



Council Agenda Report

From: Ty Lewis, Police Commander

Subject: California Values Act (Senate Bill 54)

Date: May 1, 2018

Facts

1. The City Council received public comment on the California Values Act (SB 54) at its meeting on April 17, 2018. The staff report for that item is included (see Attachment 1).
2. The Council continued consideration of that item (including the opportunity to take additional public comment) until May 1.
3. Based on the comments and questions received during public comment, as well as events that have transpired since April 17, the following questions and answers are provided, to add to the material provided in the April 17 staff report:

Q: What is SB 54?

A: Senate Bill 54, called "The California Values Act" sets parameters for state and local law enforcement agencies to engage in immigration enforcement-related activities. It makes certain amendments to the TRUST Act of 2014 and the TRUTH Act of 2017.

Q: How was the TRUST Act amended by SB 54?

A: The TRUST Act of 2014 described the circumstances under which a local jailor could detain an individual past his or her scheduled release in response to a hold request from Immigration and Customs Enforcement (ICE).

SB 54 made three key changes. First, local jailors are not permitted to detain an individual based on a hold request from ICE. Second, the TRUST Act now protects incarcerated noncitizens against ICE requests for notification and/or transfer. Third, local law enforcement agencies have the discretion to cooperate with notification and transfer requests under certain conditions, including transfers that are authorized by a judicial warrant or if the transfer would not violate any federal, state, or local law or policy and the person in custody has been convicted of one of the numerous crimes listed in the statute, is a registered sex offender, or is the subject of an outstanding federal felony arrest warrant.

Q: Does falling within California Values Act protections guarantee that a noncitizen will avoid immigration custody?

A: Not necessarily. As noted above, local law enforcement agencies retain discretion to cooperate with ICE on notification and transfer requests under certain circumstances. Furthermore, nothing prevents immigration authorities from learning of a noncitizen's whereabouts and initiating criminal proceedings through their own channels.

Q: Why don't local jails honor federal immigration detainers?

A: Since 2014, the law on immigration detainers has changed substantially. Significant state and federal court decisions have found key aspects of the federal detainer system unconstitutional, in violation of federal statutes, and in excess of state authority. Simply put, federal immigration detainers do not provide probable cause for arrest; without an arrest warrant issued by a judge, local jailers are unable to detain or arrest individuals for most federal immigration violations.

Q: What are the limitations placed on state and local law enforcement officers?

A: Government Code §7282.5 outlines conditions under which California law enforcement officials can cooperate with federal officials on immigration related matters. Generally, California law enforcement officials are prohibited from using department resources or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes.

Q: Does SB 54 violate federal law or the United States Constitution?

A: The federal government has exclusive authority to enforce civil provisions of federal immigration law, relating to issues such as admission, exclusion, and deportation. Existing law generally allows the federal government to permit, but cannot require, the assistance of local officials in such efforts. (8 U.S.C. § 1373; 8 U.S.C. § 1644). SB 54 does place some restrictions on California law enforcement officials. However, they have never been required to enforce federal immigration laws. In addition, it is important to note that nothing in SB 54 prevents or inhibits the federal immigration authorities from enforcing the federal immigration law.

Q: Don't California law enforcement officials take an oath of office where they swear to uphold the United States Constitution?

A: Yes. All California law enforcement officials take an oath of office wherein they affirm to uphold and defend both the California and U.S. Constitutions. The oath, however, does not require officials to enforce all laws. Many laws are not within the purview of local law enforcement, including federal immigration laws, security and exchange laws, federal tax law, maritime law, etc. This does not mean the City is “picking and choosing” which laws to enforce. It is enforcing the laws it is empowered to enforce.

Q: Are state and local law enforcement officials upholding that oath by following California law and limiting assistance to federal immigration officials through SB 54?

A: Yes; there does not appear to be any legal precedent suggesting that limiting local law enforcement assistance in matters where the federal government has exclusive authority would undermine defending the Constitution of the United States.

Q: Can the City of Paso Robles simply opt out and ignore the provisions set forth in SB 54?

A: No, the City of Paso Robles cannot direct its police officers to ignore the requirements of state law until there has been a final determination by a court that SB 54 is unconstitutional. Unless and until a court definitively determines SB 54 to be unconstitutional, and/or to be pre-empted by federal law, then the City would be taking a legal risk by taking any affirmative steps to unilaterally exempt itself from the provisions required under SB 54. The City of Los Alamitos, which adopted an ordinance to “opt-out” of SB 54, has now been sued on this very issue.

Q: Should the City join an existing lawsuit or file its own lawsuit?

A: No. The Federal Court has advised—twice now—potential amicus filers that the court will “only consider briefing that helps the Court beyond the help the lawyers for the parties are able to provide; duplicative or cumulative briefing arguments will not be considered.” That tells us that the Court is discouraging additional amici unless they have a different perspective or other (new) compelling argument. Moreover, the Court extended the State’s time to respond to the federal complaint to May 4, 2018.

Some cities are taking other actions. Huntington Beach decided to file its own suit in State court against the State. Santa Ana voted to file an amicus brief on behalf of the State of California, in opposition to the Federal action.

With all of the actions currently underway, there is no benefit to be gained from the City spending significant funds in pursuing legal action. The courts are already fully engaged, and will make their determinations.

Q. Should the City approve a resolution?

A. A number of other cities have adopted resolutions opposing state sanctuary laws: Beaumont, San Juan Capistrano, and Newport Beach.

A number of cities have taken action to support state sanctuary laws. The San Gabriel City Council, for example, approved a “safe cities” resolution, meaning that it declared itself a sanctuary city.

Councilmember Strong has drafted a resolution (Attachment 1). If the Council so chose, staff could flesh out that Resolution and return for Council consideration.

Q. Should the City write a letter to the Governor and Legislature, pointing out the flaws in SB 54 and the importance of correcting these flaws?

A. Yes. There are numerous flaws in SB 54. The Council could direct the City Manager and City Attorney to send a letter to the Governor, Senator Monning, and Assemblyman Cunningham identifying the flaws and requesting amending legislation.

Q. Are there other courses of action that the Sheriff's Department could undertake?

A. Yes. For example, the Orange County Sheriff Department has announced that it will publicly list dates that inmates will be released, in an effort to provide information to US Immigration and Customs Enforcement. The released information does not note whether the inmate is an illegal immigrant. This is being seen as a loophole/workaround to SB 54.

Q. Has SB 54 significantly affected Police Department policies or actions?

A. No. This may be the most important point of all: officers of the Paso Robles Police Department have continued to do their job and uphold both the State and U.S. Constitutions in the same manner as they did before the passage of SB 54. They are still taking all appropriate actions that fall within their purview to prevent crime and to apprehend criminals.

Q. Similar issues regarding immigration have been addressed by the Council before. What were the actions then?

A. The Council addressed the impacts of immigration and the needs for comprehensive immigration reform both in 2007 (Attachment 3) and again in 2017 (Attachment 4). In both instances, the Council felt that a balanced approach, designed to ensure safety in our community and to treat all persons who contribute to our community with dignity, respect, and compassion, is the best course. Those dual sets of values are part of our heritage, and part of what makes Paso Robles special.

Recommendation

1. Receive and file this report, affirming the City’s current practice of making personal and professional commitments to equal enforcement of the law and equal service to the public. Current practice also permits the exchange of law enforcement information that would comply with both federal and state law, and does not expose the City to the potential expense of litigation.
2. Direct the City Manager and City Attorney to take necessary and appropriate actions.

Attachments

1. Sample Resolution
2. April 17 Staff Report, with attachments

Resolution Re-affirming the City of El Paso de Robles’ Position Regarding Immigration and Immigrants May 1, 2018

Whereas, the City of El Paso de Robles has had a formal policy regarding immigration and immigration reform since December 18th of 2007; and

Whereas, that adopted policy fully complies with all laws of the United States and the State of California and addresses immigration and immigrants regarding assimilation, employment and wages, criminality, health care and education including fiscal and economic impacts; and

Whereas, the policy of the City has already been communicated to Congressman Kevin McCarthy and the United States Senators then representing the State of California; and

Whereas, the staff report of April 18, 2018, clearly states that current law does not deter the City from continuing to enforce local and criminal law nor does it prevent normal cooperation with other agencies involved with the enforcement of their criminal laws; and

Whereas, the Governor of the State of California has made it perfectly clear in his transmittal letter to the State Senate regarding SB 54, dated October 5, 2017, that no California law enforcement or justice employees are in any way prevented from cooperating with Federal authorities regarding criminal, illegal aliens that may fall within the additional jurisdiction of another agency; and

Whereas, the City’s police are fully trained in the duties they are required to perform within our jurisdictional authority as well as mutual aid requests for which they are qualified; and

Whereas, the City and its employees do not impede the authorized employees any legal authority with jurisdiction over our area in the performance of its duties; and

Therefore, Be It Resolved: The Mayor, under the authority of the City Council, will transmit a copy of our policy to the Governor, State Legislature, Immigration and Customs Enforcement, and Department of Homeland Security along with a copy of this resolution as soon as reasonably possible noting that those who desire to perform their legitimate duties within this jurisdiction will not be impeded in their efforts.



Council Agenda Report

From: Robert Burton, Chief of Police

Subject: Senate Bill 54 – Sanctuary State Legislation and Implications for Paso Robles

Date: April 17, 2018

Facts

1. On April 3, 2018 the City Council directed staff to prepare a report on Senate Bill 54 (SB 54). The City Council was specifically interested in understanding SB 54 and its implications for the City of Paso Robles.
2. In 2017, Governor Brown signed into law several legislative bills designed to protect “nonresidents” from federal immigration laws and regulations, including Senate Bill 54 (“SB 54”), called the “California Values Act.” Those laws became effective January 1, 2018.
3. SB 54 generally prohibits California law enforcement agencies from using agency money, personnel, or resources to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes. For example, local law enforcement agencies may not (a) inquire into an individual’s immigration status, (b) detain an individual on the basis of an ICE or US Customs and Border Protection hold request, or (c) provide information regarding a person’s release date from local or State custody. A limited exception allows local law enforcement to provide information about an individual’s release date, or to transfer an individual to immigration authorities if the individual has been convicted of an enumerated serious or violent felony.
4. SB 54 has not resulted in any significant changes for the Paso Robles Police Department (PRPD), nor are any anticipated in the future. The main impact of SB 54 has to do with limiting the use of local law enforcement resources (staff time mainly) for Immigration and Customs Enforcement (ICE) operations. With SB 54, PRPD now has to be careful not to use PRPD staff time or resources to assist in these-type of federal immigration enforcement matters. When conducting its work, ICE generally relies upon cooperation or notification from local law enforcement to the extent practicable and allowed by state and local laws and practices. PRPD is continuing to operate consistent with this expectation. Refusing to provide such notice or cooperation limits, but does not prevent, the federal government’s ability to enforce federal immigration laws.
5. In order to reach a balance between ensuring the confidence of those the Police Department serves, while at the same time addressing the presence of serious offenders, department members consider the totality of circumstances of each case when deciding to arrest and book an individual into San Luis Obispo County Jail. When an individual is booked into San Luis Obispo County Jail, the department does not need to notify ICE since the arrestee information is already automatically sent to ICE. For this reason, the department’s procedures have not had to change when we book serious offenders into jail, those who have committed crimes such as criminal street gang offenses, aggravated or violent felonies, significant misdemeanors, or violators who otherwise pose a threat to public safety.

6. Every PRPD officer takes the oath of office, requiring them to support and defend the United States Constitution and the California Constitution. However, neither the oath nor any law requires our officers to enforce every federal and state law, including immigration law. That would impose requirements that would be impossible to meet.
7. The City and PRPD are not violating federal law by following SB 54. Nothing in SB 54 prevents the federal government from enforcing federal law. SB 54 makes it clear that the PRPD can provide information to immigration about individuals if those persons have been convicted of any number of serious crimes or if there is a subpoena or warrant.
8. In March 2018, the federal government sued the State of California, Governor Brown, and Attorney General Becerra over the sanctuary state laws. The lawsuit seeks a declaration that the laws, including SB 54, conflict with federal law, and seeks an injunction enjoining the State's enforcement of the laws.
9. Since the lawsuit was filed, a number of cities across the State have weighed in on SB 54 and the federal lawsuit. The City of Los Alamitos was among the first to enact an ordinance taking a position against SB 54.
10. Following Los Alamitos' action, additional public agencies including the County of Orange and the Cities of Aliso Viejo, Yorba Linda, Huntington Beach, and Mission Viejo passed resolutions or have taken other action expressing their opposition to SB 54 and/or supporting the federal government's lawsuit. Some cities, such as the City of Santa Ana, have expressed their support for SB 54 and the State of California.
11. The federal lawsuit against the State, and the actions of the cities who are choosing to ignore SB 54, are likely to lead to a number of court cases testing the constitutionality of those actions.

Options

1. Take no action.
2. Receive and file, directing the City Manager and City Attorney to bring this issue back to the Council if and when conditions warrant.
3. Provide alternative direction.

Analysis and Conclusions

This report provides the City Council the opportunity to discuss taking a position on SB 54. The City of Paso Robles has several options regarding SB 54, including the option to take or not to take a public position on the laws. Although some of the deadlines in the Federal government's lawsuit have passed, there will be future opportunities to file a brief in support of either the Federal government or the State in the pending litigation, should the Council decide to do so.

If the City wishes to publicly oppose the State laws, the City Attorney advises that attempting to opt out of or exempt the City from State law could pose significant legal risks for the City. Instead of expressly "opting out" or "exempting" the City from State law, the City could make the same point by adopting a strongly worded resolution opposing or criticizing the State law. If this is the Council's desire, staff would return with such a resolution at a future date.

Fiscal Impact

There is no cost to receiving and filing now, and bringing the issue back to Council if conditions warrant.

There are relatively limited costs to directing the City Attorney to draft a resolution criticizing SB 54.

There would be significant legal, operational, and community costs if the City Council decided to opt out of SB 54 and participate in litigation against SB 54. Opting out would reduce the level of trust between the PRPD and our residents, therefore making the task of apprehending suspected criminals more difficult and expensive.

The expense of litigation would vary depending on the scope of the City's involvement. Drafting an amicus brief would likely range from \$2,500-5,000, while becoming an active party in either the federal or Huntington Beach litigation would likely exceed \$10,000, with the budget depending on whether Paso Robles would have to participate in discovery or other more extensive proceedings. Even if such litigation were successful, there is little chance that the City could recover its legal expenses.

Recommendation [Option 2]

1. Receive and file this report, affirming the City's current practice of making personal and professional commitments to equal enforcement of the law and equal service to the public. Current practice also permits the exchange of law enforcement information that would comply with both federal and state law, and does not expose the City to the potential expense of litigation.
2. Direct the City Manager and City Attorney to return to the Council at any time conditions warrant, or at some pre-determined interval, as directed by Council.

Attachments

1. SB 54 text and other background information

EXHIBIT A

Senate Bill No. 54

CHAPTER 495

An act to amend Sections 7282 and 7282.5 of, and to add Chapter 17.25 (commencing with Section 7284) to Division 7 of Title 1 of, the Government Code, and to repeal Section 11369 of the Health and Safety Code, relating to law enforcement.

[Approved by Governor October 5, 2017. Filed with
Secretary of State October 5, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 54, De León. Law enforcement: sharing data.

Existing law provides that when there is reason to believe that a person arrested for a violation of specified controlled substance provisions may not be a citizen of the United States, the arresting agency shall notify the appropriate agency of the United States having charge of deportation matters.

This bill would repeal those provisions.

Existing law provides that whenever an individual who is a victim of or witness to a hate crime, or who otherwise can give evidence in a hate crime investigation, is not charged with or convicted of committing any crime under state law, a peace officer may not detain the individual exclusively for any actual or suspected immigration violation or report or turn the individual over to federal immigration authorities.

This bill would, among other things and subject to exceptions, prohibit state and local law enforcement agencies, including school police and security departments, from using money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, as specified, and would, subject to exceptions, proscribe other activities or conduct in connection with immigration enforcement by law enforcement agencies. The bill would apply those provisions to the circumstances in which a law enforcement official has discretion to cooperate with immigration authorities. The bill would require, by October 1, 2018, the Attorney General, in consultation with the appropriate stakeholders, to publish model policies limiting assistance with immigration enforcement to the fullest extent possible for use by public schools, public libraries, health facilities operated by the state or a political subdivision of the state, and courthouses, among others. The bill would require, among others, all public schools, health facilities operated by the state or a political subdivision of the state, and courthouses to implement the model policy, or an equivalent policy. The bill would state that, among others, all other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, including the University of California, are encouraged to adopt the model policy. The bill would require

that a law enforcement agency that chooses to participate in a joint law enforcement task force, as defined, submit a report annually pertaining to task force operations to the Department of Justice, as specified. The bill would require the Attorney General, by March 1, 2019, and annually thereafter, to report on the types and frequency of joint law enforcement task forces, and other information, as specified, and to post those reports on the Attorney General's Internet Web site. The bill would require law enforcement agencies to report to the department annually regarding transfers of persons to immigration authorities. The bill would require the Attorney General to publish guidance, audit criteria, and training recommendations regarding state and local law enforcement databases, for purposes of limiting the availability of information for immigration enforcement, as specified. The bill would require the Department of Corrections and Rehabilitation to provide a specified written consent form in advance of any interview between a person in department custody and the United States Immigration and Customs Enforcement regarding civil immigration violations.

This bill would state findings and declarations of the Legislature relating to these provisions.

By imposing additional duties on public schools and local law enforcement agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

The people of the State of California do enact as follows:

SECTION 1. Section 7282 of the Government Code is amended to read:

7282. For purposes of this chapter, the following terms have the following meanings:

(a) "Conviction" shall have the same meaning as subdivision (d) of Section 667 of the Penal Code.

