

# U.C.L.A. Law Review

## Senate Bill 54 (2017): California Versus the Law Enforcement Lobby

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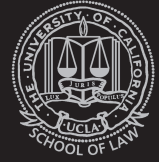
### ABSTRACT

Before calls to abolish Immigration Customs and Enforcement (ICE) became a progressive rallying cry throughout the United States, the California Values Act of 2017 (SB 54) promised to freeze ICE out of California. The goal behind SB 54 was to restrict state and local law enforcement entanglement with ICE in the state with the most immigrants in the country. In fact, most deportations occurred because of this entanglement, relying on many facets of the criminal legal system, including jails, prisons, databases, and community patrols. Immigrants' rights advocates, including from the ICE Out of California coalition, gained the political momentum they needed to pass the California Values Act after the 2016 election of President Donald Trump, a candidate who relied heavily on campaign promises of mass deportations to win.

This Comment examines both the legislative process of the California Values Act and its immediate efficacy as a statutory reform effort that sought to change the behavior of law enforcement officers. In particular, it documents how, despite public comments to the contrary, law enforcement agencies in California fought to remain involved in federal deportation efforts even after passage of the California Values Act. This Comment concludes that implementation of the law has produced mixed results. These findings present considerations for future efforts to address law enforcement agency collaboration with ICE, including the limitations of state level attempts more generally and whether it is possible to avoid SB 54's mixed results.

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Finally, and most certainly not least, thank you to community members and the ICE Out of California coalition for allowing me to work alongside you all as a legislative advocate during the SB 54 campaign. I carry the lessons you all taught me to this day.

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## INTRODUCTION

During a November 2016 interview with 60 Minutes, President-elect Donald Trump claimed that millions of immigrants were criminals, gang members, and drug dealers.<sup>1</sup> He estimated that two to three million individuals fit within these categories and needed to be incarcerated or removed from the country.<sup>2</sup> The president-elect was certainly not the first Republican or Democratic U.S. president to criminalize or focus incarceration and removal efforts on immigrants.<sup>3</sup> Nevertheless, his gross exaggerations “convey[ed] an intent to produce at least this many people who—through discourse and policy—c[ould] be criminalized and incarcerated or deported as ‘criminal [noncitizens].’”<sup>4</sup> President Trump’s effort to expand the immigration enforcement machine could have seen him usurp

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1. Jeremy B. White, *Some California Leaders Vow to Resist Deportations Under Trump*, SACRAMENTO BEE (Nov. 16, 2016, 3:56 PM), <https://www.sacbee.com/news/politics-government/capitol-alert/article115033653.html> [<https://perma.cc/95PG-UVKL>].
  2. *Id.* But see Leisy Abrego, Mat Coleman, Daniel E. Martínez, Cecilia Menjívar & Jeremy Slack, *Making Immigrants Into Criminals: Legal Processes of Criminalization in the Post-IIRIRA Era*, 5 J. ON MIGRATION & HUM. SEC. 694, 694–95 (2017) (finding that, of the estimated eleven million undocumented immigrants in the country, only 7 percent had any criminal record and 1 percent was incarcerated).
  3. See, e.g., Patrisia Macías-Rojas, *Immigration and the War on Crime: Law and Order Politics and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996*, 6 J. ON MIGRATION & HUM. SEC. 1 (2018) (discussing how Republican President Ronald Reagan and Democratic President Bill Clinton supported policies and laws, based on the perceived criminality of immigrants, that targeted and further criminalized noncitizens).
  4. Abrego, Coleman, Martínez, Menjívar & Slack, *supra* note 2, at 695. In this Comment, the use of noncitizen means a person with or without legal status. The former refers to persons who may have some form of status such as legal permanent residency or temporary legal status such as deferred action or visa status. The latter refers to persons present in the United States without lawful status as undocumented immigrants. When this Comment intentionally uses the words “illegal” or “alien,” it is to reflect that it is part of a program name or theoretical model. Otherwise, it omits the use of both words and replaces them with either undocumented, unauthorized, or noncitizen to avoid using racist and dehumanizing language. See Kevin R. Johnson, “Aliens” and the U.S. Immigration Laws: *The Social and Legal Construction of Nonpersons*, 28 U. MIA. INTER-AM. L. REV. 263 (1997); Mónica Novoa, *The Supreme Court and Dangerous Immigration Metaphors*, COLORLINES (Apr. 27, 2012, 12:15 PM), <https://www.colorlines.com/articles/supreme-court-and-dangerous-immigration-metaphors> [<https://perma.cc/EK36-RT2A>]; see also Hiroshi Motomura, *The Rights of Others: Legal Claims and Immigration Outside the Law*, 59 DUKE L.J. 1723, 1725–26 n.2 (2010) (discussing a preference for using “unauthorized” to refer to persons present in the country without lawful status); MAE M. NGAI, IMPOSSIBLE SUBJECTS: ILLEGAL ALIENS AND THE MAKING OF MODERN AMERICA, at xix (2014) (discussing a preference for using “alien” and “illegal alien” to refer to “legal subjects”).

Democratic President Barack Obama's title as the "deporter-in-chief."<sup>5</sup> Over ten million immigrants, including 2.6 million who are undocumented, live in California.<sup>6</sup> Clearly, this executive intent would have catastrophic impacts on the state.<sup>7</sup> Immediately following President Trump's election,<sup>8</sup> California legislative leaders—"feeling like strangers in a foreign land"<sup>9</sup>—vowed to resist the new president's mass deportation attempts.<sup>10</sup>

At a joint conference on the first day of the 2017–2018 legislative session, Kevin de León, president pro tempore (pro tem) of the California State Senate, and Anthony Rendon, the Speaker of the California Assembly, indicated that they were prepared to challenge federal efforts by the incoming administration that targeted the immigrant community.<sup>11</sup> State legislators thereafter began introducing a number of measures intended to protect the immigrant

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5. See BILL ONG HING, *AMERICAN PRESIDENTS, DEPORTATIONS, AND HUMAN RIGHTS VIOLATIONS: FROM CARTER TO TRUMP 1–3* (2019). *But see* Muzaffar Chishti & Sarah Pierce, *Trump's Promise of Millions of Deportations Is Yet to Be Fulfilled*, *MIGRATION POL'Y INST.* (Oct. 29, 2020), <https://www.migrationpolicy.org/article/trump-deportations-unfinished-mission> [<https://perma.cc/LHJ8-NTT9>].
  6. AM. IMMIGR. COUNCIL, *IMMIGRANTS IN CALIFORNIA* (2020), <https://www.americanimmigrationcouncil.org/research/immigrants-in-california> [<https://perma.cc/S265-KEX8>]; *Profile of the Unauthorized Population: California*, *MIGRATION POL'Y INST.*, <https://www.migrationpolicy.org/data/unauthorized-immigrant-population/state/CA> [<https://perma.cc/3Y5W-FV8U>].
  7. For California, the social and economic effects of mass deportations would be expansive, expensive, and disruptive. See AM. IMMIGR. COUNCIL, *supra* note 6 (stating that one out of four Californian residents have an immigrant parent, and undocumented immigrants pay billions in state and local taxes and account for 9 percent of the workforce).
  8. President Trump relied heavily on stoking anti-immigration sentiment to win voter support. See Philip Klinkner, Opinion, *Op-Ed: Yes, Trump's Hard-Line Immigration Stance Helped Him Win the Election—But It Could Be His Undoing*, *L.A. TIMES* (Apr. 17, 2017, 4:00 AM), <https://www.latimes.com/opinion/op-ed/la-oe-klinker-immigration-election-20170417-story.html> [<https://perma.cc/62LQ-U4FG>] (discussing data that show President Trump's anti-immigrant views energized Trump voters in the 2016 election).
  9. Press Release, Anthony Rendon, Speaker of the Assemb. & Kevin de León, Cal. Senate President pro Tempore, Joint Statement From California Legislative Leaders on Result of Presidential Election (Nov. 9, 2016), <https://speaker.asmdc.org/press-release/joint-statement-california-legislative-leaders-result-presidential-election> [<https://perma.cc/4TF6-SDW3>].
  10. White, *supra* note 1. They also hired former Attorney General Eric Holder "to assist with legal challenges posed by policy conflicts with the Trump Administration." Taryn Luna, *California Legislature to Pay Eric Holder to Challenge Trump Administration*, *SACRAMENTO BEE* (Jan. 5, 2017, 7:27 AM), <https://www.sacbee.com/news/politics-government/capitol-alert/article124487969.html> [<https://perma.cc/M7UH-LBDT>].
  11. Jazmine Ulloa, *California Lawmakers Prepare to Take a Stand on Immigration Against the Federal Government*, *L.A. TIMES* (Dec. 5, 2016, 4:09 PM), <https://www.latimes.com/politics/essential/la-pol-ca-essential-politics-updates-201612-htlmlstory.html> [<https://perma.cc/2AHM-2WX7>].

community. These measures included prohibiting employers from assisting in Immigration and Customs Enforcement (ICE) raids at worksites,<sup>12</sup> limitations on state contracts to expand public and private immigration detention centers,<sup>13</sup> and restrictions on state and local participation in any federal efforts to create a Muslim registry.<sup>14</sup> One of the boldest measures was Senate Bill (SB) 54 (also known as the California Values Act), which prohibited the state's law enforcement agencies (LEAs)<sup>15</sup> from engaging in immigration enforcement.<sup>16</sup> To accomplish this, the bill intended to place strict limits on the use of state and local resources to investigate, detain, arrest, and conduct searches for immigration enforcement purposes.<sup>17</sup>

As part of their efforts to quell the fear and anxiety about President Trump's impending mass deportations, many LEAs said publicly that they did not enforce immigration laws.<sup>18</sup> Against the backdrop of these attempts to comfort the

12. See Assemb. B. 450, 2017–2018 Leg., Reg. Sess. (Cal. 2017).

13. See Assemb. B. 103, 2017–2018 Leg., Reg. Sess. (Cal. 2017); S.B. 29, 2017–2018 Leg., Reg. Sess. (Cal. 2017).

14. See S.B. 31, 2017–2018 Leg., Reg. Sess. (Cal. 2017).

15. In this Comment, law enforcement agencies and the acronym LEA refer to California state and local law enforcement agencies, including school police and security departments. When LEA follows the word local, it only refers to local law enforcement agencies, such as a county's sheriff's department or a municipal police department. When LEA follows the word state it only refers to state agencies, such as the California Highway Patrol and the Department of Corrections and Rehabilitation. When appropriate, this Comment has also replaced the word police with LEA. Within SB 54's legislative lobbying discussion, LEA is also used as a corresponding adjective to the nouns lobby, unions, associations, and departments. This helps provide a nuanced understanding of the various LEA entities that were involved in opposing SB 54 to maintain police-ICE entanglement.

16. Patrick McGreevy, *California Considers Prohibiting Immigration Enforcement at Public Schools and Hospitals*, L.A. TIMES (Dec. 7, 2016, 12:57 PM), <https://www.latimes.com/politics/essential/la-pol-ca-essential-politics-updates-201612-htmlstory.html> [<https://perma.cc/2AHM-2WX7>]; see generally *infra* note 73 (discussing the origins of these type of policies commonly referred to as sanctuary policies). “In 2017 at least 36 states and the District of Columbia considered legislation regarding sanctuary jurisdictions or noncompliance with immigration detainers. Proposals in 33 states would prohibit sanctuary policies, and proposals in 15 states and the District of Columbia would support them. Twelve states ha[d] legislation on both sides of the issue.” *Sanctuary Policy FAQ*, NAT'L CONF. STATE LEGISLATURES (June 20, 2019), <https://www.ncsl.org/research/immigration/sanctuary-policy-faq635991795.aspx> [<https://perma.cc/MWD6-NBFM>].

17. See generally S.B. 54, 2017–2018 Leg., Reg. Sess. (Cal. 2017) (as introduced Dec. 5, 2016).

18. E.g., Press Release, Jacqueline A. Seabrooks, Chief of Police, Santa Monica Police Dep't, Santa Monica Chief of Police on Immigration Enforcement (Nov. 29, 2016) [hereinafter SMPD Press Release], <https://www.santamonica.gov/press/2016/11/29/santa-monica-chief-of-police-on-immigration-enforcement> [<https://perma.cc/GH5D-KC8X>] (stating that SMPD does not enforce immigration violations); *LAPD Chief Charlie Beck: Police Won't Help Deportation Efforts Under Trump*, CBS NEWS (Nov. 15, 2016, 9:02 AM), <https://www.cbsnews.com/news/lapd-chief-charlie-beck-immigration-donald-trump>

immigrant community, however, were decades of evolving LEA and ICE cooperation in enforcing U.S. immigration laws against people charged with or convicted of crimes. In fact, nationally, the majority of ICE's Enforcement and Removal Operations (ERO) arrests were conducted through the criminal legal system with the help of LEAs.<sup>19</sup> Thus, while many LEAs across the state disclaimed any interest in taking part in federal deportation efforts, they clarified their intent to continue targeting immigrants suspected of crime involvement—which could be anybody the agencies interacted within their law enforcement capacity.<sup>20</sup> The LEA commitment to remain entrenched in the civil versus criminal enforcement binary thus signaled a more complex picture than their public statements indicated to the immigrant community. This made LEA efforts to comfort the immigrant community deceitful at worst and ineffective at best.

Many LEAs throughout the state opposed SB 54 and its proposed limitations on police-ICE entanglement.<sup>21</sup> For instance, Kern County Sheriff Donny

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[<https://perma.cc/7PLG-3PQA>] (same); Janis Mara, *Marin Authorities Reassure Immigrants Anxious Over Trump*, MARIN INDEP. J. (July 19, 2018, 12:22 PM), <https://www.marinij.com/2016/11/28/marin-authorities-reassure-immigrants-anxious-over-trump> [<https://perma.cc/GY9W-784F>] (same); Jason Henry, *Pasadena, Already a 'Sanctuary City,' Might Increase Protections for Immigrants During Trump Administration*, PASADENA STAR-NEWS (Aug. 28, 2017, 1:59 AM), <https://www.pasadenastarnews.com/2016/12/02/pasadena-already-a-sanctuary-city-might-increase-protections-for-immigrants-during-trump-administration> [<https://perma.cc/68ZN-U98M>] (same); Letter From Stephen Wayne Cramer, Chief of Police, Cloverdale Police Dep't, Open Letter to Our Community Allaying Immigration Enforcement Concerns (Dec. 29, 2016), <http://www.cloverdale.net/DocumentCenter/View/2032/Immigration-Open-Letter-English> [<https://perma.cc/C6Z7-J4XM>] (same).

19. RANDY CAPPS, MUZAFFAR CHISHTI, JULIA GELATT, JESSICA BOLTER & ARIEL G. RUIZ SOTO, *MIGRATION POL'Y INST., REVVING UP THE DEPORTATION MACHINERY: ENFORCEMENT AND PUSHBACK UNDER TRUMP 26* (2018) (finding these types of arrests made up 77 percent of the total ICE ERO arrests in 2013, 76 percent in 2014, 72 percent in 2015, 70 percent in 2016, and 69 percent in 2017, respectively). In calculating these arrests, this report looked at criminal legal systems arrests made with the help of the Criminal Alien Program (CAP) and LEA 287(g) officers. *Id.*
20. *E.g.*, SMPD Press Release, *supra* note 18 (“Any detention or arrest by an SMPD officer must be based on a reasonable belief that the individual being detained or arrested is involved in criminal activity.”); Letter From Steven Wayne Cramer, *supra* note 18 (“[W]e strongly believe that undocumented immigrants who commit violent and serious offenses against members of our community should be subject to the immigration laws of this country.”).
21. Entanglement is a term used by many immigrants' rights advocates to describe the collaborative immigration enforcement work between LEAs and ICE. *See, e.g., Ending ICE/Police Entanglement: From Street Encounter to Custody*, IMMIGRANT DEF. PROJECT, <https://www.immigrantdefenseproject.org/ending-ice-police-entanglement> [<https://perma.cc/8WUU-ZL8H>]. Many legal scholars have called this convergence “crimmigration.” *See, e.g.,* Christopher N. Lasch, R. Linus Chan, Ingrid V. Eagly, Dina Francesca Haynes, Annie Lai, Elizabeth M. McCormick & Juliet P. Stumpf, *Understanding*

Youngblood, who previously served as president of the California State Sheriffs' Association (CSSA), opposed any restrictions imposed by SB 54 against working with ICE to deport noncitizens who became system involved. And, while often perceived of as overseeing a sanctuary jurisdiction, Los Angeles County Sheriff Jim McDonnell also opposed SB 54.<sup>22</sup> Emblematic of the LEAs they represented, both men remained committed to maintaining their status as force multipliers in ICE's deportation campaigns.<sup>23</sup> Their oppositional efforts were especially influential with certain Democrats, including moderates, and California Governor Edmund G. Brown, Jr.

This Comment examines both the legislative process in the passage of the California Values Act and its immediate efficacy as a statutory reform effort in changing LEA behavior to shed light on LEA commitment to remain entrenched in immigration enforcement. Although SB 54 ultimately became law, it did not pass in the legislative form in which it was originally introduced. While it is common for a bill to be amended as part of the legislative process, SB 54 was amended seven times before becoming law. Each amendment brought more exceptions and discretionary language favoring LEA involvement in immigration enforcement. As this Comment reveals, the legislative history to SB 54 documents how California LEAs—through their lobbyists, unions, associations, and individual departments—were behind most of these amendments. Despite the public statements of many LEAs that they did not want to engage in immigration enforcement, this Comment documents how they actually lobbied, negotiated, and fought to remain involved in federal deportation efforts.

