</sup> See David Noriega, *Under Trump, Sanctuary Cities May Not Be So Safe*, BuzzFeed, Dec. 8, 2016, <https://www.buzzfeed.com/davidnoriega/the-lapd-says-it-wont-work-with-feds-on-deportations-but>

it?utm\_term=.vbrDoZMGXz#.jmy8JOKGkE (a purported human trafficking joint task force investigation resulted in multiple deportations but zero trafficking charges; and a long-time LA resident was placed in deportation proceedings for being near a burglary arrest in which LAPD brought ICE agents along).

<sup>18</sup> See, e.g., Robin Urevich, *Unsafe Sanctuaries? Undocumented Immigrants Often Swept Up in ICE's California Stings*, Newsweek, Apr. 26, 2017, <http://www.newsweek.com/sanctuary-city-undocumented-immigrants-swept-ice-california-sting-590547> (Santa Cruz Deputy Police Chief Dan Flippo contended that ICE agents violated a tacit agreement that they would not conduct immigration enforcement as part of joint task force operations); Hamed Aleaziz, 'Collateral' Immigration Arrests Threaten Key Crime Alliances, San Francisco Chronicle, Apr. 28, 2017, <http://www.sfchronicle.com/bayarea/article/Collateral-immigration-arrests-threaten-key-11106426.php> (noting that Santa Cruz Sheriff Jim Hart refused to participate in a joint task force operation purportedly targeting a gang when he did not get sufficient information to ensure that he would not be participating in immigration enforcement related arrests in violation of Sheriff's Department policy).

<sup>19</sup> See, e.g., Santa Ana, CA Ordinance No. NS-2908, Dec. 20, 2016, Sec. 6(b)) (prohibits "assisting with or participating in any immigration enforcement operation or joint operation or patrol that involves, in whole or in part, the enforcement of federal immigration laws"), at <http://voiceofoc.org/wp-content/uploads/2017/01/Santa-Ana-sanctuary-city-ordinance-adopted.pdf>. Ellen Nakashima, "San Francisco Police Department Pulls Out of FBI Anti-Terrorism Task Force, Washington Post, Mar. 10, 2017, at [https://www.washingtonpost.com/world/national-security/san-francisco-police-department-pulls-out-of-fbi-anti-terrorism-task-force/2017/03/10/62e05bcc-fd09-11e6-8f41-ca6ed597e4ca\\_story.html?utm\\_term=.be18f3d067ad](https://www.washingtonpost.com/world/national-security/san-francisco-police-department-pulls-out-of-fbi-anti-terrorism-task-force/2017/03/10/62e05bcc-fd09-11e6-8f41-ca6ed597e4ca_story.html?utm_term=.be18f3d067ad). Rebecca Parr, Oakland Police Will No Longer Participate in ICE-Led Task Forces, EAST BAY TIMES, Jul. 19, 2017, at <http://www.eastbaytimes.com/2017/07/19/oakland-cuts-ties-with-ice/>.

<sup>20</sup> Fair Punishment Project, *The Promise of Sanctuary Cities and the Need for Criminal Justice Reforms in an Era of Mass Deportation*, 17 (May 4, 2017), <http://fairpunishment.org/wp-content/uploads/2017/04/FPP-Sanctuary-Cities-Report-Final.pdf> ("Because cash bail keeps poor people in jails, it makes many non-citizens sitting ducks for ICE."). See generally ICE Out of LA, *The Human Rights Consequences of LASD-ICE Collaboration: A Toxic Entanglement* (January 2017), <http://iceoutofla.org/wp-content/uploads/2017/01/ICEoutofLA-UCLA-HR-Clinic-1-12-2017.pdf>.

<sup>21</sup> Donald Trump, Executive Order: Enhancing Public Safety in the Interior of the United States, Jan. 25, 2017, Sec. 5, at <https://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united>.

<sup>22</sup> Information on file with National Day Laborer Organizing Network. (Name changed to preserve anonymity.)

<sup>23</sup> Information on file with National Day Laborer Organizing Network. (Name changed to preserve anonymity.)

<sup>24</sup> *CJSC Statistics: Arrest Dispositions*, California Dep't of Justice (2017), <https://oag.ca.gov/crime/cjsc/stats/arrest-dispositions>. See, e.g., U. of California Berkeley, Policy Advocacy Clinic, *California's New Vagrancy Laws*, 34 (2015), [http://considerthehomeless.org/pdf/CA\\_New\\_Vagrancy\\_Laws.pdf](http://considerthehomeless.org/pdf/CA_New_Vagrancy_Laws.pdf) (counting 21 LA laws that essentially criminalize homelessness, such as laws against resting in public and panhandling); L.A. City Council, *Official LA City Municipal Code*, Chapter IV: Public Welfare,

[http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:losangeles\\_ca\\_mc](http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode?f=templates$fn=default.htm$3.0$vid=amlegal:losangeles_ca_mc) (including such misdemeanor offenses as cutting in line at the gas pump). See Emily Reyes, *L.A. city attorney doubles number of neighborhood prosecutors*, L.A. Times (June 2, 2014),

<http://www.latimes.com/local/lanow/la-me-ln-neighborhood-prosecutors-20140602-story.html>. Emily Reyes, *L.A. Prosecutor's Work Goes Beyond the Courtroom*, L.A. Times, June 21, 2014, <http://www.latimes.com/local/cityhall/la-me-neighborhood-prosecutor-20140622-story.html>.

<sup>25</sup> Sally Schilling, *Feds Say Courthouse ICE Arrests Necessary*, Capital Public Radio (Sacramento), Mar. 31, 2017, at <http://www.cpradio.org/articles/2017/03/31/feds-say-courthouse-ice-arrests-necessary/>.

<sup>26</sup> Letter from David LaBahn, et. al., to Donald J. Trump and Hillary R. Clinton, July 13, 2016, <http://lawenforcementleaders.org/wp-content/uploads/2016/07/Law-Enforcement-Letter.pdf>.

<sup>27</sup> Representatives of law enforcement officials, including the President of the Association of Prosecuting Attorneys and the President of the National District Attorneys Association, urged the then-leading Presidential candidates to allocate resources away from non-violent crimes, stating: "Too many resources go toward arresting, prosecuting and imprisoning low-level offenders, and those suffering from mental illness and drugs or alcohol addictions." Letter from David LaBahn, et. al., to Donald J. Trump and Hillary R. Clinton, July 13, 2016, <http://lawenforcementleaders.org/wp-content/uploads/2016/07/Law-Enforcement-Letter.pdf>.

<sup>28</sup> *Mayor de Blasio Signs the Criminal Justice Reform Act*, (June 13, 2016) <http://www1.nyc.gov/office-of-the-mayor/news/530-16/mayor-de-blasio-signs-criminal-justice-reform-act>; see also New York City Department of Investigation, Office of the Inspector General for the NYPD, *An Analysis of Quality of Life Summonses, Quality of Life Misdemeanor Arrests, and Felony Crime in New York City, 2010-2015*, (June 22, 2016)

<https://www1.nyc.gov/assets/oignypd/downloads/pdf/Quality-of-Life-Report-2010-2015.pdf> (finding that there was no clear and direct link between an increase in summons and misdemeanor arrest of quality of life offenses and a related drop in felony crimes).

<sup>29</sup> See generally Criminal Justice Policy Program, Harvard Law School, *Moving Beyond Money: A Primer on Bail Reform*, 6-8 (2016), <http://cjpp.law.harvard.edu/assets/FINAL-Primer-on-Bail-Reform.pdf>.

<sup>30</sup> Fair Punishment Project, *The Promise of Sanctuary Cities and the Need for Criminal Justice Reforms in an Era of Mass Deportation*, 17 (May 4, 2017), <http://fairpunishment.org/wp-content/uploads/2017/04/FPP-Sanctuary-Cities-Report-Final.pdf> (“Because cash bail keeps poor people in jails, it makes many non-citizens sitting ducks for ICE.”). See generally ICE Out of LA, *The Human Rights Consequences of LASD-ICE Collaboration: A Toxic Entanglement* (January 2017), <http://iceoutofla.org/wp-content/uploads/2017/01/ICEoutofLA-UCLA-HR-Clinic-1-12-2017.pdf>.

<sup>31</sup> Law Enforcement Leaders, *Fighting Crime and Strengthening Criminal Justice: An Agenda for the New Administration*, www.lawenforcementleaders.org 1 (2017), [http://lawenforcementleaders.org/wp-content/uploads/2017/02/LEL\\_Agenda\\_for\\_a\\_New\\_Administration.pdf](http://lawenforcementleaders.org/wp-content/uploads/2017/02/LEL_Agenda_for_a_New_Administration.pdf). New York City has led the charge—passing municipal legislation in June 2016 which requires officers to “employ the civil summons as the default approach” for a variety of minor misdemeanors, such as “spitting, littering, public urination, open container of alcohol, excessive noise and violations of park rules.” See J. David Goodman & Benjamin Mueller, *New York City Police Officers Told to Relax Stance on Petty Offenses*, N.Y. Times (June 13, 2017), <https://www.nytimes.com/2017/06/13/nyregion/new-york-city-police-officers-told-to-relax-stance-on-petty-offenses.html>.

On the other extreme, at the height of Los Angeles’ Safer Cities Initiative in Los Angeles in 2011, a survey of poor and homeless residents of Los Angeles found 53.6% of respondents (both homeless and housed) had been arrested in the past year. (This compares to an adult arrest rate in the State of California of 4.9%.) Data from the Los Angeles Homeless Services Authority’s 2009 Homeless Count that shows that the most prevalent form of victimization reported was police harassment (37%), exceeding assault (24%) and robbery (18%). Academics described that the Skid Row area of Downtown Los Angeles experienced “perhaps the highest sustained concentration of police officers anywhere in the world outside of Baghdad.” Gary Blasi & Forrest Stewart, *Has the Safer Cities Initiative in Skid Row Reduced Serious Crime?*, UCLA Sch. of Law 1 (Sept. 2009), [wraphome.org/wraparchives/downloads/safer\\_cities.pdf](http://wraphome.org/wraparchives/downloads/safer_cities.pdf). In 2016, LAPD conducted almost as many pedestrian and vehicular stops as New York at the height of stop and frisk.<sup>31</sup> NYPD conducted 685,724 pedestrian and vehicular stops in 2011, the highest number during the period of stop and frisk. *Stop and Frisk Data*, NY Civ. Liberties Union (May 23, 2017), <https://www.nyclu.org/en/stop-and-frisk-data>. LAPD conducted 627,565 pedestrian and vehicular stops in 2016. LAPD *Vehicle and Pedestrian Stops 2010 – Present*, Police Data Initiative, <https://data.lacity.org/A-Safe-City/LAPD-Vehicle-and-Pedestrian-Stops-2010-Present/ci25-wgt7/data>, (last visited July 7, 2017). These numbers are particularly striking given the relevant population sizes (New York 8.5 mil; Los Angeles 4 mil.).

<sup>32</sup> *LAPD Dept. Manual*, 1/512, ALTERNATIVES TO PHYSICAL ARREST, BOOKING, OR CONTINUED DETENTION, 4 § 216.66-67.

<sup>33</sup> California Penal Code § 853.6. Note that the Fontana Police Department not only authorizes but *requires* citation and release for almost *all* misdemeanor offenses, with a limited number of exceptions, and enables citation release for a number of felonies as well. Fontana Police Department, Policy Manual, § 420, 311 (December 16, 2014).

<sup>34</sup> The Fontana Police Department allows for citation in lieu of arrest for “most misdemeanor cases” involving adults, where no “disqualifying circumstances are present.”<sup>34</sup> Notably, however, this policy also allows for citation and release with regard to certain non-violent “wobblers,” or offenses that could be characterized as either misdemeanors or felonies. The listed wobblers include “property crimes...where the value of the property is less than \$2500,” “weapons violations,” and violations of H&S Code § 11377 (possession of Schedule III, IV, or V controlled substance without a prescription).

<sup>35</sup> See, e.g., Bob Egelko, *State to Intervene in a Case Against Bail System After SF Declines*, SF Gate, November 29, 2016, <http://www.sfgate.com/bayarea/article/State-to-defend-suit-against-bail-system-after-10640767.php> (S.F. City Attorney Dennis Herrera refused to defend the money bail system).

<sup>36</sup> Cal. Penal Code §§ 1270, 1318. In determining whether detainees should be released on their own recognizance, the court evaluates a detainee’s ties to the community, ability to post bond, and threat to public safety.

<sup>37</sup> These include the Prostitution Diversion Program, the Alternative Prosecution Program, and the Homeless Alternative to Living On the Streets Project (HALO). LA City Attorney, *Community Justice Initiative*, <http://www.lacityattorney.org/community-justice>; Kraut Law Group, *Alternative Prosecution Program*, <https://www.losangelescriminallawyer.pro/alternative-prosecution-program.html>; Law Office of the Los Angeles County Public Defender, *Homeless Alternative to Living on the Street (HALO)*, [http://pd.co.la.ca.us/Rest\\_Halo.html](http://pd.co.la.ca.us/Rest_Halo.html).

<sup>38</sup> See, e.g., Giana Magnoli, *County Supervisors Approve Misdemeanor Diversion Program*, Noozhawk, October 17, 2012, [https://www.noozhawk.com/article/101612\\_county\\_approves\\_misdemeanor\\_diversion\\_program](https://www.noozhawk.com/article/101612_county_approves_misdemeanor_diversion_program).

<sup>39</sup> The Immigration and Nationality Act will treat as evidence of criminal conduct whenever a non-citizen has “admitted sufficient facts to warrant a finding of guilt.” See 8 U.S.C. §1101(a)(48)(A); see generally Sara Elizabeth Dill, *Unbalanced Scales of Justice: How ICE Is Preventing Noncitizens from Having Equal Access to Diversion Programs and Therapeutic Courts*, 50 Fam. Ct. Rev. 629, 632 (2012).

<sup>40</sup> Law Enforcement Assisted Diversion (LEAD), “Evaluation”, at <http://leadkingcounty.org/lead-evaluation/>.

<sup>41</sup> Office of the President, *Empowering Local Partners to Prevent Violent Extremism in the United States*, Aug. 2011. [www.whitehouse.gov/sites/default/files/empowering\\_local\\_partners.pdf](http://www.whitehouse.gov/sites/default/files/empowering_local_partners.pdf) (“Communities – especially Muslim American communities whose children, families and neighbors are being targeted for recruitment by al-Qa’ida – are often best positioned to take the lead because they know their communities best.”).

<sup>42</sup> 2017 Government Accountability Office (“GAO Report”) at 4-5. <https://www.gao.gov/assets/690/683984.pdf> (“Of the 85 violent extremist incidents that resulted in death since September 12, 2001, far right wing violent extremist groups were responsible for 62 (73 percent) while radical Islamist violent extremists were responsible for 23 (27 percent).”)

<sup>43</sup> “Countering Violent Extremism.” *Countering Violent Extremism | Homeland Security*. January 19, 2017. <https://www.dhs.gov/countering-violent-extremism>.

<sup>44</sup> See Los Angeles Framework for Countering Violent Extremism: <https://www.dhs.gov/sites/default/files/publications/Los%20Angeles%20Framework%20for%20CVE-Full%20Report.pdf>.

<sup>45</sup> Patel, Faiza, and Meghan Koushik. “Countering Violent Extremism.” Brennan Center for Justice. [https://www.brennancenter.org/sites/default/files/publications/Brennan%20Center%20CVE%20Report\\_0.pdf](https://www.brennancenter.org/sites/default/files/publications/Brennan%20Center%20CVE%20Report_0.pdf) (“Brennan Center Report”).

<sup>46</sup> <http://www.cnn.com/2017/07/01/politics/cve-funding-changes/index.html>

<sup>47</sup> See California’s Due Process Crisis: Access to Legal Counsel for Detained Immigrants, available at <http://www.publiccounsel.org/tools/assets/files/0783.pdf>.

