ORAL PRESENTATION
Alameda County
Truth Act Forum
2021

Lena Graber, Senior Staff Attorney
Immigrant Legal Resource Center
November 2, 2021
• Immigrant Legal Resource Center
• Alameda County Immigrant Legal and Education Program (ACILEP)
• Asian Americans Advancing Justice – Asian Law Caucus
• Justice Reinvestment Coalition of Alameda County
• Asian Prisoner Support Committee
• Center for Empowering Refugees and Immigrants
• Human Impact Partners
• Ella Baker Center
• CURYJ – Communities United for Restorative Youth Justice
• Urban Peace Movement
• California Immigrant Youth Justice Alliance
Alameda County

- Alameda County is home to 1.7 million people
- 33% are foreign-born
- 43% speak a language other than English at home
- Half of Alameda County children have at least one immigrant parent

(Source: Alameda Social Services)
California State Laws

- Requires annual Truth Act Forums
- Requires CA law enforcement agencies to serve a copy of ICE detainers on the person and inform them whether the agency intends to comply
- If a law enforcement agency notifies ICE of the release date of someone in custody, they must promptly inform that person and the person’s attorney that they have done so
- Requires a written consent form in advance of any ICE interview of a person in CA custody
California State Laws

California Values Act -- SB 54
(Law as of 2018):

- Prohibits inquiring about immigration status
- Prohibits holding a person for ICE on a detainer
- Limits who can be transferred to ICE
- Limits when LEAs can notify ICE of a person’s release
- Prohibits sharing of personal information (e.g., work and home addresses)
- Prohibits use of ICE/CBP as interpreters
- Prohibits arrests based on civil immigration warrants
- Limits participation in joint taskforces and requires reporting to CA Attorney General
CA Laws Upheld by Federal Courts

- CA has authority to limit involvement in immigration enforcement
- Any assistance to ICE is purely voluntary
- No state or federal law requires assistance to ICE
- US Dept. of Justice has removed the immigration enforcement conditions from its law enforcement grants
In spite of previous directives from the Board of Supervisors, ACSO policy:

- Provides notification of release dates to ICE in order to transfer people to immigration detention
- Allows ICE into the jail to effect direct transfers
- Slow to notify counsel that they have alerted ICE to release dates
- Policy allows for inquiries into immigration status while SB54 does not
What happens after transfer to ICE?

"Death penalty cases in a traffic court setting" – Immigration Judge Dana Marks (SF)

This is not a metaphor. Deportation is high stakes with few rights.

**High stakes:**

- Deportation to a country where your life or your children may be in danger
- Nigh impossible to return after deportation
- Can lose custody of children, not to mention jobs, homes, businesses
- COVID-19 and other abuses in ICE detention
What happens after transfer to ICE?

“Death penalty cases in a traffic court setting”
– Immigration Judge Dana Marks

**Little Due Process:**

- People are detained for months and often years
- Many have no right to a bond hearing
- There is no right to have counsel provided, even if you are a child
- More than 80% of detained immigrants are unrepresented
- Hearings dealing with horrific persecution and family trauma occur over video conference with a judge hundreds of miles away
- **At least 16 deaths** in detention during the pandemic
COVID-19

ICE has handled the pandemic particularly badly

- Poor medical care and lack of testing
- Lack of sanitation and safety precautions
- Outbreaks in detention and surrounding areas
- Transfers and negligent behavior
- 13 times higher infection rate in ICE detention than in the general US population

As of August 1, 2020, more than 5% of COVID cases in the country were attributable to spread from ICE detention centers.

If ICE detention were counted as a separate country for COVID cases, it would rank 16th in the world
How does immigration enforcement work?