LEA positioning on the issue of immigration enforcement is at odds with the demands of most immigrants' rights advocates. Unsurprisingly, LEA-proposed amendments to SB 54 faced the strong opposition of immigrants' rights advocates

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"*Sanctuary Cities*," 59 B.C. L. REV. 1703, 1719–36 (2018) (discussing the origins of and mechanisms used by the "cimmigration" system).

22. *Compare Sheriff Donny Youngblood Voices Opinions on SB 54*, YAHOO NEWS at 1:00 (May 2, 2017), <https://ca.news.yahoo.com/sheriff-donny-youngblood-voices-opinions-00155553.html> [<https://perma.cc/CRN2-69SA>] (discussing Sheriff Youngblood's opposition to SB 54), with *Petition for Writ of Mandate Ordering Compliance With California Public Records Act at 3–4*, Nat'l Day Lab. Org. Network v. County of Los Angeles, No. BS170466 (Cal. Super. Ct. Aug. 9, 2017) (discussing Sheriff McDonnell's opposition to SB 54). See generally Christopher Yee, *LA County Sheriff Jim McDonnell, Other Sheriffs Oppose 'Sanctuary State' Bill*, L.A. DAILY NEWS (Aug. 28, 2017, 5:54 AM), <https://www.dailynews.com/2017/03/18/la-county-sheriff-jim-mcdonnell-other-sheriffs-oppose-sanctuary-state-bill> [<https://perma.cc/HU55-PY2W>] (discussing how Sheriff McDonnell's opposition was like the opposition by the sheriffs in Riverside and San Bernardino County).

23. See *infra* note 38.

and communities seeking to hold legislators accountable to their calls for resistance to mass deportations after the 2016 presidential election. While not the focus of this Comment, it is important to acknowledge the broad coalition of support behind SB 54, including the ICE Out of California coalition composed of organizations from across California.<sup>24</sup> As part of the SB 54 campaign, coalition members helped Pro Tem de León draft SB 54 and provided key organizing, communications, legislative, and legal support throughout the 2017 legislative cycle.<sup>25</sup> The coalition also amassed the support of over 180 organizations, as well as many public officials, educators, healthcare and legal professionals, librarians, business owners, antipoverty advocates, and faith and community leaders.<sup>26</sup> Ultimately, this powerful coalition was able to lobby state legislators and secure the governor's signature on SB 54<sup>27</sup>—all despite intense law enforcement opposition.<sup>28</sup>

This Comment proceeds in three Parts. Part I discusses the several ways LEAs have become entangled in immigration enforcement at the state and local level. It also examines how LEAs rationalize this entanglement through the civil and criminal immigration enforcement binary and is protected by LEA lobbying power. Lastly, it highlights California's responses to evolving LEA involvement in immigration enforcement. Part II then describes how the bill's author, Pro Tem de León, navigated SB 54 through the legislative process against significant LEA opposition. Lastly, Part III illustrates how LEAs undermined the final version of SB 54 in an effort to continue their involvement in immigration enforcement.

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24. The author of this Comment was a part of these efforts as a member of the ICE Out of California coalition's legislative team. Some of the knowledge and insight discussed in this Comment comes from his involvement in the coalition's campaign.

25. Some of these organizations included Asian Americans Advancing Justice—Asian Law Caucus, the Northern and Southern California ACLU, the California Immigrant Policy Center (CIPC), the Immigrant Legal Resources Center, the Mexican American Legal Defense and Education Fund, the National Day Labor Organizing Network (NDLON), and PICO California.

26. See *CA Values Act (SB 54)*, ICE OUT OF CAL., <http://www.iceoutofca.org/ca-values-act-sb54.html> [<https://perma.cc/K3RL-BFMN>] (last visited Feb. 23, 2022, 5:15 PM).

27. See generally ICE OUT OF CAL., <http://www.iceoutofca.org> [<https://perma.cc/J2YN-PVKD>].

28. See ASIAN AM. ADVANCING JUST.—ASIAN L. CAUCUS, UNIV. OF OXFORD CTR. FOR CRIMINOLOGY & BORDER CRIMINOLOGIES, TURNING THE GOLDEN STATE INTO A SANCTUARY STATE: A REPORT ON THE IMPACT AND IMPLEMENTATION OF THE CALIFORNIA VALUES ACT (SB 54) 7 n.2 (2019) [hereinafter AAAJ REPORT], [https://www.advancingjustice-alc.org/wp-content/uploads/2019/03/SB54-Report\\_FINAL.pdf](https://www.advancingjustice-alc.org/wp-content/uploads/2019/03/SB54-Report_FINAL.pdf) [<https://perma.cc/6ZLX-G59H>] (stating LEAs “involved in [SB 54] negotiations included the California Police Chiefs Association (CPCA), the California State Sheriff's Association (CSSA), California Police Officers Association (CPOA), California Highway Patrol (CPH) [sic], and the Peace Officers Research Association of California (PORAC)”).

## I. TALE OF THE TAPE: BACKGROUND

### A. Police-ICE Entanglement

#### 1. An Overview

Traditionally, immigration law enforcement is understood to fit squarely within civil or administrative law, with the federal government exercising sole authority.<sup>29</sup> As such, federal immigration authorities alone are presumed to “apprehend, arrest, interview, or search” a noncitizen for administrative immigration violations.<sup>30</sup> This, however, is not today’s reality. “[T]he decline of federal exclusivity in immigration regulation,” “the rise of state and local participation” in immigration law enforcement, and “the consequent increase in the policing of low-level state criminal offenses in certain communities” have increased the use of criminal law “as a means” to achieve immigration law enforcement.<sup>31</sup> This state and local driven reality has resulted in an increased reliance of federal immigration authorities on the cooperation of LEAs, who derive their authority from state and local governments.<sup>32</sup>

This overview discusses critical ways LEAs become entangled in immigration enforcement at the state and local level. First, LEAs make arrests to promote both civil and criminal immigration enforcement. Second, federal and state authorities criminalize certain activity that enhances the LEA arrest mechanism. Third, LEAs cooperate with ICE through formal programs and agreements. Lastly, LEAs and federal agencies exchange database access, which improves information sharing for the purpose of immigration enforcement. All of this entanglement has significant impacts on the immigrant community.

To the first point, one of the primary ways LEAs have become involved in immigration enforcement is through their ability to make civil and criminal immigration enforcement-based arrests. In 1996, the U.S. Congress passed federal legislation that allowed LEAs to make some civil immigration arrests, most

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29. See Jennifer M. Chacón, *Overcriminalizing Immigration*, 102 J. CRIM. L. & CRIMINOLOGY 613, 613, 618–21, 640–41 (2012).

30. See, e.g., U.S. IMMIGR. & CUSTOMS ENF’T, DIRECTIVE NO. 11072.1: CIVIL IMMIGRATION ENFORCEMENT ACTIONS INSIDE COURTHOUSES 2 (2018), <https://www.ice.gov/sites/default/files/documents/Document/2018/ciEnforcementActionsCourthouses.pdf> [https://perma.cc/7PEB-T7MH].

31. Chacón, *supra* note 29, at 615–16.

32. See *id.* at 642–47.

notably through the 287(g) program.<sup>33</sup> The program trained and deputized LEAs to become immigration agents to target criminalized immigrants while on patrol and in the jails they operated.<sup>34</sup> Then, following the World Trade Center attacks of September 11, 2001, the federal government, contrary to previous norms and regulations, asserted that state and local governments had the inherent authority to engage in civil immigration enforcement.<sup>35</sup> The federal government supplemented this declaration by taking the extraordinary step of granting LEAs access to ICE administrative warrant data through shared databases with immigration agencies, including the Federal Bureau of Investigation's (FBI) National Crime Information Center database. Accordingly, LEAs used this new guidance and this new federal data to make civil immigration arrests.<sup>36</sup> In 2012, however, the U.S. Supreme Court clarified that LEAs could only arrest or detain a noncitizen based on suspected removability in limited circumstances.<sup>37</sup>

ICE's ERO division "is responsible for finding, arresting, detaining, and deporting unauthorized immigrants as well as green-card holders and other legal noncitizens who have criminal convictions that warrant their deportation."<sup>38</sup> In carrying out this work, however, as Kris W. Kobach<sup>39</sup> claims, LEAs serving as "force multiplier[s]" has meant "the difference between success and failure in enforcing the nation's immigration laws generally."<sup>40</sup> His claim relies on two assumptions. First, "occasional, passive, [and] voluntary" assistance of LEAs helps cast a net wide enough that routine encounters with the public inevitably

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33. See Chacón, *supra* note 29, at 641–42.

34. Marissa B. Litwin, *The Decentralization of Immigration Law: The Mischief of § 287(g)*, 41 SETON HALL L. REV. 399, 403 (2011); see also Jennifer M. Chacón, *A Diversion of Attention? Immigration Courts and the Adjudication of Fourth and Fifth Amendment Rights*, 59 DUKE L.J. 1563, 1582–86 (2010).

35. Lasch, Chan, Eagly, Haynes & Lai, *supra* note 21, at 1728.

36. *Id.* These civil warrants are not based on probable cause, signed by a federal judge, and can be executed against a noncitizen during a routine LEA encounter. *Id.* at 1728–29.

37. *Id.* at 1729 (citing *Arizona v. United States*, 567 U.S. 387, 410, 455 (2012)).

38. CAPPs, CHISHTI, GELATT, BOLTER & RUIZ-SOTO, *supra* note 19, at 8–9. The ERO has three California field offices—Los Angeles, San Diego, and San Francisco—covering enforcement operations in all 58 counties. *Id.* at 26.

39. Kobach is the architect behind state legislation mandating police-ICE entanglement, including Arizona's SB 1070 and Alabama's HB 56. Zachary Mueller, *Immigration 101: Who Is Kris Kobach*, AM.'S VOICE (June 22, 2018), <https://americasvoice.org/blog/kris-kobach> [<https://perma.cc/4F87-8YEM>].

40. Kris W. Kobach, *The Quintessential Force Multiplier: The Inherent Authority of Local Police to Make Immigration Arrests*, 69 ALB. L. REV. 179, 181 (2005); see also *id.* at 181 n.9 (using a 2005 U.S. Department of Defense definition to define force multiplier as "[a] capability that, when added to and employed by a combat force, significantly increases the combat potential of that force and thus enhances the probability of successful mission accomplishment").

lead to encounters with undocumented immigrants.<sup>41</sup> Second, all an officer must do is develop probable cause that someone they encounter is violating U.S. immigration law and then the officer is free to contact the local ICE station.<sup>42</sup> As such, when LEAs act as force multipliers for ICE agents, they reinforce the critical role the criminal legal system plays as a pipeline to immigration enforcement.<sup>43</sup>

This force multiplier power, driving police-ICE entanglement, is enhanced by federal and state laws that either treat some immigration activities as crimes—rather than civil violations—or trigger downstream consequences for noncitizens deemed deportable. This criminalization of certain activity is the second way that LEAs become entangled in immigration enforcement. For example, state and local LEAs have the power to detain and arrest noncitizens for violating criminal provisions of U.S. immigration law.<sup>44</sup> These laws, which effectively criminalize entry into and movement in the country, include unauthorized entry, unauthorized reentry, and smuggling.<sup>45</sup> Separately, state and local jurisdictions reinforce this arrest power by passing laws that complement, and even exceed, the authority provided to LEAs by these federal laws.<sup>46</sup> Further, nonimmigration-based state laws that are enforced by LEAs prohibiting conduct such as driving under the influence, drug trafficking, burglary, and murder also expose noncitizens to immigration consequences.<sup>47</sup>

Third, police-ICE entanglement is furthered by formalized cooperation between ICE and LEAs. For instance, the Criminal Alien Program (CAP), originally conceived as a “jail check” program, stations ICE officers inside of state

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41. *Id.* at 181.

42. *Id.*

43. See Ingrid V. Eagly, *Criminal Justice for Noncitizens: An Analysis of Variation in Local Enforcement*, 88 N.Y.U.L. REV. 1126, 1139–41, 1146–56 (2013).

44. See Ingrid V. Eagly, *Local Immigration Prosecution: A Study of Arizona Before SB 1070*, 58 UCLA L. REV. 1749, 1777 (2011).

45. See *id.* at 1751 n.7.

46. See, e.g., *id.* at 1777–81 (discussing Arizona’s noncitizen smuggling law); Chacón, *supra* note 29, at 622–24 (discussing state laws that require LEAs to check the papers of people they have reasonable suspicion to believe are undocumented and criminalize the act of knowingly hiding and protecting undocumented immigrants).

47. See SARAH HERMAN PECK & HILLEL R. SMITH, CONG. RSCH. SERV., R4151, IMMIGRATION CONSEQUENCES OF CRIMINAL ACTIVITY (2018) (discussing how U.S. immigration law relies on criminal law to find certain noncitizens deportable or inadmissible); Note, *States’ Commandeered Convictions: Why States Should Get a Veto Over Crime-Based Deportation*, 132 HARV. L. REV. 2322, 2328–33 (2019) (explaining how federal immigration enforcement relies on state criminal law enforcement and convictions to facilitate deportations).

prisons and local jails, or otherwise places them in positions to communicate with prisons and jails, with the goal of identifying, detaining, and deporting removable noncitizens in those facilities.<sup>48</sup> This police-ICE entanglement also manifests through the use of intergovernmental service agreements (IGSAs) in which ICE contracts with local jurisdictions and their LEAs to provide jail space for the detention of noncitizens in an effort to subsequently deport them.<sup>49</sup> Additionally, LEAs engage in joint operations with immigration authorities to accomplish federal immigration enforcement goals.<sup>50</sup> These efforts include participating in task forces that seek to enhance border security, target drug activity and gangs for prosecution and deportation, and locate noncitizens with final orders of deportation.<sup>51</sup>

Fourth, police-ICE entanglement is facilitated by information sharing between federal, state, and local databases. The Secure Communities Program (S-Comm) was created in 2008 to permit state and local LEAs to check the fingerprints of any person arrested against federal immigration databases.<sup>52</sup> Based on these checks, ICE agents decide whether to ask the LEA to hold these individuals. Consequently, ICE has expanded the number of detainers it issues and, in 2012, state and local jurisdictions in California spent an estimated \$65 million detaining people for ICE.<sup>53</sup> ICE also obtained access to state databases. In

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48. See generally GUILLERMO CANTOR, MARK NOFERI & DANIEL E. MARTÍNEZ, AM. IMMIGR. COUNCIL, ENFORCEMENT OVERDRIVE: A COMPREHENSIVE ASSESSMENT OF ICE'S CRIMINAL ALIEN PROGRAM (2015), [https://www.americanimmigrationcouncil.org/sites/default/files/research/enforcement\\_overdrive\\_a\\_comprehensive\\_assessment\\_of\\_ices\\_criminal\\_alien\\_program\\_final.pdf](https://www.americanimmigrationcouncil.org/sites/default/files/research/enforcement_overdrive_a_comprehensive_assessment_of_ices_criminal_alien_program_final.pdf) [<https://perma.cc/6ZYG-4WVW>].
49. NAT'L IMMIGR. JUST. CTR., THE IMMIGRATION DETENTION TRANSPARENCY & HUMAN RIGHTS PROJECT: FREEDOM OF INFORMATION ACT LITIGATION REVEALS SYSTEMIC LACK OF ACCOUNTABILITY IN IMMIGRATION DETENTION CONTRACTING 8 (2015) (listing jails in California with active 2015 IGSAs, including James Musick Facility, Sacramento County Jail, Santa Ana City Jail, Theo Lacy Facility, Yuba County Jail, and Contra Costa County Jail West). But see AUDITOR OF THE STATE OF CAL., CITY AND COUNTY CONTRACTS WITH U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT 8 (2019) (providing an updated list of local jails with current IGSAs).
50. Lasch, Chan, Eagly, Haynes & Lai, *supra* note 21, at 1734.
51. *Id.* at 1734–36.
52. *Secure Communities*, U.S. IMMIGR. & CUSTOMS ENF'T, <https://www.ice.gov/secure-communities> [<https://perma.cc/7P4J-VPBX>] (last updated Feb. 9, 2021). Programs such as these, on which federal, state, and local law enforcement collaborations across agencies rely on, are also a natural outcome of the national security apparatus. See discussion *infra* Subpart II.C.1.
53. See JUDITH A. GREENE, JUST. STRATEGIES, THE COST OF RESPONDING TO IMMIGRATION DETAINERS IN CALIFORNIA (2012), <https://www.justicestrategies.org/sites/default/files/publications/>

California, ICE's access to the California Law Enforcement Telecommunications System (CLETS)<sup>54</sup> provided ICE agents access to federal, state, and local criminal history and record information,<sup>55</sup> DMV records,<sup>56</sup> and the CalGang database.<sup>57</sup>

This police-ICE entanglement overview shows how federal, state, and local laws and policies have pushed the immigration system to rely on the criminal legal system to achieve its goals. The use of (1) LEA arrests, (2) federal, state, and local laws that further enable the LEA arrest mechanism, (3) formalized agreements between ICE and LEAs, and (4) extensive data sharing between ICE and LEAs have allowed LEAs to become entrenched in immigration enforcement throughout the United States. As “gatekeepers,” to use Hiroshi Motomura’s phrase,<sup>58</sup> LEAs make consequential immigration enforcement decisions. And as gatekeepers, LEAs can have a deep and lasting impact on the community members they police.

Community members in California are impacted by LEA decisions to remain entrenched in police-ICE entanglement. For instance, in February 2016, after discovering an old deportation order during a stop for a broken headlight, California State University, Long Beach police detained Jose Alvarez for ICE,

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Justice%20Strategies%20LA%20CA%20Detainer%20Cost%20Report.pdf [https://perma.cc/EH5V-HKGN]; Declaration of Thomas D. Homan at 7–8, *United States v. California*, No. 2:18-cv-00264 (E.D. Cal. Mar. 6, 2018) (“In 2017, in California alone, ICE issued over 35,000 detainees . . . a significant percentage of the 142,356 detainees issued by ICE nationwide during the same time period.”).