<sup>48</sup> For one recent tragic example, see Kyle Swenson, “He Said Deportation Would Kill Him. His Body Was Found in Mexico This Week,” *The Washington Post*, Sept. 21, 2017, available at [https://www.washingtonpost.com/news/morning-mix/wp/2017/09/21/he-said-deportation-would-kill-him-his-body-was-found-in-mexico-this-week/?utm\\_term=.8ebc2ce7b634](https://www.washingtonpost.com/news/morning-mix/wp/2017/09/21/he-said-deportation-would-kill-him-his-body-was-found-in-mexico-this-week/?utm_term=.8ebc2ce7b634). Many people in removal (the technical term for deportation) proceedings have protection-based claims; and any person can qualify for protection under the Convention Against Torture if she can meet the burden of proof of showing that it is likelier than not that she will be tortured. See *Nuru v. Gonzales*, 404 F.3d 1207, 1221 (9th Cir. 2005).

<sup>49</sup> *Ng Fung Ho v. White*, 259 U.S. 279, 284 (1922).

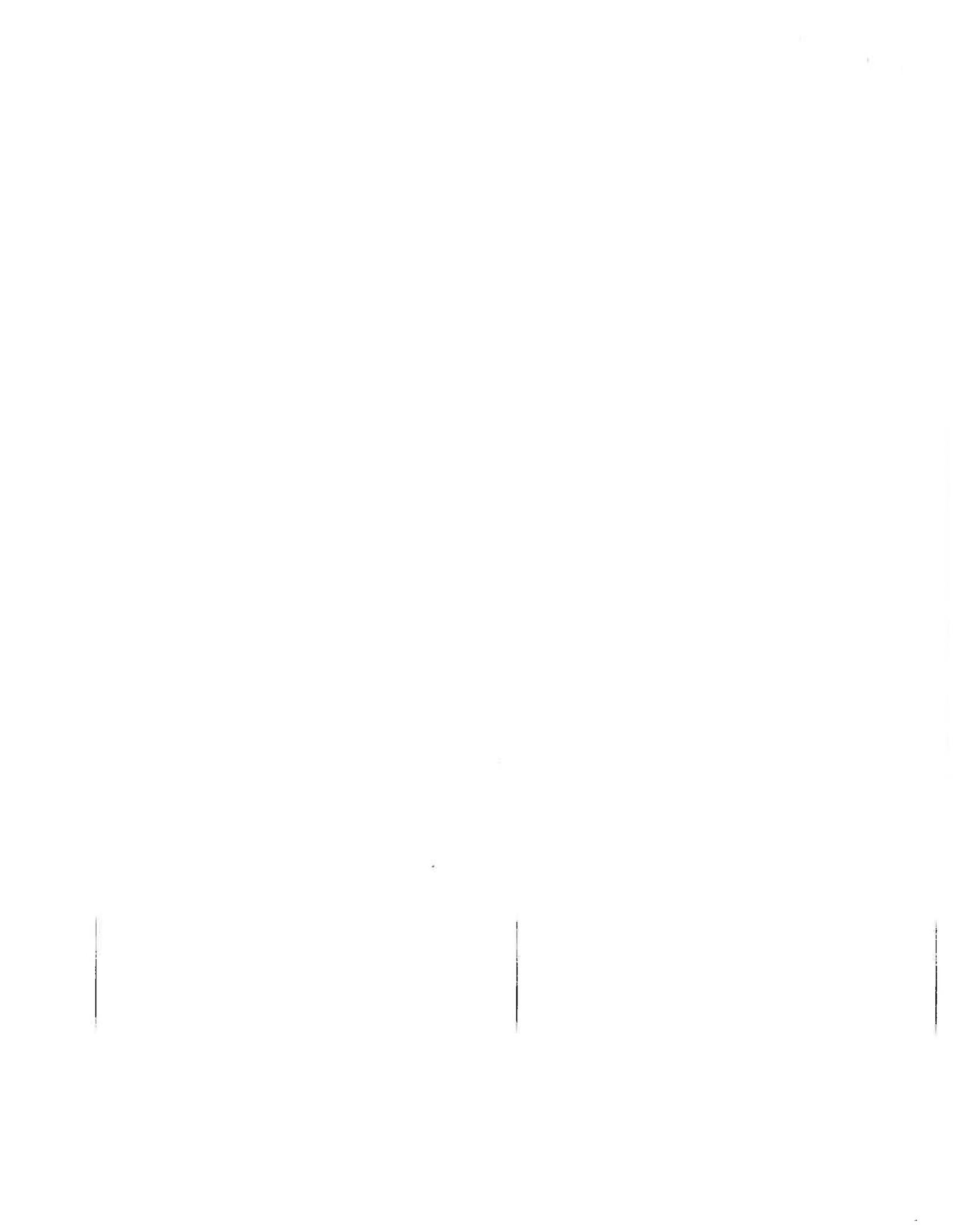
<sup>50</sup> See California’s Due Process Crisis

<sup>51</sup> Attorneys from Public Counsel and Esperanza Immigrants Rights Project conduct Legal Orientation Programs at area detention facilities. While systematic data is not available, these attorneys regularly see individuals with a potentially meritorious claim for relief from deportation; indeed, the person who has no potential avenue to avoid deportation is the exception and not the rule.

<sup>52</sup> See 8 U.S.C. § 1226(c)(1)(A) and (B).

<sup>53</sup> See, *Preap v. Johnson*, 831 F.3d 1193 (9th Cir. 2016). The government has filed a petition for a writ of certiorari to the Supreme Court.

<sup>54</sup> See *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006).



Date: 12/07/2017

Submitted in: IACRE Committee

Council File No: 17-1040

Item No: 4  
Comment: Comm. from Public

**Persons with subject**

NAME (LAST FIRST)	DOB	SEX	GANG MONIKER
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NAME (LAST FIRST)	DOB	SEX	GANG MONIKER
-------------------	-----	-----	--------------

SUBJECT'S BIRTHPLACE	CITY	COUNTY	STATE	COUNTRY
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ADDITIONAL INFO (ADDITIONAL PERSONS, BOOKING NO., NARRATIVE, E-MAIL, SOCIAL MEDIA ACCOUNTS, (E.G., TWITTER, INSTAGRAM, FACEBOOK), ETC.)

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DATE	TIME	LOCATION	RD
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OFFICER	SERIAL NO.	OFFICER	SERIAL NO.
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FIELD INTERVIEW 15.43.00 (09/15)	INCIDENT NO.	DIVISION	DETAIL	SUPV. INTS
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OP. LIC. NO. <b>O</b>		STATE <b>F</b>	NAME (LAST, FIRST, MIDDLE) <b>N</b>			SUFFIX (JR., ETC.) <b>J</b>		
RESIDENCE ADDRESS <b>A</b>			CITY <b>C</b>	STATE	SEX <b>S</b>	DESCENT <b>D</b>	HAIR <b>H</b>	EYES <b>E</b>
HEIGHT <b>T</b>	WEIGHT <b>W</b>	BIRTHDATE <b>B</b>		CLOTHING				
PERSONAL OCCURRENCES							PHONE NO.	
BUSINESS ADDRESS/SCHOOL/UNION AFFIL.							SOC. SECURITY <b>Z</b>	
WORKER/ALIAS				GANG/CLUB				
<input type="checkbox"/> SUSP <input type="checkbox"/> INFO		<input type="checkbox"/> 1 LOUFGER <input type="checkbox"/> 2 PROWLER	<input type="checkbox"/> 3 SOLICITOR <input type="checkbox"/> 4 WITNESS	<input type="checkbox"/> 5 GANG ACTIVITY <input type="checkbox"/> 6 HAS RECORD	<input type="checkbox"/> 7 ON PAROLE <input type="checkbox"/> 8 ON PROBATION	<input type="checkbox"/> DRIVER <input type="checkbox"/> PASSENGER		
<b>V</b>	YEAR	MAKE	MODEL	TYPE	COLOR	VEH. LIC. NO.	TYPE	STATE
<b>E</b>	INT. COLOR	<input type="checkbox"/> 1 BUCKET SEAT <input type="checkbox"/> 2 DAMAGED INSIDE	<input type="checkbox"/> 3 <input type="checkbox"/> 4	<input type="checkbox"/> 1 CUST. WHEELS <input type="checkbox"/> 2 PAINTED MURAL	<input type="checkbox"/> 3 LEVEL ALTER <input type="checkbox"/> 4 RUST/PRIMER	<input type="checkbox"/> 5 CUST. PAINT <input type="checkbox"/> 6 VINYL TOP		
<b>H</b>	BODY	<input type="checkbox"/> 1 DAMAGE <input type="checkbox"/> 2 MODIFIED	<input type="checkbox"/> 3 STICKER <input type="checkbox"/> 4 LEFT <input type="checkbox"/> 5 RIGHT	<input type="checkbox"/> 6 FRONT <input type="checkbox"/> 7 REAR	<input type="checkbox"/> WIN-DOWS	<input type="checkbox"/> 1 DAMAGE <input type="checkbox"/> 2 CUST. TINT	<input type="checkbox"/> 3 CURTAINS <input type="checkbox"/> 4 LEFT <input type="checkbox"/> 5 RIGHT	<input type="checkbox"/> 6 FRONT <input type="checkbox"/> 7 REAR

# LOS ANGELES POLICE DEPARTMENT



**CHARLIE BECK**  
Chief of Police

**Eric Garcetti**  
Mayor

P. O. Box 30158  
Los Angeles, Calif. 90030  
Telephone: (213) 486-0150  
TDD: (877) 275-5273  
Ref #: 4.1

November 27, 2017

CF No. 16-002831

Ms. Xochitl Hernandez  
National Day Laborer Organizing Network  
c/o Ms. Emi MacLean  
674 South Lafayette Park Avenue  
Los Angeles, California 90057

Date: 12/07/2017  
Submitted in IACRE Committee  
Council File No: 17-1040  
Item No. 4  
~~Comm.~~ Comm. from Public

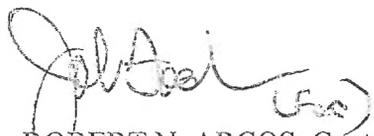
Dear Ms. Hernandez:

An investigation into your complaint that was reported on October 19, 2016, regarding the conduct of employees of the Los Angeles Police Department, has been completed. The investigation has gone through several levels of review, including myself and the command staff of Internal Affairs Group. Your allegations that an employee falsely arrested you because of your race and failed to utilize a Spanish speaker have been classified as *Unfounded*, which means that based upon the preponderance of evidence standard, the investigation determined that the acts alleged did not occur in the manner you described. Your allegation that an employee laughed at you has been classified as *Insufficient Evidence to Adjudicate*, which means there was insufficient information available to adequately or thoroughly investigate, or adjudicate the allegation made. Your allegation that Immigration and Customs Enforcement officers were inappropriately utilized during an investigation has been classified as *Exonerated*, which means the investigation determined that the act occurred, but was justified, lawful, and proper. Your allegation that employees transported you to the station has been classified as *Non-Disciplinary - No Misconduct*, which means that the act alleged did not rise to the level of misconduct and the named employees' actions were protected by law or found to be consistent with Department policy or procedure. Your allegations that employees made inaccurate statements during your immigration hearing and failed to properly scrutinize a detention have been classified as *Non-Disciplinary-Employee's Actions Could Have Been Different*, which means that the facts revealed by the investigation determined that the employees' actions could have been different, and will be addressed by the concerned commanding officer through corrective action. Your allegation that an employee placed handcuffs too tightly has been classified as *Not Resolved*, which means the investigation did not disclose sufficient evidence to prove or disprove the allegation made.

Thank you for bringing these matters to our attention. It is the goal of the Los Angeles Police Department to provide the highest level of quality service to every member of the community. Any questions regarding these matters may be referred to Lieutenant II McNeil Gardner, Operations Central Bureau Adjutant, at (213) 486-3735.

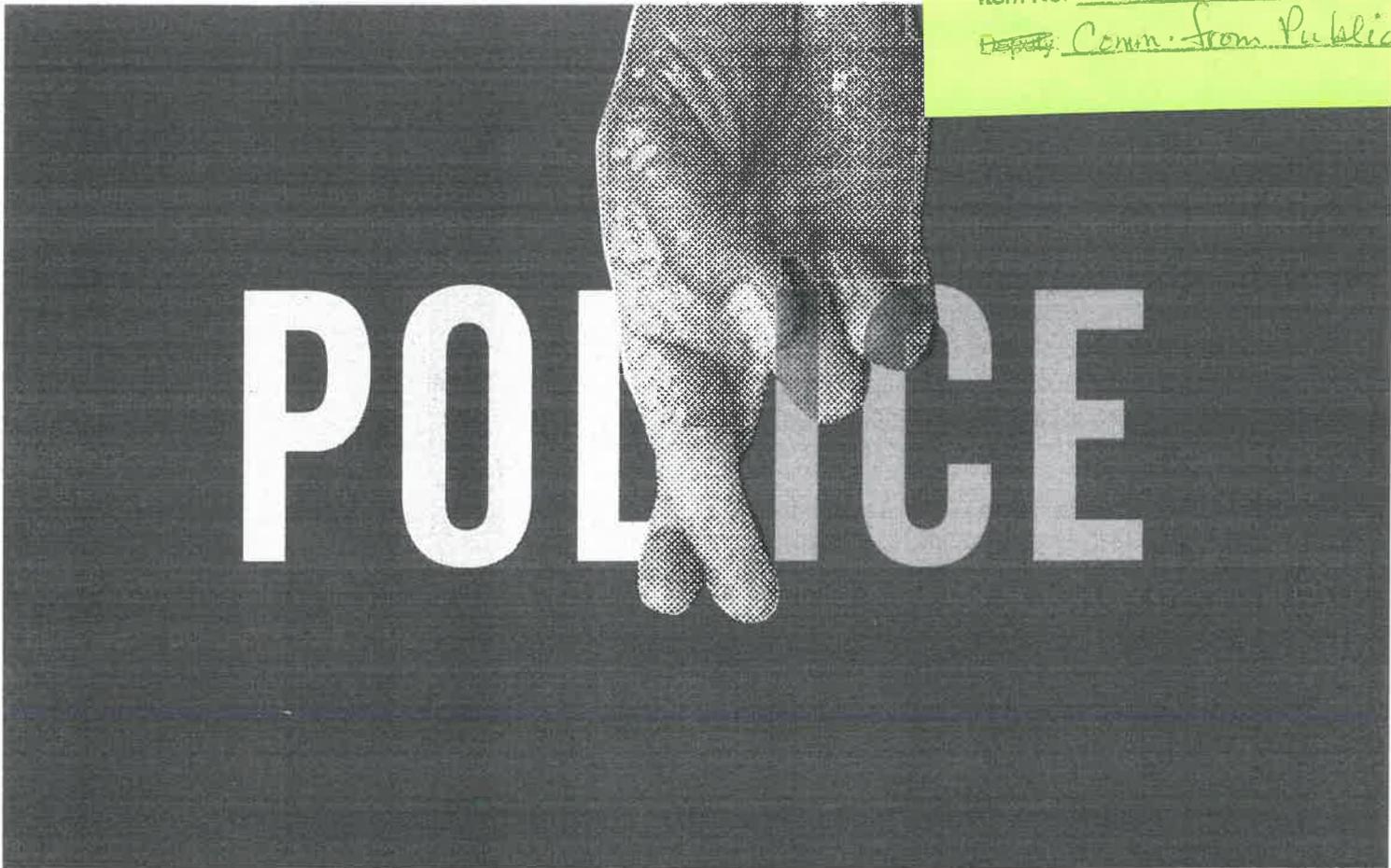
Very truly yours,

CHARLIE BECK  
Chief of Police

A handwritten signature in black ink, appearing to read "R. Arcos", with a stylized flourish at the end.