(b) "Eligible for release from custody" means that the individual may be released from custody because one of the following conditions has occurred:

(1) All criminal charges against the individual have been dropped or dismissed.

(2) The individual has been acquitted of all criminal charges filed against him or her.

(3) The individual has served all the time required for his or her sentence.

(4) The individual has posted a bond.

(5) The individual is otherwise eligible for release under state or local law, or local policy.

(c) “Hold request,” “notification request,” and “transfer request” have the same meanings as provided in Section 7283. Hold, notification, and transfer requests include requests issued by the United States Immigration and Customs Enforcement or the United States Customs and Border Protection as well as any other immigration authorities.

(d) “Law enforcement official” means any local agency or officer of a local agency authorized to enforce criminal statutes, regulations, or local ordinances or to operate jails or to maintain custody of individuals in jails, and any person or local agency authorized to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities.

(e) “Local agency” means any city, county, city and county, special district, or other political subdivision of the state.

(f) “Serious felony” means any of the offenses listed in subdivision (c) of Section 1192.7 of the Penal Code and any offense committed in another state which, if committed in California, would be punishable as a serious felony as defined by subdivision (c) of Section 1192.7 of the Penal Code.

(g) “Violent felony” means any of the offenses listed in subdivision (c) of Section 667.5 of the Penal Code and any offense committed in another state which, if committed in California, would be punishable as a violent felony as defined by subdivision (c) of Section 667.5 of the Penal Code.

SEC. 2. Section 7282.5 of the Government Code is amended to read:

7282.5. (a) A law enforcement official shall have discretion to cooperate with immigration authorities only if doing so would not violate any federal, state, or local law, or local policy, and where permitted by the California Values Act (Chapter 17.25 (commencing with Section 7284)). Additionally, the specific activities described in subparagraph (C) of paragraph (1) of subdivision (a) of, and in paragraph (4) of subdivision (a) of, Section 7284.6 shall only occur under the following circumstances:

(1) The individual has been convicted of a serious or violent felony identified in subdivision (c) of Section 1192.7 of, or subdivision (c) of Section 667.5 of, the Penal Code.

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

(3) The individual has been convicted within the past five 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 for, any of the following offenses:

(A) Assault, as specified in, but not limited to, Sections 217.1, 220, 240, 241.1, 241.4, 241.7, 244, 244.5, 245, 245.2, 245.3, 245.5, 4500, and 4501 of the Penal Code.

(B) Battery, as specified in, but not limited to, Sections 242, 243.1, 243.3, 243.4, 243.6, 243.7, 243.9, 273.5, 347, 4501.1, and 4501.5 of the Penal Code.

(C) Use of threats, as specified in, but not limited to, Sections 71, 76, 139, 140, 422, 601, and 11418.5 of the Penal Code.

(D) Sexual abuse, sexual exploitation, or crimes endangering children, as specified in, but not limited to, Sections 266, 266a, 266b, 266c, 266d,

266f, 266g, 266h, 266i, 266j, 267, 269, 288, 288.5, 311.1, 311.3, 311.4, 311.10, 311.11, and 647.6 of the Penal Code.

(E) Child abuse or endangerment, as specified in, but not limited to, Sections 270, 271, 271a, 273a, 273ab, 273d, 273.4, and 278 of the Penal Code.

(F) Burglary, robbery, theft, fraud, forgery, or embezzlement, as specified in, but not limited to, Sections 211, 215, 459, 463, 470, 476, 487, 496, 503, 518, 530.5, 532, and 550 of the Penal Code.

(G) Driving under the influence of alcohol or drugs, but only for a conviction that is a felony.

(H) Obstruction of justice, as specified in, but not limited to, Sections 69, 95, 95.1, 136.1, and 148.10 of the Penal Code.

(I) Bribery, as specified in, but not limited to, Sections 67, 67.5, 68, 74, 85, 86, 92, 93, 137, 138, and 165 of the Penal Code.

(J) Escape, as specified in, but not limited to, Sections 107, 109, 110, 4530, 4530.5, 4532, 4533, 4534, 4535, and 4536 of the Penal Code.

(K) Unlawful possession or use of a weapon, firearm, explosive device, or weapon of mass destruction, as specified in, but not limited to, Sections 171b, 171c, 171d, 246, 246.3, 247, 417, 417.3, 417.6, 417.8, 4574, 11418, 11418.1, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 18745, 18750, and 18755 of, and subdivisions (c) and (d) of Section 26100 of, the Penal Code.

(L) Possession of an unlawful deadly weapon, under the Deadly Weapons Recodification Act of 2010 (Part 6 (commencing with Section 16000) of the Penal Code).

(M) An offense involving the felony possession, sale, distribution, manufacture, or trafficking of controlled substances.

(N) Vandalism with prior convictions, as specified in, but not limited to, Section 594.7 of the Penal Code.

(O) Gang-related offenses, as specified in, but not limited to, Sections 186.22, 186.26, and 186.28 of the Penal Code.

(P) An attempt, as defined in Section 664 of, or a conspiracy, as defined in Section 182 of, the Penal Code, to commit an offense specified in this section.

(Q) A crime resulting in death, or involving the personal infliction of great bodily injury, as specified in, but not limited to, subdivision (d) of Section 245.6 of, and Sections 187, 191.5, 192, 192.5, 12022.7, 12022.8, and 12022.9 of, the Penal Code.

(R) Possession or use of a firearm in the commission of an offense.

(S) An offense that would require the individual to register as a sex offender pursuant to Section 290, 290.002, or 290.006 of the Penal Code.

(T) False imprisonment, slavery, and human trafficking, as specified in, but not limited to, Sections 181, 210.5, 236, 236.1, and 4503 of the Penal Code.

(U) Criminal profiteering and money laundering, as specified in, but not limited to, Sections 186.2, 186.9, and 186.10 of the Penal Code.

(V) Torture and mayhem, as specified in, but not limited to, Section 203 of the Penal Code.

(W) A crime threatening the public safety, as specified in, but not limited to, Sections 219, 219.1, 219.2, 247.5, 404, 404.6, 405a, 451, and 11413 of the Penal Code.

(X) Elder and dependent adult abuse, as specified in, but not limited to, Section 368 of the Penal Code.

(Y) A hate crime, as specified in, but not limited to, Section 422.55 of the Penal Code.

(Z) Stalking, as specified in, but not limited to, Section 646.9 of the Penal Code.

(AA) Soliciting the commission of a crime, as specified in, but not limited to, subdivision (c) of Section 286 of, and Sections 653j and 653.23 of, the Penal Code.

(AB) An offense committed while on bail or released on his or her own recognizance, as specified in, but not limited to, Section 12022.1 of the Penal Code.

(AC) Rape, sodomy, oral copulation, or sexual penetration, as specified in, but not limited to, paragraphs (2) and (6) of subdivision (a) of Section 261 of, paragraphs (1) and (4) of subdivision (a) of Section 262 of, Section 264.1 of, subdivisions (c) and (d) of Section 286 of, subdivisions (c) and (d) of Section 288a of, and subdivisions (a) and (j) of Section 289 of, the Penal Code.

(AD) Kidnapping, as specified in, but not limited to, Sections 207, 209, and 209.5 of the Penal Code.

(AE) A violation of subdivision (c) of Section 20001 of the Vehicle Code.

(4) The individual is a current registrant on the California Sex and Arson Registry.

(5) The individual has been convicted of a federal crime that meets the definition of an aggravated felony as set forth in subparagraphs (A) to (P), inclusive, of paragraph (43) of subsection (a) of Section 101 of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101), or is identified by the United States Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

(6) In no case shall cooperation occur pursuant to this section for individuals arrested, detained, or convicted of misdemeanors that were previously felonies, or were previously crimes punishable as either misdemeanors or felonies, prior to passage of the Safe Neighborhoods and Schools Act of 2014 as it amended the Penal Code.

(b) In cases in which the individual is arrested and taken before a magistrate on a charge involving a serious or violent felony, as identified in subdivision (c) of Section 1192.7 or subdivision (c) of Section 667.5 of the Penal Code, respectively, or a felony that is punishable by imprisonment in state prison, and the magistrate makes a finding of probable cause as to that charge pursuant to Section 872 of the Penal Code, a law enforcement official shall additionally have discretion to cooperate with immigration

officials pursuant to subparagraph (C) of paragraph (1) of subdivision (a) of Section 7284.6.

SEC. 3. Chapter 17.25 (commencing with Section 7284) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 17.25. COOPERATION WITH IMMIGRATION AUTHORITIES

7284. This chapter shall be known, and may be cited, as the California Values Act.

7284.2. The Legislature finds and declares the following:

(a) Immigrants are valuable and essential members of the California community. Almost one in three Californians is foreign born and one in two children in California has at least one immigrant parent.

(b) A relationship of trust between California's immigrant community and state and local agencies is central to the public safety of the people of California.

(c) This trust is threatened when state and local agencies are entangled with federal immigration enforcement, with the result that immigrant community members fear approaching police when they are victims of, and witnesses to, crimes, seeking basic health services, or attending school, to the detriment of public safety and the well-being of all Californians.

(d) Entangling state and local agencies with federal immigration enforcement programs diverts already limited resources and blurs the lines of accountability between local, state, and federal governments.

(e) State and local participation in federal immigration enforcement programs also raises constitutional concerns, including the prospect that California residents could be detained in violation of the Fourth Amendment to the United States Constitution, targeted on the basis of race or ethnicity in violation of the Equal Protection Clause, or denied access to education based on immigration status. See *Sanchez Ochoa v. Campbell, et al.* (E.D. Wash. 2017) 2017 WL 3476777; *Trujillo Santoya v. United States, et al.* (W.D. Tex. 2017) 2017 WL 2896021; *Moreno v. Napolitano* (N.D. Ill. 2016) 213 F. Supp. 3d 999; *Morales v. Chadbourne* (1st Cir. 2015) 793 F.3d 208; *Miranda-Olivares v. Clackamas County* (D. Or. 2014) 2014 WL 1414305; *Galarza v. Szalczyk* (3d Cir. 2014) 745 F.3d 634.

(f) This chapter seeks to ensure effective policing, to protect the safety, well-being, and constitutional rights of the people of California, and to direct the state's limited resources to matters of greatest concern to state and local governments.

(g) It is the intent of the Legislature that this chapter shall not be construed as providing, expanding, or ratifying any legal authority for any state or local law enforcement agency to participate in immigration enforcement.

7284.4. For purposes of this chapter, the following terms have the following meanings:

(a) "California law enforcement agency" means a state or local law enforcement agency, including school police or security departments.

“California law enforcement agency” does not include the Department of Corrections and Rehabilitation.

(b) “Civil immigration warrant” means any warrant for a violation of federal civil immigration law, and includes civil immigration warrants entered in the National Crime Information Center database.

(c) “Immigration authority” means any federal, state, or local officer, employee, or person performing immigration enforcement functions.

(d) “Health facility” includes health facilities as defined in Section 1250 of the Health and Safety Code, clinics as defined in Sections 1200 and 1200.1 of the Health and Safety Code, and substance abuse treatment facilities.

(e) “Hold request,” “notification request,” “transfer request,” and “local law enforcement agency” have the same meaning as provided in Section 7283. Hold, notification, and transfer requests include requests issued by United States Immigration and Customs Enforcement or United States Customs and Border Protection as well as any other immigration authorities.

(f) “Immigration enforcement” includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person’s presence in, entry, or reentry to, or employment in, the United States.

(g) “Joint law enforcement task force” means at least one California law enforcement agency collaborating, engaging, or partnering with at least one federal law enforcement agency in investigating federal or state crimes.

(h) “Judicial probable cause determination” means a determination made by a federal judge or federal magistrate judge that probable cause exists that an individual has violated federal criminal immigration law and that authorizes a law enforcement officer to arrest and take into custody the individual.

(i) “Judicial warrant” means a warrant based on probable cause for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge that authorizes a law enforcement officer to arrest and take into custody the person who is the subject of the warrant.

(j) “Public schools” means all public elementary and secondary schools under the jurisdiction of local governing boards or a charter school board, the California State University, and the California Community Colleges.

(k) “School police and security departments” includes police and security departments of the California State University, the California Community Colleges, charter schools, county offices of education, schools, and school districts.

7284.6. (a) California law enforcement agencies shall not:

(1) Use agency or department moneys or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, including any of the following:

(A) Inquiring into an individual’s immigration status.

(B) Detaining an individual on the basis of a hold request.

(C) Providing information regarding a person's release date or responding to requests for notification by providing release dates or other information unless that information is available to the public, or is in response to a notification request from immigration authorities in accordance with Section 7282.5. Responses are never required, but are permitted under this subdivision, provided that they do not violate any local law or policy.

(D) Providing personal information, as defined in Section 1798.3 of the Civil Code, about an individual, including, but not limited to, the individual's home address or work address unless that information is available to the public.

(E) Making or intentionally participating in arrests based on civil immigration warrants.

(F) Assisting immigration authorities in the activities described in Section 1357(a)(3) of Title 8 of the United States Code.

(G) Performing the functions of an immigration officer, whether pursuant to Section 1357(g) of Title 8 of the United States Code or any other law, regulation, or policy, whether formal or informal.

(2) Place peace officers under the supervision of federal agencies or employ peace officers deputized as special federal officers or special federal deputies for purposes of immigration enforcement. All peace officers remain subject to California law governing conduct of peace officers and the policies of the employing agency.

(3) Use immigration authorities as interpreters for law enforcement matters relating to individuals in agency or department custody.

(4) Transfer an individual to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination, or in accordance with Section 7282.5.

(5) Provide office space exclusively dedicated for immigration authorities for use within a city or county law enforcement facility.

(6) Contract with the federal government for use of California law enforcement agency facilities to house individuals as federal detainees, except pursuant to Chapter 17.8 (commencing with Section 7310).

(b) Notwithstanding the limitations in subdivision (a), this section does not prevent any California law enforcement agency from doing any of the following that does not violate any policy of the law enforcement agency or any local law or policy of the jurisdiction in which the agency is operating:

(1) Investigating, enforcing, or detaining upon reasonable suspicion of, or arresting for a violation of, Section 1326(a) of Title 8 of the United States Code that may be subject to the enhancement specified in Section 1326(b)(2) of Title 8 of the United States Code and that is detected during an unrelated law enforcement activity. Transfers to immigration authorities are permitted under this subsection only in accordance with paragraph (4) of subdivision (a).

(2) Responding to a request from immigration authorities for information about a specific person's criminal history, including previous criminal arrests, convictions, or similar criminal history information accessed through

the California Law Enforcement Telecommunications System (CLETS), where otherwise permitted by state law.

(3) Conducting enforcement or investigative duties associated with a joint law enforcement task force, including the sharing of confidential information with other law enforcement agencies for purposes of task force investigations, so long as the following conditions are met:

(A) The primary purpose of the joint law enforcement task force is not immigration enforcement, as defined in subdivision (f) of Section 7284.4.

(B) The enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to immigration enforcement.

(C) Participation in the task force by a California law enforcement agency does not violate any local law or policy to which it is otherwise subject.

(4) Making inquiries into information necessary to certify an individual who has been identified as a potential crime or trafficking victim for a T or U Visa pursuant to Section 1101(a)(15)(T) or 1101(a)(15)(U) of Title 8 of the United States Code or to comply with Section 922(d)(5) of Title 18 of the United States Code.

(5) Giving immigration authorities access to interview an individual in agency or department custody. All interview access shall comply with requirements of the TRUTH Act (Chapter 17.2 (commencing with Section 7283)).

(c) (1) If a California law enforcement agency chooses to participate in a joint law enforcement task force, for which a California law enforcement agency has agreed to dedicate personnel or resources on an ongoing basis, it shall submit a report annually to the Department of Justice, as specified by the Attorney General. The law enforcement agency shall report the following information, if known, for each task force of which it is a member:

(A) The purpose of the task force.

(B) The federal, state, and local law enforcement agencies involved.

(C) The total number of arrests made during the reporting period.

(D) The number of people arrested for immigration enforcement purposes.

(2) All law enforcement agencies shall report annually to the Department of Justice, in a manner specified by the Attorney General, the number of transfers pursuant to paragraph (4) of subdivision (a), and the offense that allowed for the transfer, pursuant to paragraph (4) of subdivision (a).

(3) All records described in this subdivision shall be public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250)), including the exemptions provided by that act and, as permitted under that act, personal identifying information may be redacted prior to public disclosure. To the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation or a related investigation, that information shall not be disclosed.

(4) If more than one California law enforcement agency is participating in a joint task force that meets the reporting requirement pursuant to this

section, the joint task force shall designate a local or state agency responsible for completing the reporting requirement.

(d) The Attorney General, by March 1, 2019, and annually thereafter, shall report on the total number of arrests made by joint law enforcement task forces, and the total number of arrests made for the purpose of immigration enforcement by all task force participants, including federal law enforcement agencies. To the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation or a related investigation, that information shall not be included in the Attorney General's report. The Attorney General shall post the reports required by this subdivision on the Attorney General's Internet Web site.

(e) This section does not prohibit or restrict any government entity or official from sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual, or from requesting from federal immigration authorities immigration status information, lawful or unlawful, of any individual, or maintaining or exchanging that information with any other federal, state, or local government entity, pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.

(f) Nothing in this section shall prohibit a California law enforcement agency from asserting its own jurisdiction over criminal law enforcement matters.

7284.8. (a) The Attorney General, by October 1, 2018, in consultation with the appropriate stakeholders, shall publish model policies limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law at public schools, public libraries, health facilities operated by the state or a political subdivision of the state, courthouses, Division of Labor Standards Enforcement facilities, the Agricultural Labor Relations Board, the Division of Workers Compensation, and shelters, and ensuring that they remain safe and accessible to all California residents, regardless of immigration status. All public schools, health facilities operated by the state or a political subdivision of the state, and courthouses shall implement the model policy, or an equivalent policy. The Agricultural Labor Relations Board, the Division of Workers' Compensation, the Division of Labor Standards Enforcement, shelters, libraries, and all other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, including the University of California, are encouraged to adopt the model policy.