54. See generally Matthew Guariglia, *EFF to the California DOJ: Enforce the Prohibition on Assisting Immigration Enforcement*, ELEC. FRONTIER FOUND. (June 25, 2019), <https://www.eff.org/deeplinks/2019/06/eff-california-doj-enforce-prohibition-assisting-immigration-enforcement> [https://perma.cc/G8LW-9VNB].
55. See *How ICE Uses Local Criminal Justice Systems to Funnel People Into the Detention and Deportation System*, NAT’L IMMIGR. L. CTR. (Mar. 2014), <https://www.nilc.org/issues/immigration-enforcement/localjusticeandice> [https://perma.cc/S4FQ-9VFA].
56. See *How California Driver’s License Records Are Shared With the Department of Homeland Security*, NAT’L IMMIGR. L. CTR. (Dec. 2018), <https://www.nilc.org/issues/immigration-enforcement/how-calif-dl-records-shared-with-dhs> [https://perma.cc/5PHJ-DK23].
57. See SEAN GARCIA-LEYS, MEIGAN THOMPSON & CHRISTYN RICHARDSON, *MISLABELED: ALLEGATIONS OF GANG MEMBERSHIP AND THEIR IMMIGRATION CONSEQUENCES* (2016), <https://www.law.uci.edu/academics/real-life-learning/clinics/ucilaw-irc-MislabeledReport.pdf> [https://perma.cc/4LL6-GFS3]. But see *AB 90: More Welcome Fixes to California’s Gang Databases*, NAT’L IMMIGR. L. CTR. (Nov. 2017), <https://www.nilc.org/wp-content/uploads/2017/11/AB90-Calif-gang-databases-changes.pdf> [https://perma.cc/N6GN-PFWY] (discussing the 2017 change in law that prohibited information in the CalGang database from being used for immigration enforcement purposes).
58. See Hiroshi Motomura, *The Discretion That Matters: Federal Immigration Enforcement, State and Local Arrests, and the Civil-Criminal Line*, 58 UCLA L. REV. 1819, 1856–58 (2011).

which ultimately led to his deportation.<sup>59</sup> That same year, Pedro Figueroa-Zarceno went to a San Francisco police station seeking help finding his stolen car. After the police discovered he had a ten-year-old deportation order, however, they notified ICE who then went outside the police station to wait for him.<sup>60</sup> These interactions did not involve individuals that LEAs could seriously claim were threats to public safety. Instead, they reveal LEAs' efforts to patrol communities are ingrained in the work of ICE and perpetuate a system of deep entanglement. These stories exemplify how simple interactions between LEAs and noncitizens can lead to grave legal consequences unrelated to the criminal offense that led to the initial interaction.

## 2. Civil and Criminal Immigration Enforcement Binary

One can better understand the contradictory public statements from LEA officials about their involvement in immigration enforcement by understanding how the civil and criminal immigration enforcement binary works. LEAs justify their cooperation with ICE by drawing a line between civil and criminal immigration enforcement.<sup>61</sup> For them, some immigrants—the good immigrants culpable of only civil immigration violations—are deserving of less policing than those who violate criminal laws,<sup>62</sup> the so-called bad, criminal immigrants.<sup>63</sup> It is along this good, bad binary that policy debates, major events, and stories of the immigrant community depicted by the media shape decisionmakers and the public's narrative of immigrants in the United States.<sup>64</sup> Good immigrants are portrayed as hardworking and in search of the American

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59. Ariana Sawyer & Kevin Flores, *Deportation Over 21-Year-Old Charge Strands Long Beach Immigrant in Mexico*, PRESS-TELEGRAM (Nov. 11, 2018), <https://www.press-telegram.com/2016/05/05/deportation-over-21-year-old-charge-strands-long-beach-immigrant-in-mexico> [https://perma.cc/F3W6-PAEQ].

60. Vivian Ho, *SF Cops Admit Car-Theft Victim Was Wrongly Turned Over to ICE*, S.F. GATE (Jan. 17, 2017, 4:40 PM), <https://www.sfgate.com/bayarea/article/S-F-cops-admit-car-theft-victim-was-wrongly-6810705.php> [https://perma.cc/D5H8-YCWM].

61. See *supra* notes 18–20; *infra* text accompanying notes 158–161, 180–182.

62. This includes violations of both criminal immigration laws and criminal state laws. Violations of the latter tend to, but do not always, lead to immigration consequences. See, e.g., *Moncrieffe v. Holder*, 133 U.S. 1678 (2013) (holding that the defendant's conviction for possession of marijuana under Georgia state law was not an aggravated felony that would trigger his removal from the country).

63. Cf. Elizabeth Keyes, *Beyond Saints and Sinners: Discretion and the Need for New Narratives in the U.S. Immigration System*, 26 GEO. IMMIGR. L.J. 207, 226–37 (2012) (describing the use of the good and bad immigrant binary in the legal context of immigration relief and removals).

64. *Id.* at 216–22.

dream.<sup>65</sup> Bad, criminal immigrants are depicted as law breaking, uneducated, stealing jobs from Americans, using and abusing public services without paying taxes, and unable or unwilling to speak English.<sup>66</sup> Within this framing, noncitizens go from the good to the bad narrative as soon as LEAs suspect they are committing a crime.

LEAs play key roles enforcing law and order, differentiating between who is and is not a law-abiding citizen, and thus who does and does not belong. More broadly, the decision about who does and does not belong in the immigration context is rooted in assimilationist ideologies. The perceived ability of a group to assimilate to American culture and identity has played a central role in the development of U.S. immigration law. In fact, the creation of restrictive immigration laws was based on the racist belief that certain racial groups were unable to assimilate to American culture and identity.<sup>67</sup> Whereas European immigrants could naturalize because they were capable of assimilating to American society and culture, Asian immigrants, for instance, were unassimilable, and thus were not able to naturalize.<sup>68</sup>

Today, law and order are part of an ideology valued in American culture and identity. It follows that effective assimilation requires abiding by American cultural constructions of law and order. Thus, at the core of the civil and criminal immigration enforcement binary is not that a noncitizen is reduced to a bad immigrant when they engage in criminal activities. Rather, at its core is the preconceived inability of some noncitizens to assimilate to the American value of law and order.

Ultimately, LEA decisions about who belongs in the communities they patrol carry enormous consequences for how the immigration enforcement system works.<sup>69</sup> In practice, these decisions have disparate impacts on certain racial groups; and those who are disproportionately pre-determined to be breaking the law are not unlike those groups that were constructed “as illegitimate, criminal, and unassimilable” by restrictive immigration laws.<sup>70</sup>

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65. *Id.* at 216–17.

66. *Id.*

67. NGAI, *supra* note 4, at 37 (calling this the rule of racial unassimilability).

68. *See id.* at 45–47.

69. Motomura, *supra* note 58, at 1856–58.

70. NGAI, *supra* note 4, at 2; *see also* Kevin R. Johnson, *Racial Profiling in the War on Drugs Meets the Immigration Removal Process: The Case of Moncrieffe v. Holder*, 48 U. MICH. J.L. REFORM 967, 967–70 (2015); Chacón, *supra* note 29, at 629–30, 644.

## B. Police-ICE Disentanglement

California, and other states generally, cannot regulate federal enforcement efforts by agencies like ICE. States, however, can mitigate the impact of police-ICE entanglement on its residents by limiting the authority and discretion of police and sheriffs within their state. These efforts are a part of the greater role state and local jurisdictions have played regulating immigration matters—a domain, as discussed earlier, thought solely to be the federal government’s purview.<sup>71</sup> Some of these efforts have included the state’s role in regulating noncitizens’ access to public benefits, California’s 1994 Proposition 187,<sup>72</sup> local anti-immigrant ordinances, and the federal government’s involvement of state and local jurisdictions in S-Comm. Most recently, as states have taken a stance against the federal government’s mass deportation policy, this has also included “sanctuary”<sup>73</sup> state laws.

These limited cooperation state laws can frustrate “federal immigration enforcement efforts because the current immigration enforcement system largely relies on criminal enforcement actors as the frontline initiators of the removal process.”<sup>74</sup> Recent attempts to enact these type of laws have focused on LEA practices and policies given both ICE’s reliance on their policing work and the discretionary arrest authority LEA officers possess that can place someone into

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71. Jennifer M. Chacón, *Immigration Federalism in the Weeds*, 66 UCLA L. REV. 1330, 1341–43 (2019).

72. Passed in 1994 and subsequently found unconstitutional, Proposition 187 would have excluded undocumented Californians from accessing nonemergency healthcare services, social benefits programs, and public education. See generally Gustavo Arellano, *Prop. 187 Timeline: The Rise and Fall of California’s Anti-Immigrant Law*, L.A. TIMES (Oct. 29, 2013, 3:00 AM), <https://www.latimes.com/california/story/2019-10-06/proposition-187-timeline> [<https://perma.cc/2YRG-M6YG>] (providing a brief historical overview of the rise and fall of Proposition 187).

73. Chacón, *supra* note 71, at 1340–45. Sanctuary laws give way to “‘sanctuary’ jurisdictions,” but the more appropriate term might be “limited cooperation jurisdictions.” See *id.* at 1344–45. Therefore, this Comment uses this term instead. For important discussions of the Sanctuary movement of the 1980s that inspired and shaped limited cooperation jurisdictions, see Norma Stoltz Chinchilla, Nora Hamilton & James Loucky, *The Sanctuary Movement and Central American Activism in Los Angeles*, 36 LATIN AM. PERSPS. 101 (2009); Jorge L. Carro, *Municipal and State Sanctuary Declarations: Innocuous Symbolism or Improper Dictates?*, 16 PEPP. L. REV. 297 (1989); Rose Cuison Villazor, *What Is a “Sanctuary”?*, 61 SMUL. REV. 133 (2008).

74. Chacón, *supra* note 71, at 1344–45.

detention and deportation proceedings.<sup>75</sup> These attempts, however, do not produce uniform results.<sup>76</sup> California is no exception.<sup>77</sup>

Despite these local policy differences, California has moved to disentangle LEAs from ICE by advancing statewide efforts intended to change how the criminal legal system treats immigrants. These efforts follow from the state's recent reforms, for instance, providing undocumented persons with drivers' and businesses' licenses, access to healthcare, and in-state tuition.<sup>78</sup> Advocates and lawmakers, recognizing the disruptive and violent impacts<sup>79</sup> that the detention and deportation system can have on the lives of those intended to benefit from these efforts, as well as LEAs' key role funneling immigrants into this system, moved to change the way LEAs could work with immigration enforcement.

### 1. Recent California Efforts to Disentangle

In 2011, Assemblymember Tom Ammiano introduced Assembly Bill 1081 (the TRUST Act) to make it optional for local jurisdictions to join S-Comm.<sup>80</sup> The following year, the bill was amended to give state and local LEAs discretion to honor a detainer request only if the person ICE requested was convicted of a serious or violent felony. Otherwise, LEAs were prohibited from complying with detainer requests.<sup>81</sup> CSSA opposed the 2011 and 2012 versions of the

75. Motomura, *supra* note 58, at 1842–49.

76. See, e.g., Eagly, *supra* note 43, at 1157–90 (discussing how different local jurisdictions have adopted varying approaches to policing noncitizens).

77. See, e.g., Chacón, *supra* note 71, at 1369–70 (finding that local governments and agencies in “Orange County sought to preserve [immigration] enforcement cooperation to a much greater extent than those in Los Angeles”).

78. See, e.g., Laura E. Enriquez, Daisy Vasquez Vera & S. Karthick Ramakrishnan, *Driver's Licenses for All? Racialized Illegality and the Implementation of Progressive Immigration Policy in California*, 41 LAW & POL'Y 34 (2019).

79. See Cecilia Menjivar & Leisy Abrego, *Legal Violence in the Lives of Immigrants: How Immigration Enforcement Affects Families, Schools, and Workplaces*, CTR. FOR AM. PROGRESS (Dec. 11, 2012, 4:10 AM), <https://www.americanprogress.org/issues/immigration/reports/2012/12/11/47533/legal-violence-in-the-lives-of-immigrants> [https://perma.cc/88S2-Q6MK]; see also Abrego, Coleman, Martínez & Slack, *supra* note 2, at 704–08.

80. S. COMM. ON PUB. SAFETY, COMMITTEE ANALYSIS, Assemb. B. 1081, 2011–2012 Leg., Reg. Sess. (Cal. June 14, 2011). Core ICE Out of California coalition members, the Asian Law Caucus and NLDON, were cosponsors of AB 1081. *Id.* at 1. For a discussion on the work NDLON lawyers and others did with youth activists against S-Comm leading up to this legislation, see Sameer M. Ashar, *Movement Lawyers in the Fight for Immigrant Rights*, 64 UCLA L. REV. 1464, 1485–87, 1500–03 (2017).

81. S. COMM. ON PUB. SAFETY, COMMITTEE ANALYSIS, Assemb. B. 1081, 2011–2012 Leg., Reg. Sess. (Cal. May 14, 2012); see also CAL. PENAL CODE § 1192.7(c) (West 2021) (defining serious

TRUST Act, stating concerns about resource depletion and the dangers posed to the public by those convicted of serious and violent felonies. Some local police chiefs, in arguably more progressive areas of the state, supported the narrower, amended 2012 version.<sup>82</sup> Ultimately, Governor Brown vetoed the 2012 TRUST Act. In his veto message to the assembly, he stated the bill's inclusion of only serious and violent felonies was fatally flawed because it left out many other serious offenses that he believed should allow sheriffs to comply with detainer requests.<sup>83</sup>

In 2013, Assemblymember Ammiano reintroduced the TRUST Act, this time amending it to include over 800 exceptions that would allow LEAs to honor ICE detainer requests<sup>84</sup>—what would become known as the TRUST Act standard.<sup>85</sup> As a result of immigrants' rights advocates' efforts to push Governor Brown to support the bill, the TRUST Act was finally signed into law on October 5, 2013 and would go into effect January 2014.

The next year marked significant changes in ICE's deportation strategies. In 2014, a federal district court held that ICE immigration detainers were unconstitutional.<sup>86</sup> As a result, most California LEAs, including county sheriffs who opposed the TRUST Act, stopped honoring all ICE detainer requests over

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felony); CAL. PENAL CODE § 667.5(c) (West 2021) (defining violent felony). These code sections served as the basis for the exceptions, or carve outs, for which the state would tolerate police-ICE entanglement. At this time, CIPC, another core ICE Out of California coalition member, became a cosponsor of the bill. S. COMM. ON PUBLIC SAFETY, *supra* note 80, at 1.

82. *Compare* S. COMM. ON PUB. SAFETY, *supra* note 81, at 1–2, with S. RULES COMM., SENATE FLOOR ANALYSES, Assemb. B. 1081, 2011–2012 Leg., Reg. Sess., at 4–7 (Cal. Nov. 13, 2012); *see also* Jazmine Ulloa, *How California's Trust Act Shaped the Debate on the New 'Sanctuary State' Proposal*, L.A. TIMES (Sept. 10, 2017, 12:05 AM), <https://www.latimes.com/politics/la-pol-ca-trust-act-sanctuary-state-immigration-20170910-htmstory.html> [<https://perma.cc/99WZ-NJ49>].
83. Letter From Edmund G. Brown, Jr., Governor of Cal., to the Members of the Cal. State Assembly (Sept. 30, 2012), [https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill\\_id=201120120AB1081](https://leginfo.legislature.ca.gov/faces/billStatusClient.xhtml?bill_id=201120120AB1081) [<https://perma.cc/K3XQ-KM7D>] (including “crimes involving child abuse, drug trafficking, selling weapons, using children to sell drugs, or gangs”).
84. *See* Assemb. B. 4, 2013–2014 Leg., Reg. Sess. (Cal. 2013) (amended June 24, 2013); *see generally* *California TRUST Act (AB 4)*, ICE OUT OF CAL., <https://iceoutofca.org/trust-act-ab-4.html> [<https://perma.cc/K2LB-4JLC>].
85. Ingrid V. Eagly, *Criminal Justice in an Era of Mass Deportation: Reforms From California*, 20 NEW CRIM. L. REV. 12, 32 (2017) (The TRUST Act standard included convictions for “a serious or violent felony, a felony punishable by imprisonment in state prison, an aggravated felony under the federal immigration laws, or one of several enumerated crimes, such as assault, sexual abuse, child abuse, or burglary”).
86. *Miranda-Olivares v. Clackamas County*, No. 3:12-cv-02317-ST, 2014 WL 1414305 (D. Or. Apr. 11, 2014).

concerns of civil liability.<sup>87</sup> That same year, criticism from elected officials and LEAs led to the federal government's discontinuation of S-Comm.<sup>88</sup> In its place, President Obama's Department of Homeland Security (DHS) adopted the Priority Enforcement Program (PEP), which sought to prioritize "[f]elons, not families."<sup>89</sup> Though PEP did not eliminate the use of S-Comm fingerprint sharing practices, it replaced ICE's reliance on detainer requests, except in special circumstances, with notification requests.<sup>90</sup> ICE would now request that LEAs notify them of the scheduled release date of an individual in LEA custody.<sup>91</sup> As ICE shifted away from detainer requests, which required LEAs to hold individuals past their release date, ICE officials began requesting the assistance of LEAs in