ROBERT N. ARCOS, Captain  
Commanding Officer  
Operations-Central Bureau

Date: 12/07/2017  
Submitted in IACRE Committee  
Council File No. 17-1040  
Item No. 4  
~~Report~~: Comm. from Public



BuzzFeed News: Getty

## Under Trump, Sanctuary Cities May Not Be So Safe

A BuzzFeed News investigation shows that the LAPD violated its own rule against cooperating with immigration agents, a scenario that may become more frequent if Trump targets undocumented immigrants.

Posted on December 8, 2016, at 7:21 a.m.



David Noriega  
BuzzFeed News Reporter

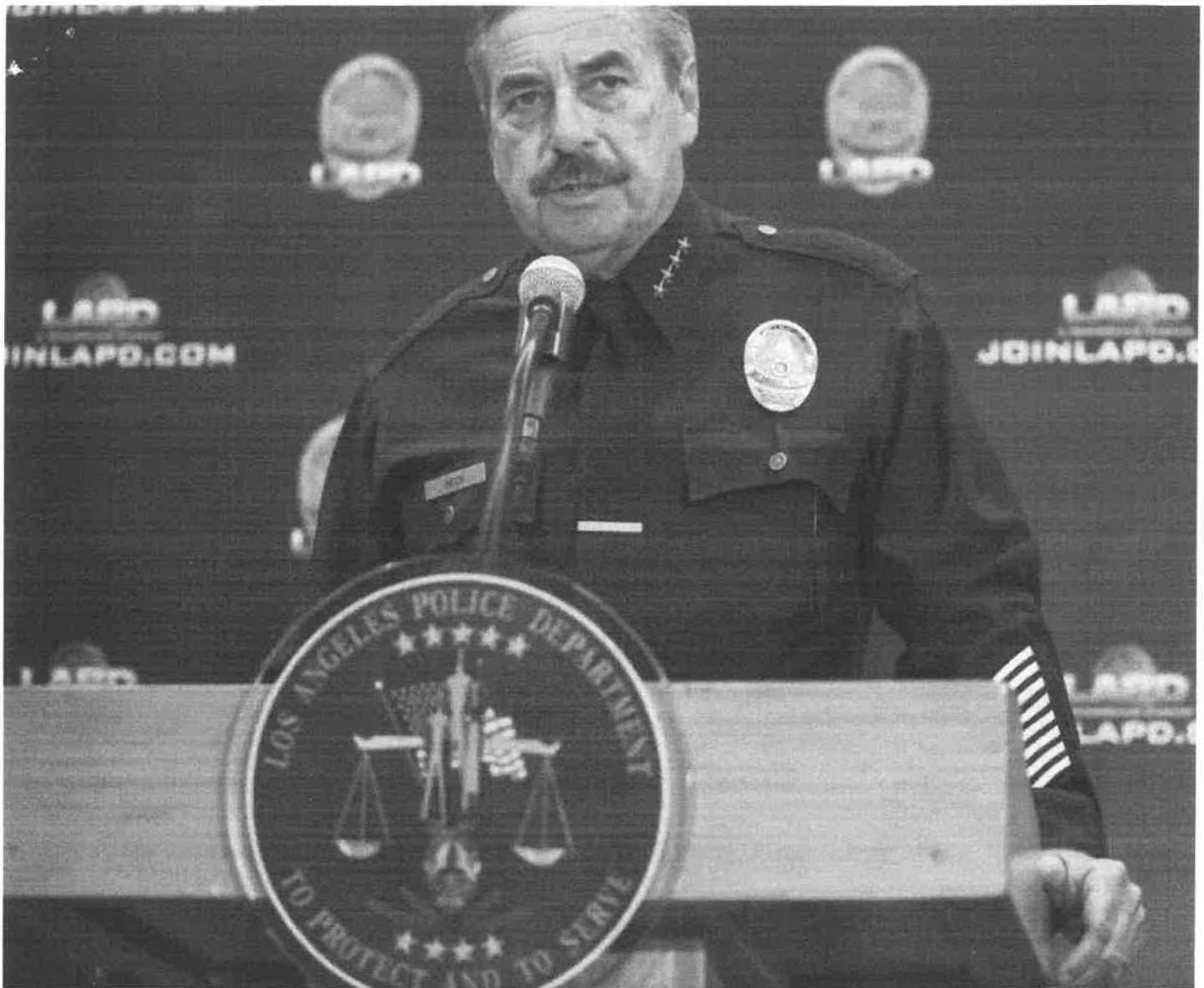
**After Donald J. Trump** won the presidential election, the Los Angeles Police Department announced that it would not assist the new administration with its plans for mass deportations.

“We are not going to work in conjunction with Homeland Security on deportation efforts,” LAPD Chief Charlie Beck said on Nov. 15. “That is not our job, nor will I make it our job.”

Officials in New York, Chicago, and other major cities followed suit, creating the impression that self-proclaimed sanctuary cities would be the first line of defense for undocumented immigrants in the face of a Trump crackdown. In Los Angeles, Chief Beck appealed to a long-standing city policy known as Special Order 40, which prohibits police from approaching people with the sole purpose of determining their immigration status. “I don’t intend on doing anything different,” Beck said.







Chief Charlie Beck speaks during a press conference in Los Angeles on Oct. 3.  
*Marcus Yam / Getty Images*

But there is a large loophole in the LAPD's stated policy of non-cooperation with federal immigration authorities: extensive operations carried out jointly by the LAPD and Immigration and Customs Enforcement, typically focused on transnational gangs. The justification for these operations is that they target criminal activity rather than immigration status, which is a civil matter. However, a BuzzFeed News investigation found that in two operations conducted jointly by LAPD and ICE in the past year, at least nine undocumented immigrants — who were not charged with, convicted of, or suspected of committing any crimes — were arrested by LAPD officers and immediately transferred to the custody of ICE, which began deportation proceedings against them. The incidents occurred within the framework of routine LAPD-ICE cooperation under patchy oversight from the police department, leading advocates to believe they were not isolated or anomalous.

Legal experts and immigrant rights advocates told BuzzFeed News that these arrests were likely in contravention of Special Order 40 — in some cases appearing to violate the rule outright, and in all cases violating, at minimum, the spirit of the policy. Special Order 40, which dates to 1979, was designed to instill trust between immigrant communities and law enforcement in order to encourage undocumented people and their families to cooperate with police investigations. But joint LAPD-ICE operations involve police officers and federal agents acting in concert, thus eliminating the distinction between the two in the eyes of the immigrants who face deportation as a result.

For several years, ICE has used extensive gang databases collected by local law enforcement to target people for deportation. [As](#)

# Santa Ana Sanctuary Ordinance

Passed January 17, 2017

*No entity or personnel shall use City funds, resources, facilities, property, equipment, or personnel to assist in the enforcement of federal immigration law unless such assistance is required by any valid enforceable federal or state law or is contractually obligated. Nothing in this Section shall prevent City personnel from lawfully discharging his or her duties in compliance with and in response to a lawfully issued judicial warrant or subpoena.*

Date: 12/07/2017  
Submitted in IACRE Committee  
Council File No. 17-1198  
Item No. 6  
Deputy: Comm. from Public

Date: 12/07/2017

Submitted in IACRE Committee

Council File No: 17-1040

Item No. 4

Deputy: Comm. from Public

December 6<sup>th</sup>, 2017

To the esteemed members of the Los Angeles City Council,

I cannot be physical present here today because I am taking a final as you all meet. But I want to make sure my voice is included in this conversation. It directly concerns me, my family, and our community.

My name is Claudia Rueda. I am a California State University – Los Angeles student, a resident of Boyle Heights, and a graduate of Roosevelt High School. This spring, my mother and I were unjustly arrested by Border Patrol in our neighborhood in Boyle Heights and placed in deportation proceedings after a joint taskforce raid between Border Patrol and the Sheriffs Department targeted others in my neighborhood. My mom was arrested in our own house. After helping to free my mom, I was arrested one morning as I was moving my car to observe the city's street sweeping schedule.

I want to thank the city council members who wrote letters of support on my behalf. Your support was integral in securing my release from immigration jail earlier this year. I also want to thank the Board of Supervisors for recognizing my work to free my mom when they gave me the Yvonne B. Burke Courage Award earlier this year. Now I ask that you further honor my courage and strength by taking action to sever the cooperation between ICE and the LAPD so no one else has to go through what I have been through. The joint raid between the Sheriffs Department and Customs and Border Protection is hard evidence of the overreach and out of control tactics of the Department of Homeland Security. My mom was targeted as a collateral arrest during the joint taskforce raid. I was targeted weeks later because of my activism to release my mom. Border Patrol tried to criminalize me and my mom, but my community knew better. Neither of us had anything to do with the primary purpose of the joint taskforce raid.

Sadly, retaliatory and indiscriminate collateral arrests are now the norm of ICE and CBP's tactics. These are not normal government agencies and can no longer be trusted. They are functioning as a machine to suppress political activism, criminalize people like me, and terrorize poor and working-class immigrant communities. We cannot normalize this kind of terror in our city.

My experiences fighting to free my mom, being detained at an immigration prison only miles from the US-Mexico border, and now having to worry about whether my mom and I am going to be deported, are precisely why the city of Los Angeles must take strong actions to sever all ties and cooperation with ICE and CBP. What I ask now of you, the city council, is to ensure that what happens to me does not happen to anyone in LA ever again. The only way to do this is to pass strong policies that end all forms of collaboration between the city of LA, the LAPD, and ICE and CBP.

Thank you very much for your time.

Sincerely,

Claudia Rueda

## DEFENDING IMMIGRANT RESIDENTS OF LOS ANGELES

### Report to the Los Angeles City Council from Community, Civil and Immigrant Rights Organizations, Faith and Labor Groups

Los Angeles is home to one of the largest populations of immigrants in the country. The Trump Administration—an open defender of white supremacy that has not masked its intolerance of immigrants, refugees, Muslims, and other people of color—poses a grave threat for the City of Los Angeles. In the more than eight months since Trump took office, his administration has unleashed relentless attacks on the most vulnerable communities, and confirmed that his Administration will rely increasingly on local law enforcement to increase the capacity of federal immigration authorities. Immigration enforcement has escalated and ICE and CBP have undertaken unprecedented actions.

This report draws upon the depth and breadth of experience of a diverse coalition of immigrant and civil rights organizations, community and faith groups and leaders, and labor organizations, working with and for immigrant communities. The report seeks to inform the City Council as it considers how best to act to defend and protect the City's residents from the attacks of federal authorities.<sup>1</sup>

The undersigned Coalition of community, civil rights, immigrant rights, faith, and labor organizations support the effort by the LA City Council to defend immigrants by limiting immigration enforcement and disentangling local resources from deportation efforts; increasing protections for immigrants and religious minorities; and enacting important criminal justice reforms in recognition of the links between criminal justice and immigration enforcement. We offer recommendations to complement those of the September 7 report of the City Council's Immigrant Advocate. These are consistent with Executive Directive 20 and the declaration of Los Angeles as a City of Sanctuary—and they could not be more urgent.

This report is divided into six sections, covering the most important issue areas that we believe the City Council must address to protect the City's immigrant residents and religious minorities. It makes the following recommendations.

#### KEY RECOMMENDATIONS

1. The City Council should **enact a strong sanctuary ordinance**, which protects sensitive information of City residents; and prevents the City's participation in immigration enforcement to both protect the City's non-citizen residents and prevent City personnel from being part of deportations.
  - a. City personnel should not collect information related to immigration status, national origin, and place of birth except where required by law.
  - b. The City should not share sensitive information about individuals, including information in databases, for use in immigration enforcement, except where required by law.
  - c. The City should prohibit ICE from accessing non-public City facilities absent a court order.

Date: 12/07/2017

Submitted in IACRE Committee

Council File No: 17-1040 1

Item No. 4

Report: Comm from Public

- d. The City should prohibit local law enforcement from voluntarily participating in immigration enforcement.
  - e. The City should require documentation and public accountability in connection with federal immigration enforcement in Los Angeles.
2. The City Council should **enact urgent criminal justice reforms** to protect public safety, enhance public trust, and effectively and efficiently use scarce law enforcement resources.
    - a. The City should decriminalize certain quality of life and other minor offenses, including vending in parks and “peddling.”
    - b. The City Council should prohibit booking for any offenses that may be filed as either an infraction or as a misdemeanor offense. These so-called “woblettes” should always be charged as infractions.
    - c. The City should prohibit booking or fingerprinting for any person who may be cited in lieu of arrest.
    - d. The City Council should prohibit booking or fingerprinting for misdemeanors pursuant to the provisions of Cal. Pen. Code Section 853.6.
    - e. The City Council should permit personnel to have a reasonable opportunity to verify their true identity (e.g., telephone calls; student, consular or alternative forms of identification) in lieu of arrest or booking where they would be released on a citation.
    - f. The City Council should adopt a policy of own recognizance release for all misdemeanor and non-serious felony arrestees immediately following booking for those booked.
    - g. The City should expand pre-charge and pre-plea diversion and treatment programs.
  3. Los Angeles should **reject funding based on anti-Muslim animus, including funds from the Countering Violent Extremism (CVE) Program**, which facilitates the targeting and criminalization of religious minorities.
  4. Los Angeles should **ensure parity for renters of mixed immigration status** who receive or should receive housing assistance.
  5. Los Angeles should **continue—and expand—support of the L.A. Justice Fund**, which should be used to provide both bond and removal defense services, with a particular focus on detained immigrants.
  6. Los Angeles should **ensure that any anti-discrimination ordinance include protections based on gender identity, gender expression, and HIV/AIDS status.**

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## **I. A STRONG AND BINDING SANCTUARY ORDINANCE LIMITING LOS ANGELES' PARTICIPATION IN IMMIGRATION ENFORCEMENT**

Nearly 40% of Los Angeles County's residents—over 3.5 million people—were born outside the United States. Shifts in federal immigration enforcement priorities have rationally put these communities on edge. An April 2017 survey by the Luskin School of Public Affairs at UCLA found that 37% of Latino residents surveyed said they are afraid “that a friend or family member could face deportation at any moment,” and 80% said that contact with any government agency or program increases that risk.<sup>2</sup> A 2013 study found that more than 40% of Latinos surveyed in Los Angeles reported they were “less likely to volunteer information about crimes because they fear getting caught in the web of immigration enforcement themselves or bringing unwanted attention to their family or friends”—regardless of their immigration status.<sup>3</sup>

One important way that Los Angeles should step forward urgently to protect immigrants is with an ordinance that would make it clear that city officials, and, critically, law enforcement, will not collaborate with ICE. A strict prohibition of this kind will protect the City's residents, limit their risk of deportation; and assure City employees that they are not knowingly or inadvertently participating in immigration enforcement. Such an ordinance would assure our community that our local government will not assist with detentions and deportations, enhancing willingness to engage with local government services and participation in civic life.

Mayor Garcetti and LAPD Police Chief Charlie Beck already took an important step forward in establishing such a policy on March 21, 2017 when they announced Executive Directive 20, “Standing with Immigrants: A City of Safety, Refuge and Opportunity for All.” Executive Directive 20 committed that the “City will not assist or cooperate with any effort by federal immigration agents to use public facilities or resources for the purposes of enforcing federal civil immigration law.”<sup>4</sup>

The City Council should now ensure that the guidance and spirit of Executive Directive 20 are guaranteed through binding City policy in an ordinance. An ordinance should prohibit the unnecessary collection of sensitive information and its disclosure for the purposes of civil immigration enforcement; prohibit immigration agents from accessing non-public City facilities or interrogating individuals in City custody without a warrant or court order; and ensure that local resources are not used directly or indirectly for immigration enforcement.

### **a. City personnel should not collect information related to immigration or citizenship status, national origin, and place of birth except where required by law.**

Information regarding a person's immigration status or national origin can be used for immigration enforcement. Information regarding a person's country of origin is also sensitive information which can be used as a proxy for immigration status.<sup>5</sup> Access to this information can lead to targeting by federal immigration authorities; and can be associated with discriminatory police action.