(b) For any databases operated by state and local law enforcement agencies, including databases maintained for the agency by private vendors, the Attorney General shall, by October 1, 2018, in consultation with appropriate stakeholders, publish guidance, audit criteria, and training recommendations aimed at ensuring that those databases are governed in a manner that limits the availability of information therein to the fullest extent practicable and consistent with federal and state law, to anyone or any entity

for the purpose of immigration enforcement. All state and local law enforcement agencies are encouraged to adopt necessary changes to database governance policies consistent with that guidance.

(c) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2), the Department of Justice may implement, interpret, or make specific this chapter without taking any regulatory action.

7284.10. (a) The Department of Corrections and Rehabilitation shall:

(1) In advance of any interview between the United States Immigration and Customs Enforcement (ICE) and an individual in department custody regarding civil immigration violations, provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he or she may decline to be interviewed or may choose to be interviewed only with his or her attorney present. The written consent form shall be available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean.

(2) Upon receiving any ICE hold, notification, or transfer request, provide a copy of the request to the individual and inform him or her whether the department intends to comply with the request.

(b) The Department of Corrections and Rehabilitation shall not:

(1) Restrict access to any in-prison educational or rehabilitative programming, or credit-earning opportunity on the sole basis of citizenship or immigration status, including, but not limited to, whether the person is in removal proceedings, or immigration authorities have issued a hold request, transfer request, notification request, or civil immigration warrant against the individual.

(2) Consider citizenship and immigration status as a factor in determining a person's custodial classification level, including, but not limited to, whether the person is in removal proceedings, or whether immigration authorities have issued a hold request, transfer request, notification request, or civil immigration warrant against the individual.

7284.12. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 4. Section 11369 of the Health and Safety Code is repealed.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

O

EXHIBIT B



OFFICE OF THE GOVERNOR

OCT 05 2017

To the Members of the California State Senate:

I am signing Senate Bill 54, the California Values Act.

This bill states that local authorities will not ask about immigration status during routine interactions. It also bans unconstitutional detainer requests and prohibits the commandeering of local officials to do the work of immigration agents. The bill further directs our Attorney General to promulgate model policies for local and state health, education, labor and judiciary officials to follow when they deal with immigration matters.

In enshrining these new protections, it is important to note what the bill does not do. This bill does not prevent or prohibit Immigration and Customs Enforcement or the Department of Homeland Security from doing their own work in any way. They are free to use their own considerable resources to enforce federal immigration law in California. Moreover, the bill does not prohibit sheriffs from granting immigration authorities access to California jails to conduct routine interviews, nor does it prevent cooperation in deportation proceedings for anyone in state prison or for those in local jails for any of the hundreds of serious offenses listed in the TRUST Act.

These are uncertain times for undocumented Californians and their families, and this bill strikes a balance that will protect public safety, while bringing a measure of comfort to those families who are now living in fear every day.

Sincerely,


Edmund G. Brown Jr.

EXHIBIT C

<p align="center"> California Department of Justice DIVISION OF LAW ENFORCEMENT Kevin Gardner, Chief </p> 	<h1 style="margin: 0;">INFORMATION BULLETIN</h1>	
<p><i>Subject:</i></p> <p>Responsibilities of Law Enforcement Agencies Under the California Values Act, California TRUST Act, and the California TRUTH Act</p>	<p><i>No.</i></p> <p>DLE-2018-01</p>	<p><i>Contact for information:</i></p> <p>Kevin Gardner, Chief Division of Law Enforcement (916) 210-6300</p>
	<p><i>Date:</i></p> <p>3/28/2018</p>	

TO: Executives of State and Local Law Enforcement Agencies

This bulletin provides guidance to law enforcement agencies regarding Senate Bill 54, effective January 4, 2018 (Sen. Bill No. 54 (2017-2018 Reg. Sess.)). SB 54 makes significant changes to California’s Transparency and Responsibility Using State Tools (TRUST) Act (Gov. Code, §§ 7282 and 7282.5), establishes California’s Values Act (Gov. Code, §§ 7284, 7284.2, 7284.4, 7284.6, 7284.10, and 7284.12), and repeals Health and Safety Code section 11369. Together, these provisions define the parameters under which state and local law enforcement agencies may engage in immigration enforcement-related activities.

The Transparent Review of Unjust Transfers and Holds (TRUTH) Act, Government Code sections 7283, 7283.1, 7283.2, effective January 1, 2017, creates mandatory notice and procedural protections for individuals in the custody of local law enforcement agencies should federal immigration officers wish to contact them. This bulletin also provides guidance regarding local law enforcement agencies’ obligations under the TRUTH Act, including similar provisions within SB 54 that apply to the California Department of Corrections and Rehabilitation (CDCR).

This bulletin replaces the previous law enforcement bulletins entitled “Responsibilities of Local Law Enforcement Agencies under Secure Communities and the TRUST Act,” Information Bulletin No. 14-01 (June 25, 2014) and “Responsibilities of Local Law Enforcement Agencies under Secure Communities,” Information Bulletin No. 2012-DLE-01 (Dec. 4, 2012). This bulletin does not provide guidance on the reporting obligations of law enforcement agencies to the California Department of Justice with respect to the activities of joint law enforcement task forces and transfers of individuals to immigration authorities; these reporting requirements are set forth in a separate information bulletin entitled California Values Act’s Statistical Reporting Requirements (18-02-CJIS).

SUMMARY

I. Amendments to the TRUST Act

The TRUST Act previously described the circumstances under which a local California law enforcement agency could detain an individual past their scheduled release in response to a hold request from immigration authorities. As amended by SB 54, the TRUST Act no longer addresses detentions in response to hold requests because the Values Act prohibits such detentions. The TRUST Act, as amended by SB 54, now describes the circumstances under which a California law enforcement agency can respond to transfer and notification requests from immigration authorities.

II. Overview of the Values Act

In enacting the Values Act, the Legislature made clear in its findings that immigrants are valuable and essential members of the California community. The Legislature further determined that “a relationship of trust between

California’s immigrant community and state and local agencies is central to the public safety of the people of California.” (Gov. Code, § 7284.2). Thus, the core purpose of the Values Act is to ensure effective policing and to protect the safety, well-being, and constitutional rights of the people of California. (*Ibid.*)

The Values Act does the following:

1. Sets the parameters under which California state and local law enforcement agencies may engage in “immigration enforcement,” as defined, and requires certain information about joint law enforcement task forces and transfers of individuals to immigration authorities to be reported to the California Department of Justice.
2. Requires the CDCR to provide individuals in its custody with information about their legal rights should federal immigration officers request to make contact with them, similar to the requirements of the TRUTH Act (Gov. Code, § 7283 et seq.), which applies to local law enforcement agencies.
3. Requires the Attorney General’s Office to issue model policies, to be adopted by public schools, state or locally operated health facilities, courthouses and other enumerated state and local facilities, that limit assistance with immigration enforcement to the fullest extent possible consistent with federal and state law. The Attorney General’s Office will further provide guidance to agencies regarding ways to protect privacy and limit the dissemination of information contained in their databases for immigration enforcement purposes, as permitted under federal and state law.

It should be noted that the Values Act defines many terms, some of which may seem familiar to law enforcement officers, but have special meaning within the context of this new law. For example, the Values Act defines “California law enforcement agency” as “a state or local law enforcement agency, including school police or security departments.” (Gov. Code, § 7284.4, subd. (a).) This term, however, does not include the CDCR. (*Ibid.*) Therefore, the provisions of Government Code sections 7284.6 and 7284.8 do not apply to the CDCR.

Further, the Values Act defines “immigration enforcement” as “any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person’s presence in, entry, or reentry to, or employment in, the United States.” (Gov. Code, § 7284.4, subd. (f).) And, under the Values Act, a “judicial warrant” means “a warrant based upon probable cause for a violation of *federal criminal immigration* law and issued by a federal judge or a federal magistrate judge that authorizes a law enforcement officer to arrest and take into custody the person who is the subject of the warrant.” (Gov. Code, § 7284.4, subd. (i), emphasis added.) While this bulletin points out a few of the relevant definitions, individual agencies should review the law to ensure full understanding of all the key terms in the Values Act.

III. The Discretion of California Law Enforcement Agencies to Participate in Immigration-Related Activities is Limited By SB 54 in the Following Ways:

- 1. Prohibits use of resources to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, including:**

- a. Inquiring into an individual’s immigration status;¹
- b. Detain an individual in response to a hold request²;
- c. Provide personal information, as defined in Civil Code section 1798.3, including but not limited to home or work addresses, unless this information is “available to the public.” For purposes of this prohibition, “personal information” means “any information that is maintained by an agency that identifies or describes an individual, including, but not limited to, his or her name, social security number, physical description, home address, home telephone number, education, financial matters, and medical or employment history. It includes statements made by, or attributed to, the individual.” (Civ. Code, § 1798.3, subd. (a).)

Although not expressly defined in the act, the phrase “available to the public” refers to information where a law enforcement agency has a practice or policy of making such information public, such as disclosing the information on its website or if it has a practice or policy of providing the information to individuals in response to specific requests. Law enforcement agencies should, in addition to ensuring compliance with the Values Act, take care to ensure that they comply with applicable state or federal privacy laws.

However, there is an important exception to this limitation on providing personal information: federal law (8 U.S.C. §§ 1373, 1644) prohibits restrictions on the exchange of information regarding a person’s citizenship or immigration status, and all California law enforcement agencies should comply with these laws.

- d. Make or intentionally participate in arrests based on “civil immigration warrants,” which means any warrant for a violation of federal civil immigration law and includes civil immigration warrants entered in the National Crime Information Center database; and
- e. Assist immigration authorities in immigration enforcement activities at the United States borders, as described in 8 U.S.C. § 1357(a)(3), or performing the functions of an immigration officer whether informally or formally, through an 8 U.S.C. § 1357(g) agreement or any other law, regulation or policy.

¹ This provision does not prohibit inquiries into an individual’s immigration status to immigration authorities, or exchanging immigration status information with any other federal, state, or local government entity, pursuant to 8 U.S.C. §§ 1373 and 1644. (See Gov. Code, § 7284.6, subd. (e).)

² “Hold request” means a request by any immigration authority that a local law enforcement agency maintain custody of an individual currently in its custody beyond the time he or she would otherwise be eligible for release in order to facilitate transfer to an immigration authority. (Gov. Code, §§ 7283, subd. (b); 7284.4, subd. (e).)

“Notification request” means a request by any immigration authority that a local law enforcement agency inform an immigration authority of the release date and time in advance of the public of an individual in its custody. (Gov. Code, §§ 7283, subd. (f); 7284.4, subd. (e).)

“Transfer request” means a request by any immigration authority that a local law enforcement agency facilitate the transfer of an individual in its custody to an immigration authority. (Gov. Code, §§ 7283, subd. (g); 7284.4, subd. (e).)

Hold, notification, and transfer requests include requests issued by U.S. Immigration and Customs Enforcement or U.S. Customs and Border Protection as well as any other immigration authorities. (Gov. Code, § 7284.4, subd. (e).)

“Immigration authority” means any federal, state, or local officer, employee or person performing immigration enforcement functions. (Gov. Code, § 7284.4, subd. (c).)

2. California law enforcement agencies cannot honor transfer and notification requests or provide information regarding a person's release date except in certain circumstances:

California law enforcement agencies are never *required* to respond to transfer or notification requests -- under the Values Act they retain the discretion to decline these requests for any reason. (Gov. Code, § 7282.5, subd. (a).) Thus, law enforcement agencies may honor transfer and notification requests as specified in the Values Act as follows:

- a. **Transfer Requests:** Responding to transfer requests is permitted only if:
- i. The transfer is authorized by a judicial warrant, as defined by Government Code section 7282.4, subdivision (i), or a judicial probable cause determination, as defined by Government Code section 7282.4, subdivision (h), regarding a violation of federal criminal immigration law;

or

 - ii. Where the transfer would not otherwise violate any federal, state, or local law, or local policy, and the individual in custody meets any one of the conditions set forth in the TRUST Act, Government Code section 7282.5, subdivision (a). These qualifying conditions are:
 - 1) The individual has been convicted at any time of a serious or violent felony, as defined in Penal Code section 1192.7, subdivision (c), or Penal Code section 667.5, subdivision (c).
 - 2) The individual has been convicted at any time of a felony that is presently punishable by imprisonment in state prison.
 - 3) The individual was convicted within the past 15 years of a felony listed in Government Code section 7282.5, subdivision (a)(3), or within the past five years of a wobbler (i.e., a crime punishable as either a felony or a misdemeanor) listed in Government Code section 7282.5, subdivision (a)(3).
 - 4) The individual is a current registrant on the California Sex and Arson Registry.
 - 5) The individual has been convicted of certain specified federal aggravated felonies identified in section 101(a)(43)(A)-(P) of the federal Immigration and Nationality Act (8 U.S.C. § 1101(a)(43)(A)-(P)).
 - 6) The United States Department of Homeland Security's Immigration and Customs Enforcement (ICE) identifies the person as the subject of an outstanding federal felony arrest warrant for any federal crime.

Furthermore, if a law enforcement agency does transfer an individual to immigration authorities, Government Code section 7284.6, subdivision (c)(2) requires the agency to report to the California Department of Justice the number of transfers it makes in a calendar year, as well as the offense that allowed for the transfer. For more information regarding these reporting obligations, please see Information Bulletin 18-02-CJIS (California Values Act's Statistical Reporting Requirements).

- b. **Notification Requests:** Providing information regarding a person’s release date or responding to notification requests from immigration authorities by providing an individual’s release date or other information is permitted only if:
 - i. The information is available to the public;
 - or
 - ii. The individual is subject to (1) the qualifying conditions in the TRUST Act, Government Code section 7282.5, subdivision (a) described above with respect to transfer requests; or (2) the individual has been arrested and taken before a magistrate judge on the following types of charges, and the magistrate makes a probable cause determination (Pen. Code, § 872) for the charge: (i) a serious or violent felony (Pen. Code, §§ 1192.7, subd. (c) or 667.5, subd. (c)); or (ii) a felony that is punishable by imprisonment in state prison. (Gov. Code, § 7282.5, subd. (b)).

A conviction for a straight misdemeanor, i.e., a crime that is *presently* punishable *only* as a misdemeanor, is not listed in section 7285, subdivision (a), and therefore is not a valid justification for honoring a transfer or notification request. And misdemeanor convictions for crimes affected by Proposition 47 (2014), the “Safe Neighborhoods and Schools Act,” including felony convictions that were reduced to misdemeanors or re-designated as misdemeanors by a court as a result of Proposition 47, cannot serve as the basis for transfers or providing release date information to immigration authorities. (Gov. Code, § 7285.5, subd. (a)(6)). The crimes affected by Proposition 47 include, but are not limited to: simple drug possession for personal use, shoplifting, forgery, writing bad check, petty theft, and receiving stolen property.

Before honoring a transfer or notification request on the basis of a qualifying conviction, California law enforcement agencies should carefully review an individual’s Record of Arrests and Prosecutions to determine whether a listed felony conviction was reduced to a misdemeanor, or re-designated as a misdemeanor, by a court under Proposition 47. If so, cooperation with immigration authorities is prohibited, unless there is another valid basis for cooperation (for transfers, a judicial warrant; for notifications, if the information is publicly available).

3. Other Restrictions on Immigration Enforcement

California law enforcement agencies may not (1) allow officers to be supervised by federal agencies or deputized for immigration enforcement purposes; (2) use immigration authorities as interpreters for law enforcement matters relating to individuals in custody; (3) provide office space exclusively for immigration authorities in city or county law enforcement facilities; or (4) enter into a contract, after June 15, 2017, with the federal government to house or detain adult and minor noncitizens in a locked detention facility for purposes of immigration custody; agencies with existing federal contracts cannot renew or modify the contract if doing so would expand the number of contract beds available to detain noncitizens for purposes of civil immigration custody. (Gov. Code, §§ 7310, 7311).

IV. If agency policy or local law or policy permit, a California law enforcement agency has discretion, but is not required, to perform the following immigration enforcement activities:

- 1. Investigate, enforce, detain persons upon reasonable suspicion of, or arrest, persons for violation of 8 U.S.C. § 1326(a), the federal criminal violation for reentry by a noncitizen after removal, but only if the individual was removed because of an aggravated felony conviction under 8 U.S.C. § 1326(b)(2) and the suspected violation was detected during an unrelated law enforcement activity. This is the one limited circumstance in which the Value Act permits a law enforcement official to exercise their discretion to

arrest or assist in the arrest of a person for a *federal immigration law violation*. Transfers of these individuals to immigration authorities are subject to the above restrictions regarding transfers.

2. Provide individual criminal history in response to a request from immigration authorities about a specific person’s criminal history, including information obtained from CLETs or similar local databases, as long as it is otherwise permitted by state law.
3. Participate in a joint law enforcement task force, including the sharing of confidential information with task force participants, if all of the following conditions are met:
 - a. The task force’s primary purpose is not immigration enforcement;
 - b. Enforcement or investigative duties are primarily related to violations of state or federal law unrelated to immigration enforcement; and
 - c. The local law or policy that the agency is subject to permits such participation.

Nothing in the Values Act prohibits a California law enforcement agency from asserting its own jurisdiction over criminal law enforcement matters, i.e., engaging in an investigation, detention or arrest for criminal activities based upon California state law, even when its activities may indirectly impact or assist a federal agency that is engaged in immigration enforcement as part of a joint task force or otherwise. (Gov. Code, § 7284.6, subd. (f).) This includes circumstances in which an officer is responding to a call for service involving a violation of a state criminal law or during an immigration enforcement action where the safety of the public or a law enforcement officer, including an immigration enforcement officer, is in danger. In these limited circumstances, a California law enforcement officer may assist any law enforcement official, even if those officials are engaged in immigration enforcement, but only when the California law enforcement officer is enforcing state law. This narrow public safety exception should not be used to avoid the prohibitions in the Values Act on using state resources to conduct immigration enforcement.

