

CONTRA COSTA COUNTY TRUTH ACT FORUM 2024

Slides and Presentation by
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Community concerns about local law enforcement working with ICE

- Unnecessarily expends local resources on immigration enforcement, which is not a responsibility of the Sheriff's department
- Fosters distrust between immigrant communities and local law enforcement. Makes immigrant communities view local law enforcement and ICE as the same entity
- Opens local law enforcement up to liability, which means tax dollars are used to pay out settlements
- Can result in the permanent separation of community members from their families and intergenerational trauma. Black, brown & AAPI folks most harmed by mass incarceration and criminalization suffer the most.

Community concerns about local law enforcement working with ICE (cont.)

- Days after community members spoke out against the county's collaboration with ICE at the 2019 TRUTH Act Forum, Sheriff Livingston stopped letting ICE into private areas of county jails to conduct ICE arrests.
- After the 2020 TRUTH Act Forum, CCIRA members and members of the Sheriff's Office met on several occasions to discuss the Sheriff's policy on collaborating with ICE.
- In June 2021, CCIRA was notified that Sheriff Livingston made some changes to his policy, and adopted CCIRA's suggested policy change of ending the practice of publishing lists of release dates online.

The California Values Act (SB 54)

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



NOTIFICATION REQUESTS TO ICE

Notifying ICE of
release dates



Prohibited unless:

- Revised TRUST Act exception applies, including:
 - Conviction for a felony punishable by imprisonment in state prison at any time
 - Conviction within past 15 years for any other specified felony. The 15-year "wash" is an improvement on the old TRUST Act standard.
 - Conviction within the past 5 years for a misdemeanor for a specified wobbler offense.
 - Charges for a crime that is serious, violent, or punishable by a term in state prison if finding of probable cause has been made by a magistrate pursuant to PC 872.
- If release dates/times are already publicly available, can be shared

Patterns of Unlawful ICE Notifications: Last Year

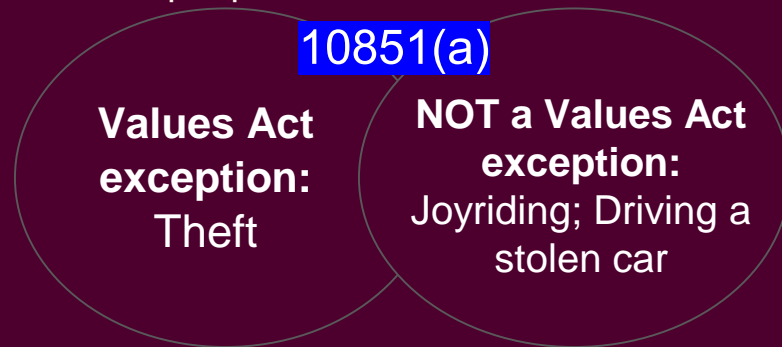
- Unlike past years, the Sheriff did not provide Asian Law Caucus with this year's data in advance, so we are unable to share analysis of the Sheriff's FY2023 stats in our presentation.
- At last year's Trust Act Forum, Sheriff Livingston admitted that his deputies had illegally made an ICE notification based on a misdemeanor DUI conviction. At the time, he stated,
 - *"We did find one case of an individual who when the deputy reviewed the record, found that it was just a DUI non-felony, so that was one error out of 400 requests..."*
- Despite being unable to review the Sheriff's presentation, we do have an alternate source of information. (see next slide)

Patterns of Unlawful ICE Notifications: This Year

- Asian Law Caucus requested, procured, and reviewed hundreds of documents through a Public Records Act (PRA) request to the Sheriff's Office.
- Over a dozen potential Values Act violations from this fiscal year, thereby revealing a recurring pattern of state law violations in the Sheriff's Office's practice:
 - Ex. 1: Penal Code section 417(a)(1) is a straight misdemeanor brandishing offense.
 - Cf., a "wobbler" – an offense that the court has discretion to treat as either a misdemeanor or felony, but chose to treat as a misdemeanor.
 - Penal Code section 417(a)(1) is not a wobbler, because it can only be charged as a misdemeanor.

Patterns of Unlawful ICE Notifications: This Year (Cont'd)

- Ex. 2: Vehicle Code section 10851(a):
 - This is a wobbler that can be charged not only when a person stole a car, intending to take it permanently, but also when they engage in joyriding (that is, temporarily taking a vehicle) or driving an already-stolen vehicle. The former falls into the theft exception in the Values Act, and can be a legal basis for ICE notification.
 - Joyriding and post-theft driving do not count as theft, under *People v. Gutierrez* (2018), 20 Cal.App.5th 847, 853–854 [229 Cal.Rptr.3d 531, 537], and are not a proper basis for ICE notification.



The Consequences of a Complicated Policy: Legal Liability

- These findings demonstrate
 - people's lives hang in the balance of the Sheriff's Office being able to do very complex legal analysis, and
 - last year's ICE notification error was not a one-off.
- A complicated policy can easily lead to legal liability for the county
 - That is why adopting a simpler, bright-line policy that exceeds the minimum requirements of state law would help mitigate these legal risks, and respond to long-standing community concerns regarding local law enforcement collaboration with ICE.

CCIRA's Recommendations to the Sheriff



STOP
responding to
ICE
Notifications
altogether



**REVISE
POLICY**

Limit ICE notifications to
STRIKES ONLY, i.e.,
serious and violent
felonies, as previously
presented by Sheriff at
past Forums



**KEEP THE
DIALOGUE
OPEN**

We hope to continue a
dialogue about improving
the Sheriff's policies.

CCIRA'S Recommendations to the Board of Supervisors



Fund Stand Together Contra Costa:

- Additional legal assistant staffing
- Launching a Mobile Immigration Legal Clinic to provide free legal consultations at more accessible locations for hard-to-reach immigrants, e.g., day laborer centers and agricultural harvests



Fund community resources:

- Local non-profits providing critical safety net services for immigrant communities:
 - legal defense
 - systems navigation
 - housing services
 - workforce development
 - health services, and
 - welcoming/inclusion work

Thank you

If you have any questions or concerns, please contact:

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