ICE has access to federal law enforcement databases and receives the fingerprints of arrested individuals *automatically* when police run them through FBI databases. Thus, where

local police ask about place of birth or nationality and, by booking an individual, automatically transmit this information to the federal databases, non-citizen residents are placed at risk of severe immigration consequences following even the most minor of encounters with the law. At a minimum, such information provides a basis for ICE to follow up and conduct further investigations.

In addition to the risk of immigration enforcement, asking a person's immigration status, nationality or birthplace risks making the questioned individual feel that she is being profiled on the basis of race, ethnicity or immigration status, whether or not that is the case. The subjective experience of being profiled undermines community trust.<sup>6</sup> Thus, even when done with benign intentions, the practice harms community-police relations. Permitting such questions as a matter of course also risks discriminatory treatment.<sup>7</sup>

Avoiding the risk or appearance of discriminatory government policy and policing, and of collaboration with ICE, is particularly important at this moment, where many Los Angeles residents already live in fear of law enforcement authorities. In order to cultivate trust with Los Angeles communities, no City personnel should ask questions about a person's immigration status, place of birth or nationality unless required by law.

**b. City personnel should not share sensitive information about individuals, including information in databases, for use in federal immigration enforcement, except where required by law.**

All personal identifying information should be protected from disclosure except where "required by law" or as necessary to administer a requested service. There should be no other exception. Specifically, the City Council should also guarantee that no City personnel provide non-publicly available personal information about an individual for the purposes of immigration enforcement.

There is confusion about what states and localities are and are not allowed to do when it comes to communicating with federal immigration authorities, but federal law makes it very clear. City personnel are under *no* legal obligation to communicate with ICE. The relevant law – 8 U.S.C. § 1373 – states that "a Federal, State, or local government entity or official *may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service [which is now ICE, USCIS, or CBP] information regarding the citizenship or immigration status, lawful or unlawful, of any individual."* 8 U.S.C. § 1373 *only* concerns information regarding immigration and citizenship status; it does not concern communication of any other type of information. Further, 8 U.S.C. § 1373 does *not* require the Department to collect information about immigration status, nor does it affirmatively require the Department to release an individual's immigration status. This is a *negative obligation* in the sense that state and local entities must simply *refrain* from *restricting* its composite state actors from exchanging information with ICE and other immigration authorities. There is no *positive obligation*—state and local entities are not obliged to act affirmatively to cooperate with ICE and other immigration authorities.<sup>8</sup>

The California Values Act (SB 54) also makes clear that state and local law enforcement

authorities should limit the disclosure of information to ICE for immigration enforcement—and explicitly prohibits the disclosure of certain information to ICE.<sup>9</sup> Further, the California Public Records Act expressly exempts federal agencies from its disclosure requirements: ICE does not have a right to obtain records through this state law. *See* Cal. Gov. Code § 6252(g).<sup>10</sup>

**c. The City should prohibit ICE from accessing non-public City facilities absent a warrant or court order.**

Executive Directive 20 unambiguously prevents City employees from providing ICE access to non-public areas absent a court order—without exception.<sup>11</sup> A City ordinance should do the same. Nothing in federal or state law requires local authorities to permit ICE to enter its non-public facilities. This includes access by ICE to interrogate those in the City’s custody. Jurisdictions across the country have passed measures to prevent ICE from entering jails without a valid judicial warrant.<sup>12</sup> The presence of ICE agents in City facilities undermines the safety of Angelenos as well as the City’s interest in limiting the perception and reality of City participation in federal immigration enforcement.

**d. The City should prohibit local law enforcement from voluntarily participating in immigration enforcement—including through arrests, detentions, and joint task forces.**

For the health and safety of our community, City authorities should have no role in immigration enforcement. Voluntary assistance in the enforcement of federal immigration law detracts from the City’s mission to create safe communities, drains already-limited City resources, and makes it difficult to establish or maintain trust between the City and its residents. Assistance in the enforcement of federal immigration law may also lead to racial and other types of profiling.

The Los Angeles Police Department is the City entity that federal immigration authorities most often seek to collaborate with in immigration enforcement.<sup>13</sup> Immigration authorities are relying increasingly on cooperation with local law enforcement authorities in order to ramp up their enforcement efforts. Binding directives would send a clear and decisive message that the City of Los Angeles is not in the deportation business.

Currently, LAPD does not have an explicit policy prohibiting voluntary participation in immigration enforcement. LAPD’s Special Order 40, established decades ago and commonly understood as containing such a prohibition, in fact does not. However, it does set forth an underlying philosophy that we all share and that is elaborated in the Mayor’s Executive Directive 20: to keep the LAPD out of immigration enforcement for the health and safety of our community. It is imperative that at this moment, the City Council establish protections that will prohibit City personnel, including the LAPD, from direct or indirect participation in immigration enforcement.

Such an ordinance should include a prohibition against interrogating, detaining, or arresting individuals for violation of federal immigration law. Such actions are not required by law and are not a good use of City resources.

An ordinance should also specifically prohibit local participation in criminal immigration enforcement, and a prohibition or limitation of joint task forces with federal immigration authorities. Federal laws that criminalize work and entry of undocumented immigrants are essentially status crimes—they unjustly penalize undocumented immigrants simply because they are undocumented and trying to support their families. Los Angeles has no reason to participate in the enforcement of these outdated and unjust federal criminal laws.<sup>14</sup> Such arrests are not required by law.<sup>15</sup> Any endorsement of participation in federal criminal immigration enforcement is particularly concerning in light of recent changes to federal policy. Under Attorney General Jeff Sessions, the federal government has made clear its intent to rely on criminal prosecution to deter unauthorized immigration generally.<sup>16</sup>

Moreover, the City should prohibit or limit its participation in joint task forces with federal immigration authorities. Advocates have discovered multiple operations where joint task forces including both local law enforcement and federal immigration authorities have resulted in immigration enforcement operations targeting longtime Angelenos. These joint operations have relied on substantial City human and material resources and led to the destruction of Los Angeles families.<sup>17</sup> Other jurisdictions, including Oakland, Santa Ana, and San Francisco, have highlighted the risks associated with participation in joint task forces,<sup>18</sup> and are beginning to prohibit such joint operations.<sup>19</sup> Los Angeles should also prohibit joint task force or law enforcement operations with immigration authorities. If joint task force or law enforcement operations are permitted, there should be a clear prohibition of any civil immigration enforcement actions—by City personnel *or* any agency involved in the operation—and meaningful public oversight, transparency and accountability.

**e. The City should require documentation and public accountability in connection with federal immigration enforcement in Los Angeles.**

City departments, including the LAPD, should be required to document and make public semi-annually:

1. All policies, memoranda, and/or protocols outlining City collaboration or engagement with federal immigration authorities, including concerning access to information or databases, if any exist; and
2. All requests from federal immigration authorities for assistance from the Department – including with arrests, detainers, transfers, information, interrogations, and joint task forces – and the Department’s response.

In this critical moment, transparency and accountability about the City’s role in immigration enforcement is essential.

**II. PROTECTIONS AGAINST OVER-POLICING AND OVER-CRIMINALIZATION WITH DISPROPORTIONATE CONSEQUENCES FOR IMMIGRANTS**

Especially given this federal enforcement background, current LAPD policies expose L.A.’s non-citizen residents to the risk of deportation, and play into the Trump Administration’s

deportation dragnet. National policy changes over the past decade mean that federal immigration authorities automatically receive the fingerprints of those booked into local law enforcement custody. Any booking by the Department effectively notifies DHS and ICE of an individual's current location and arrest record—as well as other booking information, such as home address and date of birth. For immigrants, jail-time—even a single day—can lead to subsequent targeting of an individual by ICE.<sup>20</sup>

This is especially a risk now, given that President Trump signed an immigration-related Executive Order directing that *all* undocumented immigrants are now priorities for removal. In a sign of its expansiveness, the Order identifies as specific targets for deportation people with minor criminal convictions and unresolved criminal charges, anyone who has committed an offense even without having been charged, and anyone any individual officer considers “a risk to public safety.”<sup>21</sup> The Administration's focus on individuals who have *any* interaction with the criminal justice system further criminalizes our immigrant communities; and encourages racially motivated and discriminatory arrests. Moreover, if ICE has knowledge of a non-citizen's contact with the criminal justice system—however minor—ICE can use that information to prioritize that person for deportation and as a reason to deny that person any and all forms of discretionary relief.

As an example of the risks associated with arrests and booking for immigrants, whether or not they are ultimately charged with a crime or convicted:

- Earlier this year, Angelo\* was arrested by LAPD at his home. While he was not ultimately charged with any crime, within weeks of this brief LAPD arrest, he was sought out by ICE from his home, and deported within hours. He had been a decades-long resident of Los Angeles and was the parent of U.S.-citizen children, but as a result of this arrest, fingerprinting, and information-sharing, and due to a decades-old removal order, he is currently in Tijuana and was not given the opportunity to challenge his deportation.<sup>22</sup>
- Luis,\* another longtime Angeleno who had arrived in the United States as a teenager, was recently arrested by LAPD for driving without a license. He was brought to the station apparently because of a probation violation, and transferred to LASD custody. Despite long-term presence in Los Angeles and deep community ties, Luis only narrowly averted a transfer from LASD to ICE custody following a routine traffic stop and a probation violation.<sup>23</sup>

The recognition that booking indirectly, but automatically, notifies ICE of sensitive personal information regarding Angelenos in Department custody should compel the City to enact common-sense criminal justice reforms to police and prosecutorial policies and practices. By decriminalizing certain quality of life crimes, ending unnecessary bookings, and instituting alternatives to criminal prosecutions, the City of Los Angeles can take positive steps toward protecting non-citizen members of our community from deportation. At the same time, Los Angeles would enhance public safety by efficiently and effectively directing scarce law enforcement resources towards more serious crimes.

**a. Los Angeles should decriminalize certain quality of life crimes and other minor offenses.**

Non-violent drug and “quality of life” offenses (which are often considered or related to crimes of poverty) account for a significant quantity of Los Angeles city prosecutions.<sup>24</sup> This results in unnecessary devastation for individuals and families, and may also result in disproportionate and irreparable immigration consequences for non-citizens, including even lawful permanent residents.

Convictions expose individuals to immigration enforcement and the risk of deportation. They can also create a barrier to receiving other forms of immigration relief and can complicate or disqualify an individual from receiving a more secure and permanent status. Even court appearances and fines for minor quality offenses can have devastating consequences, particularly in an era where immigration authorities staunchly defend a policy of targeting immigrants in courthouses.<sup>25</sup> Those who are afraid to go to court or are unable to pay excessive fines may have outstanding arrest warrants for a failure to appear and thus may owe thousands of dollars in unpaid fines, perpetuating a cycle of poverty and criminalization.

The decriminalization of marijuana in Los Angeles, the state and across the country reflects a growing recognition that prosecution of these crimes is not in the interest of our communities. Last summer, representatives of law enforcement officials, including the President of the Association of Prosecuting Attorneys and the President of the National District Attorneys Association, urged the then-leading Presidential candidates to allocate resources away from non-violent crimes, stating: “Too many resources go toward arresting, prosecuting and imprisoning low-level offenders, and those suffering from mental illness and drugs or alcohol addictions.”<sup>26</sup>

In one important example, Los Angeles has pursued a punitive policy of criminalizing sidewalk vending and vending in the parks. Los Angeles is currently the only major city in the United States that does not permit any sidewalk vending. While the City decriminalized Los Angeles Municipal Code (LAMC) Section 42.00(b) and will no longer charge street vendors with misdemeanors for illegal street sales, vendors still face misdemeanor convictions for other charges related to street vending. Vending in parks and “peddling” from vehicles or pushcarts are still chargeable as misdemeanors and infractions. Further, vendors charged with violating Section 42.00(b) of the Los Angeles Municipal Code (prohibiting illegal street sales) are now given administrative citations and civil penalties. These tickets are difficult to contest and there is no provision made for ability to pay the fines and no opportunity to do community service in lieu of paying the fines. To particularly remedy the harms to street vendors, the City Council and City Attorney should do the following:

- Decriminalize LAMC Section 63.44 (vending in parks) and Section 80.73 (“peddling” from vehicles or pushcarts). Until an ordinance is passed legalizing street vending on City sidewalks and in parks, alternative non-criminal enforcement strategies with due process guarantees should be utilized. Ordinance No. 18475 could serve as a model ordinance for shifting enforcement of these sections to the Administrative Citation Enforcement Program.

- Provide a ticket amnesty for street vendors with misdemeanor and infraction citations. Street vendors may have outstanding citations for violating LAMC Section 42.00(b), Section 63.44 and Section 80.73 that transferred to warrants because the vendor failed to appear in court on the tickets and/or were unable to pay the large fine. The City should offer a ticket “amnesty” program to street vendors and give the City Attorney the legal authority to dismiss all misdemeanor and infraction citations pursuant to Penal Code Section 1385. The City Attorney should use this authority, recognizing to the greatest extent possible that post-conviction relief is provided because of a legal invalidity.
- Provide an amnesty for vendors with administrative (ACE) citations. The City attorney should dismiss, in the interest of justice, administrative (ACE) citations for sidewalk vending for individuals who will suffer a significant financial hardship if required to pay the fines.

The City Council should also review and decriminalize other municipal code offenses associated with poverty and homelessness, or other “quality of life” offenses. Among these offenses are: LAMC 41.18, 56.12 – blocking a sidewalk with person or belongings; LAMC 85.02 – living in a vehicle; and LAMC 71.02(a), 71.03(d) – bandit cab violations; illegal vehicle for hire. The public safety benefits of such criminal prosecutions tend to be severely outweighed by the costs.<sup>27</sup> This is even more true for noncitizens. These types of offenses can more appropriately be handled through non-law enforcement tools or through a civil process.

In New York City, the city council, mayor’s office, advocates and the police department stood behind the passage of a package of eight bills geared towards creating a more just criminal justice system and decreasing the backlog in the criminal courts. The series of bills, known as the Criminal Justice Reform Act, work to divert the most common low-level and quality-of-life offenses, like public urination, turnstile jumping and open container offenses, away from the criminal justice system by issuing civil summonses to offenders rather than arresting them, thus more proportionally fitting the penalty to the offense.<sup>28</sup>

- b. Los Angeles should limit unnecessary booking and pre-trial detention—including by expanding citation in lieu of arrest, strictly interpreting the law to cite-and-release for misdemeanor offenses, expanding the acceptable forms of identification permissible for citations, and expanding own recognizance release.**

Arresting and booking a non-citizen automatically shares information with immigration authorities. Moreover, even short durations of pre-trial detention can have destabilizing effects on an individual’s life, and tend to distort the criminal justice process.<sup>29</sup> For immigrants, jail-time—even a single day—can result in fingerprinting an individual and information-sharing with federal immigration authorities. This can lead to subsequent targeting of an individual by ICE at home or in the community, or an interrogation or arrest from jail and ultimate deportation.<sup>30</sup> The City should act to limit the devastating effects of over-incarceration for minor offenses, its distortionary effects on the justice system, and its disproportionate effects for non-citizens who may be deported as a result of bookings and arrests for minor offenses.

One method of preventing pre-trial custody is avoiding arrest altogether. The City should impose strict limits on overcharging and instead identify crimes eligible for citation in lieu of arrest with particular attention to the immigration consequences of the criminal charge. As a coalition of law enforcement professionals, including LAPD Chief Charlie Beck, stated earlier this year: “[w]e need not use arrest, conviction, and prison as the default response for every broken law.”<sup>31</sup>

The City Attorney’s office currently authorizes the LAPD to employ “Direct Citation” for a limited set of 20 crimes.<sup>32</sup> An important step forward, and the basis for further reforms, was the May 22, 2013, Criminal Branch Interoffice Memorandum titled “Los Angeles City Attorney Revised Filing Guidelines for Direct Citations.” This should be further revised to require without exception that LAPD file as infractions (if they charge) any so-called “wobblettes”—offenses which may be filed as misdemeanors or infractions.