If a California law enforcement agency has agreed to dedicate personnel or resources on an ongoing basis to a task force, it must report the information set forth in Government Code section 7284.6 subdivision (c)(1) concerning the activities of the task force to the Department of Justice, as explained in Information Bulletin 18-02-CJIS (California Values Act’s Statistical Reporting Requirements).³

4. Ask for information necessary to certify potential victims of crime or human trafficking with respect to T-visas and U-visas (8 U.S.C. §§ 1101(a)(15)(T) and 1101(a)(15)(U)),⁴ or to comply with 18 U.S.C. § 922(d)(5), which prohibits the sale or disposition of firearms or ammunition to a person who law enforcement knows or has reasonable cause to believe is not lawfully present in the United States. California Penal Code sections 679.10 and 679.11 mandate that certifying state and local agencies submit certifications for T- or U-Visa applicants when certain conditions are met. Certifying law enforcement agencies are prohibited from disclosing the immigration status information of a victim or person requesting T- or U-visa certification forms except to comply with federal law or legal process, or if authorized by the victim. For guidance regarding law enforcement agencies’ obligations under

³ An “ongoing basis” means more than one interaction with any federal, state, or local LEA on a task force to discuss task force operations. Accordingly, isolated interactions with a federal law enforcement agency are not subject to these reporting requirements because the California LEA did not dedicate personnel or resources to the task force on more than one occasion.

⁴ The Victims of Trafficking and Violence Prevention Act (VTVPA) of 2000 is a federal law that, among other things, provides temporary immigration benefits to individuals without immigration status who are victims of specified qualifying crimes including human trafficking. (VTVPA, Pub. L. No. 106-386, 114 Stat. 1464-1548 (2000).)

California Penal Code section 679.10 with respect to U-Visas, see the Information Bulletin by California Department of Justice Division of Law Enforcement, dated October 28, 2015, available at https://oag.ca.gov/system/files/attachments/press_releases/dle-2015-04.pdf.

5. Provide ICE with access to interview an individual in custody, if the agency gives the notices required by the TRUTH Act (Gov. Code, § 7283 et seq.). Local law or policy, or agency policy, may be more restrictive than the Values Act. Agencies should determine whether, even if the Values Act permits assistance in immigration enforcement related activities, the agency's policy or local law or policies prohibit such activities. Further, if a particular activity is prohibited by the agency or the agency's jurisdiction, the agency must comply with the more restrictive conditions of the agency or jurisdiction so long as the local law or policy complies with 8 U.S.C. §§ 1373 and 1644, governing restrictions on the exchange of a person's immigration and citizenship status with government officials.

In addition, if officers are working in a school district pursuant to a memorandum of understanding (MOU) between the law enforcement agency and the district, the officer must adhere to the requirements of the MOU, even if that MOU conflicts with agency policy with respect to immigration enforcement matters, so long as the MOU complies with 8 U.S.C. §§ 1373 and 1644.

V. Additional Law Enforcement Activity Under the Values Act

1. The Values Act does not prohibit a law enforcement agency from exchanging information regarding a person's immigration status with governmental entities, including immigration authorities, and the Act specifically cites 8 U.S.C. § 1373 and 8 U.S.C. § 1644 as authority for that provision. Under those federal statutes, law enforcement officers must be allowed to:
 - a. Send to, or receive from, federal immigration authorities, information regarding the citizenship or immigration status, whether lawful or unlawful, of any individual;
 - b. Request information from federal immigration authorities regarding any individual's immigration status, whether lawful or unlawful; and
 - c. Maintain or exchange information regarding the immigration status of any individual with other governmental entities.

The Values Act also permits the disclosure of an individual's name for purposes of making or responding to an inquiry about an individual's immigration or citizenship status to other governmental entities.

2. One federal district court in California has ruled on the scope of 8 U.S.C. § 1373 and determined that Section 1373 does not bar *all* restrictions on communications between state and local law enforcement and the federal government, and specifically, does not bar restrictions on the sharing of inmates' release dates. That court determined that Section 1373 "only" prohibits restrictions on the exchange of information regarding a person's citizenship or immigration status. (*Steinle v. City & Cty. of San Francisco* (N.D. Cal. 2017) 230 F. Supp. 3d 994, 1015.) Thus, under the Values Act, the disclosure of all other personal information that does not encompass information regarding a person's citizenship or immigration status, including a person's home and work address, is prohibited from disclosure unless it is publicly available or permitted under Government Code section 7284.6, subdivision (b)(2).

VI. The Requirements of the TRUTH Act

The TRUTH Act, Government Code sections 7283, 7283.1, 7283.2, provides individuals who are in the custody of local law enforcement agencies with information about their procedural and legal rights should ICE wish to contact them. Specifically, the statute requires:

1. Before any interview between ICE and an individual in custody of a local law enforcement agency regarding civil immigration violations, the local law enforcement entity shall provide the individual with a written consent form,⁵ that explains all of the following:
 - a. The purpose of the interview;
 - b. That the interview is voluntary; and
 - c. That the individual may decline the interview or may choose to be interviewed with only their attorney present.
2. Upon receiving any ICE hold, notification, or transfer request, the local law enforcement agency shall:
 - a. Provide a copy of the request to the individual; and
 - b. Inform the individual whether the law enforcement agency intends to comply with the request. However, with respect to ICE hold requests, the LEA may not hold an individual past the time that he or she normally would be released, as is now required under the Values Act. (Gov. Code, § 7284.6, subd. (a)(1)(B).)
3. If a local law enforcement agency chooses to provide ICE with notification that an individual will be released from custody on a certain date, the local law enforcement agency must promptly provide the same notification in writing to the individual and to his or her attorney or other person designated by the individual being held. (Gov. Code, § 7283.1, subd. (b).)
4. All records relating to ICE access provided by local law enforcement agencies, including all communication with ICE, shall be public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250)), including the exemptions provided by that Act. The TRUTH Act explicitly provides that personal identifying information may be redacted prior to public disclosure as provided under the California Public Records Act. When responding to such requests, law enforcement agencies should therefore keep in mind California's privacy laws and all applicable exemptions under the California Public Records Act that protect such personal information from disclosure.⁶ (Gov. Code, § 7283.1, subd. (c).)
5. 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

⁵ The local law enforcement agency is required to make the written consent form available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean, and any additional languages that meet the county threshold as defined in Health and Safety Code section 128552, subdivision (d), if certified translations in those languages are made available to the local law enforcement agency at no cost. In keeping with the spirit of the law to advise individuals of their rights, a local law enforcement agency should not pre-populate or presuppose the responses in the consent form.

⁶ Records relating to ICE access as provided in the TRUTH Act include, but are not limited to, data maintained by the local law enforcement agency 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.

year is required to hold at least one community forum open to the public during the following year. (Gov. Code, § 7283, subd. (d).)

VII. SB 54 Requires State Prisons Provide Similar Information Required by the TRUTH Act

The Values Act requires CDCR to provide an individual in custody with a written consent form and other notifications before allowing an interview between ICE and the individual regarding civil immigration violations. Specifically, this form must explain the purpose of the interview, that the interview is voluntary, and that the individual may decline to be interviewed or may choose to be interviewed only with their attorney present. The consent form must be available in English, Spanish, Chinese, Tagalong, Vietnamese and Korean. The CDCR must also give a copy of an ICE hold, notification, or transfer request to the individual and inform the person whether the agency or CDCR intends to comply with the request. (Gov. Code, § 7284.10.)

In addition, CDCR cannot restrict access to certain opportunities based solely on an individual's citizenship or immigration status (Gov. Code, § 7284.10, subd. (b)(1)), and cannot consider citizenship or immigration status in determining an individual's custodial classification level. (Gov. Code, § 7284.10, subd. (b)(2).)

VIII. Repeal of Health and Safety Code section 11369

SB 54 also repeals Health and Safety Code section 11369, which required an arresting law enforcement agency to notify the appropriate federal agency if it believed that a person arrested for certain drug violations may not be a United States citizen.

Sincerely,



KEVIN GARDNER, Chief
Division of Law Enforcement

For XAVIER BECERRA
Attorney General

EXHIBIT D

Immigration Violations

414.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Paso Robles Police Department relating to immigration and interacting with federal immigration officials.

414.2 POLICY

It is the policy of the Paso Robles Police Department that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of this department in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their national origin or immigration status.

414.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of law enforcement will not automatically lead to immigration inquiry and/or deportation. While it may be necessary to determine the identity of a victim or witness, members shall treat all individuals equally and without regard to race, ethnicity or national origin in any way that would violate the United States or California constitutions.

414.4 IMMIGRATION INQUIRIES PROHIBITED

Officers shall not inquire into an individual's immigration status for immigration enforcement purposes (Government Code § 7284.6).

414.5 DETENTIONS

An officer shall not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant (Government Code § 7284.6).

An officer who has a reasonable suspicion that an individual already lawfully contacted or detained has committed a criminal violation of 8 UCS § 1326(a) (unlawful reentry) that may be subject to enhancement may detain the person for a reasonable period of time to contact federal immigration officials to verify whether the United States Attorney General has granted the individual permission for reentry and whether the violation is subject to enhancement (Government Code § 7284.6). No individual who is otherwise ready to be released should continue to be detained only because questions about the individual's status are unresolved.

If the officer has facts that establish probable cause to believe that a person already lawfully detained has violated 8 USC § 1326(a) and the penalty may be subject to enhancement due to prior conviction for specified aggravated felonies, he/she may arrest the individual for that offense (Government Code § 7284.6).

Paso Robles Police Department

Paso Robles PD Policy Manual

Immigration Violations

An officer shall not detain any individual, for any length of time, for any other criminal violation of federal immigration laws (Government Code § 7284.6).

An officer should notify a supervisor as soon as practicable whenever an individual is arrested for violation of 8 USC § 1326(a).

414.5.1 SUPERVISOR RESPONSIBILITIES

When notified that an officer has arrested an individual for violation of 8 USC § 1326(a), the supervisor should determine whether it is appropriate to:

- (a) Transfer the person to federal authorities.
- (b) Transfer the person to jail.

414.6 FEDERAL REQUESTS FOR ASSISTANCE

Requests by federal immigration officials for assistance from this department should be directed to a supervisor. The supervisor is responsible for determining whether the requested assistance would be permitted under the California Values Act (Government Code § 7284.2 et seq.).

414.7 INFORMATION SHARING

No member of this department will prohibit, or in any way restrict, any other member from doing any of the following regarding the citizenship or immigration status, lawful or unlawful, of any individual (8 USC § 1373; Government Code § 7284.6):

- (a) Sending information to, or requesting or receiving such information from federal immigration officials
- (b) Maintaining such information in department records
- (c) Exchanging such information with any other federal, state or local government entity

Nothing in this policy restricts sharing information that is permissible under the California Values Act.

414.7.1 IMMIGRATION DETAINEES

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 (Government Code § 7284.6).

Notification to a federal authority may be made prior to release of an individual who is the subject of a notification request only if the individual meets one of the following conditions (Government Code § 7282.5; Government Code § 7284.6):

- (a) The individual has been arrested and had a judicial probable cause determination for a serious or violent felony identified in Penal Code § 667.5(c) or Penal Code § 1192.7(c).
- (b) The individual has been arrested and had a judicial probable cause determination for a felony punishable by time in a state penitentiary.
- (c) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).

Paso Robles Police Department

Paso Robles PD Policy Manual

Immigration Violations

- (d) The individual is a current registrant on the California Sex and Arson Registry.
- (e) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

414.7.2 NOTICE TO INDIVIDUALS

Individuals in custody shall be given a copy of documentation received from U.S. Immigration and Customs Enforcement (ICE) regarding a hold, notification or transfer request along with information as to whether the Paso Robles Police Department intends to comply with the request (Government Code § 7283.1).

If the Paso Robles Police Department provides ICE with notification that an individual is being, or will be, released on a certain date, the same notification shall be provided in writing to the individual and to his/her attorney or to one additional person who the individual may designate (Government Code § 7283.1).

414.7.3 ICE INTERVIEWS

Before any interview regarding civil immigration violations takes place between ICE personnel and an individual in custody, the Paso Robles Police Department shall provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary and that he/she may decline to be interviewed or may choose to be interviewed only with his/her attorney present. The consent form must be available in the languages specified in Government Code § 7283.1.

414.7.4 TRANSFERS TO IMMIGRATION AUTHORITIES

Members shall not transfer an individual to immigration authorities unless one of the following circumstances exist:

- (a) Transfer is authorized by a judicial warrant or judicial probable cause determination.
- (b) The individual has been convicted of an offense as identified in Government Code § 7282.5(a).
- (c) The individual is a current registrant on the California Sex and Arson Registry.
- (d) The individual is identified by the U.S. Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

414.8 U VISA AND T VISA NONIMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)).

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)).

Paso Robles Police Department

Paso Robles PD Policy Manual

Immigration Violations

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Detective Bureau supervisor assigned to oversee the handling of any related case. The Detective Bureau supervisor should:

- (a) Consult with the assigned investigator to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.
 1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
 2. Form I-918 Supplement B certification shall be completed if the victim qualifies under Penal Code § 679.10 (multiple serious offenses). Form I-914 Supplement B certification shall be completed if the victim qualifies under Penal Code § 236.5 or Penal Code § 679.11 (human trafficking).
- (d) Ensure that any decision to complete, or not complete, a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file.
- (e) Inform the victim liaison of any requests and their status.

414.8.1 TIME FRAMES FOR COMPLETION

Officers and their supervisors who are assigned to investigate a case of human trafficking as defined by Penal Code § 236.1 shall complete the above process and the documents needed for indicating the individual is a victim for the T visa application within 15 business days of the first encounter with the victim, regardless of whether it is requested by the victim (Penal Code § 236.5).

Officers and their supervisors shall complete the above process and the documents needed certifying victim cooperation for a U visa or T visa application pursuant to Penal Code § 679.10 and Penal Code § 679.11 within 90 days of a request from the victim or victim's family related to one of their assigned cases. If the victim is in removal proceedings, the certification shall be processed within 14 days of the request.

414.8.2 REPORTING TO LEGISLATURE

The Detective Bureau supervisor or the authorized designee should ensure that certification requests are reported to the Legislature in January of each year and include the number of certifications signed and the number denied. The report shall comply with Government Code § 9795 (Penal Code § 679.10; Penal Code § 679.11).

414.9 TRAINING

The Training Manager should ensure that all appropriate members receive training on immigration issues.

Paso Robles Police Department

Paso Robles PD Policy Manual

Immigration Violations

Training should include:

- (a) Identifying civil versus criminal immigration violations.
- (b) Factors that may be considered in determining whether a criminal immigration offense has been committed.
- (c) Prohibitions contained in the California Values Act (Government Code § 7284 et seq.).

TO: City Council
FROM: James L. App, City Manager
SUBJECT: Immigration Policy
DATE: December 18, 2007

NEEDS: For the City Council to consider petitioning the Federal Government for comprehensive immigration reform.

FACTS:

1. City Council goals for 2008-2011 include preparation of a report concerning immigration policy.
2. Attached is a report based on current research by scholars, professionals in the field, and political leaders.
3. The report presents some of the most widely expressed concerns regarding undocumented (a.k.a., "illegal") immigration as well as responses based on available data.
4. It is important to note at the outset that, according to the U.S. Department of Homeland Security, there are no certain counts as to the number of undocumented immigrants in the United States.
5. It is equally important to note that there are no validated, objective, empirical studies of the fiscal impacts of undocumented immigration.

ANALYSIS &

CONCLUSION: In studying the issues of undocumented immigration it is clear that:

- There is no verifiable count of the number of undocumented immigrants in the United States.
- There are no empirical studies of the fiscal impacts of undocumented immigration.
- The issues surrounding and affecting immigration are more complex than can be discussed in just a few pages of text.
- Data concerning undocumented immigration appear subordinate to ideology.

Regardless, immigration is an issue of importance to many Americans, and rightly so. It is the American people who must decide whether, and to what degree, they invite others to live and work in America. Therefore, the American people have charge over this matter through their elected representatives, as is provided in the Constitution (Article 1, Section 8, cl. 3&4 establishes the Federal Government's pre-eminent role in, and responsibility for, immigration policy).

Paso Robles participates in common rights and responsibilities as a member community of the United States. Accordingly, Paso Robles seeks not to pre-empt or disregard the Constitution, National immigration policy, or Federal jurisdiction. However, some local citizens express deep concerns that current Federal immigration policy is inadequate to protect and promote American interests and security.

It is appropriate that concerned citizens press for change. Equally appropriate, the press for change should be driven by knowledge of the pertinent facts, issues, complexities and opinions. Such is the purpose of this report. It includes the summary analysis, findings and recommendations of a distinguished bilateral commission of scholars, professionals and elected leaders. Their recommendations suggest and urge comprehensive immigration reform and are presented here for consideration. These suggested reforms seem worthy of referral to this community's Congressman and Senators urging their action to effect comprehensive reform.

POLICY

REFERENCE: U.S. Constitution Article 1, Section 8, cl.3&4.

FISCAL

IMPACT: None.