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87. Joel Rubin & Paloma Esquivel, *For Some California Sheriffs, It's Not Politics Stopping Them From Fully Helping ICE: It's the Legal Risk*, L.A. TIMES (Mar. 31, 2017, 4:00 AM), <https://www.latimes.com/local/lanow/la-me-ice-detainers-sheriffs-20170330-story.html> [<https://perma.cc/NC8K-2Y8X>]. *But see* Jazmine Ulloa, *Most California Sheriffs Fiercely Opposed the 'Sanctuary State' Law. Soon They'll Have to Implement It*, L.A. TIMES (Nov. 12, 2017, 12:05 AM), <https://www.latimes.com/politics/la-pol-ca-sanctuary-state-california-sheriffs-20171112-htmlstory.html> [<https://perma.cc/J8BP-BRLH>] (finding that Fresno Sheriff Margaret Mims met with ICE to discuss ways they could continue their entanglement, which "resulted in temporary workspace for immigration agents at her jail . . . and a restructuring of inmate release times"). California jurisdictions also continued their participation in the 287(g) program. In 2010, four California counties—Los Angeles, Orange, Riverside, and San Bernardino—participated in the 287(g) program. RANDY CAPPAS, MARC R. ROSENBLUM, CRISTINA RODRÍGUEZ & MUZAFFAR CHISHTI, *MIGRATION POL'Y INST., DELEGATION AND DIVERGENCE: A STUDY OF 287(G) STATE AND LOCAL IMMIGRATION ENFORCEMENT* 54 (2011). In fiscal year 2013, with ICE "office space and computer access at the local jails in all four [of these] counties, . . . the programs had approximately 5,500 encounters with criminal [noncitizens], resulting in approximately 2,600 removals." Declaration of Thomas D. Homan, *supra* note 53, at 10–11.
88. Memorandum From Jeh Charles Johnson, Sec'y, U.S. Dep't of Homeland Sec., on Secure Communities to Thomas S. Winkowski, Acting Dir., U.S. Immigr. & Customs Enf't, Megan Mack, Officer, Off. of C.R. & C.L., & Phillip A. McNamara, Assistant Sec'y, Intergovernmental Affairs (Nov. 20, 2014), [https://www.dhs.gov/sites/default/files/publications/14\\_1120\\_memo\\_secure\\_communities.pdf](https://www.dhs.gov/sites/default/files/publications/14_1120_memo_secure_communities.pdf) [<https://perma.cc/VBT8-7T6W>].
89. Barack Obama, President of the U.S., Remarks by the President in Address to the Nation on Immigration (Nov. 20, 2014), <https://obamawhitehouse.archives.gov/the-press-office/2014/11/20/remarks-president-address-nation-immigration> [<https://perma.cc/US3W-KFF6>] [hereinafter Obama Remarks]; *see also* Memorandum From Jeh Charles Johnson, Sec'y, U.S. Dep't of Homeland Sec., on Policies for the Apprehension, Detention and Removal of Undocumented Immigrants to Thomas S. Winkowski, Acting Dir., U.S. Immigr. & Customs Enf't, R. Gil Kerlikowske, Comm'r, U.S. Customs & Border Prot., Leon Rodriguez, Dir., U.S. Citizenship & Immigr. Servs., & Alan D. Bersin, Acting Assistant Sec'y for Pol'y (Nov. 20, 2014), [https://www.dhs.gov/sites/default/files/publications/14\\_1120\\_memo\\_prosecutorial\\_discretion.pdf](https://www.dhs.gov/sites/default/files/publications/14_1120_memo_prosecutorial_discretion.pdf) [<https://perma.cc/W57S-ST6W>].
90. Memorandum From Jeh Charles Johnson, *supra* note 88, at 2.
91. *Id.*

facilitating, formally or informally, the transfer of individuals from LEA to ICE custody.<sup>92</sup>

PEP also directed DHS agents, including ICE officers, to exercise enforcement discretion over three levels of immigration enforcement priorities. It listed “threats to national security, border security, and public safety,” as the first priority, “misdemeanants and new immigration violators” as the second priority, and “other immigration violations” as the third priority.<sup>93</sup> By creating the illusion that ICE detention and deportation efforts prioritized the most dangerous persons, PEP actually “developed new mechanisms to facilitate the arrest and detention of undocumented immigrants,” helping “creat[e] wider, stronger, and different nets of social control over broad swaths of the noncitizen population.”<sup>94</sup> To do so, PEP treated the so-called felon and families as mutually exclusive and directed detention and deportations at more ideologically acceptable targets: so-called criminal noncitizens.<sup>95</sup> This effort had the effect of reducing targeted individuals’ identities as noncitizens to criminalized identities: here, felons.<sup>96</sup> For the federal government, once these individuals became system involved, they could no longer be members of a family. Given PEP’s Democratic administration roots, it is easy to see how this program helped shape, or at least, inspired, similarly framed, Democratic-led state and local government responses to federal level mass deportation strategies. These state and local responses sanctioned their own versions of “felons, not families” to determine who was deemed worthy of state protections against police-ICE entanglement.

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92. See ACLU OF CAL., IMMIGRANT LEGAL RES. CTR. & IMMIGRANT DEF. PROJECT, *FLATTEN THE CURVE: PROTECTING PUBLIC HEALTH REQUIRES THAT JAILS STOP TRANSFERRING PEOPLE TO ICE 2* (2020) (describing briefly the ICE transfer request process using detainer requests); LAYLA RAZAVI & FELICIA GOMEZ, CAL. IMMIGRANT POL’Y CTR., *TWO YEARS OF SANCTUARY? HOW CALIFORNIA’S LAW ENFORCEMENT AGENCIES CONTINUE WORKING WITH ICE 5* (2019) (describing an example of informal methods used by ICE to make transfer requests with local LEAs).

93. Memorandum From Jeh Charles Johnson, *supra* note 89, at 3–4.

94. Angélica Cházaro, *Challenging the “Criminal Alien” Paradigm*, 63 UCLA L. REV. 594, 600–01 (2016).

95. *Id.* at 599; see also Obama Remarks, *supra* note 89 (“And that’s why we’re going to keep focusing enforcement resources on actual threats to our security. Felons, not families. Criminals, not children. Gang members, not a mom who’s working hard to provide for her kids. We’ll prioritize, just like law enforcement does every day.”).

96. For insight into how laws and policies similar to PEP also helped construct racialized criminality within the current immigration regime, see Doris Marie Provine & Roxanne Lynn Doty, *The Criminalization of Immigrants as a Racial Project*, 27 J. CONTEMP. CRIM. JUST. 261 (2011).

While the TRUST Act helped curb deportations,<sup>97</sup> police-ICE entanglement through the PEP program shifted the primary strategies used by LEAs and ICE. Consequently, advocates sought transparency and accountability over how local jurisdictions and LEAs complied with ICE's notification and transfer requests. In 2016, Assemblymember Rob Bonta introduced Assembly Bill 2792 (the TRUTH Act), which sought to require memorandums of understanding (MOU) between local jurisdictions and ICE before an LEA could participate in an immigration enforcement program.<sup>98</sup> Like the TRUST Act, CSSA and the California Police Chiefs' Association (Cal Chiefs) opposed the TRUTH Act. They argued the bill would impose burdens and impede their ability to keep communities safe.<sup>99</sup> Ultimately, Governor Brown signed an amended, narrower version of the bill. As passed, the law required LEAs to provide an individual in their custody with a consent form indicating the voluntary nature of the interview before they let ICE interview that individual.<sup>100</sup>

Despite state-led efforts, police-ICE entanglement persisted. A 2016 report found that "most jurisdictions, including some that might [have] call[ed] themselves 'sanctuary cities,' voluntarily offer[ed] substantial assistance to federal immigration enforcement."<sup>101</sup> Furthermore, the California Department of Corrections and Rehabilitation (CDCR) actively provided notifications to and honored ICE hold requests for individuals in their custody.<sup>102</sup>

97. See Alex Nowrasteh & Andrew C. Forrester, *The California TRUST Act Reduced Deportations*, CATO INST. (Aug. 14, 2018, 12:49 PM), <https://www.cato.org/blog/california-trust-act-reduced-deportations> [<https://perma.cc/75BW-Y3XD>].

98. ASSEMB. COMM. ON PUB. SAFETY, COMMITTEE ANALYSIS, Assemb. B. 2792, 2015–2016 Leg., Reg. Sess. (Cal. Apr. 12, 2016).

99. See *id.* at 6–7; S. RULES COMM., SENATE FLOOR ANALYSIS, Assemb. B. 2792, 2015–2016 Leg., Reg. Sess., at 7 (Cal. Aug. 22, 2016).

100. Assemb. B. 2792, 2015–2016 Leg., Reg. Sess. (Cal. 2016) (chaptered on Sept. 28, 2016). The law would impact the effectiveness of both the CAP and 287(g) program's jail model. Separately, it also required:

local governing bodies to hold a community forum, yearly, where the LEA had provided ICE access to at least one individual in their custody in the previous year. [Although, s]ince the law went into effect, local governing bodies and LEAs hold the requisite community forums but underutilize them, instead remaining inaccessible and maintaining a lack of transparency regarding their interactions with ICE . . . .

RAZAVI & GOMEZ, *supra* note 92, at 8.

101. LENA GRABER & NIKKI MARQUEZ, IMMIGRANT LEGAL RES. CTR., SEARCHING FOR SANCTUARY: AN ANALYSIS OF AMERICA'S COUNTIES AND THEIR VOLUNTARY ASSISTANCE WITH DEPORTATIONS 3, 9–11 (2016), [https://www.ilrc.org/sites/default/files/resources/sanctuary\\_report\\_final\\_1-min.pdf](https://www.ilrc.org/sites/default/files/resources/sanctuary_report_final_1-min.pdf) [<https://perma.cc/62MB-8VC8>].

102. CAL. DEP'T OF CORR. & REHAB., S.B. 54 ENROLLED BILL REPORT 11–12 (2017) (on file with author).

LEAs also relied on police manuals that provided guidance for stopping people suspected of entering the United States without authorization.<sup>103</sup> President Trump's election in 2016 further exacerbated police-ICE entanglement.

Many anticipated that President Trump would make policy choices that transformed his anti-immigrant rhetoric into action. One of his early executive actions, an executive order dated January 25, 2017, expanded enforcement against noncitizens throughout the country.<sup>104</sup> It expanded President Obama's immigration enforcement priority list and removed PEP's criminal conviction prerequisite to be targeted by ICE.<sup>105</sup> It also called for hiring 10,000 additional ICE agents and sought to expand state and local involvement in the 287(g) program.<sup>106</sup> Immigrants' rights advocates were not surprised but were still outraged. Like the LEAs who made statements shortly after the November 2016 election, the Law Enforcement Immigration Task Force, an entity consisting of police and sheriff representatives, issued a statement disapproving of the executive order. They claimed they did not want their officers acting as immigration agents, nor did they want to risk losing federal funding if their jurisdiction were labeled as "sanctuaries."<sup>107</sup> Yet this group, like those who released the LEA statements after the 2016 election, were not telling the whole story.

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103. See, e.g., James Queally, *Police Departments Say They Don't Enforce Immigration Laws. But Their Manuals Say Something Different*, L.A. TIMES (Apr. 12, 2017, 9:00 AM), <https://www.latimes.com/local/lanow/la-me-ln-california-police-immigration-enforcement-20170412-story.html> [<https://perma.cc/K3JT-W2CD>].

104. Exec. Order No. 13,768, 82 Fed. Reg. 8,799 (Jan. 25, 2017).

105. Memorandum From John Kelly, Sec'y, U.S. Dep't of Homeland Sec., on Enforcement of the Immigration Laws to Serve the National Interest to Kevin McAleenan, Acting Comm'r, U.S. Customs & Border Prot., Thomas D. Homan, Acting Dir., U.S. Immigr. & Customs Enf't, Lori Scialabba, Acting Dir., U.S. Citizenship & Immigr. Servs., Joseph B. Maher, Acting Gen. Couns., Dimple Shah, Acting Assistant Sec'y for Int'l Affs., & Chip Fulghum, Acting Undersecretary for Mgmt., at 2 (Feb. 20, 2017), [https://www.dhs.gov/sites/default/files/publications/17\\_0220\\_S1\\_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf](https://www.dhs.gov/sites/default/files/publications/17_0220_S1_Enforcement-of-the-Immigration-Laws-to-Serve-the-National-Interest.pdf) [<https://perma.cc/76AW-MBF7>] (listing the Trump administration's expanded priorities for immigration enforcement, including any noncitizen an immigration officer feels poses a public safety or national security risk).

106. *Id.* at 2–4.

107. Tom Jackman, *Police Chiefs' Immigration Task Force Outlines Opposition to Trump Policy*, WASH. POST (Mar. 1, 2017, 9:11 AM), <https://www.washingtonpost.com/news/true-crime/wp/2017/03/01/police-chiefs-immigration-task-force-outlines-opposition-to-trump-policy> [<https://perma.cc/9QPV-PHZ8>].

## 2. Blue Corner: LEA Lobbying in California

Today, over fifty-eight law enforcement associations in California represent state and local law enforcement officers in the state.<sup>108</sup> “In 2017, there were more than 119,500 full-time law enforcement employees in California; roughly 78,500 were sworn law enforcement officers (with full arrest powers) [of which] about 48 [percent] were municipal police officers [and] 39 [percent] were county sheriff officers.”<sup>109</sup> Together, CSSA and the Cal Chiefs represented around 87 percent of officers throughout the state that patrolled districts represented by progressive, moderate, and conservative senators and assemblymembers.

The lobbying power of California’s LEAs, including CSSA and the Cal Chiefs, is longstanding and permits LEAs to shape the criminal legal system. LEA union<sup>110</sup> influence grew in power vis-à-vis financial resources and political clout as a response to 1960s and 1970s LEA reform efforts.<sup>111</sup> They increased their power by hiring professional lobbyists to represent their interests in front of state and local government bodies.<sup>112</sup> Together they opposed civilian review boards and pushed for police officer bill of rights legislation throughout states.<sup>113</sup>

Like many other groups that support the current, punitive criminal legal system in California,<sup>114</sup> the LEA lobby, including LEA unions, continues to shape policy around criminal legal system reform efforts. For instance, they have played roles in shaping California’s three strikes laws<sup>115</sup> and gun control

108. See *Law Enforcement Associations*, COMM’N ON PEACE OFFICER STANDARDS & TRAINING, <https://post.ca.gov/le-associations> [<https://perma.cc/B7FH-4ZR4>] (last updated July 14, 2021).

109. Brandon Martin & Magnus Lofstrum, *Law Enforcement Staffing in California*, PUB. POL’Y INST. CAL. (Feb. 2021), <https://www.ppic.org/publication/law-enforcement-staffing-in-california> [<https://perma.cc/BW8N-Z8VF>]. California Highway Patrol officers made up the majority of the remaining sworn officers in the state, after the sheriffs and the police. See *id.*

110. See generally Benjamin Levin, *What’s Wrong With Police Unions?*, 120 COLUM. L. REV. 1333 (2020) (discussing and critiquing the differences between LEA unions and traditional labor unions).

111. Katherine J. Bies, Note, *Let the Sunshine In: Illuminating the Powerful Role Police Unions Play in Shielding Officer Misconduct*, 28 STAN. L. & POL’Y REV. 109, 120–25 (2017).

112. *Id.* at 123.

113. *Id.* at 125.

114. See, e.g., Joshua Page, *Prison Officer Unions and the Perpetuation of the Penal Status Quo*, 10 CRIMINOLOGY & PUB. POL’Y 735 (2011).

115. Michael Vitiello, *Three Strikes: Can We Return to Rationality?*, 87 J. CRIM. L. & CRIMINOLOGY 395, 411, 413, 417, 421 (1997) (noting that the LEA lobby was involved in attempts to legislatively address the state’s Three Strikes law).

efforts.<sup>116</sup> They have also opposed California’s sunshine legislation—reform efforts intended to increase transparency and accountability in LEA misconduct investigations.<sup>117</sup> Often, LEAs characterize these reform efforts as dangerous to public safety and harmful to the public’s interest. In doing so, they conflate the public’s interest with the LEA’s own private interests.<sup>118</sup> As such, the California LEA lobby holds undeniable power to block criminal legal system reform legislation,<sup>119</sup> despite California voter’s statewide support for such reforms.<sup>120</sup>

A recent Campaign Zero<sup>121</sup> report analyzed the LEA lobby’s<sup>122</sup> campaign donations to current members of the California state legislature—a Democratic supermajority legislature—to understand their influence over legislative LEA reform efforts.<sup>123</sup> The report concluded that “state legislators in either party who d[id] not support [LEA] reform bills receive[d] substantially more money from

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116. Paul H. Blackman, *Law Enforcement Lobbying and Policymaking on “Gun Control,”* 3 J. ON FIREARMS & PUB. POL’Y 29, 29–30 (1990) (discussing the LEA lobby’s evolving policy positions on National Rifle Association (NRA) legislation and propositions).
117. See Bies, *supra* note 111.
118. *Id.* at 112.
119. E.g., Sasha Abramsky, *California Passes Key Criminal Justice Reforms*, NATION (Sept. 4, 2020), <https://www.thenation.com/article/politics/criminal-justice-california-trump> [https://perma.cc/U5TR-9CA5]; Theresa Waldrop, *California Failed to Pass a Major Police Reform Bill. Here’s What Experts Say That Could Mean for the Rest of the Nation*, CNN (Sept. 11, 2020, 10:55 AM), <https://www.cnn.com/2020/09/11/us/police-reform-legislation-national-california/index.html> [https://perma.cc/6EH4-Y8AZ]; Anita Chabria, *Stall Tactics. Distractions. Lobbying. How Police Reform Was Derailed in California*, L.A. TIMES (Sept. 2, 2020, 5:00 AM), <https://www.latimes.com/california/story/2020-09-02/california-police-reform-bills-derailed> [https://perma.cc/MCK8-BNSW]; see also Bies, *supra* note 111, at 139–44.
120. See, e.g., Kevin Rector, Anita Chabria, James Queally & Benjamin Oreskes, *California Goes Big on Criminal Justice Reform, Setting a More Progressive Path*, L.A. TIMES (Nov. 5, 2020, 4:00 AM), <https://www.latimes.com/california/story/2020-11-05/after-contentious-year-in-american-policing-voters-in-l-a-across-california-back-justice-reforms> [https://perma.cc/3HKN-VZBK].
121. Campaign Zero is an LEA reform group created in response to the killing of Michael Brown in Ferguson, Missouri. See generally Shani Saxon, *What Went Wrong With the #8CantWait Police Reform Initiative?*, COLORLINES (June 18, 2020, 11:00 AM), <https://www.colorlines.com/articles/what-went-wrong-8cantwait-police-reform-initiative> [https://perma.cc/KG52-6MHE].
122. The report’s analysis included a long list of LEA unions and associations. See *California’s Police Lobby*, CHECK THE POLICE, <https://www.checkthepolice.org/california> [https://perma.cc/3NYP-YRHX] (click the “here” hyperlink under the “Additional Data on Police Association Donations” subheading to access excel sheet for list).
123. CAMPAIGN ZERO, CALIFORNIA’S POLICE LOBBY: HOW POLICE ASSOCIATIONS PREVENT THE NATION’S LARGEST STATE FROM ADDRESSING POLICE VIOLENCE (2018).