- **Surveillance and Identification** (Information and fingerprint sharing)
- **Arrest** (Detainers and Transfers, ICE raids)
- **ICE Detention**

Removal
Immigration Enforcement in Alameda County

1. POLICE ARREST A PERSON.

2. POLICE SCAN THE PERSON'S PRINTS & SUBMIT THEM TO BE CHECKED AGAINST FBI & ICE RECORDS.

3. ICE AGENTS USE THIS INFORMATION TO ISSUE A DETAINER REQUEST

4. ACSO TRANSFERS THE PERSON TO ICE CUSTODY INSTEAD OF RELEASING THEM
ICE Enforcement

Nationally: ~70% of immigration arrests occur as transfers from other law enforcement agencies
Each year, ACSO is the main conduit to immigration enforcement.

![Chart showing ICE Arrests in Alameda County FY2016 - May 2018. The chart indicates the number of people arrested by ICE from different sources, with a significant number being ACSO/BOP Transfers. There are also other ICE arrests from various methods such as CAP Local (ACSO), CAP Federal, Community Arrest, LEA Response Unit, ERO Reprocessed, CAP State, Other Task Force, Other Agency Transfer, Probation/Parole. The years 2016, 2017, and 2018 are highlighted to show the increase in arrests over these years.]
2018: ICE Arrests in Alameda County

ACSOS was involved in 82% of all ICE arrests in Alameda County in FY2018
In 2019, the sheriff’s department contacted ICE 44 times about the release date of someone leaving ACSO custody. All 44 of those people were arrested by ICE.
2020

In 2020 and 2021, the pandemic caused a large drop in ICE detainers, as ICE detention contracted.

Litigation forced ICE to drop its detention population from more than 50,000 at the beginning of FY2020 to less than 20,000 by January 2021.
## 2020: Bay Area Counties Comparison

<table>
<thead>
<tr>
<th>Transfers to ICE in 2020</th>
<th>Contra Costa: 0</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Marin County: 0</td>
</tr>
<tr>
<td></td>
<td>San Francisco: 0</td>
</tr>
<tr>
<td></td>
<td>Napa: 0</td>
</tr>
<tr>
<td></td>
<td>Santa Clara: 0</td>
</tr>
<tr>
<td></td>
<td>Sonoma: 0</td>
</tr>
<tr>
<td></td>
<td>Solano: 1</td>
</tr>
<tr>
<td><strong>Alameda</strong>: 8</td>
<td></td>
</tr>
</tbody>
</table>
2021: Biden Administration

New policies have reduced ICE arrests in 2021
ICE arrested at least 30% fewer people nationally

But this is already changing.

- Brand new DHS enforcement policy grants enormous discretion and power to ICE, despite its track record
- Immigration detention has expanded steadily in 2021
- DHS is working closely with private prison companies and defending the use of private prisons for immigration detention
- DHS continues the same old scare-mongering immigration policies about immigrants and immigration as threatening to security and safety
Alameda BOS Policy

In September 2016, Alameda BOS passed a resolution against offering any assistance to ICE. Res. No. 2016-274.

Since that time, ACSO has transferred at least 540 people to ICE for detention and deportation.

QUESTION: What is the Board going to do to stop this?
50+ local orgs support end to ICE collaboration

Alameda County Sheriff's Office
Alameda County District Attorney's Office
Alameda County Probation Department
Alameda County Superior Court
Alameda County Board of Supervisors
Immigration and Customs Enforcement, Northern California

Sent via email 3/17/2020, updated supporter list as of 3/22/2020 here

March 17, 2020

To Whom It May Concern:

For decades people who are currently or formerly incarcerated have led the fight to end mass criminalization, incarceration, and state surveillance in the United States. All along, they have been shining a spotlight on the harmful, dehumanizing, and unsanitary conditions of confinement in jails, prisons, and detention centers. At the same time, they have rightly questioned why we as a society continue to use punitive responses to issues that are largely social, political, or economic in nature.

Alameda County has been no exception. For years incarcerated Alameda County residents and their loved ones have risen up to share testimony and reject the horrid conditions inside our county jails. The county has been sued numerous times for jail-based health abuses for everything from lack of access to reproductive health services to wrongful deaths. Santa Rita Jail (and Glenn Dyer Jail before it closed) has never been a safe or healthy place for our beloved community members. Multiple coalitions, campaigns, work stoppages, and hunger strikes inside Santa Rita Jail have highlighted these efforts.
Conclusion

1. Alameda residents are strongly in favor of ending all involvement with ICE.

2. Although actual transfers have decreased recently, all the machinery still exists for them to increase and threaten our community.