The City should also expand “Direct Citation” policy to more closely align with state law, which requires that individuals arrested for misdemeanors be released in most instances.<sup>33</sup> California Penal Code Section 853.6 section states, with certain exceptions, that in any case in which a person is arrested for a misdemeanor that person shall be cited and released instead of being taken into custody, fingerprinted and booked.<sup>34</sup> The City and local law enforcement should narrowly interpret the exceptions in 853.6(i) such that, except where required by law, LAPD should not book or fingerprint for misdemeanors.

The City should also expand the permissible forms of identification for citations in lieu of arrest. If an individual would have otherwise been released for an infraction or misdemeanor on a citation, but faces arrest for failure to prove his or her identity, the person should be given a reasonable opportunity to verify his or her true identity in lieu of arrest or booking (e.g. telephone calls; student, consular or alternative forms of identification). If the person’s identity is reasonably established, the original citation release should be completed without booking or arrest.

Finally, LAPD should adopt a policy of own recognizance release for all misdemeanor and non-serious felony arrestees immediately following booking for those who are booked. Limiting money bail has become a priority for many cities across the country, which have recognized that liberty should not depend on a person’s wealth.<sup>35</sup> Moreover, a single day in jail—or any booking—exponentially increases the risk of associated immigration enforcement. Until an alternative to the money bail system exists, Los Angeles should encourage the use of “own recognizance” release.<sup>36</sup>

**c. Los Angeles should expand alternatives to criminal prosecutions—including pre-filing and pre-plea diversion programs.**

The City currently runs several diversion programs for specific offenses.<sup>37</sup> Following this model, the number of offenses for which pre-filing and pre-plea diversion is available could be expanded.<sup>38</sup> The use of such programs could be designed to avoid imposing immigration consequences on its non-citizen participants.<sup>39</sup>

Seattle’s Law Enforcement Assisted Diversion (LEAD) allows for pre-booking diversion in response to low-level drug and prostitution offenses. Developed with community groups, law enforcement agencies and public officials, the program demonstrated better results – including recidivism rates, costs, and access to services – than the typical criminal justice model.<sup>40</sup> In addition to avoiding unnecessary, costly and debilitating prosecutions, the program proactively diverts offenders to community-based support services, including housing, healthcare, job training, treatment and mental health support.

Specifically, in lieu of filing misdemeanor charges, the City should utilize the City Attorney Neighborhood Justice Program (NJP) and City Attorney hearings, which are pre-filing diversion programs for people who are accused of committing certain misdemeanors. Both avoid court appearances, convictions, and criminal records for those eligible. If the participant completes the obligations of the NJP, no criminal case will be filed. City Attorney hearings are informal proceedings wherein the individual meets informally with a representative of the City. No case is filed if the individual does not commit the same violation within a one-year period. The list of violations eligible for the programs should be expanded.

### **III. REJECTION OF POLICIES BASED ON ANTI-MUSLIM ANIMUS— INCLUDING FUNDS USED TO TARGET AND SURVEIL MUSLIM COMMUNITIES**

The City of Los Angeles should refuse to participate in any way in any policies or programs whose purpose or effect is to target Muslim communities for heightened scrutiny, including any federal Countering Violent Extremism (CVE) related programs, that are funded either through federal funds or the City’s own resources.

Los Angeles – a place where the world gathers – is a City with a significant Muslim population who contribute to the City’s rich diversity and signature multiculturalism. Despite the fact that religious freedom is one of our founding Constitutional values, we have yet to live up to this ideal. We are living in an era of unprecedented levels of anti-Muslim sentiment, fueled both by hateful political rhetoric that has translated into an all-time spike in hate incidents, and over fifteen years of government policies that disproportionately target Muslim communities in the name of national security. These threats to Muslim communities have intensified under the Trump administration, which has specifically considered instituting a “Muslim registry,” and on three occasions has banned or restricted travel from several Muslim-majority countries.

Countering Violent Extremism (CVE) is another federal program that unfairly targets members of Muslim communities whom the federal government perceives as more likely to be prone to violent extremism,<sup>41</sup> despite the fact that – as evidenced by the recent deadly rally in Charlottesville – white supremacist groups pose a greater threat.<sup>42</sup> CVE’s stated goal is to combat domestic terrorism by encouraging local communities to identify people who they think are on a path to radicalization and/or violent extremism, and refer them to social services and/or law enforcement.<sup>43</sup> Despite the government’s efforts to frame CVE programs through a “public health” lens, and as “community led,” particularly here in Los Angeles, CVE programs were designed by and connected to law enforcement objectives, including “intervention” and “interdiction” of suspected terrorists.<sup>44</sup>

CVE is problematic for many reasons, including: (1) it targets the Muslim community and stigmatizes them as being inherently suspect, (2) it is based on debunked radicalization theories that provide no evidence that the CVE framework actually works, and (3) CVE's underlying ties to law enforcement make it an ineffective community engagement tool, as has been demonstrated in other countries that adopted CVE programs, where people were more suspicious and less likely to cooperate with law enforcement.<sup>45</sup>

In light of the foregoing, the City should cease implementing CVE programs, and disavow any further programs, whether funded by the federal government or its own resources, that target Muslim communities for heightened scrutiny. Specifically, in June 2017, the Trump administration awarded the Los Angeles Mayor's Office a \$425,000 CVE grant to "manage interventions." The CVE grant is conditioned on cooperation with law enforcement, and is subject to stringent evaluation requirements to ensure it is supporting the Trump administration's policy objectives.<sup>46</sup> Pre-existing CVE related programming administered through the City includes the Mayor's "Building Healthy Communities" program, as well as the LAPD's Recognizing Extremist Network Early Warnings (RENEW) program. The City should immediately and permanently cease these programs, and return any funds it has yet to expend in furtherance of them.

#### **IV. THE PROTECTION OF MIXED-IMMIGRATION-STATUS FAMILIES IN PUBLIC HOUSING**

**Federal immigration restrictions for certain HUD-administered housing programs result in disproportionately high rent for mixed-status families receiving rental subsidies; the City of Los Angeles should adopt policies that rectify this disparity.**

The Housing Authority for the City of Los Angeles, HACLA, locally administers several Department of Housing and Urban Development (HUD) programs. In order to participate in programs such as public housing, the housing choice voucher (Section 8), Section 8 Project-based housing, at least one member of the household must have eligible immigration status, typically demonstrated by providing a valid social security number. Although otherwise ineligible household members may reside in the subsidized household with an eligible family member, the amount of assistance the household receives will be prorated. The rent is adjusted based on the number of household members, the total household income, the number of eligible members of the household and the type of rent subsidy in the covered unit. In practice, this means that members of mixed-status families pay a pro-rated rent that exceeds 30% of their income—the percentage the formula that HUD aims for—because the entire family is not eligible for rental assistance. In some instances, this rental payment has even exceeded 100% of the household's income.

The calculation of rents for mixed status households has led to the displacement of families from their homes, increased homelessness, and the division of family units. In other cases, an undocumented family member may be forced to stay with an eligible abusive spouse, or forced to live apart from her ineligible children, in order to maintain affordable rent. This

policy severely endangers our city's immigrant families and undermines L.A.'s efforts to lead the way on immigrants' rights issues.

Thousands of mixed-status families rely on subsidized housing, and are therefore affected by this policy. HACLA is a state-chartered entity that can act independently to administer locally funded programs while discharging its duties to administer HUD programs. Thus, HACLA can administer a local subsidy to make the city's housing affordable to mixed-status families. Any local program established should contain tenant protections that mirror federal programs, including due process rights. Moreover, the details of the administration of the program should be established with the input of experts and community members.

**To prevent irreparable harm to our city's immigrant families living in public housing, we demand that the City of Los Angeles establish parity between mixed-status families and fully subsidize renters in all federally subsidized housing through a local program.**

#### **V. A STRONG AND EFFECTIVE LOS ANGELES JUSTICE FUND**

Currently, nearly 70% of detained immigrants in the Los Angeles area lack counsel in their deportation proceedings.<sup>47</sup> The LA City Council has shown important leadership in its establishment of the LA Justice Fund earlier this year. In committing \$2 million over two years to the Justice Fund, the City has already recognized the immense need facing its community members in these proceedings. Those funds will soon be disbursed, and programs established. The City should continue its strong support for this Fund, and, indeed, expand it in the future so that no Angeleno faces exile without a lawyer.

The consequences of deportation are, in some cases, literally life and death.<sup>48</sup> In many more cases, as the Supreme Court has recognized, deportation "may result in loss of . . . all that makes life worth living."<sup>49</sup> And yet, despite these grave consequences, there is no recognized right to counsel for immigrants facing deportation, even though the federal government has a trained prosecutor representing its interests in every proceeding. Counsel, the data show, is crucial: whereas unrepresented detained immigrants succeed only 6% of the time, those who have lawyers succeed *more than five times as often*.<sup>50</sup> The federal government's attacks are worsening what was already a due process crisis. For all of these reasons, removal defense is the most pressing legal need facing our immigrant community members.

Detained immigrants especially require the assistance of counsel. Those who are detained are often held in remote facilities, far from family and community resources. They lack internet access, and even phone calls are extremely expensive. Thus isolated, it becomes nearly impossible for them to assemble the requisite evidence and legal arguments to establish their defenses, even though many have some defense to deportation.<sup>51</sup> Especially given the increased enforcement, collateral arrests, and the new enforcement Executive Order (effectively making *everyone* a priority for deportation), attorneys who frequent detention centers are seeing more and more individuals with multiple available avenues of relief.

Detained immigrants require counsel in their bond proceedings and in their merits proceedings. While the grounds for mandatory detention are broad, and encompass individuals with nothing more than a drug possession conviction,<sup>52</sup> recent jurisprudence makes clear that the ground only applies to those whom ICE detains immediately upon their release from criminal custody.<sup>53</sup> Therefore, many immigrants are eligible for bond. However, immigration bonds can be expensive—regularly in excess of \$5,000—and financing options are limited. An important factor in determining whether a detained immigrant will receive a bond, and a bond low enough that the person can pay it, is whether or not that person is represented by counsel in her deportation case. Immigration Courts consider whether or not someone is a “flight risk” in determining bond,<sup>54</sup> and having counsel for the deportation proceeding proper is a crucial indicator that the individual will attend future hearings that Immigration Judges consider in making this assessment. Moreover, people’s financial circumstances can be desperate—particularly if they are required to pay exorbitant bonds—limiting access to counsel.

The City of Los Angeles should continue its support of the L.A. Justice Fund and expand it in the future, until no Angeleno faces imprisonment and exile without a lawyer. Los Angeles’ leadership should help to pave the way to supporting a right to counsel for immigrants facing deportation.

## **VI. AN INCLUSIVE ANTI-DISCRIMINATION ORDINANCE**

Anti-discrimination protections at the local level are highly needed, and should further include protections based on gender identity and expression and HIV/AIDS status.

## **CONCLUSION**

Now is the time for Los Angeles to lead in protecting all of the city’s residents and in upholding our values of inclusion, diversity, and justice.

## **SIGNED**

American Civil Liberties Union of Southern California (ACLU SoCal)  
A New PATH (Parents for Addiction Treatment and Healing)  
A New Way of Life Re-Entry Project  
Asian Americans Advancing Justice  
Black Alliance for Just Immigration  
Council on American-Islamic Relations - Greater LA (CAIR-LA)  
California Immigrant Policy Center  
California Immigrant Youth Justice Alliance  
Californians for Progress  
Californians United for a Responsible Budget (CURB)  
Central American Resource Center (CARECEN-LA)  
Clergy & Laity United for Economic Justice (CLUE)  
Community Development Technologies (CDTech)  
Democratic Socialists of America - Los Angeles

East LA Community Corporation  
Esperanza Community Housing Corp  
Ground Game LA  
Homeboy Industries  
Human Rights First  
Immigrant Defenders Law Center  
Indivisible Highland Park  
Instituto de Educación Popular del Sur de California (IDEPSCA)  
Korean Immigrant Workers Alliance (KIWA)  
LA Forward  
Loyola Immigrant Justice Clinic  
March and Rally Los Angeles  
National Day Laborer Organizing Network (NDLON)  
National Immigration Law Center  
National Lawyers Guild—Los Angeles  
People Organized for Westside Renewal (POWER)  
Pilipino Workers Center  
Public Counsel  
SEIU United Service Workers West (SEIU USWW)  
Strategic Actions for a Just Economy (SAJE)  
United Teachers Los Angeles (UTLA)  
UCLA Labor Center  
UCLA Law Students for Immigrant Justice  
Vigilant Love Coalition  
Youth Justice Coalition

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<sup>1</sup> On September 7, 2017, City Councilmember Gil Cedillo and Council President Herb Wesson co-authored a Resolution declaring Los Angeles a “City of Sanctuary,” acknowledging Mayor Garcetti’s March 21, 2017 Executive Directive 20, *Standing with Immigrants: A City of Safety, Refuge and Opportunity for All*. The same day, the City Council’s Immigrant, Civil Rights and Equity Committee reviewed Special Report No. 1 of the Council’s Immigrant Advocate Peter Schey. On September 20, 2017, Councilmember Cedillo introduced a motion before the Committee, seconded by Council President Wesson, instructing the Chief Legislative Analyst, in consultation with the City Attorney, to review Special Report No. 1 to consider how to adopt the report’s recommendations.

<sup>2</sup> Mike McPhate: *California Today: Worries Over Deportation*, N.Y. Times, April 5, 2017, <https://www.nytimes.com/2017/04/05/us/california-today-worries-over-deportation.html>.

<sup>3</sup> Nik Theodore, *Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement*, Univ. Ill. at Chicago, 7 (May 2013), [https://greatcities.uic.edu/wp-content/uploads/2014/05/Insecure\\_Communities\\_Report\\_FINAL.pdf](https://greatcities.uic.edu/wp-content/uploads/2014/05/Insecure_Communities_Report_FINAL.pdf).

<sup>4</sup> Among other things, Executive Directive 20 provides:

“No person acting in his or her capacity as a City employee shall assist or cooperate with, or allow any City monies or resources to be used to assist or cooperate with, any federal agent or agency in any action where the primary purpose is federal civil immigration enforcement.”

“No City employee shall grant any federal immigrant agent access to any City facility not open to the general public unless such access is legally required.”

“No City employee shall collect information from individuals that is not necessary to perform the employee’s duties. In particular, no City employee shall collect information regarding a person’s citizenship or immigration status unless legally required to do so or mandated by policy to protect victims and witnesses of crimes.”

“[A]ll Angelenos must have confidence that [availing themselves of City services, programs, and resources] will not place themselves or their families in peril due to their immigration status being unnecessarily solicited or their personal data left unprotected.”

“All City employees shall treat [Personally Identifiable Information] as Confidential Information as allowed by law and shall handle, maintain, and secure such information according to [the relevant] standards.”

All City entities “shall report . . . any efforts by federal immigration enforcement officials . . . to enforce federal civil immigration laws with the cooperation, support, or use of City resources or facilities.”

<sup>5</sup> See George Joseph, “Where ICE Already Has Direct Lines to Law-Enforcement Databases with Immigrant Data,” *NPR* (May 12, 2017), <http://www.npr.org/sections/codeswitch/2017/05/12/479070535/where-ice-already-has-direct-lines-to-law-enforcement-databases-with-immigrant-d>. Additionally, DHS and ICE have access to FBI databases that the LAPD uses each time they run fingerprints or conduct warrant checks. See *The Promise of Sanctuary Cities and the Need for Criminal Justice Reforms in an Era of Mass Deportation*, Fair Punishment Project, 6 (2017) <https://www.ilrc.org/sites/default/files/resources/fpp-sanctuary-cities-report-final.pdf>.

<sup>6</sup> See generally, Tom R. Tyler and Cheryl J. Wakslak, *Profiling and Police Legitimacy: Procedural Justice, Attributions of Motive, and Acceptance of Police Authority*, 42 *CRIMINOLOGY* 253 (2004).