[LEA] unions and associations than those who support[ed] reform.”<sup>124</sup> Indeed, in 2017, the same year that SB 54 was introduced, the report found that these groups spent nine times more than the NRA to lobby the California state legislature,<sup>125</sup> which included spending on immigration legislation.<sup>126</sup> That year, CSSA<sup>127</sup> and the Cal Chiefs<sup>128</sup> were two of the LEA associations that spent the most money lobbying the state legislature.<sup>129</sup> Clearly, through these lobbying efforts, LEAs have tried to play a greater role in influencing state and local decisions, including decisions that implicate the state’s role in the federal immigration enforcement system. Even before California’s legislative leaders pledged to resist President Trump’s mass deportations, lobby associations like CSSA and the Cal Chiefs had a

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124. *Id.* at 2.

125. *See id.* (“Governor Jerry Brown and 118 of California’s 120 current state legislators received [\$5.5 million in] campaign donations directly from police unions and associations since 2011.”). Compared to the NRA, which only spent \$225,395, LEA associations spent over \$2 million in 2017 trying to influence state legislation. *Id.* at 4.

126. *See, e.g.*, CAL. SEC’Y OF STATE, LOBBYING ACTIVITY: CALIFORNIA STATE SHERIFFS’ ASSOCIATION, 2017–2018 LEGISLATIVE SESSION, REPORT OF LOBBYIST EMPLOYER AND REPORT OF LOBBYING COALITION (F635), at 6, <http://cal-access.sos.ca.gov/Lobbying> [<https://perma.cc/GK7H-XTY3>] (select the “Lobbyist Employers” hyperlink, then select “Historical” under “Legislative Session,” then select “LETTER” “C,” then select “Financial Activity/Filing History” and “2017 through 2018”) (showing that the CSSA actively lobbied against SB 54 during this period).

127. Established in 1894, CSSA represents the interest of, and includes in its membership, all fifty-eight county sheriffs in the state. The association is represented in legislative matters by a private lobbying firm. *See 2020 Legislative Platform and Priority Issues*, CAL. STATE SHERIFFS’ ASS’N, <https://www.calsheriffs.org/2018-legislative-platform-and-priority-issues> [<https://perma.cc/C9UZ-KVUS>] (last visited Mar. 15, 2021). During the 2017 legislative year, Sheriff Bill Brown of the Santa Barbara County Sheriffs’ Department served as president of CSSA.

128. Created in 1966, the Cal Chiefs represents municipal level police chiefs throughout California and counts on an in-house lobbyist to represent its legislative interests. *See Who We Are*, CAL. POLICE CHIEFS ASS’N, <https://www.californiapolicechiefs.org/about> [<https://perma.cc/J67G-F6XB>] (last visited Feb. 23, 2022); *Contact Us*, CAL. POLICE CHIEFS ASS’N, <https://www.californiapolicechiefs.org/contactus> [<https://perma.cc/W69N-EA9M>] (last visited Feb. 23, 2022). Edward Medrano, chief of police for the Gardena Police Department, served as president of the association in 2017.

129. *California’s Police Lobby*, *supra* note 122.

strong influence on state legislators, including moderate Democrats,<sup>130</sup> and the governor.<sup>131</sup>

## II. THE FIGHT: LEGISLATIVE AND EXECUTIVE BATTLES

### A. Red Corner: A Visionary SB 54

At the start of the 2017–2018 legislative session, the main tools that California advocates had in their statewide fight against police-ICE entanglement were the TRUST and TRUTH Acts. The TRUST Act: (1) clarified that LEA compliance with ICE requests was discretionary, (2) required that holding an immigrant pursuant to an immigration detainer comply with federal, state, or local law or policy; and (3) prohibited transferring immigrants to ICE unless they were convicted of a crime that qualified as an exception under the TRUST Act standard. The TRUTH Act required LEAs to provide individuals with a written consent form any time ICE requested to interview them for immigration enforcement purposes. Yet, advocates knew, however, that counteracting both President Trump’s anti-immigrant executive intent and the evolving nature of police-ICE entanglement required more.

As introduced on December 5, 2016, SB 54 would have become the strongest law in the nation to restrict LEA involvement in immigration enforcement. The bill would have barred LEAs from: using their resources to comply with any federal immigration authorities’ detainer, transfer, and notification requests; honoring immigration authority requests for personal information of people in their custody; making civil immigration arrests; letting immigration authorities interview people in their custody; participating in the 287(g) program;<sup>132</sup> transferring anyone to immigration authorities for the purpose of immigration

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130. See generally Nik Bonovich, *New Democrats’ Flexing Muscle*, CAPITOL WKLY. (Oct. 16, 2017), <https://capitolweekly.net/new-democrats-flexing-muscle> [https://perma.cc/XXG2-F27S]; Melanie Mason, *Business-Friendly ‘Mod’ Democratic Lawmakers Tap a New Leader in Shake-Up*, HARTFORD COURANT (Apr. 27, 2017, 2:15 PM), <https://www.courant.com/la-pol-sac-moderate-democrats-leadership-20170427-story.html> [https://perma.cc/57YD-75YX]; Melanie Mason, *Business-Friendly Democrats Pick New Leaders for Informal, But Powerful Sacramento Caucus*, L.A. TIMES (Dec. 9, 2015, 12:05 AM), <https://www.latimes.com/politics/la-pol-sac-moderate-democrats-leaders-20151209-story.html> [https://perma.cc/7BFB-LNP8]; Laurel Rosenhall, *Rise of the Business Democrat*, CALMATTERS (June 23, 2020), <https://calmatters.org/politics/2015/10/rise-of-the-business-democrat> [https://perma.cc/XZ64-48LM].

131. See discussion *infra* II.B.2.

132. S.B. 54, 2017–2018 Leg., Reg. Sess. (Cal. 2016) (as introduced Dec. 5, 2016) (adding CAL. PENAL CODE § 885.6(a)(1)(A)–(E)).

enforcement without a judicial warrant;<sup>133</sup> using state and local databases for immigration enforcement; creating, or assisting in the creation of, a state or national registry based on protected characteristics;<sup>134</sup> and permitting officers to act outside the bounds of California law, either under the supervision of federal agencies or as deputized enforcers of federal law.<sup>135</sup>

This version, as introduced, would have also limited LEA ability to communicate with immigration authorities. While federal law does not require states to collect or affirmatively provide this information, it does prohibit state law from restricting the flow of this information.<sup>136</sup> The draft bill clarified that it did not limit LEAs from sending to, or receiving from, immigration authorities information regarding the citizenship or immigration status of an individual in their custody.<sup>137</sup> It also allowed LEAs to provide immigration authorities with information about a specific person's criminal history when doing so was otherwise allowed under California law.<sup>138</sup> As initially proposed, SB 54 repealed an existing law requiring LEAs to notify immigration authorities when a noncitizen was arrested for specified drug offenses.<sup>139</sup> It also required state LEAs to review their confidentiality policies and ensure they were only collecting information necessary to perform agency duties.<sup>140</sup> In sum, under the introduced version of SB 54, ICE could, for example, still contact a local LEA regarding someone in their custody but only if it was to inquire about that person's immigration status and, if permitted by state law, their criminal history.

Legal scholars have identified a typology of five major categories of limited cooperation policies that have developed throughout the country in response to police-ICE entanglement. They "include [policies]: (1) barring investigation of

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133. *Id.* (adding CAL. PENAL CODE § 885.6(c)).

134. *Id.* (adding CAL. PENAL CODE § 885.6(a)(2), (3)).

135. *Id.* (adding CAL. PENAL CODE § 885.6(a)(4)).

136. *See* 8 U.S.C. §§ 1373, 1644.

137. S.B. 54, 2017–2018 Leg., Reg. Sess. (Cal. 2016) (as introduced Dec. 5, 2016) (adding CAL. PENAL CODE § 885.10). SB 54 also required the California attorney general to create model policies and that would create "safe zones" that limit immigration enforcement on these premises. *See id.* (adding CAL. PENAL CODE § 885.8(a)). This Comment does not focus on or analyze these provisions because state and local LEAs did not raise these provisions as their primary points of contention in their opposition, nor did these provisions directly require state and local LEAs to limit their policing conduct or practices.

138. *Id.* (adding CAL. PENAL CODE § 885.6(b)).

139. CAL. HEALTH & SAFETY CODE § 11369 (West 2021), *repealed by* S.B. 54, 2017–2018 Leg., Reg. Sess. (Cal. 2017).

140. S.B. 54, 2017–2018 Leg., Reg. Sess. (Cal. 2016) (as introduced Dec. 5, 2016) (adding CAL. PENAL CODE § 885.8(a) to prohibit the collection of immigration status by state agencies if it was not necessary to administering the agency's duties).

civil and criminal immigration violations by local law enforcement, (2) limiting compliance with immigration detainers and immigration warrants, (3) refusing [ICE] access to local jails, (4) limiting local law enforcement's disclosure of sensitive information, and (5) precluding local participation in joint operations with federal immigration enforcement."<sup>141</sup> All of these policy categories were featured in SB 54 as introduced.

The bill was consequential for California, elected officials, and LEAs. The bill acknowledged the impact that any of President Trump's anti-immigrant policies would have on the state and its immigrant population. As Pro Tem de León stated in announcing SB 54, "[t]o the millions of undocumented residents pursuing and contributing to the California dream, the state of California will be your wall of justice" against letting "the federal government use our state and local agencies to separate mothers from their children."<sup>142</sup> For Democratic, elected officials in the largest blue state, SB 54 was a key piece of legislation in the efforts to resist federal, rightwing, Trumpian policies. The bill also had consequences for the LEAs' work in the state. The bill would have imposed a mandate to follow a protective statewide model of practice and policies. As a capitol update on September 12, 2017, from the Cal Chiefs to its members put it, SB 54 as introduced "would have made massive changes to local law enforcement's ability to work with our federal partners."<sup>143</sup>

## **B. The California State Legislature**

### **1. CA Comes Out Swinging: California State Senate**

During his January 24, 2017 State of the State address, Governor Brown proclaimed he would defend the TRUST Act, and other legislative efforts intended to integrate the state's immigrant community, against attacks by the federal government.<sup>144</sup> The urgency of the moment, especially as President Trump's executive order loomed, pushed legislative leaders and advocates to act fast to protect immigrants throughout the state. That same day, the pro tem added

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141. Lasch, Chan, Eagly, Haynes, Lai, McCormick & Stumpf, *supra* note 21, at 1707.

142. Alexei Koseff, *California Bill Creates Deportation 'Safe Zones' for Undocumented Immigrants*, SACRAMENTO BEE (Dec. 8, 2016, 8:49 AM), <https://www.sacbee.com/news/politics-government/capitol-alert/article119467653.html>.

143. Update From Cal. Police Chiefs Ass'n to Members (Sept. 12, 2017) (on file with author).

144. Jerry Brown, *Transcript and Analysis: Gov. Jerry Brown's State of the State Address*, CAPRADIO (Jan. 24, 2017), <https://www.capradio.org/articles/2017/01/24/transcript-and-analysis-gov-jerry-browns-state-of-the-state-address> [<https://perma.cc/UL46-5KRS>].

an urgency clause to SB 54, which meant that the bill would go into effect immediately upon getting the governor's signature.<sup>145</sup> While many hoped the governor would also act with a sense of urgency, California LEAs had other ideas.

On January 31, 2017, with media watching the committee, Pro Tem de León presented SB 54 in its first and only senate policy committee—the Public Safety Committee. There, Victor Alvarez, son of Jose Alvarez who was transferred to ICE custody by California State University, Long Beach police, provided testimony in support of the bill by sharing his father's story.

Meanwhile, many LEA groups made their opposition known.<sup>146</sup> The California Peace Officers' Association (CPOA) and CSSA provided testimony opposing SB 54. In doing so, CPOA stated they were “not immigration enforcers but d[id] enforce the law.”<sup>147</sup> The letter CSSA submitted to the committee articulated what would form the basis of LEA groups' primary oppositional issues with SB 54. For instance, CSSA believed it was “inappropriate for the state to tell a local agency that it can[not] respond to a request for information from the federal government.”<sup>148</sup> CSSA also stated that the prohibition on LEAs “from giving federal immigration authorities access to interview individuals in agency custody for immigration enforcement purposes” would create “a hurdle between governmental agencies . . . trying to fulfill their duties and obligations.”<sup>149</sup> SB 54 would also “restrict[] local agencies from working with [their] federal partners.”<sup>150</sup> Clearly, they were concerned that SB 54 would restrict their ability to allow ICE to operate in jails and how that would impact their obligations under programs like CAP and 287(g). Finally, CSSA claimed that “the bill's provisions restricting communication and interaction with federal authorities could be construed in such a way that vital federal funding could be jeopardized.”<sup>151</sup>

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145. CAL. GOV'T CODE § 7284.12 (West 2021); S.B. 54, 2017–2018 Leg., Reg. Sess. (Cal. 2017) (amended Jan. 24, 2017). He also amended SB 54 to remove provisions related to prohibitions on creating or assisting in the creation of registries based on protected characteristics and made clarifying and technical changes. The registry language was moved from SB 54 to SB 31. See S.B. 31, 2017–2018 Leg., Reg. Sess. (Cal. 2017) (amended Jan. 24, 2017).

146. See Jazmine Ulloa, *Here's Why Law Enforcement Groups Are Divided on Legislation to Turn California Into a 'Sanctuary State,'* L.A. TIMES (Mar. 12, 2017, 12:05 AM), <https://www.latimes.com/politics/la-pol-sac-police-sanctuary-state-20170312-story.html> [<https://perma.cc/8RA4-U55B>].

147. *Senate Public Safety Committee*, CAL. STATE SENATE, at 28:05 (Jan. 31, 2017), <https://www.senate.ca.gov/media-archive> [<https://perma.cc/7AHX-PWZ6>].

148. S. COMM. ON PUB. SAFETY, COMMITTEE ANALYSIS ON S.B. 54, at 8–9 (Cal. 2017).

149. *Id.* at 9.

150. *Id.* at 8.

151. *Id.* at 9. This Comment does not focus on this specific argument and chooses instead to center arguments related to LEA policing practices and immigrant criminality, which were more

Not all LEAs opposed SB 54 during the committee hearing. The California College and University Police Chiefs Association (CCUPCA), which represented higher education LEAs, provided testimony in support, stating the bill “dovetailed with campus policies” and that it “was a good sense public safety bill.”<sup>152</sup> Two factors might have motivated CCUPCA’s support of the bill at its visionary stage. First, its members presumably policed a smaller subset of the state’s population that was politically seen as less threatening to their interests: undocumented students in college, often referred to as DREAMers.<sup>153</sup> Second, they hoped the bill would help them address concerns over how police-ICE entanglement was curbing the trust of victims or witnesses of crimes and impeding any willingness to

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salient throughout the legislative amendment process, including in LEA SB 54 opposition letters, public statements, and committee testimony. This does not, however, minimize the significance of these funding concerns or the related question of the bill’s constitutionality. In fact, the potential that SB 54 could jeopardize LEA and non-LEA federal funding worried state legislators, the governor, and local governments. This is in part why the assembly referred SB 54 to the Assembly Judiciary Committee to analyze its constitutionality. It is also why Pro Tem de León often clarified during committee hearings that the U.S. Constitution and federal law prohibited “commandeering” state and local resources for federal immigration enforcement and that there were limits on how the federal government could revoke federal funding. In addition to the ICE Out of California coalition, Pro Tem de León enlisted the legal help of former U.S. Attorney General Eric Holder’s law firm, Covington and Burling LLP, to make these arguments. See Letter From Eric H. Holder, Jr., Partner, Covington & Burling LLP, to Jefferson B. Sessions III, U.S. Att’y Gen. (June 19, 2017), [http://www.iceoutofca.org/uploads/2/5/4/6/25464410/holder\\_letter\\_re\\_sb\\_54\\_06.15.2017\\_final.pdf](http://www.iceoutofca.org/uploads/2/5/4/6/25464410/holder_letter_re_sb_54_06.15.2017_final.pdf) [<https://perma.cc/6CZU-EQ2G>]. While SB 54 went through the legislative process, many local governments made similar arguments in response to the federal government’s January 27 Executive Order, which sought to make certain jurisdictions ineligible for some or all federal funds if they were designated a “sanctuary jurisdiction.” See, e.g., Complaint, County of Santa Clara v. Trump, No. 5:17-cv-00574-WHO (N.D. Cal. Feb. 3, 2017); City & County of San Francisco v. Trump, 897 F.3d 1225 (9th Cir. 2018). In August 2018, the Ninth Circuit found that this provision of the executive order violated the U.S. Constitution. *Id.* at 1225.