3. Alameda County is falling out of step with other Bay Area and CA counties that are stopping all transfers to ICE.

4. Alameda County has no obligation to help ICE or spend our local resources on immigration enforcement.

5. Transfers to ICE inflame the COVID-19 epidemic, undermine community safety, and send people into an inhumane and profoundly unjust system that may result in their death.
ALAMEDA COUNTY PROBATION DEPARTMENT

TRUTH ACT PUBLIC FORUM

Marcus Dawal, Interim Chief Probation Officer
November 2, 2021
ACPD’s Immigration Overview & Goals

- Ensure staff is well-informed on Departmental immigration policies and applicable legislation. Revised Adult and Juvenile Services policies implemented May 25, 2018.
- Follow state, local and federal law without jeopardizing our immigrant clients and community
- Fulfill our data reporting obligations to our recognized local authority- the Board of Supervisors
2020 Probation Department Data

**Adult Field Services**
- 0 ICE Detainers (request for notifications)
- 0 ICE Holds
- 0 Transfer to ICE in custody
- 0 Interview request
- 0 ICE request for Dates and Times of Probation and Parole Check Ins
- 0 request for information on an individual that was not an ACPD client. No information provided.

**Juvenile Services**
- 0 ICE Detainers (request for notifications)
- 0 ICE Holds
- 0 Transfer to ICE in custody
- 0 Interview request
- 0 ICE request for Dates and Times of Probation and Parole check ins
- 0 Request for additional information-No information provided
### 2021 Probation Department Data
**January 2021- October 8, 2021**

#### Adult Field Services
- 0 ICE Detainers (request for notifications)
- 0 ICE Holds
- 0 Transfer to ICE in custody
- 0 Interview request
- 0 ICE request for Dates and Times of Probation and Parole Check Ins
- 2 requests for information. No information provided.

#### Juvenile Services
- 0 ICE Detainers (request for notifications)
- 0 ICE Holds
- 0 Transfer to ICE in custody
- 0 Interview request
- 0 ICE request for Dates and Times of Probation and Parole check ins
- 0 requests for additional information-No information provided
Thank You

Questions?
Alameda County Truth Act Forum

- November 2, 2021
- Avantika Shastri, Immigration Defense Attorney, IMMIGRATION REPRESENTATION UNIT
Immigration Representation Unit

Groundbreaking Unit

Implemented January 2014

First deportation defense unit embedded within a California public defender office.
**Immigration Representation Unit**

- Provides immigration advice for adult, juvenile and Clean Slate Clinic cases as mandated by Padilla v. Kentucky, 559 US 356 (2010)
- Monitors Values Act/SB 54 enforcement
- Provides individual representation in immigration and federal court cases to stop deportation, end detention, and obtain legal status
- Vacates deportable convictions in state courts
- Screens every undocumented juvenile for eligibility for special status available only to juveniles.
- Other litigation and advocacy
In 2020, we filed an administrative complaint against the Sheriff’s Office for violating the Values Act. The claim was settled in 2021.

- In July 2020, our client completed sentence for misdemeanor offense and should have been released and permitted to go home.
- Instead, the Sheriff’s Office erroneously notified ICE of his release. ICE picked him up and moved him to Georgia the same day.
- He was kept in immigration detention for three months. He was not given COVID protections and fell ill from COVID. He received inadequate health care, and was subjected to degrading treatment by guards.
- In October 2020, he was deported to Guatemala.

This is the third known complaint filed against the Sheriff’s Office since 2018. All three complaints have been settled.

No known cases of ICE transfers among our clients in 2021.
1. Separating families, causing distress, and removing breadwinners from households and communities does not make us safer.

2. Non-Cooperation in immigration enforcement by counties does not preclude federal immigration authorities from enforcing immigration laws.