<sup>7</sup> See generally, Sherry F. Colb, *Innocence, Privacy, and Targeting in Fourth Amendment Jurisprudence*, 96 *COLUM. L. REV.* 1456 (1996).

<sup>8</sup> While the California Public Records Act (CPRA), Cal. Gov. Code 6254(f)(1), does provide that local authorities may be required by law to provide the public with certain information, important exceptions apply. The CPRA only requires that local authorities make publicly available on request certain categories of information where disclosing it would not endanger the safety of a person in an investigation or the successful completion of an investigation. At a minimum, City policy should require that a supervisor determine that is not the case before providing any information to ICE upon request. Moreover, local authorities should not provide preferential treatment to federal immigration authorities in the disclosure of sensitive information. Federal immigration authorities should be obligated to seek information through the same processes as others soliciting information from local government. Local authorities should not affirmatively provide this information to ICE, or provide ICE with any expedited access to information where such information may be subject to public disclosure under the CPRA.

<sup>9</sup> SB 54 explicitly prohibits the use of local law enforcement personnel and resources for immigration enforcement purposes, including the disclosure of certain information to ICE. See Cal. Gov. Code § 7284.6(a)(1)(C), (D). First, SB 54 prohibits the disclosure of “release dates or other information” unless “that information is available to the public” or if TRUST Act criteria are met. Cal. Gov. Code § 7284.6(a)(1)(C). Second, SB 54 prohibits the sharing of a broad range of information covered by California Civil Code § 1798.3—including “any information that is maintained by an agency that identifies or describes an individual,” as well as the person’s name, address and physical description—only if such information is already “available to the public.” Cal. Gov. Code § 7284.6(a)(1)(D). Critically, under SB 54, information that “is available to the public” does not mean information that is subject to disclosure under the CPRA. This is made clear by the terms of SB 54 itself. By protecting information that is otherwise subject to the disclosure under the CPRA, the Legislature could not have intended to create an exception that would have eliminated this very protection.

<sup>10</sup> Cal. Gov. Code § 6252(b) provides that, for purposes of the Act, a “‘member of the public’ means any person, **except** a member, agent, officer, or employee of a federal, state, or local agency acting within the scope of his or her membership, agency, office, or employment.” (Emphasis added.) The California Attorney General’s CPRA Guide confirms that “[g]overnment employees acting in their official capacity are not considered to be members of the public” with enforceable rights under the CPRA. California Attorney General’s Office, *Summary of the California Public Records Act 2004*, [http://ag.ca.gov/publications/summary\\_public\\_records\\_act.pdf](http://ag.ca.gov/publications/summary_public_records_act.pdf), at 4. There is an exception to this exemption for local and state officials in Cal. Gov. Code § 6252.5, but there is no exception to this exemption for federal employees acting in their official capacity.

<sup>11</sup> Executive Directive 20 provides: “No City employee shall grant any federal immigration agent access to any City facility not open to the general public unless such access is legally required.”

<sup>12</sup> Policies include, for instance: *Chicago*: Ordinance, Welcoming City Ordinance, Jul. 25, 2012, Sec. 2-173-042(b), at [https://www.ilrc.org/sites/default/files/resources/06\\_-\\_chicago\\_ordinance.pdf](https://www.ilrc.org/sites/default/files/resources/06_-_chicago_ordinance.pdf). *Cook County*: Policy for Responding to ICE Detainers, Sec. 46-37(b), at

[https://www.ilrc.org/sites/default/files/resources/07\\_-\\_cook\\_county\\_ordinance.pdf](https://www.ilrc.org/sites/default/files/resources/07_-_cook_county_ordinance.pdf). *Denver*: “Denver Passes Immigrant Protections Amid White House Threats,” *SEATTLE TIMES*, Aug. 28, 2017. *Lawrence, Mass.*: Lawrence Trust Ordinance 133, Jun. 8, 2015. *New Orleans*: New Orleans Police Department Operations Manual, Policy 41.6.1: Immigration Status, Sec. 5-6, <https://www.nola.gov/getattachment/NOPD/NOPD-Consent-Decree/Chapter-41-6-1-Immigration-Status-approval.pdf>. *Orleans Parish*: Orleans Parish Sheriff’s Office, Policy: Immigration and

Customs Enforcement Procedures, June 21, 2013, Sec. 4, <https://www.clearinghouse.net/chDocs/public/IM-LA-0009-0002.pdf>. *Richmond*: Richmond Police Department Policy Manual, Aug. 2013. *Santa Ana*: Ordinance No. NS-2908, Dec. 20, 2016, Sec. 6, <http://voiceofoc.org/wp-content/uploads/2017/01/Santa-Ana-sanctuary-city-ordinance-adopted.pdf>. *Santa Clara County*: Policy Resolution No. 2011-504, Oct. 18, 2011, Sec. 3, [https://www.ilrc.org/sites/default/files/resources/santa\\_clara\\_ordinance.pdf](https://www.ilrc.org/sites/default/files/resources/santa_clara_ordinance.pdf). *Santa Fe*: See Vic Vela, “NM Jail Blocks Access for ICE, Claiming Racial Profiling,” ALBUQUERQUE JOURNAL, June 26, 2010, available at <http://uncoverthetruth.org/press/press-new-mexico/nm-jail-blocks-access-for-ice-claiming-racial-profiling-santa-fe-jails-director-contends-u-s-immigration-and-customs-enforcement-authorities-rationally-profile-inmates-albuquerque-journal/>. *Washington, D.C.*: Immigration Detainer Compliance Emergency Amendment Act of 2012, June 15, 2012, Sec. 23-1331(d)(1), [https://www.ilrc.org/sites/default/files/resources/21\\_-\\_washington\\_dc\\_ordinance.pdf](https://www.ilrc.org/sites/default/files/resources/21_-_washington_dc_ordinance.pdf); and Mayoral Order re Disclosure of Status of Individuals, Oct. 19, 2011, Sec. B.3, <http://dcregs.dc.gov/Gateway/NoticeHome.aspx?NoticeID=1784041>.

<sup>13</sup> Federal authorities have emphasized their intent to rely increasingly on collaboration with local law enforcement authorities for immigration enforcement. See Exec. Order 13,768, *Enhancing Public Safety in the Interior of the United States*, 82 FR 8799 (Jan. 30, 2017); DHS Sec’y John Kelly, *Memorandum re: Enforcement of the Immigration Laws to Serve the National Interest*, Dep’t of Homeland Sec. (Feb. 20, 2017), [https://www.dhs.gov/sites/default/files/publications/17\\_0220\\_S1\\_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf](https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf); U.S. Dep’t of Justice, *Attorney General Jeff Sessions Delivers Remarks at the Opening of the National Summit on Crime Reduction and Public Safety*, (June 20, 2017), <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-opening-national-summit-crime-reduction>.

<sup>14</sup> See Human Rights Watch, *Turning Migrants Into Criminals* (May 2013), at [https://www.hrw.org/sites/default/files/reports/us0513\\_ForUpload\\_2.pdf](https://www.hrw.org/sites/default/files/reports/us0513_ForUpload_2.pdf). The indiscriminate use of criminal unlawful reentry charges is especially of concern given Attorney General Sessions’ policy directing AUSA offices throughout the country to prioritize the prosecution of immigrants for criminal immigration violations. See “Memo: Renewed Commitment to Immigration Enforcement, April 11, 2017, at <https://www.justice.gov/opa/speech/file/956856/download>; see also “Attorney General Jeff Sessions Delivers Remarks Announcing the Department of Justice’s Renewed Commitment to Criminal Immigration Enforcement,” Nogales, AZ, Apr. 11, 2017, at <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-deliversremarks-announcing-department-justice-s-renewed> (“It is here, on this sliver of land, where we first take our stand against this filth.”).

<sup>15</sup> While CPC § 836 says officers “may arrest a person in obedience to a warrant” (emphasis added), the case law is clear that “the discretionary language used in CPC § 836(a)(2) clearly does not establish a mandatory duty.” *Chavira v. Chavez*, 2014 WL 12576819 (C.D. Cal. 2014). LAPD’s current policy authorizes the warrantless arrest and subsequent transfer to ICE of individuals for violations of 8 U.S.C. § 1326(a), (b)(2) (unlawful reentry following conviction for a so-called “aggravated felony”). Current LAPD policy authorizes more federal criminal immigration enforcement arrests than were endorsed by the Mayor, the Council and the LAPD Chief in their endorsement of earlier iterations of SB 54 than that which was ultimately passed. The Council and the Mayor endorsed prohibiting police from transferring individuals to ICE for unlawful reentry; and the Chief endorsed such arrests only after a prior conviction for a violent felony listed in subdivision (c) of Section 667.5 of the California Penal Code. The Chief’s position reflected an understanding that an “aggravated felony” is *not* necessarily a serious offense. Rather, aggravated felony is a term of art that encompasses many offenses that are *not* considered to be aggravated, or even felonies, under California law. It includes theft, filing a tax return, and failing to appear in court. See American Immigration Council, *Aggravated Felonies: An Overview*, <https://www.americanimmigrationcouncil.org/research/aggravated-felonies-overview>.

<sup>16</sup> Dep’t of Justice, “Attorney General Jeff Sessions Delivers Remarks Announcing the Department of Justice’s Renewed Commitment to Criminal Immigration Enforcement,” Apr. 11, 2017, <https://www.justice.gov/opa/speech/attorney-general-jeff-sessions-delivers-remarks-announcing-department-justice-s-renewed>; Matt Zapotosky & Sari Horwitz, *Sessions Tells Prosecutors to Bring More Cases against those Entering U.S. Illegally*, WASH. Post, Apr. 11, 2017, [https://www.washingtonpost.com/world/national-security/sessions-tells-prosecutors-to-bring-more-cases-against-those-entering-us-illegally/2017/04/11/9fc6e964-1eb7-11e7-ad74-3a742a6e93a7\\_story.html?utm\\_term=.7f3105d5ad4b](https://www.washingtonpost.com/world/national-security/sessions-tells-prosecutors-to-bring-more-cases-against-those-entering-us-illegally/2017/04/11/9fc6e964-1eb7-11e7-ad74-3a742a6e93a7_story.html?utm_term=.7f3105d5ad4b) (“The Trump administration—and Sessions in particular—has taken a hard-line stance on immigration, alarming activists who say U.S. officials are testing legal boundaries and implementing policies contrary to American values”).

<sup>17</sup> See David Noriega, *Under Trump, Sanctuary Cities May Not Be So Safe*, BuzzFeed, Dec. 8, 2016, <https://www.buzzfeed.com/davidnoriega/the-lapd-says-it-wont-work-with-feds-on-deportations-but->

[it?utm\\_term=.vbrDoZMGXz#.jmy8JOKGkE](#) (a purported human trafficking joint task force investigation resulted in multiple deportations but zero trafficking charges; and a long-time LA resident was placed in deportation proceedings for being near a burglary arrest in which LAPD brought ICE agents along).

<sup>18</sup> See, e.g., Robin Urevich, *Unsafe Sanctuaries? Undocumented Immigrants Often Swept Up in ICE's California Stings*, Newsweek, Apr. 26, 2017, <http://www.newsweek.com/sanctuary-city-undocumented-immigrants-swept-ice-california-sting-590547> (Santa Cruz Deputy Police Chief Dan Flippo contended that ICE agents violated a tacit agreement that they would not conduct immigration enforcement as part of joint task force operations); Hamed Aleaziz, *'Collateral' Immigration Arrests Threaten Key Crime Alliances*, San Francisco Chronicle, Apr. 28, 2017, <http://www.sfchronicle.com/bayarea/article/Collateral-immigration-arrests-threaten-key-11106426.php> (noting that Santa Cruz Sheriff Jim Hart refused to participate in a joint task force operation purportedly targeting a gang when he did not get sufficient information to ensure that he would not be participating in immigration enforcement related arrests in violation of Sheriff's Department policy).

<sup>19</sup> See, e.g., Santa Ana, CA Ordinance No. NS-2908, Dec. 20, 2016, Sec. 6(b)) (prohibits "assisting with or participating in any immigration enforcement operation or joint operation or patrol that involves, in whole or in part, the enforcement of federal immigration laws"), at <http://voiceofoc.org/wp-content/uploads/2017/01/Santa-Ana-sanctuary-city-ordinance-adopted.pdf>. Ellen Nakashima, "San Francisco Police Department Pulls Out of FBI Anti-Terrorism Task Force", Washington Post, Mar. 10, 2017, at [https://www.washingtonpost.com/world/national-security/san-francisco-police-department-pulls-out-of-fbi-anti-terrorism-task-force/2017/03/10/62e05bcc-fd09-11e6-8f41-ea6ed597e4ca\\_story.html?utm\\_term=.be18f3d067ad](https://www.washingtonpost.com/world/national-security/san-francisco-police-department-pulls-out-of-fbi-anti-terrorism-task-force/2017/03/10/62e05bcc-fd09-11e6-8f41-ea6ed597e4ca_story.html?utm_term=.be18f3d067ad). Rebecca Parr, *Oakland Police Will No Longer Participate in ICE-Led Task Forces*, EAST BAY TIMES, Jul. 19, 2017, at <http://www.eastbaytimes.com/2017/07/19/oakland-cuts-ties-with-ice/>.

<sup>20</sup> Fair Punishment Project, *The Promise of Sanctuary Cities and the Need for Criminal Justice Reforms in an Era of Mass Deportation*, 17 (May 4, 2017), <http://fairpunishment.org/wp-content/uploads/2017/04/FPP-Sanctuary-Cities-Report-Final.pdf> ("Because cash bail keeps poor people in jails, it makes many non-citizens sitting ducks for ICE."). See generally ICE Out of LA, *The Human Rights Consequences of LASD-ICE Collaboration: A Toxic Entanglement* (January 2017), <http://iceoutofla.org/wp-content/uploads/2017/01/ICEoutofLA-UCLA-HR-Clinic-1-12-2017.pdf>.

<sup>21</sup> Donald Trump, Executive Order: Enhancing Public Safety in the Interior of the United States, Jan. 25, 2017, Sec. 5, at <https://www.whitehouse.gov/the-press-office/2017/01/25/presidential-executive-order-enhancing-public-safety-interior-united>.

<sup>22</sup> Information on file with National Day Laborer Organizing Network. (Name changed to preserve anonymity.)

<sup>23</sup> Information on file with National Day Laborer Organizing Network. (Name changed to preserve anonymity.)

<sup>24</sup> *CJSC Statistics: Arrest Dispositions*, California Dep't of Justice (2017), <https://oag.ca.gov/crime/cjsc/stats/arrest-dispositions>. See, e.g., U. of California Berkeley, Policy Advocacy Clinic, *California's New Vagrancy Laws*, 34 (2015), [http://considerthehomeless.org/pdf/CA\\_New\\_Vagrancy\\_Laws.pdf](http://considerthehomeless.org/pdf/CA_New_Vagrancy_Laws.pdf) (counting 21 LA laws that essentially criminalize homelessness, such as laws against resting in public and panhandling); L.A. City Council, *Official LA City Municipal Code*, Chapter IV: Public Welfare, [http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:losangeles\\_ca\\_mc](http://library.amlegal.com/nxt/gateway.dll/California/lamc/municipalcode?f=templates$fn=default.htm$3.0$vid=amlegal:losangeles_ca_mc) (including such misdemeanor offenses as cutting in line at the gas pump). See Emily Reyes, *L.A. city attorney doubles number of neighborhood prosecutors*, L.A. Times (June 2, 2014), <http://www.latimes.com/local/lanow/la-me-ln-neighborhood-prosecutors-20140602-story.html>. Emily Reyes, *L.A. Prosecutor's Work Goes Beyond the Courtroom*, L.A. Times, June 21, 2014, <http://www.latimes.com/local/cityhall/la-me-neighborhood-prosecutor-20140622-story.html>.