152. California College and University Police Chiefs Association also stated:

It’s just axiomatic that if you intertwine immigration enforcement with frontline law enforcement, frontline law enforcement will suffer. People are less likely to come forward and that is particular aggravating for us in a campus situation. We protect three million people. We have a number of people we protect who are immigrants and we do not want people to be reluctant to come forward. It’s an unhappy reality that college campuses have sexual assaults disproportionately and it is very, very difficult to get people to come forward under the best of circumstances.

*Senate Public Safety Committee, supra* note 147, at 16:15.

153. See generally Helge Schwirtz, *Beyond the Dreamer Narrative – Undocumented Youth Organizing Against Criminalization and Deportations in California* 7–13 (UCLA Inst. for Rsch. on Lab. & Emp., Working Paper No. 2015-17, 2015), <https://escholarship.org/uc/item/0m96d1fm> [<https://perma.cc/LM2S-8382>] (discussing the political use of the DREAMer narrative to support undocumented college students).

assist LEA work on school campuses. In fact, studies found that limited cooperation policies did build trust between LEAs and immigrants in the community.<sup>154</sup>

While many LEAs opposed to SB 54 were fundamentally committed to entanglement with ICE, others, like the school police, recognized SB 54's potential to reinforce trust between LEAs and immigrants. During the legislative campaign, advocates and crime victims emphasized terrifying incidences when, after calling 911 for help, crime victims were instead criminalized by the responding LEA officer and immigration enforcement. One highlighted incident involved Marcela Rodriguez, a single mother of three U.S. born children who, after calling a local LEA to report her ex-husband for domestic violence, was placed under arrest and had an ICE detainer placed on her.<sup>155</sup> LEAs were aware of the erosion of trust that resulted from interactions like Marcela's long before SB 54 was introduced. The pressure to address this eroding trust was part of what led LEAs to make statements that attempted to reassure immigrants fearful of mass deportation. CSSA's opposition letter suggested, however, that this erosion mattered less than the loss of their discretionary power to engage in immigration enforcement alongside ICE and other federal agencies.

The Cal Chiefs' neutral approach during the committee hearing was also noteworthy. They stated that "local law enforcement d[id]n't want to be put in a position of tearing families apart."<sup>156</sup> According to their lobbyist, behind the scenes:

Cal Chiefs immediately flagged [SB 54] as being hostile to our public safety goals. However, this was not an ordinary bill, and it was not being carried under ordinary circumstances, and not by an ordinary author . . . .

Kevin de Leon as the President pro tempore of the Senate ranks with the Speaker of the Assembly and the Governor as one of the top three most influential politicians in the Capitol. Legislation can live and die by his hand. Understanding the power of the author's office, Cal Chiefs

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154. See Ricardo D. Martínez-Schuldt & Daniel E. Martínez, *Immigrant Sanctuary Policies and Crime-Reporting Behavior: A Multilevel Analysis of Reports of Crime Victimization to Law Enforcement, 1980 to 2004*, 86 AM. SOCIO. REV. 154 (2021).

155. *Domestic Violence Survivor Calls Police and Is Detained, Could Be Deported, #NOT1MORE*, <http://www.notonemoredeportation.com/portfolio/marcela> [https://perma.cc/C2HK-2DC5] (last visited Feb. 23, 2022).

156. *Senate Public Safety Committee*, *supra* note 147, at 24:58.

withheld from immediately issuing an oppose letter, and instead set a meeting to discuss our concerns.<sup>157</sup>

The power of the pro tem and the political moment explains why LEA leadership throughout the state set out to meet with the pro tem to lobby against the bill. SB 54's provision prohibiting ICE from being in local jails garnered particular opposition from county sheriffs—the operators of these facilities. In a letter dated February 23, 2017, Ventura County Sheriff Geoff Dean expressed concerns over being unable to communicate with ICE about people in the county jails.<sup>158</sup> According to Sheriff Dean, “[b]etween October 1, 2015 and September 30, 2016 . . . ICE removed 238 people from our custody”—“a very small fraction of our annual bookings, but the crimes are serious.” He stated that detainees were “held on suspicion of, or for having been convicted of, a variety of crimes including: murder, rape, robbery, child molestation, and weapons possession (a list is attached).” He also expressed concerns over those not in his jurisdiction, including noncitizens imprisoned in state prisons.<sup>159</sup> His underlying claim, like other LEAs opposed to SB 54 at this stage, was that his ability to remove dangerous individuals from his policing jurisdictions hinged on his ability to work with ICE.<sup>160</sup>

California LEAs were effective at distinguishing their involvement in detaining noncitizens from the broader immigration enforcement system even though such involvement plays an instrumental part in immigration enforcement. This is why Sheriff Dean could say that “[s]hould an individual commit a crime that rises to the level of being booked into jail or is convicted of a crime, I believe they should not be returned to our streets without proper communication with federal authorities”; and then, in the same letter, state that “the Sheriff’s Office and Ventura County law enforcement has a long history of NOT being directly involved in the enforcement of immigration laws.”<sup>161</sup>

Arguments like these are rooted in the civil versus criminal immigration enforcement binary. They serve as an example of how engrained the good immigrant, bad immigrant narrative was in shaping state and local LEA views of

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157. Update From Cal. Police Chiefs Ass’n to Members, *supra* note 143.

158. Letter From Geoff Dean, Ventura Cnty. Sheriff, to Kevin de León, Senate President Pro Tempore (Feb. 23, 2017) (on file with author).

159. *Id.* at 2 (“Criminal [noncitizens] in local jails are just part of the picture. There are 11,500 undocumented criminal [noncitizens] in the State Prison System that already have ICE detainees. Your legislation would allow these most serious offenders . . . , who are in our country [without authorization], to be released back into our communities.”).

160. *Cf.* Declaration of Thomas D. Homan, *supra* note 53, at 17–25 (“The inability to identify removable criminal [noncitizens] prior to release from state or local custody inhibits the safe and effective apprehension of criminal [noncitizens] for removal.”).

161. Letter From Geoff Dean, *supra* note 158, at 2.

the politically acceptable levels of immigrant criminality in their fight against SB 54. For many of these LEAs, any criminality seemed to necessitate an immigration enforcement response. The reasoning behind these arguments, in turn, demonstrate that limiting immigration enforcement to criminal immigrants achieves the same ends as civil immigration enforcement, and deeply entrenches LEAs in immigration enforcement, despite denials of LEA involvement.

After the bill was introduced in January, the next few months showcased the power of the LEA lobby to slow down the momentum of SB 54. On March 1, 2017, the bill was amended to neutralize opposition and gain support from LEAs and moderate Democrats. The amendments were designed to permit greater cooperation between LEAs and federal authorities. First, LEAs were allowed to participate in joint task forces, as long as they did not involve immigration enforcement and reported this involvement to the California attorney general.<sup>162</sup> Pro Tem de León also added a controversial amendment to the bill known as the “mandatory notification requirement” amendment.<sup>163</sup> It required the Board of Parole Hearings and the CDCR to provide the FBI with a sixty-day notification before any person’s release from state custody if that person had been convicted of a violent felony. It also allowed sheriffs’ departments to provide the FBI with the release date of people being held in jail for a misdemeanor offense who also had a prior violent felony conviction. While the amendment helped gain the

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162. CAL. GOV’T CODE § 7284.6 (West 2021); S.B. 54, 2017–2018 Leg., Reg. Sess. (Cal. 2017) (amended Mar. 1, 2017).

163. CAL. PENAL CODE §§ 3058.10, .11; S.B. 54, 2017–2018 Leg., Reg. Sess. (Cal. 2017) (amended Mar. 1, 2017). During the Senate Appropriations Committee hearing, de León explained:

Under SB 54, we will continue to comply with judicial warrants to transfer dangerous offenders into federal custody for immigration enforcement purposes. New amendments to my bill direct state prisons and sheriffs to notify the federal government prior to the release of violent felons from custody, giving ICE ample time to pick up the criminals they claim to be prioritizing. Nobody wants dangerous criminals in our communities and President Trump has said he only intends to deport the “bad hombres.” But the actions of his administration tell us something different. Headlines from across the nation tell of arrests and deportations of folks who could hardly be described as dangerous—a grandmother from San Diego, a father in Los Angeles dropping off his daughter at school, DREAMers, a victim of domestic violence who was taken out of a court room, a young mother age of twenty-six with a brain tumor who was taken out of her hospital bed. Expect many, many more stories.

*Senate Appropriations Committee*, CAL. STATE SENATE, at 09:34 (Mar. 13, 2017), <https://www.senate.ca.gov/media-archive> [<https://perma.cc/JAS6-AJAH>].

coauthorship of Assemblymember Jim Cooper,<sup>164</sup> a former deputy in the Sacramento County Sheriff's Department,<sup>165</sup> it failed to quell LEA opposition.<sup>166</sup>

A few days after these amendments were made, Sacramento Sheriff Scott Jones participated in a Republican-led press conference opposing SB 54<sup>167</sup> and organized a public forum where he hosted the acting director of ICE, Thomas Homan.<sup>168</sup> CSSA also continued to oppose SB 54. It argued that the bill still lacked "clarity as to lawful task force participation" and opposed the bill's new task force reporting requirements.<sup>169</sup> CSSA further critiqued the bill for only allowing "communication with the FBI (not ICE) ... [and not] about persons convicted of felonies and who are in jail custody or persons alleged to have committed a criminal offense."<sup>170</sup>

One particular argument CSSA raised that drew the ire of immigrants' rights advocates was that "prohibiting ICE access to[] jail inmates of interest to ICE [wa]s likely to push ICE apprehension efforts out to communities, where collateral impacts on the family members of those wanted persons are likely."<sup>171</sup> ICE told LEAs, including the California Highway Patrol (CHP), that if SB 54 prohibited ICE access to jails they would be forced to go into communities to conduct more immigration enforcement.<sup>172</sup> But as the pro tem noted, ICE

164. Alberto Garcia, *Sanctuary Status for State Could Protect Millions From Deportation*, LA PRENSA SAN DIEGO (Mar. 16, 2017), <https://laprensa-sandiego.org/sanctuary-status-for-state-could-protect-millions-from-deportation> [<https://perma.cc/4VQV-NPMV>].

165. Assemblymember Cooper was a former LEA official who has been behind efforts to roll back recent criminal justice reform efforts. See Jessica Pishko, *In Liberal California, a Crusader Against Criminal Justice Reform*, APPEAL (Aug. 19, 2019), <https://theappeal.org/in-liberal-california-a-crusader-against-criminal-justice-reform> [<https://perma.cc/6EM4-GPUL>].

166. E.g., Letter From Jim McDonnell, Los Angeles Cnty. Sheriff, to Kevin de León, Senate President Pro Tempore (Mar. 9, 2017) (on file with author) (opposing SB 54, specifically noting the limited crime exceptions that would allow the sheriffs to notify the FBI).

167. Jazmine Ulloa, *California Sheriffs Say 'Sanctuary State' Bill Would Prevent Immigration Officials From Going After Violent Offenders*, L.A. TIMES (Mar. 6, 2017, 11:46 AM), <https://www.latimes.com/politics/essential/la-pol-ca-essential-politics-updates-201703-htmstory.html#california-sheriffs-say-sanctuary-state-bill-would-prevent-immigration-officials-from-going-after-violent-offenders> [<https://perma.cc/SB8W-B9XB>] (stating at the press conference that "[i]f SB 54 passes, it will allow dangerous, violent career criminals to slip through the cracks and be released back into our communities").

168. *ICE Chief Thomas Homan and Sac Sheriff Scott Jones Met With Hostile Crowd at Forum, Defend Federal Immigration Policies*, CAPRADIO (Mar. 29, 2017), <https://www.capradio.org/news/insight/2017/03/29/insight-032917a> [<https://perma.cc/935S-XD7G>].

169. See S. RULES COMM., SENATE FLOOR ANALYSES, S.B. 54, 2017–2018 Leg., Reg. Sess., at 13 (Cal. Mar. 17, 2017).

170. *Id.*

171. *Id.*

172. See CAL. HIGHWAY PATROL, S.B. 54 ENROLLED BILL REPORT 2 (2017) (on file with author).

agents were already in the community “tearing apart families.”<sup>173</sup> In fact, in March 2017, immediately after dropping off his daughter in front of her Los Angeles elementary school, Romulo Avelica-Gonzalez was surrounded by ICE agents in unmarked cars and then arrested based on a 2014 deportation order.<sup>174</sup> Essentially, ICE was already bypassing local jails and acting as if it did not have access to noncitizens in jails, even in jurisdictions where local LEAs claimed to be maintaining such access.<sup>175</sup> Nevertheless, this argument would become a primary talking point that LEAs would use to oppose SB 54, even LEAs that did not operate local jails.<sup>176</sup> Meanwhile,

[t]hrough the end of winter and into the spring, Cal Chiefs continually met with de Leon’s office and [Cal Chiefs] president, Chief Medrano, met directly with the senator to highlight [their SB 54] concerns. However, after those discussions failed to produce the results [] needed, Cal Chiefs issued a lengthy and detailed opposition letter while the bill was still in the senate.<sup>177</sup>

Much like CSSA, the Cal Chiefs criticized the prohibitions on ICE access to jails and LEA participation in joint task forces.<sup>178</sup> Immigrants’ rights advocates raised concerns about how these task forces facilitated LEA involvement in immigration enforcement and often resulted in collateral arrests.<sup>179</sup> Regardless of these collateral consequences, the Cal Chiefs remained unwavering in their position that local LEAs be allowed to participate in task forces. The Cal Chiefs asserted that

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173. Alejandra Molina & Brenda Gazzar, *How California’s ‘Sanctuary State’ Bill Would Further Limit ICE’s Ability to Arrest Immigrants*, L.A. DAILY NEWS (Aug. 28, 2017, 5:23 AM), <https://www.dailynews.com/2017/07/21/how-californias-sanctuary-state-bill-would-further-limit-ices-ability-to-arrest-immigrants> [https://perma.cc/UY6W-NQ8F].

174. Andrea Castillo, *Immigrant Arrested by ICE After Dropping Daughter Off at School, Sending Shockwaves Through Neighborhood*, L.A. TIMES (Mar. 3, 2017, 4:11 PM), <https://www.latimes.com/local/lanow/la-me-immigration-school-20170303-story.html> [https://perma.cc/5NSW-QC28].

175. See Molina & Gazzar, *supra* note 173 (discussing how ICE agents claimed they did not have access despite Riverside Sheriff deputies stating they had an open policy for ICE to access its jails).

176. See, e.g., Letter From Ken Corney & Jonathan Feldman, Cal. Police Chiefs Ass’n, to Kevin de León, Senate President Pro Tempore (Mar. 13, 2017) (on file with author).

177. Update From Cal. Police Chiefs Ass’n to Members, *supra* note 143.

178. Letter From Ken Corney & Jonathan Feldman, *supra* note 176.

179. Following a five-year investigation, ICE and the Santa Cruz Police Department conducted a joint raid in February 2017 intended to target allegedly dangerous gang members. Lasch, Chan, Eagly, Haynes, Lai, McCormick & Stumpf, *supra* note 21, at 1735. During this raid, ICE arrested and deported noncitizens without any gang affiliation. *Id.* at 1735 n.161 (noting that the Santa Cruz County Sheriff did not participate in the raid because ICE was not able to guarantee that his deputies would not help in making immigration arrests).

these task forces, focused on “organized crime, human trafficking, and national security,” allowed them to coordinate targeted efforts against identified criminals, including gang or drug cartel members for civil or criminal immigration violations.<sup>180</sup> Like CSSA, the Cal Chiefs also felt that the amended language allowing task force participation was ambiguous and lacked clear guidelines. At this point, CSSA and the Cal Chiefs opposition strategy publicly merged, and many advocates and supporters of SB 54, along with members of the immigrant community, believed that this opposition served to help the federal administration’s anti-immigrant policies.

Seemingly, the Cal Chiefs chafed against this public perception. In fact, they cushioned their opposition letter to SB 54 by highlighting that they had “a track record of standing behind California’s large immigrant community,” including backing drivers’ licenses for undocumented immigrants.<sup>181</sup> Nevertheless, they also supported that statement by saying they, like Sheriff Dean, “strongly believe[d] that undocumented immigrants who commit violent and serious offenses against members of [the] community should be subject to the immigration laws of this country.”<sup>182</sup> Once again, the contradictions enabled by the civil versus criminal enforcement binary were made bare.

This round of LEA opposition succeeded in forcing more amendments on SB 54. As the Cal Chiefs lobbyist stated, “[a]s a result of our opposition, the bill stalled on the Senate Floor for almost a month and de Leon was forced to take a series of amendments.”<sup>183</sup> According to the senate’s *Floor Analysis of S.B. 54*:

Senate Floor Amendments of 3/29/17 ma[d]e numerous changes to address issues raised by law enforcement, including 1) allowing local law enforcement to contact [ICE] and transfer people of ICE, without a warrant, if the person was previously deported for a violent felony; 2) allowing response to notification request from ICE and releasing date information if that information is available to the public; 3) allowing ICE to interview people in custody or transfer to federal immigration authorities if there is a judicial warrant; [and] 4) clarifying that local law enforcement can participate in a joint task force so long as immigration enforcements not the “primary” purpose . . . .<sup>184</sup>

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180. Letter From Ken Corney & Jonathan Feldman, *supra* note 176.