OPTIONS:

- A. City Council Authorize a Letter to Congressman McCarthy and Senators Boxer & Feinstein Urging Comprehensive Immigration Policy Reform.**
- B. Amend, Modify or Reject the Option Above.**

Attachment

IMMIGRATION

The United States was founded by immigrants. Immigrants fueled the Country's economic expansion from an agricultural to an industrial giant, and now to a knowledge-based economy. Immigration has been and is part of America's success. In fact, we are a nation of immigrants, and descendants of immigrants, a diverse people – so much so that “you cannot spill a drop of American blood without spilling the blood of the world.”¹

Immigrants come for freedom and opportunity – for a better life. Largely Latino (80% Latin American),² today's immigrants come because even minimum wage represents opportunity (it is nearly ten times what they can earn in their native lands).³

The influx has stirred controversy, as it did with three earlier waves of immigration. The concerns center on an assumption that immigrants, especially undocumented (a.k.a., illegal) immigrants, cost more than they contribute. Unfortunately, there are no empirical studies of the fiscal impacts of undocumented immigration.⁴ Further, “facts regarding illegal immigration are often given a backseat to ideology by partisans on either side of the debate.”⁵

Some argue that “illegal” immigration has little to do with costs; rather it is simply a matter of enforcing the law.⁶ This seems an oversimplification - there are approximately 2,400,000 undocumented immigrants in California alone and possibly 12,000,000 nationwide. A deportation of that many people is probably not feasible. Even if it could be done, what would be the consequence of removing one of every twenty-five workers, and what would be the cost to identify, locate, collect, sequester, house, process and transport so many? Further, what would become of U.S. born (citizen) children of deportees – do they become wards of their States thereby creating additional costs, or exiles to countries where they become the undocumented immigrants? There are numerous economic, social, and demographic factors that must be considered. Among them are:

Assimilation

Concern: The nation cannot absorb huge numbers of immigrants. There are simply too many.

Perspective: “During the classic era of immigration [late 1800's – 1920], immigrants arrived at a rate of 6.3 per thousand of U.S. population. Today the rate of immigration, including illegal immigration, is less than 4 per thousand.”⁷

Concern: Illegal immigrants do not speak English and are not learning to speak it.

Perspective: In the early 20th century, during the last major immigration wave, language shift to English occurred over three generations, e.g. the grandchildren of immigrants typically spoke only English.

The shift to English is accelerating among recent immigrants, most often occurring within two generations rather than three.⁸

Employment & Wages

Concern: Immigrants take jobs away from, and lower wages for, natives.

Perspective: "Recent immigrants are usually employed in jobs, occupations, and sectors where previous immigrants were already predominantly employed."

"There is no evidence that the inflow of immigrants over the period 1960-2000 worsened the employment opportunities of natives with similar education and experience."⁹

The U.S. Bureau of Labor Statistics (BLS) projects job growth between 2002-2012 from 145,000,000 to 167,000,000. U.S. birth rates average 2.0 – 2.1 per woman; 2.1 is the minimum required to replace the existing population. With a native birth rate sufficient only to replace the existing population, and a projection of increased job production, labor force growth requires bringing in workers, e.g. immigration.

Immigration follows trends in U.S. employment, it does not set them.¹⁰

"During 1990-2004, immigration induced a 4% real wage increase for the average native worker."

Immigrant workers often serve as complements to native workers rather than as their direct competitors for jobs.¹¹

Criminality

Concern: Illegal immigrants are causing an increase in crime.

Perspective: Crime rates have declined as immigration has increased – since 1994 the undocumented ("illegal") population has increased 100% (to approximately 12,000,000) while violent crime has declined by 34% and property crime by 26%.

Immigrants have lower incarceration rates than the native U.S. population. Of men age 18-39 (the age group that represents the vast majority of the prison population), native incarceration rates are 3.5%, approximately 5 times greater than immigrants at 0.7%.¹²

Health Care

Concern: Illegal immigrants are a significant burden on the U.S. health care system, especially emergency rooms.

Perspective: "Overall, more than 40% of non-citizens are without insurance," However, in sheer numbers "the largest cohort of uninsured persons is native born."

While rates of uninsurance are higher among immigrants, the number of natives uninsured is much larger (Immigrants – 40% of 12M is 4,800,000 uninsured; U.S. Citizens – 15% of 288M is 43,000,000 uninsured). Further, because immigrant usage of health care is significantly lower, one can reasonably argue that “unauthorized immigration is not the major cause of increases in . . . uncompensated care costs in the U.S.”

The value of health care services used by immigrants with insurance is 44% lower per capita than natives with insurance, and 61% lower per capita than natives without insurance. “However, emergency room expenditures were more than three times higher for immigrant children than for native born children.”¹³

Education

Concern: Illegal immigrants drain public funds for education.

Perspective: Educating the children of illegal immigrants “almost certainly constitutes a substantial drain on public funds.”

“Most U.S. native families with children probably receive more in services (primarily education) than they pay in taxes.”¹⁴

While education is a cost, the fiscal impact is lessened, or possibly even positive, over an immigrant’s lifetime. Higher earnings, and the tax revenues they generate, are strongly associated with increasing levels of educational attainment.¹⁵

Fiscal & Economic Impact

Concern: Illegal immigration costs taxpayers and hurts the economy.

Perspective: The 2004 costs and benefits of immigration in the State of Arizona have been estimated to include:

Annual fiscal impacts include tax revenues of \$2.4 billion against public service costs of \$1.5 billion, for a net positive fiscal impact of \$940 million.

Total economic output is approximately \$44 billion with 400,000 full-time jobs.¹⁶

The 2005 costs and benefits of undocumented immigrants in the State of Texas have been estimated to include:

Annual fiscal impacts include tax revenues of \$1.6 billion against public service costs of \$1.2 billion, for a net positive fiscal impact of \$424 million.

Total economic output is approximately \$17 billion.¹⁷

The 2004 costs and benefits of immigrants in State of North Carolina have been estimated to include:

Annual fiscal impacts include tax revenues of \$755 million against public service costs of \$817 million, for a net negative fiscal impact of \$61 million, or \$102 per immigrant.

Total economic output is approximately \$9 billion.¹⁸

In California, since the early 90's through 2004, the total rate of (a) unemployment is lower, (b) poverty is close to the national average after having been 3% higher, (c) average wage increases has grown faster than the national average (and are now 13% higher), and (d) job growth exceeds the national average.¹⁹

"Immigrants with more than a high-school education have a net present value of \$93,000, and their descendants . . . \$105,000, for a total of \$198,000. However, those arriving without a high-school diploma have a present value of minus \$89,000, and their descendants . . . \$76,000, leaving a negative \$13,000 balance."²⁰

"In the aggregate, the net economic gains and losses of immigration to the U.S. economy appear to be small. Net income gains are about 0.2% of GDP. The net fiscal costs . . . are about 0.3% of GDP. On balance, immigration lowers the U.S. GDP by about 0.1% per year. Statistically, accounting for margin of error, this is close to zero."²¹

"The available evidence indicates that immigration will play a critical role in economic growth by augmenting the labor force (as well as the consumer base and the tax base)."²²

"Immigration provides net economic benefits to the domestic economy."²³

From the studies referenced herein, and others that contributed perspective, it is clear that there are diverse opinions as to immigration's, especially "illegal" immigration's, impacts on the Country. Learned, involved, and influential people have made serious attempts to answer the question, but conclusions seem to be influenced by ideology.

What then can be concluded about immigration, undocumented or otherwise? From historical accounts and observations, America has been through this before – at least three times. And, the issues that plague America today are not unique or new; in fact, they are the issues of the three preceding waves of immigrants. Regardless, the Country has grown and prospered; arguably, the Country has succeeded because of immigrants.

So, what should be done? Some maintain that government must enforce the law – drive out "illegal" immigrants. Others note that "illegal" immigration is a term unique to current times, that all immigrants of the preceding three waves were undocumented, i.e., "illegal". And, still others would welcome any and all who seek a better life.

An independent commission of bipartisan leaders and experts from key sectors concerned with immigration - the Independent Task Force on Immigration and America's Future - convened to determine what should be done. It concluded that immigration affects an intertwined complex of issues including economics, society, and demographics. And, because of the complexities and inter-relationships, "you cannot fix one element and think you have solved the problem." The Commission's report concluded that the immigration system should be redesigned to better serve U.S. wants and needs by:

- Setting annual immigration levels to address labor market goals – initially 1.5 million annually.
- Reviewing adjustments to immigration levels biennially based upon labor market needs, unemployment patterns, and changing economic and demographic trends.
- Restructuring the system to include temporary, provisional and permanent status options.
- Establishing an earned path to permanent status for currently unauthorized immigrants.
- Implementing "smart border" enforcement measures to reduce illegal immigration and protect against terrorist entry.
- Creating a secure biometric Social Security card to establish eligibility to work.
- Mandating employer verification and workplace enforcement.
- Engaging Mexico and Canada in initiatives to manage labor flows and improve regional economies.²⁴

The Task Force has attempted to redefine what the Nation's founding fathers (all undocumented immigrants, or descendants thereof) recognized, i.e., immigration's complexities and national importance. The unique national pre-eminence of immigration concerns is documented in the Constitution's provision establishing the Federal Government's supremacy in regulating immigration (U.S. Const. Art. I, Sec.8, cl. 3 & 4). Accordingly, it is the Federal Government that must address comprehensive immigration interests. The Task Force report provides a credible and comprehensive set of immigration system reform recommendations* for localities to petition their federally elected representatives to adopt.

**A copy of the Task Force Report Executive Summary is attached.*

ENDNOTES

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- ²⁰ Philip Martin; *Immigration's Economic Impacts: Implications for Paso Robles*, pg.18; University of California Davis; April 11, 2007.
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ACKNOWLEDGEMENTS

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Attachment

Immigration and America's Future: A New Chapter

Immigration and America's Future: A NEW CHAPTER



REPORT OF THE INDEPENDENT TASK FORCE ON IMMIGRATION AND AMERICA'S FUTURE
CO-CHAIRS, SPENCER ABRAHAM AND LEE H. HAMILTON

Doris Meissner
Deborah W. Meyers
Demetrios G. Papademetriou
Michael Fix

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MIGRATION POLICY INSTITUTE

Immigration and America's Future: A NEW CHAPTER

Report of the Independent Task Force on
Immigration and America's Future

Spencer Abraham and Lee H. Hamilton, Co-Chairs

Doris Meissner

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SEPTEMBER 2006



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FOREWORD

FEW POLICY AREAS AFFECT A SOCIETY as directly or as deeply as do immigration and immigration policy. Large-scale immigration magnifies those effects enormously.

The United States has been taking in unprecedented numbers of immigrants – legal and illegal – for over a decade now. Including those who come into the country both within and outside the parameters of the permanent immigration system and stay for extended periods of time, annual US immigration today totals about 1.8 million. Temporary immigrants entering legally on visas that do not require proof of an intention to return home and foreigners who enter and/or stay without authorization comprise the difference between the annual legal flows, which have averaged nearly one million in recent years, and the “actual inflow” figure estimated at 1.8 million.

No country can afford to have an immigration system that either ignores or otherwise merely ratifies the facts on the ground. Yet, that is what the United States has been doing for a while now. The result is a challenge to the most basic rules of governance; a hit-or-miss relationship between immigration policy and crucial US economic and social priorities; and an exceptional degree of political attention, not all of which has been thoughtful or productive. For these reasons, the Migration Policy Institute (MPI) organized the bipartisan Independent Task Force on Immigration and America’s Future. This volume presents the results of the Task Force’s effort to understand the key challenges and opportunities that immigration represents for the nation and the group’s proposals for sensible but fundamental solutions.

Under the steady leadership of two distinguished American public servants, Spencer Abraham and Lee H. Hamilton, the Task Force recommendations articulate a vision that promotes US global competitiveness in the context of post-9/11 security imperatives, while also grappling with many of the technical details that have made immigration such an intractable public policy problem. The resultant proposals call for a flexible system that meets US economic interests now and in the future, promotes longstanding social goals and priorities, respects core US values, and dramatically improves the government’s ability to advance the rule of law, a standard no longer being met by the status quo.

As with most efforts to fundamentally re-think complex and deeply ingrained systems and practices, the ideas the Task Force is presenting will require thoughtful debate and time for thorough assessment. The members of the Task Force, my MPI colleagues, and I are pleased to contribute the new thinking the Task Force has generated to the national immigration conversation now underway.

Demetrios G. Papademetriou
PRESIDENT, MIGRATION POLICY INSTITUTE

ACKNOWLEDGMENTS

THIS REPORT IS THE CULMINATION of the efforts of many skilled, effective individuals. We begin by expressing our gratitude to Spencer Abraham and Lee Hamilton for agreeing to serve as co-chairs of the Task Force. They have presided over the project with steady hands and seasoned judgments about the issues at stake in today's immigration debate. We are also grateful to the members of the Task Force for engaging in the process of dialogue and debate that took place during Task Force meetings and for committing time and imagination to grappling with the truly complex, wide-ranging issues addressed in this report. Our partners in convening the Task Force were the Manhattan Institute (MI) and the US Studies program and the Mexico Institute of the Woodrow Wilson International Center for Scholars (WWIC). We thank Tamar Jacoby, Andrew Selee, and Philippa Strum from those organizations for helping to organize the Task Force. Finally, the background information and perspectives provided by the ex officio members of the Task Force broadened the scope of the issues in valuable ways.

The idea for the Task Force dates back almost three years. Throughout its gestation, funding, research, meetings, and preparation of publications, all of our MPI colleagues have supported the initiative in varying ways. We have worked extremely well together in a spirit of warm collegiality preparing for Task Force meetings and bringing this report to fruition. We want especially to recognize Julia Gelatt, whose attention to detail, quantitative contributions, and tenacity in tracking down information have been indispensable. Her many contributions include tables, graphs, citations, and sidebars; Marc Rosenblum for intellectual ingenuity and persistent "drilling-down" on several key issues in the report; and Lisa Dixon for smooth liaison with members and funders, professionally managed meetings, and an excellent sixth sense for preventing things from falling through the cracks. Finally, our colleague Muzaffar Chishti added important perspectives and suggestions on a range of pertinent topics. Their work and dedication were exceptional.

The report reflects a great deal of research and analysis for which we also thank current and former MPI staff members Jeanne Batalova, Betsy Cooper, David Dixon, Kevin Jernegan, Julie Murray, and Kevin O'Neil, with assistance from interns Megan Davy, Shirin Hakimzadeh, Mary Helen Johnson, and Eliot Turner. We are indebted to Colleen Coffey and Meg Weaver for outstanding help

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Present and former US government officials were particularly helpful in supplying technical information. For that we thank Steve Fischel, Jeff Gorsky, and Charlie Oppenheim of the State Department; staff of the Office of Immigration Statistics; and Lisa Roney of the Department of Homeland Security. Staff of the members of Congress who served on the Task Force played similarly important roles. Our thanks, therefore, goes to Esther Olavarria, Margaret Klessig, Julia Massimino, and Rebecca Jensen.

The quality of discussion at Task Force meetings was sparked by excellent briefings and written analyses. In particular, we wish to thank Frank Bean, David Ellwood, Susan Ginsburg, Leighton Ku, James Loy, David Martin, Susan Martin, and Jeffrey Passel. Many additional authors also contributed importantly to the project. The papers they prepared were, or are being, published to contribute solid information and analysis to the ongoing debate. A full list of Task Force publications and authors appears in the appendix.

Finally, we are extremely grateful to the Carnegie Corporation, Charles Evans Hughes Foundation, Ford Foundation, Haas Foundation, JEHT Foundation, JM Kaplan Fund, and Open Society Institute for their confidence in and financial support for this project.

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* Because of their legislative roles, currently serving members of Congress were not asked to endorse the Task Force recommendations.

Note: Some Task Force members submitted additional comments that appear at the end of the report. One member submitted a dissenting comment.

PREFACE

INTERNATIONAL MIGRATION IS TRANSFORMING not only the United States, but also more countries than at any time in history. The United States has long been a world leader in welcoming and integrating newcomers. Yet, our nation's official immigration policies are increasingly disconnected from the economic and social forces that drive immigration.

The nation's attention is focused on illegal immigration. Americans are deeply divided in their opinions about the impact of immigration on the country, and anger about illegal immigration colors public attitudes about all aspects of immigration, illegal or otherwise. Confronting the problem of illegal immigration is long overdue. Still, illegal immigration is but one aspect of immigration. Today's debate side-steps the broader question that looms for America's future: What kind of immigration policy and system would harness the benefits of immigration to advance US national interests in the 21st century?

The Independent Task Force on Immigration and America's Future was convened by the Migration Policy Institute (MPI) to grapple with that question. Its report and recommendations are based on careful analysis of the economic, social, and demographic factors driving today's large-scale immigration, illegal and legal. Its core conclusion is that the benefits of immigration far outweigh its disadvantages and that immigration is essential to US national interests and will become even more so in the years ahead. But to harness the benefits, the United States must fundamentally rethink its policies and overhaul its system for managing immigration.

The Task Force is a bipartisan group of leaders and experts from key sectors concerned with immigration. The co-chairs are Spencer Abraham, Principal, The Abraham Group, former Secretary of Energy and Senator from Michigan, who chaired the Subcommittee on Immigration of the Committee on the Judiciary; and Lee Hamilton, President and Director of the Woodrow Wilson International Center for Scholars (WWIC), former Vice-Chair of the 9/11 Commission and Representative from Indiana who chaired the House Committee on Foreign Relations. The Division of United States Studies and the Mexico Institute of the Woodrow Wilson Center and Manhattan Institute have collaborated with MPI in convening the Task Force.

The Task Force first met in May 2005. Research and analyses prepared for it have been released at regular intervals during the past year to inform policy-makers, the press, and the public about critical issues.⁹ Since the first meeting, legislative debate suddenly accelerated in the Congress. Because of their legislative roles, currently serving members of Congress were not asked to endorse the Task Force recommendations. Many Task Force members have been actively engaged in advocacy on behalf of key constituencies. Their support for the recommendations in the report in no way alters positions they may have taken on pending legislation and does not necessarily imply agreement with every aspect of the report.