<sup>25</sup> Sally Schilling, *Feds Say Courthouse ICE Arrests Necessary*, Capital Public Radio (Sacramento), Mar. 31, 2017, at <http://www.cpradio.org/articles/2017/03/31/feds-say-courthouse-ice-arrests-necessary/>.

<sup>26</sup> Letter from David LaBahn, et. al., to Donald J. Trump and Hillary R. Clinton, July 13, 2016, <http://lawenforcementleaders.org/wp-content/uploads/2016/07/Law-Enforcement-Letter.pdf>.

<sup>27</sup> Representatives of law enforcement officials, including the President of the Association of Prosecuting Attorneys and the President of the National District Attorneys Association, urged the then-leading Presidential candidates to allocate resources away from non-violent crimes, stating: "Too many resources go toward arresting, prosecuting and imprisoning low-level offenders, and those suffering from mental illness and drugs or alcohol addictions." Letter from David LaBahn, et. al., to Donald J. Trump and Hillary R. Clinton, July 13, 2016, <http://lawenforcementleaders.org/wp-content/uploads/2016/07/Law-Enforcement-Letter.pdf>.

<sup>28</sup> *Mayor de Blasio Signs the Criminal Justice Reform Act*, (June 13, 2016) <http://www1.nyc.gov/office-of-the-mayor/news/530-16/mayor-de-blasio-signs-criminal-justice-reform-act>; see also New York City Department of Investigation, Office of the Inspector General for the NYPD, *An Analysis of Quality of Life Summonses, Quality of Life Misdemeanor Arrests, and Felony Crime in New York City, 2010-2015*, (June 22, 2016)

<https://www1.nyc.gov/assets/oignypd/downloads/pdf/Quality-of-Life-Report-2010-2015.pdf> (finding that there was no clear and direct link between an increase in summons and misdemeanor arrest of quality of life offenses and a related drop in felony crimes).

<sup>29</sup> See generally Criminal Justice Policy Program, Harvard Law School, *Moving Beyond Money: A Primer on Bail Reform*, 6-8 (2016), <http://cjpp.law.harvard.edu/assets/FINAL-Primer-on-Bail-Reform.pdf>.

<sup>30</sup> Fair Punishment Project, *The Promise of Sanctuary Cities and the Need for Criminal Justice Reforms in an Era of Mass Deportation*, 17 (May 4, 2017), <http://fairpunishment.org/wp-content/uploads/2017/04/FPP-Sanctuary-Cities-Report-Final.pdf> (“Because cash bail keeps poor people in jails, it makes many non-citizens sitting ducks for ICE.”). See generally ICE Out of LA, *The Human Rights Consequences of LASD-ICE Collaboration: A Toxic Entanglement* (January 2017), <http://iceoutofla.org/wp-content/uploads/2017/01/ICEoutofLA-UCLA-HR-Clinic-1-12-2017.pdf>.

<sup>31</sup> Law Enforcement Leaders, *Fighting Crime and Strengthening Criminal Justice: An Agenda for the New Administration*, www.lawenforcementleaders.org 1 (2017), [http://lawenforcementleaders.org/wp-content/uploads/2017/02/LEL\\_Agenda\\_for\\_a\\_New\\_Administration.pdf](http://lawenforcementleaders.org/wp-content/uploads/2017/02/LEL_Agenda_for_a_New_Administration.pdf). New York City has led the charge—passing municipal legislation in June 2016 which requires officers to “employ the civil summons as the default approach” for a variety of minor misdemeanors, such as “spitting, littering, public urination, open container of alcohol, excessive noise and violations of park rules.” See J. David Goodman & Benjamin Mueller, *New York City Police Officers Told to Relax Stance on Petty Offenses*, N.Y. Times (June 13, 2017), <https://www.nytimes.com/2017/06/13/nyregion/new-york-city-police-officers-told-to-relax-stance-on-petty-offenses.html>.

On the other extreme, at the height of Los Angeles’ Safer Cities Initiative in Los Angeles in 2011, a survey of poor and homeless residents of Los Angeles found 53.6% of respondents (both homeless and housed) had been arrested in the past year. (This compares to an adult arrest rate in the State of California of 4.9%.) Data from the Los Angeles Homeless Services Authority’s 2009 Homeless Count that shows that the most prevalent form of victimization reported was police harassment (37%), exceeding assault (24%) and robbery (18%). Academics described that the Skid Row area of Downtown Los Angeles experienced “perhaps the highest sustained concentration of police officers anywhere in the world outside of Baghdad.” Gary Blasi & Forrest Stewart, *Has the Safer Cities Initiative in Skid Row Reduced Serious Crime?*, UCLA Sch. of Law 1 (Sept. 2009), [wraphome.org/wraparchives/downloads/safer\\_cities.pdf](http://wraphome.org/wraparchives/downloads/safer_cities.pdf). In 2016, LAPD conducted almost as many pedestrian and vehicular stops as New York at the height of stop and frisk.<sup>31</sup> NYPD conducted 685,724 pedestrian and vehicular stops in 2011, the highest number during the period of stop and frisk. *Stop and Frisk Data*, NY Civ. Liberties Union (May 23, 2017), <https://www.nyclu.org/en/stop-and-frisk-data>. LAPD conducted 627,565 pedestrian and vehicular stops in 2016. LAPD *Vehicle and Pedestrian Stops 2010 – Present*, Police Data Initiative, <https://data.lacity.org/A-Safe-City/LAPD-Vehicle-and-Pedestrian-Stops-2010-Present/ci25-wgt7/data>, (last visited July 7, 2017). These numbers are particularly striking given the relevant population sizes (New York 8.5 mil; Los Angeles 4 mil.).

<sup>32</sup> *LAPD Dept. Manual*, 1/512, ALTERNATIVES TO PHYSICAL ARREST, BOOKING, OR CONTINUED DETENTION, 4 § 216.66-67.

<sup>33</sup> California Penal Code § 853.6. Note that the Fontana Police Department not only authorizes but *requires* citation and release for almost *all* misdemeanor offenses, with a limited number of exceptions, and enables citation release for a number of felonies as well. Fontana Police Department, *Policy Manual*, § 420, 311 (December 16, 2014).

<sup>34</sup> The Fontana Police Department allows for citation in lieu of arrest for “most misdemeanor cases” involving adults, where no “disqualifying circumstances are present.”<sup>34</sup> Notably, however, this policy also allows for citation and release with regard to certain non-violent “wobblers,” or offenses that could be characterized as either misdemeanors or felonies. The listed wobblers include “property crimes... where the value of the property is less than \$2500,” “weapons violations,” and violations of H&S Code § 11377 (possession of Schedule III, IV, or V controlled substance without a prescription).

<sup>35</sup> See, e.g., Bob Egelko, *State to Intervene in a Case Against Bail System After SF Declines*, SF Gate, November 29, 2016, <http://www.sfgate.com/bayarea/article/State-to-defend-suit-against-bail-system-after-10640767.php> (S.F. City Attorney Dennis Herrera refused to defend the money bail system).

<sup>36</sup> Cal. Penal Code §§ 1270, 1318. In determining whether detainees should be released on their own recognizance, the court evaluates a detainee’s ties to the community, ability to post bond, and threat to public safety.

<sup>37</sup> These include the Prostitution Diversion Program, the Alternative Prosecution Program, and the Homeless Alternative to Living On the Streets Project (HALO). LA City Attorney, *Community Justice Initiative*, <http://www.lacityattorney.org/community-justice>; Kraut Law Group, *Alternative Prosecution Program*, <https://www.losangelescriminallawyer.pro/alternative-prosecution-program.html>; Law Office of the Los Angeles County Public Defender, *Homeless Alternative to Living on the Street (HALO)*, [http://pd.co.la.ca.us/Rest\\_Halo.html](http://pd.co.la.ca.us/Rest_Halo.html).

<sup>38</sup> See, e.g., Giana Magnoli, *County Supervisors Approve Misdemeanor Diversion Program*, Noozhawk, October 17, 2012, [https://www.noozhawk.com/article/101612\\_county\\_approves\\_misdemeanor\\_diversion\\_program](https://www.noozhawk.com/article/101612_county_approves_misdemeanor_diversion_program).

<sup>39</sup> The Immigration and Nationality Act will treat as evidence of criminal conduct whenever a non-citizen has “admitted sufficient facts to warrant a finding of guilt.” See 8 U.S.C. §1101(a)(48)(A); see generally Sara Elizabeth Dill, *Unbalanced Scales of Justice: How ICE Is Preventing Noncitizens from Having Equal Access to Diversion Programs and Therapeutic Courts*, 50 Fam. Ct. Rev. 629, 632 (2012).

<sup>40</sup> Law Enforcement Assisted Diversion (LEAD), “Evaluation”, at <http://leadkingcounty.org/lead-evaluation/>.

<sup>41</sup> Office of the President, *Empowering Local Partners to Prevent Violent Extremism in the United States*, Aug. 2011. [www.whitehouse.gov/sites/default/files/empowering\\_local\\_partners.pdf](http://www.whitehouse.gov/sites/default/files/empowering_local_partners.pdf) (“Communities – especially Muslim American communities whose children, families and neighbors are being targeted for recruitment by al-Qa’ida – are often best positioned to take the lead because they know their communities best.”).

<sup>42</sup> 2017 Government Accountability Office (“GAO Report”) at 4-5. <https://www.gao.gov/assets/690/683984.pdf> (“Of the 85 violent extremist incidents that resulted in death since September 12, 2001, far right wing violent extremist groups were responsible for 62 (73 percent) while radical Islamist violent extremists were responsible for 23 (27 percent).”)

<sup>43</sup> “Countering Violent Extremism.” *Countering Violent Extremism | Homeland Security*. January 19, 2017. <https://www.dhs.gov/countering-violent-extremism>.

<sup>44</sup> See Los Angeles Framework for Countering Violent Extremism: <https://www.dhs.gov/sites/default/files/publications/Los%20Angeles%20Framework%20for%20CVE-Full%20Report.pdf>.

<sup>45</sup> Patel, Faiza, and Meghan Koushik. “Countering Violent Extremism.” Brennan Center for Justice. [https://www.brennancenter.org/sites/default/files/publications/Brennan%20Center%20CVE%20Report\\_0.pdf](https://www.brennancenter.org/sites/default/files/publications/Brennan%20Center%20CVE%20Report_0.pdf) (“Brennan Center Report”).

<sup>46</sup> <http://www.cnn.com/2017/07/01/politics/cve-funding-changes/index.html>

<sup>47</sup> See California’s Due Process Crisis: Access to Legal Counsel for Detained Immigrants, *available at* <http://www.publiccounsel.org/tools/assets/files/0783.pdf>.

<sup>48</sup> For one recent tragic example, see Kyle Swenson, “He Said Deportation Would Kill Him. His Body Was Found in Mexico This Week,” *The Washington Post*, Sept. 21, 2017, *available at* [https://www.washingtonpost.com/news/morning-mix/wp/2017/09/21/he-said-deportation-would-kill-him-his-body-was-found-in-mexico-this-week/?utm\\_term=.8ebc2ce7b634](https://www.washingtonpost.com/news/morning-mix/wp/2017/09/21/he-said-deportation-would-kill-him-his-body-was-found-in-mexico-this-week/?utm_term=.8ebc2ce7b634). Many people in removal (the technical term for deportation) proceedings have protection-based claims; and any person can qualify for protection under the Convention Against Torture if she can meet the burden of proof of showing that it is likelier than not that she will be tortured. See *Nuru v. Gonzales*, 404 F.3d 1207, 1221 (9th Cir. 2005).

<sup>49</sup> *Ng Fung Ho v. White*, 259 U.S. 279, 284 (1922).

<sup>50</sup> See California’s Due Process Crisis

<sup>51</sup> Attorneys from Public Counsel and Esperanza Immigrants Rights Project conduct Legal Orientation Programs at area detention facilities. While systematic data is not available, these attorneys regularly see individuals with a potentially meritorious claim for relief from deportation; indeed, the person who has no potential avenue to avoid deportation is the exception and not the rule.

<sup>52</sup> See 8 U.S.C. § 1226(c)(1)(A) and (B).

<sup>53</sup> See, *Preap v. Johnson*, 831 F.3d 1193 (9th Cir. 2016). The government has filed a petition for a writ of certiorari to the Supreme Court.

<sup>54</sup> See *Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006).



Date: 12/07/2017

Submitted in IACRE Committee

Council File No: 17-1040

Item No: 4

Form: Comm from Public

**Persons with subject**

NAME (LAST FIRST)	DOB	SEX	GANG/MONIKER
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NAME (LAST FIRST)	DOB	SEX	GANG/MONIKER
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SUBJECT'S BIRTHPLACE	CITY	COUNTY	STATE	COUNTRY
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ADDITIONAL INFO [ADDITIONAL PERSONS, BOOKING NO, NARRATIVE, E MAIL, SOCIAL MEDIA ACCOUNT(S) (E.G., TWITTER, INSTAGRAM, FACEBOOK), ETC.]

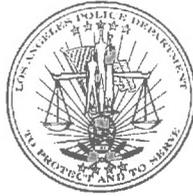
DATE	TIME	LOCATION	RD
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OFFICER	SERIAL NO	OFFICER	SERIAL NO
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FIELD INTERVIEW 15:45:00 (09/15)	INCIDENT NO.	DIVISION	DETAIL	SUPV. INFO
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OP. LIC. NO.		STATE	NAME (LAST, FIRST, MIDDLE)			SUFFIX (JR., ETC.)				
O		F	N			J				
RESIDENCE ADDRESS			CITY	STATE	SEX	DESCENT	HAIR	EYES		
A			C		S	D	H	E		
HEIGHT	WEIGHT	BIRTHDATE		CLOTHING						
T	W	S								
PERSONAL OCCURRENCES						PHONE NO.				
BUSINESS ADDRESS/SCHOOL/UNION AFFIL.						SOC. SECURITY				
						Z				
WINKER ALIAS				GANG/CLUB						
SUBJ		1 LOOPER	3 SOLICITOR	5 GANG ACTIVITY	7 ON PAROLE	DRIVER				
INFO		2 PROWLER	4 WITNESS	6 HAS RECORD	8 ON PROBATION	PASSENGER				
V	YEAR	MAKE	MODEL	TYPE	COLOR	VEH. LIC. NO.	TYPE	STATE		
E	INT. COLOR	1 BUCKET SEAT		EX	1 CUST. WHEELS	3 LEVEL ALTER	5 CUST. PAINT			
		2 DAMAGED INSIDE		T	2 PAINTED MURAL	4 RUST/PRIMER	6 VINYL TOP			
FI	BODY	1 DAMAGE	3 STICKER	4 LEFT	6 FRONT	WIN-DOWS	1 DAMAGE	3 CURTAINS	4 LEFT	6 FRONT
		2 MODIFIED		5 RIGHT	7 REAR		2 CUST. TINT		5 RIGHT	7 REAR

# LOS ANGELES POLICE DEPARTMENT



**CHARLIE BECK**  
Chief of Police

**Eric Garcetti**  
Mayor

P. O. Box 30158  
Los Angeles, Calif. 90030  
Telephone: (213) 486-0150  
TDD: (877) 275-5273  
Ref #: 4.1

November 27, 2017

CF No. 16-002831

Ms. Xochitl Hernandez  
National Day Laborer Organizing Network  
c/o Ms. Emi MacLean  
674 South Lafayette Park Avenue  
Los Angeles, California 90057

Date: 12/07/2017  
Submitted in: IACRE Committee  
Council File No. 17-1040  
Item No. 4  
~~Item~~ Comm. from Public

Dear Ms. Hernandez:

An investigation into your complaint that was reported on October 19, 2016, regarding the conduct of employees of the Los Angeles Police Department, has been completed. The investigation has gone through several levels of review, including myself and the command staff of Internal Affairs Group. Your allegations that an employee falsely arrested you because of your race and failed to utilize a Spanish speaker have been classified as *Unfounded*, which means that based upon the preponderance of evidence standard, the investigation determined that the acts alleged did not occur in the manner you described. Your allegation that an employee laughed at you has been classified as *Insufficient Evidence to Adjudicate*, which means there was insufficient information available to adequately or thoroughly investigate, or adjudicate the allegation made. Your allegation that Immigration and Customs Enforcement officers were inappropriately utilized during an investigation has been classified as *Exonerated*, which means the investigation determined that the act occurred, but was justified, lawful, and proper. Your allegation that employees transported you to the station has been classified as *Non-Disciplinary - No Misconduct*, which means that the act alleged did not rise to the level of misconduct and the named employees' actions were protected by law or found to be consistent with Department policy or procedure. Your allegations that employees made inaccurate statements during your immigration hearing and failed to properly scrutinize a detention have been classified as *Non-Disciplinary-Employee's Actions Could Have Been Different*, which means that the facts revealed by the investigation determined that the employees' actions could have been different, and will be addressed by the concerned commanding officer through corrective action. Your allegation that an employee placed handcuffs too tightly has been classified as *Not Resolved*, which means the investigation did not disclose sufficient evidence to prove or disprove the allegation made.