3. Everyone transferred from jail to ICE custody has been deemed suitable for release by the criminal legal system.
We oppose all law enforcement cooperation with ICE.
Cooperation discriminates against our county’s non-citizens.

All persons who are subject to the Values Act have already completed their sentences and/or have already been deemed safe for release by Alameda County’s criminal legal system.

- [PHOTO REDACTED]

Alameda resident who was released from immigration detention and whose case pending.
Cooperating with ICE subjects our community members to systemic racism, mistreatment and inequities in the immigration deportation and detention systems.

- [PHOTO REDACTED]

Permanent resident client who was released from immigration detention following federal court habeas filing.
Client who was transferred from Santa Rita Jail in July 2017 to ICE custody. He was granted relief from removal twice by an immigration judge. Chose to self-deport in 2021 after fighting his case for nearly four years on appeal in ICE custody.
We should spend our county resources more wisely than on Values Act review, oversight, and settlements.

- [PHOTO REDACTED]

- Alameda County resident whom we helped obtain a green card. He now runs his own small business.
TRUTH ACT

ASSEMBLY BILL NO. 2792
CHAPTER 768

An act to add Chapter 17.2 (commencing with Section 7283) to Division 7, Title 1 of the Government Code relating to local government.

Approved by Governor September 28, 2016. Filed with Secretary of State September 28, 2016.

AB 2792, Bonta, Local law enforcement agencies: federal immigration policy enforcement: ICE access.
Pursuant to SB 54, ACSO may respond to an ICE request for notification for an individual who meets the following criteria:

- The individual has been convicted of a serious or violent felony identified in Penal Code Sections 1192.7 (c) or 667.5 (c).

- The individual has been convicted of a felony punishable by imprisonment in the state prison.

- The individual is a current registrant on the California Sex and Arson Registry.

- The individual is arrested for a serious felony or violent felony, as identified in Penal Code Sections 1192.7 (c) or 667.5 (c), or a felony that is punishable by imprisonment in state prison; and after appearing before a magistrate for a preliminary hearing, the magistrate has determined under Penal Code Section 872 that there is probable cause to hold the individual to answer for the crime.

- The individual has been convicted within the past 5 years of a misdemeanor for a crime that is punishable as either a misdemeanor or a felony for, or has been convicted within the last 15 years of a felony as described in Government Code Section 7282.5.
2019 - SB54 AND THE TRUTH ACT

- ACSO continues to comply with the TRUST Act (AB 4-2014) and the TRUTH Act (AB 2792-2016).

- The California Values Act (SB54) became effective on January 1, 2018.

- SB54 sets specific criteria as previously discussed for law enforcement agencies when corresponding with ICE.

- In 2020, ACSO received 322 I-247 A Forms and ICE took custody of 8 individuals. As of November 1, 2021, ACSO has received 70 I-247 A Forms and ICE taken 0 individuals into their custody.
Beginning January 1, 2018, the local governing body of any county, city, or city and county in which a local law enforcement agency has provided ICE access to an individual during the last year shall hold at least one community forum during the following year, that is open to the public and in an accessible location with at least 30 days’ notice to provide information to the public about ICE’s access to individuals and to receive and consider public comment.

The local law enforcement agency may provide the governing body with data it maintains regarding the number and demographic characteristics of individuals to whom the agency has provided ICE access, the date ICE access was provided and whether the ICE access was provided through a hold, transfer, or notification request or through other means.

Data may be provided in the form of statistics or, if statistics are not maintained, individual records, provided that personally identifiable information shall be redacted.
Government Code Section 7283 (d)

- Ice Access means, for the purposes of civil immigration enforcement, including when an individual is stopped with or without their consent, arrested, detained, or otherwise under the control of the local law enforcement agency, all of the following:
  - Responding to an ICE hold, notification, or transfer (1).
  - Providing notification to ICE in advance of the public that an individual is being or will be released at a certain date and time through data sharing or otherwise (2).
  - Providing ICE non-publicly available information regarding release dates, home addresses, or work addresses, whether through computer databases, jail logs, or otherwise (3).
  - Allowing ICE to interview an individual (4).
  - Providing ICE information regarding dates and times of probation or parole check-ins (5).
Under no circumstances shall a person be detained or arrested by Sheriff’s Office members based solely on his or her immigration status whether known or unknown.