181. *Id.*

182. *Id.*

183. Update From Cal. Police Chiefs Ass’n to Members, *supra* note 143.

184. See S. RULES COMM., *supra* note 169, at 1.

The amendments also removed the urgency clause from the bill, which meant that if the governor signed the bill, it would not become effective until January 1, 2018. The bill passed the senate with two-thirds of the senate in support; the vote fell along party lines with Democrats voting yes and Republicans voting no. Realizing that even their most staunch Democratic allies in the senate voted for the bill, the Cal Chiefs began crafting additional amendments to the bill in anticipation of negotiations in the assembly.<sup>185</sup> They “felt an obligation to not let this bill become another piece of legislation in the wake of AB 109, Prop. 47, and Prop. 57 to make it harder for law enforcement to protect their communities.”<sup>186</sup> CSSA also continued to oppose SB 54, using largely the same opposition arguments they deployed against the previous version of SB 54.<sup>187</sup>

After these amendments to SB 54, the bill inched away from its strong protective aims to insulate noncitizens in California from immigration enforcement. Whereas SB 54, as introduced, made no distinction between civil and criminal immigration enforcement engagement, the senate amendments changed that. It also mandated sixty-day notifications to the FBI regarding all individuals, including noncitizens, set to be released from state prisons. The amendments sanctioned an LEA’s ability to treat noncitizens differently than citizens, simply because they were noncitizens engaged in criminal activity. Nevertheless, this version of the bill still proposed important protections. For instance, it still offered stronger protections against detainer, notification, and transfer requests than the TRUST Act, its protections also still applied to the state’s prisons where none existed, and it still prohibited the use of state and local databases for immigration enforcement purposes.

## 2. A One on Two Match Up: California State Assembly and the Governor

During a March interview with *Meet the Press*, Governor Brown stated he was “not going to just turn over [California’s] police department to become agents of the federal government as they deport women and children and people who are contributing to the economic well-being of our state.”<sup>188</sup> For some, this signaled hope that the governor would be willing to make changes to the status quo of LEA

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185. Update From Cal. Police Chiefs Ass’n to Members, *supra* note 143.

186. *Id.*

187. See S. RULES COMM., *supra* note 169, at 13.

188. Kailani Koenig, *Gov. Jerry Brown to Trump: ‘You Don’t Want to Mess With California,’* NBC NEWS (Mar. 26, 2017, 10:07 AM), <https://www.nbcnews.com/politics/donald-trump/gov-jerry-brown-trump-you-don-t-want-mess-california-n738636> [https://perma.cc/YYV5-XQ9B].

involvement in immigration enforcement. But others remembered the governor's veto of the 2012 TRUST Act and his subsequent push for a long list of carve outs that became the TRUST Act Standard.<sup>189</sup> They also remembered that, as the state's attorney general, he stated that he did not "support sanctuary cities."<sup>190</sup>

Though no longer an urgency bill, SB 54's arrival to the assembly signaled that conversations between Pro Tem de León and the governor, at the very least, needed to commence. But the bill needed to go through the assembly to get to the governor, and the more moderate assembly worried about making electorally vulnerable legislators vote on a bill heavily opposed by LEAs.<sup>191</sup> Therefore, it became desirable for the assembly to wait for an agreement between the governor and the pro tem on what a final amended SB 54 would look like before it was brought up on the assembly floor for a vote. Presumably, as the Cal Chiefs had signaled in the senate, these negotiations would help neutralize some LEA opposition and make legislators more comfortable voting on the bill. At this point, the primary focus for legislators was no longer resisting President Trump's mass deportations but assuaging LEA opposition.

Governor Brown opposed President Trump's candidacy—a candidacy that relied heavily on anti-immigrant rhetoric and directly implicated California's large immigrant community. Unlike many of his fellow, Democratic statewide office holders and legislative counterparts, however, Governor Brown enjoyed the political endorsements of LEAs throughout his political career.<sup>192</sup> Though not a

189. See Ben Adler, *Jerry Brown Hasn't Supported "Sanctuary State" Bill in the Past*, JEFFERSON PUB. RADIO (Feb. 13, 2017, 9:32 AM), <https://www.ijpr.org/immigration/2017-02-13/jerry-brown-hasnt-supported-sanctuary-state-bill-in-the-past> [<https://perma.cc/EW9B-PGBM>].

190. Elizabeth Aguilera, *Brown Heads Toward Decision Time on Sanctuary State Bill*, S.F. CHRON. (May 7, 2017, 1:53 PM), <https://www.sfchronicle.com/politics/article/Brown-heads-toward-decision-time-on-sanctuary-11127402.php> [<https://perma.cc/FHW5-M8W8>] (stating "[j]ust opening up the cities and saying our borders don't mean anything, as the state's chief law enforcement officer, I'm not going there").

191. Cf. David Siders, *California Democrats Plunge Into 'Civil War,'* POLITICO (July 10, 2017, 5:08 AM), <https://www.politico.com/story/2017/07/10/california-democrats-elections-240341> [<https://perma.cc/S448-7DT2>]. But see Steven A. Krieger, *Do "Tough on Crime" Politicians Win More Elections?: An Empirical Analysis of California State Legislators from 1992 to 2000*, 45 CREIGHTON L. REV. 131 (2011) (showing that California elected officials may not even become more electorally vulnerable). It was also rumored that Assembly Speaker Rendon did not share the same sense of urgency Pro Tem de León had in making the bill law.

192. E.g., *California Coalition of Law Enforcement Associations Representing 80,000 Officers Endorses Attorney General Jerry Brown for Governor*, JERRY BROWN (Oct. 12, 2010), [https://web.archive.org/web/20141105001908/http://www.jerrybrown.org/california\\_coalition\\_of\\_law\\_enforcement\\_associations\\_representing\\_80\\_000\\_officers\\_endorses\\_attorney\\_general\\_jerry\\_brown\\_for\\_governor](https://web.archive.org/web/20141105001908/http://www.jerrybrown.org/california_coalition_of_law_enforcement_associations_representing_80_000_officers_endorses_attorney_general_jerry_brown_for_governor) [<https://perma.cc/7AXG-25AH>]; *California's Police Chiefs Endorse Attorney General Jerry Brown for Governor*, JERRY BROWN, [https://web.archive.org/web/20201202191716/http://www.jerrybrown.org/california\\_s\\_poli](https://web.archive.org/web/20201202191716/http://www.jerrybrown.org/california_s_poli)

staunch conservative, he also was not a progressive Democrat. He had experience as the state's attorney general, which in many ways made him the chief law enforcement officer. For LEAs, he was the best public safety candidate in the highest position power in a supermajority Democratic state they could get behind. Consequently, the governor participated in LEA lobby-related events, including the swearing in of Sheriff Brown as the 2017 CSSA president.<sup>193</sup> As governor, his relationships with the LEAs paid dividends in other efforts. For example, when Governor Brown wanted to reduce the state prison population through initiatives like Proposition 57, he was able to prevent widespread LEA opposition through his cooperation with the LEA lobby.<sup>194</sup> Governor Brown's relationship with California LEAs signaled that he might not support the strong protections offered by SB 54, even in the bill's amended form coming out of the senate, despite his opposition to President Trump. To no one's surprise, the governor took LEA opposition to SB 54 seriously.<sup>195</sup>

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ce\_chiefs\_endorse\_attorney\_general\_jerry\_brown\_for\_governor [https://perma.cc/2KVVW-5Y96] (last visited Feb. 13, 2022); *Law Enforcement Leaders Back Governor Brown on Key Budget Proposal*, OFF. GOVERNOR EDMUND G. BROWN JR. (Mar. 8, 2011), <https://www.ca.gov/archive/gov39/2011/03/08/news16924/index.html> [https://perma.cc/DZ5B-SL49].

193. April Charlton, *Sheriff Bill Brown Installed as New CCSA President*, LOMPOC REC. (May 1, 2017), [https://lompocrecord.com/news/local/sheriff-bill-brown-installed-as-new-ccsa-president/article\\_8072eaa8-66aa-5cc8-b77e-f92a0ae9cecb.html](https://lompocrecord.com/news/local/sheriff-bill-brown-installed-as-new-ccsa-president/article_8072eaa8-66aa-5cc8-b77e-f92a0ae9cecb.html) [https://perma.cc/3NBY-HFJE].
194. The California LEA lobby, including CSSA and the Cal Chiefs, decided against opposing the statewide proposition. See David Siders, *On California Parole Initiative, 'No One Wants to Oppose the Governor,' POLITICO: CAL.* (Oct. 24, 2016, 8:56 AM), <https://www.politico.com/states/california/story/2016/10/on-early-parole-in-california-no-one-wants-to-oppose-the-governor-106612> [https://perma.cc/238P-UA5E]. But see Marc Benjamin, *'Hey, Margaret': Gov. Brown Scolds Fresno County Sheriff in Voice Mail*, FRESNO BEE (Aug. 26, 2016, 11:06 AM), <https://www.fresnobee.com/news/politics-government/election/article97749297.html>.
195. In response, immigrants' rights advocates would seek to counter LEA influence by framing SB 54's efforts as in line with Governor Brown's own criminal legal reform efforts. In doing so, advocates relied on the help of the faith community who also shared a close relationship with the governor. At the same time, the governor had a mixed history of supporting criminal legal system reforms and being tough on crime as a governor in the 1970s, the California attorney general, and then governor in the early 2010s. See *Jerry Brown Biography*, OFF. GOVERNOR EDMUND G. BROWN JR., [https://web.archive.org/web/20140703153459/http://gov.ca.gov/m\\_about.php](https://web.archive.org/web/20140703153459/http://gov.ca.gov/m_about.php) [https://perma.cc/6WKU-LKE7] (last visited Feb. 13, 2022); see also Michael Vitiello, *Mass Incarceration: Why Are Solutions So Difficult in California?*, 15 U. MD. L.J. RACE, RELIGION, GENDER & CLASS 229, 243–47 (2015) (providing a personae dramatis based on Governor Brown and examples of criminal justice reform policies he supported and opposed, including prison realignment).

Pro Tem de León knew that garnering LEA support was crucial for SB 54's survival in the assembly. In May 2017, Jim Hart, the sheriff-coroner for the County of Santa Cruz, sent a letter of support to Pro Tem de León making analogous arguments to CCUPCA.<sup>196</sup> Sheriff Hart stated that:

Local law enforcement involvement in federal immigration related matters damages community confidence, placing victims and potential witnesses at risk . . . Public safety is [also] not enhanced when local law enforcement officers enforce immigration laws or act in a manner that causes suspicion within the diverse communities we serve.<sup>197</sup>

It is worth noting that, in practice, Sheriff-Coroner Hart's stance on police-ICE entanglement was more complicated than this letter would have it seem, given that he still let ICE into his own jails.<sup>198</sup> This stands as yet another example of how engrained criminal immigration enforcement is in California LEA culture, including LEAs that professed to support SB 54.

Elsewhere, the California LEA lobby knew that time was of the essence once the bill reached the assembly. While Pro Tem de León tried to garner support, sheriffs from throughout California, including former CSSA president and sheriff of Kern County, Donny Youngblood, went to Sacramento to meet with legislators and Governor Brown to lobby against SB 54.<sup>199</sup>

Meanwhile, the bill was assigned to the Assembly Public Safety and Judiciary Committees.<sup>200</sup> As they did before the Senate Public Safety Committee, advocates once again invited people directly impacted by police-ICE

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196. See Letter From Jim Hart, Cnty. of Santa Cruz Sheriff-Coroner, to Kevin de León, Senate President Pro Tempore (May 10, 2017) (on file with author).

197. *Id.*

198. Sheriff-Coroner Hart's support was challenged two months later by local defense attorneys concerned with the Sheriff continuing to let ICE into local jails to interview people in his custody. See Matthew Renda, *Defense Attorneys Question Sheriff's Immigration Stance*, GOOD TIMES (July 12, 2017), <https://goodtimes.sc/santa-cruz-news/defense-attorneys-question-sheriff-jim-hart-immigration-stance> [[https:// perma.cc/4RE3-H9Z8](https://perma.cc/4RE3-H9Z8)].

199. Rasna Suri, *Sheriffs Meet With Lawmakers to Voice Concerns Over Sanctuary State Bill (SB-54)*, 23 ABC NEWS: BAKERSFIELD (May 17, 2017, 8:22 AM), <https://www.turnto23.com/news/local-news/sheriffs-meet-with-lawmakers-to-voice-concerns-over-sanctuary-state-bill-sb-54> [<https://perma.cc/FF95-7MNJ>].

200. The assembly referred the bill to an additional committee based on concerns over the bill's constitutionality even though Pro Tem de León's outside counsel, previously hired by the assembly, argued it was constitutional. See White, *supra* note 1; Katy Murphy, *California Assembly to Drop \$25,000 Monthly Contract With Eric Holder's Firm*, MERCURY NEWS (June 1, 2017, 4:40 PM), <https://www.mercurynews.com/2017/06/01/california-assembly-to-drop-25000-monthly-contract-with-eric-holders-firm> [[https:// perma.cc/ZG5A-2PNV](https://perma.cc/ZG5A-2PNV)]; see also Letter From Eric H. Holder, Jr., *supra* note 151.

entanglement to the June 13, 2017 Assembly Public Safety Committee hearing to testify in support of the bill. Guadalupe Plascencia provided testimony of her experience as a U.S. citizen erroneously transferred to ICE custody by San Bernardino sheriffs. To counter her story, the San Bernardino County Sheriff's Department sent a sergeant to testify that the Inland Regional Center attack in November 2015 counseled against letting SB 54 limit the department's cooperation with federal authorities.<sup>201</sup> The California LEA lobby turned out in greater number to this hearing than they did during the Senate Public Safety hearing—though their presence still paled in comparison to the large group of advocates who showed up to support SB 54.<sup>202</sup> Despite this opposition, including from Assemblymember Tom Lackey, a former CHP officer, who stated SB 54 would protect the “wrong part of the immigrant culture,”<sup>203</sup> SB 54 was voted out of the committee without substantive amendments and referred to the Assembly Judiciary Committee.

Pro Tem de León continued to maneuver in search of additional LEA support or neutrality. In doing so, he gained the support of Los Angeles Police Department (LAPD) Chief Charlie Beck.<sup>204</sup> The amendment, however, that purportedly brought him on board allowed LEAs to transfer an individual to ICE for the immigration crime of unauthorized reentry if (1) it followed the removal of that individual from the country because of an aggravated felony conviction and (2) that individual was also previously convicted of a violent felony (unauthorized reentry crime exception).<sup>205</sup> Other amendments made during this time also allowed LEAs to transfer an individual to ICE custody for criminal immigration violations based on a judicial probable cause determination<sup>206</sup> and clarified that the

201. *Assembly Public Safety Committee*, CAL. SEC'Y STATE: CAL. CHANNEL, at 2:00:00 (June 13, 2017), <https://www.sos.ca.gov/archives/calchannel> [<https://perma.cc/5GLM-2HWS>].

202. LEA lobbyists and representatives that attended the hearing included CSSA, the Cal Chiefs, the San Bernardino County Sheriff's Department, the Peace Officers Research Association of California (PORAC), the Association for Los Angeles Department Sheriffs, the Los Angeles Police Protective League, CPOA, Los Angeles County Sheriff Jim McDonnell, and the Riverside Sheriffs' Association. *See id.* at 1:53:30.

203. *Id.* at 2:03:40.

204. Antonie Boessenkool, *Eric Holder, LAPD Chief Say 'Sanctuary State' Bill Will Restore Trust Between Immigrants, Police*, L.A. DAILY NEWS (Sept. 14, 2017, 1:17 PM), <https://www.dailynews.com/2017/06/19/eric-holder-lapd-chief-say-sanctuary-state-bill-will-restore-trust-between-immigrants-police> [<https://perma.cc/H39F-JEQ5>].

205. *See* CAL. GOV'T CODE §§ 7284.4(f), 7284.6(a)(5) (West 2021); S.B. 54, 2017–2018 Leg., Reg. Sess. (Cal. 2017) (amended Mar. 29, 2017); *see also* 8 U.S.C. § 1326(a), (b)(2).

206. *See* CAL. GOV'T CODE §§ 7284.4(h), 7284.6(a)(5), (e); S.B. 54, 2017–2018 Leg., Reg. Sess. (Cal. 2017) (amended June 19, 2017).

judicial warrant requirement only applied to violations of federal criminal immigration law.<sup>207</sup>

Before these amendments, SB 54 would have prohibited all LEA to ICE transfers unless the LEA obtained a warrant based on probable cause issued by a federal judge. Now, LEAs could transfer individuals to ICE by relying on the unauthorized reentry crime exception or a judicial probable cause determination. These amendments kept LEA to ICE transfers alive in the federal criminal immigration enforcement context. Notwithstanding Chief Beck's support, it was unclear how effective making exceptions for him and other Los Angeles LEAs would be in garnering support for SB 54 from LEAs or legislators outside of Los Angeles.

It seemed the more SB 54 concessions were made to LEAs, the more concessions they wanted. Through each provision of SB 54, LEAs sought more exceptions, more discretion, and more carve outs to the TRUST Act standard. While SB 54 sought to build a bulwark to protect immigrants, California LEAs sought to weaken those protections as much as legislative leaders and the governor would let them. Complicating matters further was Pro Tem de León's use of the good immigrant, bad immigrant narrative during legislative hearings to distinguish between the noncriminal immigrants he argued the bill was intended to protect and the criminal immigrants it was not.<sup>208</sup> Adopting this rhetoric legitimated the arguments used by LEAs and others to oppose SB 54. As such, the use of the language seemed to help politically clear the path toward more LEA-based concessions.