Thank you for bringing these matters to our attention. It is the goal of the Los Angeles Police Department to provide the highest level of quality service to every member of the community. Any questions regarding these matters may be referred to Lieutenant II McNeil Gardner, Operations Central Bureau Adjutant, at (213) 486-3735.

Very truly yours,

CHARLIE BECK  
Chief of Police

A handwritten signature in black ink, appearing to read "R. Arcos", with a stylized flourish at the end.

ROBERT N. ARCOS, Captain  
Commanding Officer  
Operations-Central Bureau

[https://www.buzzfeed.com/davidnoriega/the-lapd-says-it-wont-work-with-feds-on-deportations-but-it?utm\\_term=.stjky1K4a#.vjz8Xwj0y](https://www.buzzfeed.com/davidnoriega/the-lapd-says-it-wont-work-with-feds-on-deportations-but-it?utm_term=.stjky1K4a#.vjz8Xwj0y)



Date 12/07/2017  
Submitted in IACRE Committee  
Council File No. 17-1040  
Item No. 4  
 Comm. from Public

## Under Trump, Sanctuary Cities May Not Be So Safe

*A BuzzFeed News investigation shows that the LAPD violated its own rule against cooperating with immigration agents, a scenario that may become more frequent if Trump targets undocumented immigrants.*

*December 8, 2016*

*David Noriega, BuzzFeed News Reporter*

**After Donald J. Trump** won the presidential election, the Los Angeles Police Department announced that it would not assist the new administration with its plans for mass deportations.

“We are not going to work in conjunction with Homeland Security on deportation efforts,” LAPD Chief Charlie Beck said on Nov. 15. “That is not our job, nor will I make it our job.”

Officials in New York, Chicago, and other major cities followed suit, creating the impression that self-proclaimed sanctuary cities would be the first line of defense for undocumented immigrants in the face of a Trump crackdown. In Los Angeles, Chief Beck appealed to a long-standing city policy known as Special Order 40, which prohibits police from approaching people with the sole purpose of determining their immigration status. “I don’t intend on doing anything different,” Beck said.



*Marcus Yam / Getty Images. Chief Charlie Beck speaks during a press conference in Los Angeles on Oct. 3.*

But there is a large loophole in the LAPD's stated policy of non-cooperation with federal immigration authorities: extensive operations carried out jointly by the LAPD and Immigration and Customs Enforcement, typically focused on transnational gangs. The justification for these operations is that they target criminal activity rather than immigration status, which is a civil matter. However, a BuzzFeed News investigation found that in two operations conducted jointly by LAPD and ICE in the past year, at least nine undocumented immigrants — who were not charged with, convicted of, or suspected of committing any crimes — were arrested by LAPD officers and immediately transferred to the custody of ICE, which began deportation proceedings against them. The incidents occurred within the framework of routine LAPD-ICE cooperation under patchy oversight from the police department, leading advocates to believe they were not isolated or anomalous.

Legal experts and immigrant rights advocates told BuzzFeed News that these arrests were likely in contravention of Special Order 40 — in some cases appearing to violate the rule outright, and in all cases violating, at minimum, the spirit of the policy. Special Order 40, which dates to 1979, was designed to instill trust between immigrant communities and law enforcement in order to encourage undocumented people and their families to cooperate with police investigations. But joint LAPD-ICE operations involve police officers and federal agents acting in concert, thus eliminating the distinction between the two in the eyes of the immigrants who face deportation as a result.

For several years, ICE has used extensive gang databases collected by local law enforcement to target people for deportation. As reported by *The Intercept*, people often wind up in these databases with slim justification and little due process. But the joint operations analyzed by BuzzFeed News show that an immigrant need not be in a gang database, or otherwise suspected of any crime, to wind up facing deportation as a direct result of contact with the LAPD.



*John Moore / Getty;  
Mark Boster / Getty.  
Immigration and  
Customs Enforcement  
(ICE) and HSI agents  
in Los Angeles.*

LAPD refused BuzzFeed News' requests for interviews and declined to answer written questions about the two incidents, the number of joint LAPD-ICE operations, or the number of immigrants who have been placed in removal proceedings solely as a result of their immigration status after contact with the LAPD.

An ICE spokesperson described the joint operations as routine. ICE agents, she said, “work alongside LAPD on a host of task forces responsible for combatting crimes ranging from narcotics crimes to human trafficking. The public often mistakenly assumes ICE’s enforcement mission is expressly focused on immigration, but in fact the agency’s mandate is far broader, extending to all types of cross-border crime.”

However, advocates say that a lack of transparency and lax oversight on the LAPD’s part create a systemic risk for ordinary immigrants to be caught up in the dragnet. “What it comes down to is that you have situations where LAPD resources and personnel are being used to identify, apprehend, and deport people who are undocumented, for no other reason than their being undocumented,” said Emi MacLean, an attorney at the National Day Laborer Organizing Network (NDLON) who has represented immigrants from the incidents examined by BuzzFeed News.

Kathleen Kim, a professor at Loyola Law School who served on the Los Angeles Board of Police Commissioners, said these incidents demonstrate an urgent need for the police and city government to scrutinize and tighten their policies on cooperation with immigration authorities. “There needs to be a revamped Special Order 40. We have to update it with specific guidelines,” Kim said. “It’s up to the city and the police department to ensure the police follow the principles they have committed themselves to upholding.”

In the meantime, joint gang enforcement is likely to act as a loophole for the LAPD to assist in Trump’s deportation efforts, said Ana Muñiz, an assistant professor of criminology at the University of California, Irvine. “We can expect — in spite of sanctuary cities, in spite of the LAPD’s proclamation — that there will continue to be joint raids, there will continue to be joint enforcement,” Muñiz said. “And we can expect that to be done increasingly through this framework of gang enforcement and gang labeling, which we know is unrigorous and overly broad.”



*John Moore / Getty Images. Adelanto Detention Facility in Adelanto, California.*

**In his November 13 interview** with CBS’s *60 Minutes*, Trump promised to immediately deport undocumented immigrants he described as “criminal, with criminal records — gang members, drug dealers.” Trump pegged their number at 2 to 3 million, vastly higher than the roughly 800,000 agreed upon by most experts — a number that itself includes people whose only crime is re-entering the country after having been deported, often to reunite with family.

“The only way [Trump] could possibly reach his goal of deporting 2 to 3 million people is by relying heavily on cooperation with local police departments,” said César Cuauhtémoc García Hernández, a visiting professor at the University of Denver Sturm College of Law. And joint federal-local gang enforcement is likely to play a prominent role.

“Once you launch a law enforcement initiative under the banner of targeting gang activity, that legitimizes it,” García Hernández said. “And frequently there is very little critical thought about who is actually going to be apprehended.”

In Los Angeles, one such joint operation, which has been active since June 2014, targets so-called *casitas*: after-hours night clubs operated by gangs allegedly engaged in human trafficking.



*Nancy Pastor for BuzzFeed News. Guillermo Félix and his family in front of the Angel of Independence at Plaza Mexico in Lynwood, California.*

On the morning of Nov. 14, 2015, the LAPD and Homeland Security Investigations (HSI), ICE’s catchall police force, believed the party at 6561 N. Normandie Avenue in South Central Los Angeles was a casita. But, according to ICE records, when heavily armed LAPD officers raided the party, the only illicit activity they found was a man outside with a gun and one inside with enough drugs for a single misdemeanor possession charge. There was no evidence of human trafficking, though there were a handful of people with outstanding traffic violations.

And there were several undocumented immigrants. Guillermo Félix, a 31-year-old day laborer who entered the US illegally from Mexico with his family when he was 14 years old, wound up there with his friends in the early hours of the morning. Many others at the party showed up after nearby clubs closed for the night.

Around 4:45 a.m., as Félix was preparing to leave, a group of police officers in SWAT gear burst through the door. They detained everyone and brought them outside. Félix saw a helicopter circling above. Slowly, police searched and questioned those present, letting many of them go. Félix wasn’t necessarily surprised or upset that police had raided the party: Some people there looked like gang members, and Félix assumed the cops were after someone specific. “They came in there like they were looking for someone really dangerous,” he told BuzzFeed News. “I thought I was just in the wrong place. I thought they would let me go.”

Instead, officers loaded Félix and several others into unmarked vans that took them to the LAPD's 77th Division station. On the way, Félix asked officers why he was being arrested, but got no response. At the station, Félix saw agents in plainclothes with jackets marked ICE, who questioned him about his immigration status. After a few hours, Félix was loaded into a van once again and taken to a federal immigration detention center downtown. Eventually, Félix was transferred to a privately-operated ICE jail in Adelanto, California, in the desert some 90 miles outside of Los Angeles.



*Nancy Pastor for BuzzFeed News. Guillermo Felix with his son Guillermo Jr., 2, at Plaza Mexico in Lynwood, California.*

MacLean, the attorney at the National Day Laborer Organizing Network, learned of the raid on the suspected casita on Normandie Avenue in February, after local law students visited the Adelanto detention center and happened to speak to a woman named Isabel Mejia, who had also been picked up in the raid. MacLean was able to stop Mejia's deportation. Félix, meanwhile, was released on bond. MacLean began asking the LAPD for information about the operation. The police, MacLean said, confirmed the raid and acknowledged that it was part of a larger LAPD-ICE joint operation targeting casitas. The police initially told MacLean that they had no knowledge of the fact that several undocumented people had been transferred to ICE custody for deportation, nor could they say how frequently such transfers took place.

"We don't know how often this is happening," MacLean said. "But the fact that it could happen without LAPD knowing about it suggests that it is not totally atypical."

In April, a coalition of groups — including NDLO, MacLean's organization, along with the ACLU and several prominent national immigrant rights organizations — wrote a letter to LAPD Chief Beck expressing concern over the casitas raids and other joint operations with ICE. "These ICE-LAPD actions that involve collateral arrests for immigration enforcement purposes alone further terrorize the undocumented community in Los Angeles," the letter reads. "Without the establishment of appropriate limits on the use of such raids for immigration enforcement, these raids appear to conflict with the stated purpose of Special Order 40."

In the past, the letter notes, LAPD had "justified these actions on the ground that LAPD never technically held the individuals in custody." However, ICE records obtained by MacLean through a freedom of information request show that the raid on Normandie Avenue was carried out by a platoon of LAPD's Metropolitan Division, on the basis of a search warrant obtained by LAPD detectives.

That morning, Guillermo Félix assumed he had simply been caught up in a police sting. It wasn't until ICE agents took him to the detention center downtown that he realized he would be facing deportation.

"I felt like my world was crashing down," he said. "If it were just me, well, I'm an adult — I'll find some way to take care of myself in Mexico." But Félix has a family: a wife and four children, the youngest of whom was an infant at the time. "They depend on me, all of them," he said. "What are they going to do?"



*Nancy Pastor for BuzzFeed News. Xochitl Hernández with her grandchildren (from left to right), Nathan, 9, Sarah, and Aidan, in their Los Angeles home.*

**At 6:30 in the morning** on Feb. 14, Xochitl Hernández went to meet a friend near East Hollywood in Los Angeles to help her find work. The friend lived in the back of a house that Hernández said was sometimes used as a gathering place for people in the neighborhood, some of whom she believes may have been in gangs. As Hernández waited for her friend in the living room, a group of LAPD officers came inside with a warrant for the arrest of two men wanted for robbery. The officers detained everyone present, including Hernández.

Months later, MacLean, the immigration lawyer, learned that two Homeland Security agents had been invited along by the LAPD officers executing the arrest warrant. This likely explains why, after Hernández arrived at the LAPD's Rampart station, she was questioned by ICE agents, then transferred, like Guillermo Félix, to the holding facility downtown and finally to the private detention center in Adelanto.



*Nancy Pastor for BuzzFeed News. Xochitl Hernández shows the tattoos she says are the names and nicknames of her grandchildren, as well as the Los Angeles Dodgers logo, on her arms.*

At her first immigration court hearing, which occurred via videoconference with a judge in LA, Hernández learned that, when the LAPD handed her over to ICE, they also described her as an affiliate of a local gang. Mark Austin, a gang enforcement officer with the LAPD's Rampart Division, testified at the hearing by telephone. He said that although he had not met Hernández before, he knew she lived in a neighborhood with high gang activity and had seen her speaking with known gang members; moreover, he said that he had once, during an attempted arrest of a different person, seen Hernández use a sweatshirt in her hand to pick up something from the ground that he believed may have been drugs or a gun.

During the hearing, Hernández tried to dispute the claims. But she didn't have a lawyer at the time — immigrants are not entitled to counsel when they face deportation, and the majority go through removal proceedings without representation. This made countering Austin's allegations difficult, Hernández said.

Hernández, who is 40 years old, raised her five children in the neighborhood where she was arrested. Over the years, some of their schoolmates became involved in gangs. "I know them, because they knew my kids since they were little," Hernández said. "But the fact that they're gang members doesn't make me a gang member, or make my kids gang members." During the court hearing, Austin suggested that Hernández's tattoos "could also" be an indication of her gang affiliation. Hernández told BuzzFeed News that most of her tattoos are the names and nicknames of her children and grandchildren.



*David Noriega / BuzzFeed News. Emi MacLean, National Day Laborer Organizing Network attorney, at a rally advocating for Xochitl Hernández's release on Aug. 23.*

After the court hearing that included Austin's testimony, the immigration judge decided to keep Hernández in detention with a \$60,000 bond, which her family could not afford. She remained incarcerated at Adelanto for six months. Hernández's lawyers pressured the LAPD for information on her arrest and Austin's testimony during her first hearing. Eventually, the police department provided a letter indicating that it did not have Hernández listed in any gang databases and did not suspect her of any gang-related (or other) crimes.

During Hernández's detention, MacLean's organization, NDLON, launched a publicity campaign around her case. In September, the immigration judge lowered Hernández's bond to \$5,000; her family gathered enough donations to pay the bond and she was released. In October, NDLON filed a civil rights complaint with LAPD asserting that Hernández was arrested without probable cause and questioned solely to determine her immigration status.

"LAPD affirmed that it had no independent grounds to bring Ms. Hernández into custody. She was neither suspected of criminal activity nor charged," the complaint reads. "The LAPD's actions in connection with Ms. Hernández appear to demonstrate that the LAPD is not abiding by its own policies with regard to collaboration with federal immigration authorities."

While raising her kids in Los Angeles, Hernández told BuzzFeed News, she had friendly relationships with neighborhood beat cops, who regularly checked in with her and her family. Years ago, she reported her abusive husband to police, who treated her respectfully and never inquired about her immigration status.

Now, as she awaits her next hearing in immigration court with an electronic monitor strapped to her ankle, Hernández feels differently whenever she sees police in the street. "I'm scared now," she said. "I don't want anything to do with them."



*Nancy Pastor for BuzzFeed News. Xochitl Hernández displays her ankle monitor.*

*David Noriega is a national reporter for BuzzFeed News and is based in Los Angeles.*