ACSO General Order precludes us from asking immigration status. ACSO does not track citizenship and/or immigration status.

ACSO and all of our local Law Enforcement Partners do not perform Immigration Enforcement.
For each arrest made, the reporting agency shall report to the Department of Justice concerning each arrest, the applicable identification and arrest data described in Section 13125 and fingerprints, except as otherwise provided by law or as prescribed by the Department of Justice.
All basic information stored in state or local criminal offender record information systems shall be recorded, when applicable and available, in the form of the following data:

- Personal identification data
- Arrest data
- Misdemeanor or infraction data or preliminary hearing data
- Superior court data
- Corrections data

### California Penal Code Section 13125

<table>
<thead>
<tr>
<th>The following personal identification data:</th>
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<tbody>
<tr>
<td>Name—(full name)</td>
</tr>
<tr>
<td>Aliases</td>
</tr>
<tr>
<td>Monikers</td>
</tr>
<tr>
<td>Race</td>
</tr>
<tr>
<td>Sex</td>
</tr>
<tr>
<td>Date of birth</td>
</tr>
<tr>
<td>Place of birth (state or country)</td>
</tr>
<tr>
<td>Height</td>
</tr>
<tr>
<td>Weight</td>
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<tr>
<td>Hair color</td>
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<td>Eye color</td>
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<tr>
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<tr>
<td>California operator’s license number</td>
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<tr>
<td>Fingerprint classification number</td>
</tr>
<tr>
<td>Henry</td>
</tr>
<tr>
<td>NCIC</td>
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<tr>
<td>Address</td>
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</table>
Effective April 2017, ICE consolidated their I-247 forms and created an I-247 A Form which is an Immigration Detainer-Notice of Action.

All individuals in our custody are treated in the same manner in order to ensure their care, custody, and control.

ACSO does not honor the detainer nor hold individuals past their release dates.
# 2020 SRJ Truth Act Demographics

<table>
<thead>
<tr>
<th></th>
<th>Receipt of I-247A</th>
<th>Age Range</th>
<th>Response to I-247A</th>
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<tbody>
<tr>
<td><strong>Asian</strong></td>
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</tr>
<tr>
<td>Male</td>
<td>30</td>
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<tr>
<td>Male</td>
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<td>38-53</td>
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<tr>
<td><strong>Hispanic</strong></td>
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<td>16</td>
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<td>Male</td>
<td>260</td>
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<td><strong>Other</strong></td>
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<tr>
<td><strong>White</strong></td>
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<tr>
<td>Female</td>
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<td>37-55</td>
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</tr>
<tr>
<td>Male</td>
<td>6</td>
<td>28-48</td>
<td>0</td>
</tr>
<tr>
<td><strong>Totals</strong></td>
<td>322</td>
<td></td>
<td>8</td>
</tr>
</tbody>
</table>
So far this year, ICE has not taken anyone into custody from Santa Rita Jail.

On June 1st, 2019 the Alameda County Sheriff’s Office closed our Glenn Dyer Detention facility. All numbers prior to that date include actions taken at Santa Rita Jail and the Glenn Dyer Facility.

### 2014 – 2021 Statistics

<table>
<thead>
<tr>
<th>Year</th>
<th>I-247A Received</th>
<th>Transferred</th>
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<tbody>
<tr>
<td>2014</td>
<td>588</td>
<td>120</td>
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<tr>
<td>2015</td>
<td>191</td>
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<td>2016</td>
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<td>2017</td>
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<td>2018</td>
<td>685</td>
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<td>2019</td>
<td>436</td>
<td>44</td>
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<tr>
<td>2020</td>
<td>322</td>
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<tr>
<td>2021 (Year to Date)</td>
<td>70</td>
<td>0</td>
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QUESTIONS?

COMMENTS?