This report is the culmination of the work of the Task Force. It addresses issues in the current debate and beyond. The Task Force hopes it will serve as a durable foundation upon which to build the discourse and policies that can meet the challenges and opportunities immigration poses for the 21st century.

EXECUTIVE SUMMARY

IMMIGRATION IS THE OLDEST AND NEWEST story of the American experience. The same dreams of freedom and opportunity that galvanized people to cross the ocean hundreds of years ago draw people to America today. Immigration has enabled America's growth and prosperity, and helped shape our dynamic American society. Yet just as it has been a vital ingredient in America's success, immigration generates changes that can be unsettling and divisive.

Immigration is essential to advancing vital American interests in the 21st century. To maximize the benefits and mitigate the strains caused by immigration, the United States needs a new immigration policy and system for a new era.

Three times in our history, the United States has experienced "peak periods" of large-scale immigration that coincided with transformative economic change. Today, we are living through a fourth peak period, as globalization prompts the United States to complete the transformation from a manufacturing to a knowledge-based economy. With over 14 million newcomers, legal and illegal, the 1990s ranks numerically as the highest immigration decade in American history; the current decade will almost certainly surpass it.¹

As with previous peak periods, immigration is helping the United States respond to shifting economic realities, while also enriching American society. At the same time, communities across the country are experiencing rapid change and new challenges in integrating diverse new populations. In particular, the United States is faced with an unprecedented level of illegal immigration. Demands for greater border control, an immigration system that can meet neither workforce requirements nor the need for families to unify, and government agencies at all levels that are struggling to manage immigration mandates are all signs that our policy is broken and outdated.

The American people are deeply divided about whether immigration helps or hurts the country. They recognize the imperative for change, but often give contradictory answers when asked to choose among various policy options.² Legislative action has mirrored this division. The House of Representatives passed a bill in December 2005 that focused on tough new enforcement measures at the border and in the interior of the country. The Senate passed a bill in May 2006 that complements stringent enforcement measures with substantially

expanded opportunities for legal immigration and earned legal status with a “path to citizenship” for unauthorized immigrants.

The Independent Task Force on Immigration and America's Future welcomes the national dialogue on immigration. We applaud Congress for taking action, but believe that both the House and Senate bills are insufficient. The House bill will not fix the problem because it fails to address the economic forces driving immigration. The Senate bill is preferable because it is more comprehensive and bipartisan, but the bill is overly complex to implement and fails to correct systemic problems in immigration law and policy.

The Task Force report is based upon a careful analysis of the economic, social, and demographic factors driving today's large-scale immigration. In crafting recommendations, we sought to design a new and simplified system that averts illegal immigration, while also harnessing the benefits of immigration for the future.

THE BENEFITS OF IMMIGRATION

Immigration offers the United States unique benefits that will allow us to be a more productive, competitive, and successful nation in the 21st century.

Productivity

Immigration augments and complements the workforce exceptionally well because the US economy is creating more jobs than can be filled by native-born workers. In the 1990s, half of the growth in the US labor force came from new immigrants.³ That share is projected to grow. This demand for foreign labor is evident across the skills spectrum. At a time when Japan and most European countries are less competitive and face mounting social welfare costs because of declining working-age populations, infusions of young, taxpaying immigrants are helping the United States overcome worker, skills, and entitlement program shortfalls. Without immigration, we cannot sustain the growth and prosperity to which we have become accustomed.

Competitiveness

Immigrants are helping the United States maintain a competitive edge. In the critical fields of science and engineering, immigrants play a pivotal role. To take just one example, in 2004, 50 percent of students enrolled in engineering graduate programs in the US higher education system were foreign-born.⁴ At a time when China and India are increasingly competitive, the United States must continue to attract the world's best and brightest — or risk losing an important resource to other nations.

Immigration also propels entrepreneurship. Immigrants are more likely to be self-employed than native-born Americans.⁵ The number of Hispanic-owned businesses has grown at three times the national average.⁶ And one quarter of Silicon Valley start-ups were established at least in part by immigrants, including Intel, Sun Microsystems, and Google.⁷ These and countless immigrant-owned businesses across the country are creating jobs, revitalizing neighborhoods, and helping the US economy adapt to changing global market conditions.

Dynamism

Immigration remains a driving force behind the dynamism of American society. The impact of immigration on daily life is evident in the food we eat, the entertainment we watch, the houses of worship we attend, and the sports we play. Prominent immigrants have won Nobel Prizes, built soaring skyscrapers, written or performed masterpieces, and served at the highest levels of government. Classic indicators such as employment, education, military service, intermarriage, and home ownership show that today's immigrants are successfully integrating into American society.

In an age of globalization, America's openness to immigrants is also an important foreign policy asset. Those who live, study, or emigrate to the United States learn first-hand about our values of freedom, opportunity, individual rights, and the rule of law. And in a global economy that increasingly demands global interaction, exposure to a diversity of people and experiences is a unique resource for Americans.

THE CHALLENGES OF IMMIGRATION

Despite these substantial benefits, America's immigration system has been overwhelmed by myriad challenges. Many of these challenges are tied to illegal immigration and the resulting population of unauthorized immigrants in the United States.

Illegal immigration

The most dramatic manifestation of the breakdown of America's immigration system is that a large and growing share of today's immigration is illegal. According to recent estimates, 11.5 to 12 million unauthorized immigrants are in the United States — nearly one-third of the country's foreign-born population.⁸ For a nation of immigrants that is also a nation of laws, this level of illegal immigration is unacceptable. Illegal immigration generates insecurity about America's borders, carries economic and fiscal costs, and risks the creation of an isolated underclass. The prevalence of illegal immigration also generates disturbing social and cultural tensions, and causes a decline in Americans' support for immigration more generally.

Temporary immigration

Along with illegal immigration, nonimmigrant (temporary) immigration programs constitute the primary ways immigration has adapted to new conditions and labor market demands. Temporary immigration programs have increasingly been used as a step to permanent immigration and are filling standing, ongoing labor market needs. The result is that illegal immigration is meeting the nation's low-skill demands, and temporary visa programs are meeting the demands for mostly high-skilled immigration.

An over-burdened system

Illegal immigration occurs within the bounds of a broader immigration system that is over-burdened and no longer serves the nation's needs. The primary

engines of immigration — family unification and employment — generate far more demand than the immigration system can meet. Individuals who apply to immigrate legally — on a temporary or permanent basis — face overly complex procedures, unreasonable delays, and inflexible statutory ceilings that dictate levels of immigration to the United States.

Native-born workforce

Immigration — particularly illegal immigration — also presents challenges to the native-born workforce. While the net economic impact of immigration is beneficial to the US economy, today's immigration also has some troubling consequences. Illegal immigration can have negative impacts on wages at the bottom end of the pay scale. And immigrant labor, particularly of unauthorized immigrants, can lead to declining labor standards that undercut the position of native-born workers.

Integration

The sheer number of today's immigrants — and the fact that many are unauthorized — presents substantial integration challenges. Many of the costs and responsibilities associated with integration are borne by states and localities. Large numbers of immigrants are now settling in states such as Georgia, North Carolina, and Nebraska that do not have recent traditions of immigrant integration. Unauthorized immigrants by definition cannot be integrated into American society, complicating integration further. And at the local level, communities are often faced with demands for services from unauthorized immigrants, particularly for education and health care, which are costly and engender resentment.

Security

Despite more than a decade of unprecedented growth in resources for border security, the number of unauthorized immigrants residing in the United States has led to a sense that the government lacks the ability and will to secure its borders. Many border communities feel besieged, and citizens across the country are calling increasingly for strengthened border enforcement. Within the country, rules against employers hiring unauthorized immigrants are easily broken, manipulated, or simply under-enforced.

While the overwhelming majority of migrants entering the United States do not represent a threat to national security, the borders must be the front line for security. In a post-9/11 environment, Americans are particularly concerned about terrorists crossing a permeable border or fraudulently gaining admittance to the country at legal ports of entry. In addition, increases in smuggling, dangerous border crossing patterns that have led to tragic migrant deaths, and vigilantism all pose risks to migrants and border communities alike.

AN IMMIGRATION POLICY FOR THE 21ST CENTURY

The Independent Task Force on Immigration and America's Future believes America has entered a new era of immigration, and thus needs a new framework for immigration policy. Our recommendations integrate economic, security, and social concerns. We make proposals that are comprehensive, and governed by rules that are simplified, fair, practical, and enforceable. Above all, we have sought to build for the future upon a firm foundation of America's values and traditions of successful immigration.

Attracting the immigrants the United States wants and needs

The Task Force recommends the simplification and fundamental redesign of the nation's immigration system to accomplish timely family unification and to attract the immigrant workers required for the United States to compete in a new economy.

A re-designed system

Immigration should take place through three new streams: temporary, provisional, and permanent. Temporary visas would be issued for short-term stays and work assignments, such as seasonal employment. Provisional visas would allow employers to recruit foreign-born workers for permanent jobs and possible future immigration after a testing period of several years. A combination of such temporary and provisional visas, based on the nature of the job, is preferable to a bracero-like guest-worker program, which ties workers to individual employers and provides no opportunity for permanent residence. Finally, permanent immigration would be available both to those who apply directly, and those who "graduate" from provisional status.

The proposed system would initially set annual immigration levels at about 1.5 million, approximately 300,000 less than the actual annual number of immigrants – legal and illegal – being absorbed into the labor market and the country today. The system would simplify many visa categories and procedures, so that US immigration is better able to meet family unification and labor market goals. Special visa categories would be created, such as "strategic growth visas" for individuals in strategically important disciplines.

Standing Commission

An independent, federal agency called the Standing Commission on Immigration and Labor Markets should be created. The Standing Commission would make recommendations to Congress every two years for adjusting immigration levels. Its recommendations would be based on analyses of labor market needs, unemployment patterns, and changing economic and demographic trends. In adjusting immigration levels to be flexible to changing market conditions and ongoing review, the Standing Commission would provide an important tool for policymaking, much as the Federal Reserve does for monetary policy.

Executive branch

To bolster the government's capacity to implement immigration policy, the president should: 1) name a White House coordinator for immigration policy;

2) issue an executive order establishing an interagency cabinet committee for immigration policy; and 3) strengthen the capacity of executive branch agencies to implement major new immigration mandates.

Enforcing the rules

People cross the border illegally or overstay their visas because of the availability of jobs in the United States and the absence of legal immigration opportunities. Any strategy to reduce illegal immigration must therefore increase the numbers of workers admitted legally, and then effectively and credibly punish employers who continue to hire unauthorized workers. The new bargain must be that with increased employment-based immigration, employers be given the tools to reliably hire only authorized workers, and be held to high standards of compliance with immigration and other labor standards laws.

Employer enforcement

Mandatory employer verification and workplace enforcement should be at the center of more effective immigration enforcement reforms. Without them, other reforms – including border enforcement – cannot succeed. Electronic verification is a major undertaking that relies on upgrading several massive federal databases. Government agencies must be given sufficient, sustained resources and support to upgrade databases and establish privacy and anti-discrimination safeguards. To assist in the process, the Department of Homeland Security should create a Workplace Enforcement Advisory Board to help build support for new employer enforcement policies, and monitor the progress of new measures.

Secure documents

A secure Social Security card is necessary to combat fraud, enable individuals to establish their eligibility to work, and allow employers to easily verify the documents presented by legally authorized workers – US citizens and non-citizens alike. A secure, biometric Social Security card should be developed to replace existing non-secure cards. Along with “green” cards and immigration work authorization cards – which are already secure, biometric documents – the three cards should eventually be the only documents used to verify work eligibility.

Border enforcement

Border enforcement must accomplish a number of intertwined goals: restricting the illegal entry of people and goods; regulating the flows of people and goods that the United States wishes to admit; protecting against terrorism and other national security threats; and protecting against criminality, violence, and other threats to the quality of life.

- *Smart borders.* To accomplish these goals, implementation of “smart border” measures that combine personnel, equipment, and technology should be accelerated. The administration should submit an annual report to Congress and the American people that establishes measures of effectiveness for border enforcement and reports progress in meeting them. Three particular areas that need to be closely monitored are Border Patrol staffing and support, the effectiveness of technology, and civil rights protections of migrants and border community

residents. Border enforcement efforts have received substantial resources in recent years with uncertain results. In implementing border enforcement policies, Congress and the public need better information to assess the effectiveness of those investments.

- *Ports of entry.* Immigration enforcement in other areas of border security should continue to be strengthened, especially legal ports of entry and overseas visa issuance. As southwest border enforcement increases, incentives for individuals to use legal ports of entry to gain admittance to the United States will continue to grow. Legal immigration admissions procedures must not become “weak links” in border protection. Sustained attention to document security and vigilance in the issuance of overseas visas will continue to be of key importance. Meanwhile, security must be balanced with efficiency, as facilitating legitimate trade and travel are essential to economic prosperity and US engagement around the world.

- *Counter-terrorism.* Terrorist travel and transportation tactics should be aggressively targeted with the same depth and urgency as terrorist communications and finance. International terrorists depend upon mobility. Every time a terrorist crosses an international border, he must make contact with an enforcement official. This represents a significant vulnerability for terrorists, and a vital opportunity for counter-terrorism officials. The tracking and disruption of terrorist travel demands higher priority and resources. Border officials must have ready access to information, such as real-time intelligence and law enforcement watch-lists, to enable them to promptly identify terrorism suspects.

Labor market protections

A re-designed immigration system must not diminish employment opportunities or wages of native-born US workers. Furthermore, increased levels of immigration must not be accompanied by declining labor standards — for US workers or for foreign-born workers.

- *Labor certification.* The existing case-by-case labor certification system should be replaced with a system that provides for pre-certified employers, designates shortage occupations for blanket certifications, and uses a streamlined individual certification process for non-shortage occupations. Pre-certifications would require employers to file sworn attestations that no qualified US workers are available to do the job, that no striking workers are being replaced, and that prevailing wages will be paid.

- *Worker flexibility.* Temporary and provisional workers should have the right to change employers after an initial period without jeopardizing their immigration status, and to exercise labor rights comparable to those of similarly employed US workers.

Immigrant integration

US immigration policies are specified in great detail in US laws, but integration policies are skeletal, ad hoc, and under-funded. Immigrant integration is an essential dimension of successful immigration, especially in a period of large-

scale immigration. Currently, there is no focal point for leadership in the federal government to promote immigrant integration. Individual, family, and state and local efforts accomplish a great deal, but they could be better leveraged to achieve important national goals.

Office of Immigrant Integration

A National Office on Immigrant Integration should be created to provide leadership, visibility, and a focal point at the federal level for integration policy. The office would establish goals for immigrant integration, and measure the degree to which these goals are met. The office would assess and coordinate federal policies and agencies related to integration, and serve as an intermediary with state and local governments. As a principal priority, the office should examine the supply of and demand for English-language instruction among limited English-proficient groups, and provide leadership and expertise for public and private sector initiatives and resources to meet that demand.

The unauthorized population

An earned path to permanent legal status is the most urgent immigrant integration need at this time and should be provided for unauthorized immigrants currently in the United States. The requirements for earning legal status should be the same for all eligible applicants. A legalization process should be simple, with an eligibility date that is as recent as possible. The process should include registration for work eligibility in the United States, accompanied by a background security check, English-language requirements, and payment of a substantial fine for illegally entering the United States. Earned legal status should occur within the context of broad, comprehensive immigration reform.

The Region

Illegal migration is a regional issue. Nearly 80 percent of the unauthorized population in the United States is from Latin America, primarily from Mexico and Central America. The flow of remittance earnings from migrants in the United States to families and communities in their home countries has reached record amounts. The United States must engage Mexico and Canada in longer-term initiatives that result in viable economies and higher standards of living throughout the region.

Conclusion

America's ability to effectively manage and take advantage of our current period of large-scale immigration constitutes a new chapter in the nation's immigration experiences that will play a large part in shaping our nation in the 21st century. Will we be able to compete effectively? Will we be secure? Will we maintain our tradition of openness? The Task Force strongly believes that the United States can answer each of these questions in the affirmative, but only if we adopt a simplified, comprehensive, and new approach to immigration that addresses the American people's sense of crisis about illegal immigration, as well as the opportunities that immigration provides for the United States in a new era.

NOTES

- 1 About 9.8 million immigrants gained lawful permanent resident (LPR) status in the United States between 1990 and 1999, while an estimated 4.9 million immigrants entered and remained in the country without authorization. However, immigrants made up a larger share of the total US population at the turn of the century – about 15 percent, compared to only 12 percent currently. US Department of Homeland Security, *Yearbook of Immigration Statistics: 2004*, Table 1 (Washington, DC: US Department of Homeland Security Office of Immigration Statistics, 2006); Jeffrey S. Passel, “The Size and Characteristics of the Unauthorized Migrant Population in the U.S.” (Washington, DC: Pew Hispanic Center, March 2006), <http://pewhispanic.org/files/reports/61.pdf>; and Tabulations from the Current Population Survey, March 2005.
- 2 For one recent poll of US opinions on immigration, see Pew Research Center for the People and the Press and Pew Hispanic Center, “America’s Immigration Quandary: No Consensus on Immigration Problem or Proposed Fixes” (Washington, DC: Pew, March 2006), <http://pewhispanic.org/reports/report.php?ReportID=63>.
- 3 Andrew Sum, Neeta Fog, Paul Harrington, et al., “Immigrant Workers and the Great American Job Machine: The Contributions of New Foreign Immigrants to National and Regional Labor Force Growth in the 1990s” (Boston, MA: Northeastern University Center for Labor Market Studies, August 2002), 16–17.
- 4 The Council of Graduate Schools found that 50 percent of students enrolled in graduate degree programs in engineering were foreign-born temporary US residents, while 41 percent of students enrolled in graduate degree programs in the physical sciences were foreign-born temporary residents. Heath A. Brown, “Graduate Enrollment and Degrees: 1986 to 2004” (Washington, DC: Council of Graduate Schools, Office of Research and Information Services, 2004).
- 5 About 10.4 percent of foreign-born workers are self-employed, compared to 9.4 percent of native workers. Jeanne Batalova and David Dixon, “Foreign-Born Self-Employed in the United States,” *Migration Information Source* April 1, 2005, <http://www.migrationinformation.org/USFocus/display.cfm?ID=301>.
- 6 US Census Bureau, “Growth of Hispanic-Owned Businesses Triples the National Average,” Press Release (Washington, DC: US Census Bureau, March 21, 2006), http://www.census.gov/Press-Release/www/releases/archives/business_ownership/006577.html.
- 7 A study by the University of California, San Diego, found that one-quarter of Silicon Valley start-ups were established by Chinese and Indian immigrants during the 1990s. See AnnaLee Saxenian, “Silicon Valley’s New Immigrant Entrepreneurs” (University of California, San Diego, The Center for Comparative Immigration Studies, May 2000).
- 8 Passel, “The Size and Characteristics of the Unauthorized” (see n. 1).
- 9 To access MPI’s publications prepared for the Independent Task Force on Immigration and America’s Future, see <http://www.migrationpolicy.org/ITFIAP/publications.php>.
- 10 See n. 1.
- 11 US Census Bureau, “Hispanic Population Reaches All-Time High of 38.8 Million, New Census Bureau Estimates Show,” Press Release, June 18, 2003, http://www.census.gov/Press-Release/www/releases/archives/hispanic_origin_population/001130.html.
- 12 Ben J. Wattenberg, *First Universal Nation* (New York: Touchstone, 1992).
- 13 David Ellwood, “How We Got Here,” In *Grow Faster Together. Or Grow Slowly Apart*. (Washington, DC: The Aspen Institute Domestic Strategy Group, 2002).
- 14 Andrew Sum, et al., “New Foreign Immigrants and the Labor Market in the US” (Boston, MA: Center for Labor Market Studies, Northeastern University, January 2005).
- 15 Ellwood, “How We Got Here” (see n. 13).
- 16 B. Lindsay Lowell, Julia Gelatt, and Jeanne Batalova, “Immigrants and Labor Force Trends: The Future, Past, and Present,” Task Force Insight No. 17 (Washington, DC: Migration Policy Institute, July 2006), 3.
- 17 Richard Jackson, “The Global Retirement Crisis” (Washington, DC: Center for Strategic and International Studies, April 2002).
- 18 Ellwood, “How We Got Here” (see n. 13).
- 19 Lowell, Gelatt, Batalova, “Immigrants and Labor Force Trends” (see n. 16).
- 20 *Ibid.*, 15–17.



Council Agenda Report

From: Robert Burton, Chief of Police

Subject: Immigration

Date: May 16, 2017

Facts

1. On April 18, 2017 the City Council directed staff to prepare a report on immigration. The City Council was specifically interested in obtaining more information to understand the definition of a "sanctuary city." In discussing this topic, it is also important to discuss Federal, State, and local immigration policies; understand the State's pending Senate Bill 54; and understand from a law enforcement perspective how the City's current immigration policy is serving the community. Finally, it is also important to understand the financial impacts that could potentially be incurred and how they would impact services to the community.
2. The term "sanctuary city" is not defined by Federal or State law, but it is often used to refer to municipalities that have policies in place that limit assistance for local enforcement of federal immigration laws, and the expenditure of local resources in cooperation with U.S. Immigration and Customs Enforcement Agency (ICE) enforcement programs. Although such policies or ordinances take many forms, they generally include limitations on local law enforcement making arrests based on immigration violations, limitations on local law enforcement gathering information about immigration status, compliance with ICE detainers, and sharing certain information with ICE, including an individual's custody status or release date from local custody.
3. The federal government has the exclusive authority to enforce the civil provisions of federal immigration law relating to issues such as admission, exclusion, and deportation. Existing law generally allows the federal government to permit, but not require, the assistance of local officials in such efforts. (8 U.S.C. § 1373; 8 U.S.C. § 1644.)

Specifically, 8 U.S.C. Section 1373 provides that:

Notwithstanding any other provision of Federal, State, or local law, 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 information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

When conducting its work, ICE generally relies upon cooperation or notification from local law enforcement to the extent practicable and allowed by state and local laws and practices. Refusing to provide such notice or cooperation limits but does not prevent the federal government's ability to enforce federal immigration laws.

President Trump's Executive Order, issued on January 25, 2017 provides that "jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (i.e., "sanctuary" jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary [of Homeland Security]." A city is also subject to enforcement action at the discretion of

the Attorney General if it has policies or practices that prevent or hinder the enforcement of the federal law. A copy of the President's Executive Order is attached (Attachment 2).

It is important to note that although federal law permits the assistance of local law enforcement to assist in immigration enforcement, it is not legal for local law enforcement officers to stop, detain, or arrest people for suspected civil immigration violations.

4. The State of California has two primary immigration acts. The Trust Act was signed into law in 2013 and went into effect January 1, 2014; one of eight bills signed at the same time in the State's effort to take action on immigration reform. It requires local law enforcement agencies to release people who have been arrested once their bond is posted or their sentence is up, so long as they have no serious convictions, even if ICE officials have issued a detainer.

On September 28, 2016, the Governor also signed into law AB 2792, otherwise known as the TRUTH Act, which states that if ICE notifies a California jail that they plan to deport someone, they have to also serve a copy to the person in jail. This gives the person the "right to know" when ICE wants to deport them so they can seek counsel.

In December 2016, Senate Pro Tem Kevin de Leon introduced SB 54, which would prohibit local law enforcement officials from performing the functions of a federal immigration officer and would create "safe zones" throughout the state by prohibiting immigration enforcement on public schools, hospitals, and courthouse premises. To ensure eligible immigrants are not deterred from seeking services and engaging with state agencies, the bill would also require state agencies to review and update confidentiality policies. A fact sheet on this proposed legislation is attached (Attachment 3).

5. The Paso Robles Police Department Policy 414, entitled "Immigration Violations," provides direction to members of the Police Department regarding immigration law. Its goal is to "make personal and professional commitments to equal enforcement of the law and equal service to the public." Policy 414 permits the exchange of law enforcement information as needed to comply with both federal and state law. Because Policy 414 does not specifically limit communicating with the federal government about an individual's citizenship or immigration status, and does not prohibit the maintaining of such information, the City's policy is in compliance with the plain terms of Section 1373.

In order to reach a balance between assuring the confidence of those the Police Department serves, while at the same time addressing the presence of serious offenders, department members consider the totality of circumstances of each case when deciding to arrest and book an individual into San Luis Obispo County Jail. When an individual is booked into San Luis Obispo County Jail, the department does not need to make a notification to ICE since the arrestee information is automatically sent to ICE. For this reason, the department normally books serious offenders into jail who have committed crimes such as criminal street gang offenses, aggravated or violent felonies, significant misdemeanors, or violators who otherwise pose a threat to public safety.

In conjunction with this practice and consistent with prevailing law, the Paso Robles Police Department will also share information with ICE, if requested, where that information would otherwise be communicated with other law enforcement agencies or is available publicly.

6. If the President or Congress ultimately carries through on the Executive Order on the President's stated campaign promise to limit the amount of federal funds allocated to jurisdictions that support "sanctuary" policies, the City of Paso Robles is at risk of losing future federal funding and potentially significant levels of current federal funding. However, this would only be the case if the City Council were to adopt a resolution declaring Paso Robles as a "sanctuary city," effectively prohibiting

detention of criminal offenders with immigration status regardless of the severity of the crime. Note that this action would be in direct conflict with the City's current Police Department Policy.

The City receives various federal funds including Community Development Block Grant, Federal Transit and Transportation Funds, and Public Safety Funding. The federal funds for FY 2014-15 totaled \$7,757,883 and the funds for FY 2015-16 totaled \$342,117 (Attachment 1).

Of the funding mentioned above, anticipated future applications through federal grant programs would be most at risk because the executive departments that administer these programs have broad discretion to determine future awards, and the agency or department heads of these grant-making agencies report directly to the President.

7. Some cities and counties that don't want to become a "sanctuary city" due to the possibility of losing federal funding, but want make a positive statement in regards to welcoming immigrants, are choosing to become welcoming communities under the Welcoming America program. Most recently, the City of San Luis Obispo became a Welcoming America municipality. This program was initiated by President Obama through the Building Welcoming Communities Campaign of the White House Task Force on New Americans, which called upon local communities to endorse a set of principles to build inclusive, welcoming communities that allow all residents to thrive and advance civic, economic and social integration. Information about the Welcoming America program is attached (Attachment 4).

Options

1. Take no action.
2. Receive and file.
3. Provide alternative direction.

Analysis and Conclusions

The City Council was interested in learning more about what it means to be a "sanctuary city." This report provides background with respect to the federal and state law related to this subject and provides information regarding the alternatives to becoming a "sanctuary city." In addition, this report outlines Paso Robles's current policies with respect to immigration holds and identifies the financial impacts of becoming a "sanctuary city".

The City of Paso Robles has done a great job in protecting the basic human rights of individuals and values of dignity, inclusivity and respect for all individuals in our community. In light of the recent Executive Order issued by the President of the United States and possible future immigration reform, the City of Paso Robles has struck a responsible balance between holding criminals accountable for their actions while still building trust within the community.

The federal and state environments in which we operate on this issue have the potential to change rapidly throughout the upcoming months. Staff will return to the Council with updates as appropriate.

Fiscal Impact

If the City Council adopts a resolution declaring Paso Robles as a "sanctuary city" there could be significant fiscal impacts. Since federal efforts to deter sanctuary policies are an evolving issue that will inevitably be subject to future litigation, the precise fiscal effects associated with being declared a "sanctuary city" are not yet fully known. Nevertheless, the City could potentially be at risk of losing access to millions of dollars in funding that would otherwise be used towards various projects and programs designed to benefit the health, welfare, and safety of the public.

Recommendation [Option 2]

Receive and file this staff report, affirming the City's current immigration practice of making personal and professional commitments to equal enforcement of the law and equal service to the public. Current practice also permits the exchange of law enforcement information needed to comply with both federal and state law, and does not jeopardize federal or state funding.

Attachments

1. City's Schedule of Expenditures for Federal Awards (SEFA) for FYs 2014/15 and 2015/16
2. Presidential Executive Order - Enhancing Public Safety in the Interior of the US
3. SB 54 - Fact Sheet
4. Welcoming America Documents

**SINGLE AUDIT
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
For the Fiscal Year Ended June 30, 2015**

Description	Federal Catalog Number	Pass-through Entity Number	Federal Expenditure
U.S. Department of Housing and Urban Development			
Pass-Through Grant:			
County of San Luis Obispo			
Community Development Block Grant	14.218	B-11-UC-06-0508	11,345
Community Development Block Grant	14.218	B-11-UC-06-0508	11,046
Community Development Block Grant	14.218	B-11-UC-06-0508	81,270
Total U.S. Department of Housing and Urban Development			<u>103,661</u>
U.S. Department of Justice			
Bulletproof Vest Partnership	16.607	8045551	2,930
Total U.S. Department of Justice			<u>2,930</u>
US Department of Transportation			
Pass through the State of California			
101/46 Improvement	20.205	X079(022)	1,710,783
S River Rd Bikepath	20.205	RPSTPLE-5084(013)	31,013
Total Highway Planning and Construction Cluster			<u>1,741,796</u>
Airport Taxiway	20.106	3-6-0184-022-014	1,182,853
Total U.S. Department of Transportation			<u>2,924,649</u>
U.S. Environmental Protection Agency			
Pass through the State Water Resources Control Board			
Capitalization Grants for Clean Water State Revolving Funds	66.458	CS-06-0001-13	4,726,593
Total U.S. Environmental Protection Agency			<u>4,726,593</u>
Total Expenditures of Federal Awards			<u><u>\$ 7,757,833</u></u>

**SINGLE AUDIT
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
For the Fiscal Year Ended June 30, 2016**

Description	Federal Catalog Number	Pass-through Entity Number	Federal Expenditure
U.S. Department of Housing and Urban Development			
Pass-Through Grant:			
County of San Luis Obispo			
Community Development Block Grant	14.218	B-11-UC-06-0508	6,701
Community Development Block Grant	14.218	B-11-UC-06-0508	6,701
Community Development Block Grant	14.218	B-11-UC-06-0508	21,416
Total U.S. Department of Housing and Urban Development			<u>34,818</u>
U.S. Department of Homeland Security			
Self Contained Breathing Apparatus Replacement	97.044	EMW-2014-FO-05402	198,826
Total U.S. Department of Homeland Security			<u>198,826</u>
U.S. Department of Transportation			
Pass through the State of California			
S River Rd Bikepath	20.205	RPSTPLE-5084(013)	8,545
Total Highway Planning and Construction Cluster			<u>8,545</u>
Airport Taxiway	20.106	3-06-0184-023-2014	5,426
Airport Taxiway	20.106	3-06-0184-024-2015	94,502
Total Federal Aviation Administration			<u>99,928</u>
Total U.S. Department of Transportation			<u>108,473</u>
Total Expenditures of Federal Awards			<u><u>\$ 342,117</u></u>

Presidential Documents

Executive Order 13768 of January 25, 2017

Enhancing Public Safety in the Interior of the United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Immigration and Nationality Act (INA) (8 U.S.C. 1101 *et seq.*), and in order to ensure the public safety of the American people in communities across the United States as well as to ensure that our Nation's immigration laws are faithfully executed, I hereby declare the policy of the executive branch to be, and order, as follows:

Section 1. Purpose. Interior enforcement of our Nation's immigration laws is critically important to the national security and public safety of the United States. Many aliens who illegally enter the United States and those who overstay or otherwise violate the terms of their visas present a significant threat to national security and public safety. This is particularly so for aliens who engage in criminal conduct in the United States.

Sanctuary jurisdictions across the United States willfully violate Federal law in an attempt to shield aliens from removal from the United States. These jurisdictions have caused immeasurable harm to the American people and to the very fabric of our Republic.

Tens of thousands of removable aliens have been released into communities across the country, solely because their home countries refuse to accept their repatriation. Many of these aliens are criminals who have served time in our Federal, State, and local jails. The presence of such individuals in the United States, and the practices of foreign nations that refuse the repatriation of their nationals, are contrary to the national interest.

Although Federal immigration law provides a framework for Federal-State partnerships in enforcing our immigration laws to ensure the removal of aliens who have no right to be in the United States, the Federal Government has failed to discharge this basic sovereign responsibility. We cannot faithfully execute the immigration laws of the United States if we exempt classes or categories of removable aliens from potential enforcement. The purpose of this order is to direct executive departments and agencies (agencies) to employ all lawful means to enforce the immigration laws of the United States.

Sec. 2. Policy. It is the policy of the executive branch to:

(a) Ensure the faithful execution of the immigration laws of the United States, including the INA, against all removable aliens, consistent with Article II, Section 3 of the United States Constitution and section 3331 of title 5, United States Code;

(b) Make use of all available systems and resources to ensure the efficient and faithful execution of the immigration laws of the United States;

(c) Ensure that jurisdictions that fail to comply with applicable Federal law do not receive Federal funds, except as mandated by law;

(d) Ensure that aliens ordered removed from the United States are promptly removed; and

(e) Support victims, and the families of victims, of crimes committed by removable aliens.

Sec. 3. Definitions. The terms of this order, where applicable, shall have the meaning provided by section 1101 of title 8, United States Code.

Sec. 4. Enforcement of the Immigration Laws in the Interior of the United States. In furtherance of the policy described in section 2 of this order, I hereby direct agencies to employ all lawful means to ensure the faithful execution of the immigration laws of the United States against all removable aliens.

Sec. 5. Enforcement Priorities. In executing faithfully the immigration laws of the United States, the Secretary of Homeland Security (Secretary) shall prioritize for removal those aliens described by the Congress in sections 212(a)(2), (a)(3), and (a)(6)(C), 235, and 237(a)(2) and (4) of the INA (8 U.S.C. 1182(a)(2), (a)(3), and (a)(6)(C), 1225, and 1227(a)(2) and (4)), as well as removable aliens who:

- (a) Have been convicted of any criminal offense;
- (b) Have been charged with any criminal offense, where such charge has not been resolved;
- (c) Have committed acts that constitute a chargeable criminal offense;
- (d) Have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency;
- (e) Have abused any program related to receipt of public benefits;
- (f) Are subject to a final order of removal, but who have not complied with their legal obligation to depart the United States; or
- (g) In the judgment of an immigration officer, otherwise pose a risk to public safety or national security.

Sec. 6. Civil Fines and Penalties. As soon as practicable, and by no later than one year after the date of this order, the Secretary shall issue guidance and promulgate regulations, where required by law, to ensure the assessment and collection of all fines and penalties that the Secretary is authorized under the law to assess and collect from aliens unlawfully present in the United States and from those who facilitate their presence in the United States.

Sec. 7. Additional Enforcement and Removal Officers. The Secretary, through the Director of U.S. Immigration and Customs Enforcement, shall, to the extent permitted by law and subject to the availability of appropriations, take all appropriate action to hire 10,000 additional immigration officers, who shall complete relevant training and be authorized to perform the law enforcement functions described in section 287 of the INA (8 U.S.C. 1357).

Sec. 8. Federal-State Agreements. It is the policy of the executive branch to empower State and local law enforcement agencies across the country to perform the functions of an immigration officer in the interior of the United States to the maximum extent permitted by law.

(a) In furtherance of this policy, the Secretary shall immediately take appropriate action to engage with the Governors of the States, as well as local officials, for the purpose of preparing to enter into agreements under section 287(g) of the INA (8 U.S.C. 1357(g)).

(b) To the extent permitted by law and with the consent of State or local officials, as appropriate, the Secretary shall take appropriate action, through agreements under section 287(g) of the INA, or otherwise, to authorize State and local law enforcement officials, as the Secretary determines are qualified and appropriate, to perform the functions of immigration officers in relation to the investigation, apprehension, or detention of aliens in the United States under the direction and the supervision of the Secretary. Such authorization shall be in addition to, rather than in place of, Federal performance of these duties.

(c) To the extent permitted by law, the Secretary may structure each agreement under section 287(g) of the INA in a manner that provides the most effective model for enforcing Federal immigration laws for that jurisdiction.

Sec. 9. Sanctuary Jurisdictions. It is the policy of the executive branch to ensure, to the fullest extent of the law, that a State, or a political subdivision of a State, shall comply with 8 U.S.C. 1373.

(a) In furtherance of this policy, the Attorney General and the Secretary, in their discretion and to the extent consistent with law, shall ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary. The Secretary has the authority to designate, in his discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction. The Attorney General shall take appropriate enforcement action against any entity that violates 8 U.S.C. 1373, or which has in effect a statute, policy, or practice that prevents or hinders the enforcement of Federal law.

(b) To better inform the public regarding the public safety threats associated with sanctuary jurisdictions, the Secretary shall utilize the Declined Detainer Outcome Report or its equivalent and, on a weekly basis, make public a comprehensive list of criminal actions committed by aliens and any jurisdiction that ignored or otherwise failed to honor any detainers with respect to such aliens.

(c) The Director of the Office of Management and Budget is directed to obtain and provide relevant and responsive information on all Federal grant money that currently is received by any sanctuary jurisdiction.

Sec. 10. Review of Previous Immigration Actions and Policies. (a) The Secretary shall immediately take all appropriate action to terminate the Priority Enforcement Program (PEP) described in the memorandum issued by the Secretary on November 20, 2014, and to reinstitute the immigration program known as "Secure Communities" referenced in that memorandum.

(b) The Secretary shall review agency regulations, policies, and procedures for consistency with this order and, if required, publish for notice and comment proposed regulations rescinding or revising any regulations inconsistent with this order and shall consider whether to withdraw or modify any inconsistent policies and procedures, as appropriate and consistent with the law.

(c) To protect our communities and better facilitate the identification, detention, and removal of criminal aliens within constitutional and statutory parameters, the Secretary shall consolidate and revise any applicable forms to more effectively communicate with recipient law enforcement agencies.

Sec. 11. Department of Justice Prosecutions of Immigration Violators. The Attorney General and the Secretary shall work together to develop and implement a program that ensures that adequate resources are devoted to the prosecution of criminal immigration offenses in the United States, and to develop cooperative strategies to reduce violent crime and the reach of transnational criminal organizations into the United States.

Sec. 12. Recalcitrant Countries. The Secretary of Homeland Security and the Secretary of State shall cooperate to effectively implement the sanctions provided by section 243(d) of the INA (8 U.S.C. 1253(d)), as appropriate. The Secretary of State shall, to the maximum extent permitted by law, ensure that diplomatic efforts and negotiations with foreign states include as a condition precedent the acceptance by those foreign states of their nationals who are subject to removal from the United States.

Sec. 13. Office for Victims of Crimes Committed by Removable Aliens. The Secretary shall direct the Director of U.S. Immigration and Customs Enforcement to take all appropriate and lawful action to establish within U.S. Immigration and Customs Enforcement an office to provide proactive, timely, adequate, and professional services to victims of crimes committed by removable aliens and the family members of such victims. This office shall provide quarterly reports studying the effects of the victimization by criminal aliens present in the United States.

Sec. 14. *Privacy Act.* Agencies shall, to the extent consistent with applicable law, ensure that their privacy policies exclude persons who are not United States citizens or lawful permanent residents from the protections of the Privacy Act regarding personally identifiable information.

Sec. 15. *Reporting.* Except as otherwise provided in this order, the Secretary and the Attorney General shall each submit to the President a report on the progress of the directives contained in this order within 90 days of the date of this order and again within 180 days of the date of this order.

Sec. 16. *Transparency.* To promote the transparency and situational awareness of criminal aliens in the United States, the Secretary and the Attorney General are hereby directed to collect relevant data and provide quarterly reports on the following:

(a) the immigration status of all aliens incarcerated under the supervision of the Federal Bureau of Prisons;

(b) the immigration status of all aliens incarcerated as Federal pretrial detainees under the supervision of the United States Marshals Service; and

(c) the immigration status of all convicted aliens incarcerated in State prisons and local detention centers throughout the United States.

Sec. 17. *Personnel Actions.* The Office of Personnel Management shall take appropriate and lawful action to facilitate hiring personnel to implement this order.

Sec. 18. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to be the name of Donald Trump, written in a cursive style.

THE WHITE HOUSE,
January 25, 2017.

[FR Doc. 2017-02102
Filed 1-27-17; 11:15 am]
Billing code 3295-F7-P



SENATOR KEVIN DE LEÓN PRESIDENT PRO TEMPORE

SB 54 (De León) The California Values Act

Purpose

To protect the safety and well-being of all Californians by ensuring that state and local resources are not used to fuel mass deportations, separate families, and ultimately hurt California's economy.

Background

The President has stated publicly that he will order the increased deportation of a broad category of immigrants and that doing so will be a top priority. Any expansion of federal deportation efforts will have a significant effect on California's economy and society.

A relationship of trust between California's immigrant residents and our state and local agencies, including police, schools, and hospitals, is essential to carrying out basic state and local functions. That trust is threatened when state and local agencies are involved in immigration enforcement.

According to the President Obama's Taskforce on 21st Century Policing, "Immigrants often fear approaching police officers when they are victims of and witnesses to crimes and when local police are entangled with federal immigration enforcement. At all levels of government, it is important that laws, policies, and practices not hinder the ability of local law enforcement to build the strong relationships necessary to public safety and community well-being. It is the view of this task force that whenever possible, state and local law enforcement should not be involved in immigration enforcement."¹ A study conducted by the University of Illinois similarly found that 44 percent of Latinos are less likely to contact police officers if they have been the victim of a crime because they fear that police officers will use this interaction as an opportunity to inquire about their immigration status or that of people they know.²

California is already familiar with the harmful effects of entangling local law enforcement agencies with immigration enforcement. Prior to its termination, the discredited "Secure Communities" program (S-Comm) operated in California as an indiscriminate mass deportation program at great cost to California both financially and otherwise. According to a report prepared by Justice Strategies in 2012, when the Secure Communities

¹ Final Report of the President's Taskforce on 21st Century Policing (May 2016).

² Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement, Nik Theodore, Dep't of Urban Planning and Policy, University of Illinois at Chicago (May 2013)

program was still active, California taxpayers spent an estimated \$65 million annually to detain people for ICE.³

For that reason, it is necessary to evaluate the appropriate use of state and local resources for immigration enforcement purposes and recognize the devastating impact deportations have on a state with thousands of mixed status families, and a heavily immigrant workforce.

Proposal

The California Values Act will provide essential safeguards to ensure that police, schools, health facilities, and courts remain accessible to Californians from all walks of life and that California's limited resources are directed to matters of greatest concern to state and local governments.

1. State and local law enforcement agencies and school police and security departments will not engage in immigration enforcement. No state or local resources will be used to investigate, detain, detect, or arrest persons for immigration enforcement purposes. No state or local law enforcement agency will detain or transfer any person for deportation *without a judicial warrant*.
2. State agencies will review their confidentiality policies in order to ensure that eligible individuals are not deterred from seeking services or engaging with state agencies. State agencies shall not collect or share information from individuals unless necessary to perform agency duties.
3. California schools, health facilities, and courthouses will remain safe and accessible to all California residents, regardless of immigration status. Each shall establish and make public policies that limit immigration enforcement on their premises to the fullest extent possible consistent with federal and state law.

Support

Abriendo Puertas/Opening Doors
Alliance for Boys and Men of Color
Alliance San Diego
American Academy of Pediatrics, California
Asian Americans Advancing Justice - California
Asian American Criminal Trial Lawyers Association
Asian Law Alliance
ASPIRE
Bill Wilson Center
California Adolescent Health Collaborative
California Association for Bilingual Education
California Central Valley Journey for Justice
California La Raza Lawyers Association
California Partnership to End Domestic Violence
Californians for Justice Education Fund
Californians Together Coalition

³ See Judith Greene, "The Cost of Responding to Immigration Detainers in California," Justice Strategies Report, August 22, 2012.

Center for Gender & Refugee Studies
Central American Resource Center - Los Angeles
Centro Laboral de Graton
Children's Defense Fund - CA
Courage Campaign
CREDO
Dream Team Los Angeles
Equality California
Esperanza Immigrant Rights Project of Catholic Charities of Los Angeles
Evergreen Teachers Association
Faith in the Valley
Filipino Youth Coalition
Immigrant Legal Resource Center
Inland Coalition for Immigrant Justice
Inland Empire Immigrant Youth Coalition
Koreatown Immigrant Workers Alliance
La Raza Roundtable de California
Latino and Latina Roundtable
Latino Coalition for a Healthy California
Loyola Immigrant Justice Clinic
Mexican American Legal Defense and Educational Fund
Mi Familia Vota
Mixteco/Indigena Community Organizing Project
Monument Impact
Muslim Student Association West
National Lawyers Guild, Los Angeles
North County Immigration Task Force of San Diego
National Council of Jewish Women California
National Day Laborer Organizing Network
National Immigration Law Center
Nikkei for Civil Rights & Redress
Nikkei Progressives
Orange County Immigrant Youth United
Our Family Coalition
Pangea Legal Services
PolicyLink
San Diego Dream Team
San Diego Immigrant Rights Consortium
San Diego La Raza Lawyers Association
San Joaquin Immigrant Youth Collective
Santa Cruz County Immigrant Rights Project
Services, Immigrant Rights, and Education Network
SEIU Local 1021
Somos Mayfair
South Asian Network
Tongan American Youth Foundation
The Children's Partnership
Training Occupational Development Educating Communities Legal Center

Unite Here
Uplift
Village Connect, Inc.
Voices for Progress Education Fund
Warehouse Worker Resource Center
YWCA Glendale

*For more information, please contact Alexandra Salgado, (916) 651-4024,
Alexandra.Salgado@sen.ca.gov*

FAQS

WHAT IS WELCOMING AMERICA?

Welcoming America leads a movement of inclusive communities becoming more prosperous by making everyone feel like they belong. We believe that all people, including immigrants, should be valued contributors and are vital to the success of both our communities and our shared future.

As a non-profit, non-partisan organization, Welcoming America is proud to support the diverse communities and partners who are leading efforts to make their communities more vibrant places for all.

WHAT IS A WELCOMING COMMUNITY?

Just as fertile soil is needed for a seed to grow, welcoming communities foster a culture and policy environment that makes it possible for newcomers of all backgrounds to feel valued and to fully participate alongside their neighbors in the social, civic, and economic fabric of their adopted hometowns.

HOW IS WELCOMING AMERICA'S APPROACH DIFFERENT?

Welcoming America's groundbreaking social change model is unique in its holistic local focus – our approach goes beyond a single program or service to work with institutions across the community to reduce the barriers that immigrants face to fully participating, and build bridges between newcomers and long-time residents.

WHERE DOES WELCOMING AMERICA WORK?

Welcoming America helps local governments and nonprofit organizations to build a welcoming infrastructure in more than 100 communities across the United States, and we are piloting international welcoming efforts in Germany and Australia. [Here's a map](#) of where we work.

A significant proportion of the nation's major cities, as well as many smaller towns and communities, have chosen to participate in the Welcoming Cities and Counties Network, an independent, non-partisan initiative, which today includes places ranging from Salt Lake City and County, Utah, to Cincinnati, Ohio, and inclusive of major US cities like Philadelphia, Houston, Denver, and Los Angeles. These leading places recognize that being welcoming is a key strategy for attracting and retaining people of all backgrounds, and for broad community revitalization.

HOW DO WELCOMING COMMUNITIES BENEFIT US?

Becoming a more inclusive community means a more vibrant culture, more jobs created by immigrant entrepreneurs, and a thriving economy that benefits us all.

Welcoming helps us work together to make sure that all of us - white, black, Christian, Muslim, or any faith - are part of making a community a great place to live. By giving each person an equal opportunity to contribute, it makes the entire community stronger.

WHAT DOES IT MEAN TO BE A MEMBER OF WELCOMING AMERICA AND WHO CAN JOIN?

Local governments and nonprofits are eligible to join Welcoming America's network. Members commit to advancing and institutionalizing welcoming efforts in their community, and they receive benefits including ideas, approaches, training, resources, networking, certification, and leveraged funding. Learn more about commitments and benefits of joining as a local government or nonprofit.

WHAT IS A WELCOMING CITY OR COUNTY?

A Welcoming City or County is one that joins Welcoming America and that:

- **Plans:** All relevant sectors, such as government, business, non-profit, and others, work together to create a welcoming community climate that supports long-term integration.
- **Commits:** Municipalities commit to institutionalize strategies ensuring the ongoing inclusion and long-term economic and social integration of newcomers.
- **Builds Community:** Newcomers and long-time residents find common ground and shared leadership.
- **Communicates:** Messages of unity and shared values permeate the community through the media, through the voices of leaders, and among residents.
- **Sustains:** Policies and practices are considered to ensure interactions between new and long-time residents remain positive ones and the community's economic vitality remains strong.

WHAT IS THE DIFFERENCE BETWEEN WELCOMING CITIES AND "SANCTUARY CITIES"?

A Welcoming City or County is one that joins the Welcoming America network and works across multiple sectors, such as government, business, and non-profit, to create inclusive policies and practices such as making it easier for entrepreneurs to start a business or having government documents available in multiple languages. Welcoming Cities are guided by the principles of inclusion and creating communities that prosper because everyone feels welcome, including immigrants and refugees.

There is no legal definition for a "Sanctuary city". Nevertheless, a commonality among cities that have adopted sanctuary-type policies is a desire to resist changes in the law that would require local criminal law enforcement agencies to do the federal government's job of enforcing immigration laws. Many do this by preventing local officials from asking people about their immigration status. Other cities refuse to use local resources to detain immigrants. The main purpose for these types of policies is to comply with constitutional requirements and to protect public safety by maintaining positive relationships between local law enforcement and immigrant communities.

LEARN MORE

WHO SUPPORTS WELCOMING COMMUNITIES?

Our growing network benefits from broad community support from a range of mainstream partners. Represented among the organizations that are collaborating with Welcoming Cities and Counties at the local level are faith, civic and corporate partners, as well as broad bi-partisan support. These include:

- Numerous corporate partners and economic development agencies, as well as local financial institutions, Main Street entrepreneurs, and larger employers.
- Civic partners, ranging from local YMCAs to universities and educational partners.
- Public sector partners, including not only mayors, county executives, governors, and other local and state elected officials, but police chiefs, school board members, and many others, across the political spectrum.
- Local philanthropic partners, from the United Way to community foundations.
- Partners across multiple faiths.

Together, this broad range of welcoming communities and ambassadors are building prosperous futures and stronger communities. We see this reflected in simple things, like more parents participating in PTAs and more entrepreneurs opening businesses on Main Street.

WHAT DOES WELCOMING AMERICA DO?

A growing number of cities and towns recognize that being welcoming leads to prosperity and are looking for a roadmap and support to take action. Welcoming America provides the inspiration and foundation for this growing movement, bringing together an innovative and growing network of local governments and nonprofits through our **Welcoming Network** to help them transform communities into more inclusive places. We provide ideas, approaches, training, resources, networking, certification, and leveraged funding as we share new approaches to inclusion and promising practices to help create an environment where everyone can truly thrive.

Those in our network may get more involved by joining **Welcoming Cities and Counties** or **Welcoming Economies Global Network**. Through **Welcoming International**, we share best practices through cross-country knowledge exchanges to grow the welcoming movement worldwide.

We build on the great work happening in local communities by providing tested approaches to creating inclusive, welcoming places for immigrants and all residents. Our **Welcoming Institute** provides online and in-person training, and our **Welcoming Refugees** initiative offers support to ensure the success of refugees in their new communities, supported by the federal Office of Refugee Resettlement.

We work to change systems and culture by helping communities create policy, reinforce welcoming principles, and communicate the socioeconomic benefits of inclusion. Our **Welcoming Standard** guides communities on their path to welcoming, and each year during **Welcoming Week**, we help organize hundreds of local events to bring together diverse residents in a spirit of unity and celebrate making communities welcoming for everyone. Today, one in every eight Americans lives in a welcoming community.

LEARN MORE ABOUT OUR VALUES

WHY BUILD WELCOMING COMMUNITIES?

Welcoming communities are safer, stronger, and more vibrant.

They are inclusive places where neighbors get to know one another. Being a welcoming community is about inviting new Americans to join us in building strong communities, finding strength in our diversity, and resisting fear and division.

Welcoming communities connect new residents to their neighbors and to local government, creating a climate where immigrants and refugees become deeply involved in their community and invest their time, money, and hopes.

WHO SUPPORTS WELCOMING AMERICA?

Our work is funded by hundreds of individual donors, foundations and other public and private organizations every year.

HOW CAN I GET INVOLVED?

Become a member: Municipal governments and nonprofits can join Welcoming America's network to make their communities more inclusive.

Participate in Welcoming Week: Learn more about hosting or participating in an event in your community.

Make a donation: Help make our nation more welcoming to immigrants, one community at a time. Welcoming America is a registered 501(c)(3) non-profit organization, and our Federal Tax ID is 27-1049805.

SIGN UP FOR UPDATES

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STAY CONNECTED

| @WelcomingUSA

Take a stand for welcoming: Learn how to participate in #WelcomingWeek & #ImmigrantHeritageMonth <https://t.co/C2DslJUfHh>
@IAmAnImmigrant

May 3

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