At the press conference announcing Chief Beck's support of SB 54, alongside former U.S. Attorney General Eric Holder and the pro tem, Chief Beck reassured the press that SB 54 was far from a "soft-on-crime bill."<sup>209</sup> Nevertheless, the Cal Chiefs characterized this press conference as an attempt by the pro tem to "obscure nearly unanimous law enforcement opposition to Senate Bill 54."<sup>210</sup> They affirmed that they were "at the center of ongoing discussions between law enforcement advocates" and the legislature on SB 54. PORAC, CSSA, and the Cal Chiefs

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207. CAL. GOV'T CODE § 7284.4(i); S.B. 54, 2017–2018 Leg., Reg. Sess. (Cal. 2017) (amended June 19, 2017).

208. See, e.g., *Assembly Public Safety Committee*, *supra* note 201, at 1:30:55 (stating during the hearing that "[w]e all agree that we do not want dangerous criminals in our communities. Senate Bill 54 is about ensuring criminals stand trial for their crimes instead of being snatched from our jails and deported only to return later and commit more crimes").

209. Boessenkool, *supra* note 204.

210. Update From Cal. Police Chiefs Ass'n to Members (June 20, 2017) (on file with author).

continued to oppose SB 54,<sup>211</sup> persisting to raise their now standard arguments at the next committee hearing.<sup>212</sup>

With Chief Beck backing his efforts, Pro Tem de León invited LAPD Director of Constitutional Policing Aref Ali-Khan to testify in support of the bill during the July 5, 2017 Assembly Judiciary Committee hearing.<sup>213</sup> As part of his testimony, Ali-Khan stated that SB 54 would be codifying what LAPD had been doing for almost 40 years.<sup>214</sup> Ali-Khan's remarks were telling; in truth, most amendment pushes were attempts to get the bill to mirror what respective LEAs were already allowed to do in their own, local jurisdictions and to obviate the need for any affirmative changes to LEA policies and practices. Rather than have their lobbyist, a local sheriff, or one of their legal counsel testify, CSSA President, Sheriff Brown, flew from Santa Barbara County to oppose SB 54—symbolizing the importance that CSSA placed on opposing the bill at this stage of the legislative process. Despite the nearly unanimous LEA opposition, the bill was voted out of the committee on a party line vote.

Negotiations between the pro tem and LEAs stalled in the assembly as both sides awaited to hear from the governor. In turn, the Cal Chiefs turned to the governor to begin funneling their policy arguments and ideas for amendments to SB 54<sup>215</sup>—a strategy that CSSA had started early on. LEA leaders also stayed active during the legislative summer recess in their fight against SB 54. Like they did in March, they used the media to argue that the bill would provide sanctuary to criminals in an effort to shift public opinion against SB 54.<sup>216</sup> In doing so, the state's sheriffs allied with ICE officials, anti-immigrant groups, and rightwing media.<sup>217</sup>

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211. See ASSEMB. COMM. ON JUDICIARY, COMMITTEE ANALYSIS OF S.B. 54, at 18 (Cal. 2017).

212. *Id.* at 15.

213. Chief Beck was unable to attend the hearing and did not submit a letter of support for SB 54 in time to be reflected in the committee analysis.

214. See generally Doug Smith, *How LAPD's Law-and-Order Chief Revolutionized the Way Cops Treated Illegal Immigration*, L.A. TIMES (Feb. 5, 2017, 3:00 AM), <https://www.latimes.com/local/lanow/la-me-ln-special-order-40-retrospective-20170205-story.html> [<https://perma.cc/QZP6-WS9X>] (discussing LAPD's civil immigration enforcement policy).

215. Update From Cal. Police Chiefs Ass'n to Members, *supra* note 143.

216. E.g., Bill Brown, Opinion, *California's 'Sanctuary State' Bill Will Just Protect Criminals*, SACRAMENTO BEE (Aug. 1, 2017, 2:30 PM), <https://www.sacbee.com/opinion/california-forum/article164814072.html> [<https://perma.cc/4PZY-DU8F>].

217. Lee Fang & Ali Winston, *California Sheriffs Use Bare-Knuckle Tactics Against "Sanctuary State" Proposal*, INTERCEPT (Aug. 23, 2017, 11:43 AM), <https://theintercept.com/2017/08/23/california-sheriffs-immigration-battle-sb54-sanctuary-state> [<https://perma.cc/5YZ2-ZEXH>].

At the same time, immigrants' rights advocates pushed back with their own media campaigns<sup>218</sup> and at a grassroots level in their communities.<sup>219</sup>

Governor Brown spoke to Meet the Press in August, though this time with a less hopeful message for SB 54 proponents. He stated,

[SB 54] is a balancing act. It does require some sensitivity. And that's why I take a more nuanced and careful approach to dealing with what is a difficult problem. Because you do have people who are not here legally. They've committed crimes. They have no business in the United States in the manner in which they've come and conducted themselves subsequently.<sup>220</sup>

His comments were in line with his earlier concerns that led to the veto of the 2012 TRUST Act and the codification of the TRUST Act standard. These comments were also in line with LEA views of who was and was not worthy of state protection.

Later that month, proposed amendments from the governor's office were leaked to the press.<sup>221</sup> As the press put it, the Governor's amendments would expand the entanglement between LEAs and ICE to levels not even allowed under current law.<sup>222</sup> His proposed amendments called for applying the TRUST Act standard across the board for detainers, notifications, and transfer requests. The bill, as it stood, however, prohibited LEA's from honoring any detainer requests and had only serious and violent felony carve outs for notification and transfer requests. By then federal courts had also concluded that detainer requests were

218. E.g., Cynthia Buiza, Opinion, 'Sanctuary State' Bill Shields Immigrants From Trump Deportation Machine, SACRAMENTO BEE (Aug. 4, 2017, 11:38 AM), <https://www.sacbee.com/opinion/california-forum/article165419917.html> [<https://perma.cc/BWT7-DVZA>]; Melody Gutierrez, Assembly Members Targeted in Ads for Reluctance to OK State Sanctuary Bill, S.F. CHRON. (Aug. 21, 2017, 3:16 PM), <https://www.sfchronicle.com/politics/article/Assembly-members-targeted-in-ads-for-reluctance-11821676.php> [<https://perma.cc/D2TS-J38W>].

219. E.g., Anthony Victoria, Groups Call Out McMahon for Stance on SB 54, Collaboration With ICE, INLAND EMPIRE CMTY. NEWS (July 31, 2017), <http://iecn.com/groups-call-mcmahon-stance-sb-54-collaboration-ice> [<https://perma.cc/F5VK-WMYG>]; Kelsey Brugger, Sheriff Brown on the Hot Seat, SANTA BARBARA INDEP. (Sept. 8, 2017, 5:21 PM), <https://www.independent.com/2017/09/08/sheriff-brown-on-hot-seat> [<https://perma.cc/R4YE-YRF4>].

220. George Skelton, Opinion, Capitol Journal: Gov. Brown Is Right About the 'Sanctuary State' Bill: Protect Law-Abiders and Help Boot the Bad Guys, L.A. TIMES (Aug. 10, 2017, 12:05 AM), <https://www.latimes.com/politics/la-pol-sac-skeltonjerry-brown-sanctuary-state-20170810-story.html> [<https://perma.cc/6U3Q-ZSFS>].

221. See Aura Bogado, Gov. Jerry Brown's Draft "Sanctuary" Bill Creates New Routes for ICE in California, INTERCEPT (Aug. 28, 2017, 2:38 PM), <https://theintercept.com/2017/08/28/jerry-brown-sb54-california-sanctuary-state-ice-prisons> [<https://perma.cc/33FN-6GDL>] (providing a hyperlink to the governor's proposed amendments).

222. See *id.*

unconstitutional. The governor separately proposed allowing LEA to ICE transfers based on unlawful reentry alone, removing the aggravated felony enhancement and violent felony requirements negotiated with Chief Beck. The amendments also proposed removing prohibitions against ICE agents' access to local jails. The amendments additionally excluded the CDCR from any provisions of SB 54. Finally, the governor's proposed amendments struck out the mandatory notification requirement to the FBI previously added into the bill to garner LEA support.

Many of these amendments faced opposition from the pro tem's office and immigrants' rights advocates. The pro tem and governor's offices goal was to meet somewhere toward the middle of these set of proposed amendments and the latest amended version of SB 54. The governor's amendments, however, triggered significant opposition from immigrants' rights advocates, noting that the bill under the governor's amendments would not be anything close to resembling a sanctuary bill.<sup>223</sup> As some noted, individuals who reentered the country after deportation, were arrested for a nonviolent crime like food stamp fraud or marijuana cultivation, and were then sent to a local jail would be particularly exposed to immigration enforcement because of the amendments.<sup>224</sup> After months of opposition from LEAs and push back by the pro tem's office and supporters of SB 54, including the faith community,<sup>225</sup> the pro tem and the governor reached an agreement.

On September 11, 2017, SB 54 was significantly amended—for the last time. According to the senate's *Floor Analysis on S.B. 54*, the amendments would

- 1) Expand the list of crimes under which law enforcement has the discretion to notify and transfer a person to immigration authorities [the new TRUST Act standard for honoring notification and transfer requests].
- 2) Exempt the California Department of Corrections and Rehabilitation from the provisions of the bill, but require the Department to provide increased protections and equal treatment to immigrant inmates.

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223. *See id.*

224. *Id.*

225. Before attending law school, Governor Brown went to Jesuit school to become a Catholic priest. This is the reason why faith leaders, including those from PICO California and the Interfaith Movement for Human Integrity, played a key role lobbying against the LEA lobby's influence on SB 54. *E.g.*, Jazmine Ulloa (@jazmineulloa), TWITTER (Aug. 29, 2017, 12:08 PM), <https://twitter.com/jazmineulloa/status/902608974922432513?s=20> [<https://perma.cc/F4DW-AZFB>].

- 3) Allow immigration authorities to interview individuals in custody, but prohibit giving immigration authorities permanent office space in jails.
- 4) Delete prohibition on access to databases for immigration enforcement purposes, but require the Attorney General to develop guidance, audit criteria, and training recommendations on limiting access to information for the purposes of immigration enforcement.
- 5) Make technical changes to joint task force language to ensure law enforcement can continue to partner with federal agencies in the interest of public safety.<sup>226</sup>

Looking back at the five major categories of limited cooperation policies that have developed throughout the country in response to police-ICE entanglement, the final version of SB 54: (1) barred investigations of all civil immigration violations but only some investigations and arrests of criminal immigration violations by local law enforcement; (2) prohibited compliance with immigration detainers and immigration warrants; (3) limited the presence but did not refuse ICE access to local jails or prisons; (4) limited local law enforcement's disclosure of sensitive information unless it was publicly available; and (5) somewhat precluded local participation in joint operations with federal immigration enforcement.<sup>227</sup> Seen through these five major categories, SB 54, despite these amendments, came as close as any state law to disentangling LEAs from ICE.

The response from LEAs was mixed. The Cal Chiefs notified their members that SB 54 had been “drastically amended [to address their] concerns.”<sup>228</sup> They stated, while “[i]t took over nine months and countless hours of work[, we were able] to finally force these concessions from the author and the bill's sponsors.”<sup>229</sup> Because they felt supporting the bill was a big ask from their leadership, the Cal Chiefs changed their position on SB 54 from oppose to neutral. They concluded that the “law w[ould] not nearly have the consequential impact it would have without our engagement.”<sup>230</sup> The Cal Chiefs' position change led to moderate Democrat assemblymembers'—including those who represented Riverside, Santa Barbara, Ventura, Orange, Kern, and Sacramento Counties—support of SB 54. Importantly, this provided the bill a pathway out of the assembly and to the governor's desk.

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226. S. RULES COMM., *supra* note 169, at 2.

227. Lasch, Chan, Eagly, Haynes, Lai, McCormick & Stumpf, *supra* note 21, at 1707.

228. Update From Cal. Police Chiefs Ass'n to Members, *supra* note 143.

229. *Id.*

230. *Id.*

CSSA stated they were “grateful to Governor Brown for listening to [their] concerns about SB 54 and facilitating significant changes that attempt[ed] to address many of the issues [they had] been talking about for months” and that “[w]hile a good portion of [their] suggestions were ultimately incorporated, the bill still [went] too far in cutting off communications with the federal government.”<sup>231</sup> They continued to oppose the bill, seeking, for instance, more carve outs to the TRUST Act standard.

Individual sheriffs expressed similar views. Kern County Sheriff Youngblood commended the governor but remained opposed the bill.<sup>232</sup> Though CSSA President Sheriff Brown stated the bill gave the sheriffs 80 percent of what they wanted, he still wanted more amendments.<sup>233</sup> Taking a different position, “Los Angeles County Sheriff Jim McDonnell said the revised bill w[ould] preserve his department’s ability to maintain partnerships with federal law enforcement in the fight against gangs, drugs and human trafficking.”<sup>234</sup> He asserted that the governor and the legislature’s leadership allowed them to “move beyond the bill’s early false premise that local enforcement was going to act as immigration agents.”<sup>235</sup>

Like CSSA, CPOA remained opposed to this version of the bill because of concerns related to protections for convictions under Proposition 47 and the reporting requirements related to task forces.<sup>236</sup> And alarmingly, even before the bill was voted out of the assembly, the Cal Chiefs began notifying its members

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231. Press Release, Cal. State Sheriffs’ Ass’n, Sheriffs Remain Opposed to SB 54 Unless Further Amended (Sept. 12, 2017), <https://twitter.com/calsheriffs/status/907678485161717760?s=20> [<https://perma.cc/36PK-2XGL>].

232. Suzette Reynoso, *Kern County Sheriff Reacts to the Revised ‘Sanctuary State’ Bill*, BAKERSFIELD NOW (Sept. 12, 2017), <https://bakersfieldnow.com/news/local/kern-county-sheriff-reacts-to-the-revised-sanctuary-state-bill> [<https://perma.cc/UA5M-WVU4>].

233. Brenda Gazzar, *Where Does Inland Law Enforcement Stand on the Latest Version of SB54, the ‘Sanctuary State’ Bill?*, PRESS-ENTER. (Sept. 13, 2017, 7:33 AM), <https://www.pe.com/2017/09/12/where-does-inland-law-enforcement-stand-on-the-latest-version-of-sb54-the-sanctuary-state-bill> [<https://perma.cc/3GA2-FEWF>].

234. Debbie L. Sklar, *LA Sheriff McDonnell Fan of Senate Bill 54 Making CA ‘Sanctuary State?’*, MYNEWSLA.COM (Sept. 16, 2017), <https://mynews1a.com/government/2017/09/16/la-sheriff-mcdonnell-fan-senate-bill-54-making-ca-sanctuary-state> [<https://perma.cc/D3UU-GVGX>].

235. *Id.*

236. Press Release, Cal. Peace Officers’ Ass’n, Law Enforcement Leaders Remain Opposed to SB 54 (Sept. 12, 2017), <https://cpoa.org/wp-content/uploads/2017/09/SB-54-Press-Release.pdf> [<https://perma.cc/2BDL-8NZB>]; see generally *Proposition 47: The Safe Neighborhoods and Schools Act*, CAL. CTS., <https://www.courts.ca.gov/prop47.htm> [<https://perma.cc/R5TY-M7DE>] (last updated 2022).

about how they might be able to exploit loopholes in the agreed-upon language.<sup>237</sup> These mixed responses foreshadowed implementation challenges that were to come.

In spite of LEA opposition, SB 54 passed out of the legislature. It was voted off of the assembly floor on September 15, 2017, the last day of the legislative session—with fifty-one votes in favor, twenty-six votes opposed.<sup>238</sup> Assemblymember Adam Gray, who represented Stanislaus County, was the only Democrat who opposed the bill.<sup>239</sup> The next day, the senate voted once again twenty-seven to eleven in favor of passing the assembly amended version of SB 54. The bill was sent to the governor's office where it would await his signature.

### C. The Governor's Office

Because the bill was passed on the last day of the legislative session, Governor Brown had thirty days to decide whether to sign, allow it to become law without his signature, or veto SB 54. The presumed good faith negotiations between the pro tem and the governor, two of the three most powerful state leaders, strongly ruled out the possibility of the governor choosing the last option. As with all bills impacting the executive branch, the governor engaged relevant executive agencies and departments regarding their concerns with the bill during this thirty-day timeline. The state's executive departments and agencies provided the governor with an overview of the legal, fiscal, and economic impacts of SB 54 on their respective work.<sup>240</sup>

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237. AAAJ REPORT, *supra* note 28, at 7–8.

238. See *Bill Information*, CAL. LEGIS. INFO., [https://leginfo.legislature.ca.gov/faces/billVotesClient.xhtml?bill\\_id=201720180SB54](https://leginfo.legislature.ca.gov/faces/billVotesClient.xhtml?bill_id=201720180SB54) [<https://perma.cc/E2S9-G6PW>].

239. In May 2018, the assemblymember's local sheriff, Adam Christianson, would go on to meet with President Trump to discuss their opposition to SB 54. Emily Cadei, *Fresno, Stanislaus Sheriffs to Attend Anti-Sanctuary State Meeting With Trump*, SACRAMENTO BEE (May 16, 2018, 8:05 AM), <https://www.sacbee.com/news/politics-government/capitol-alert/article211200169.html> [<https://perma.cc/GD6S-QXLT>]. Sheriff Christianson would soon blame SB 54 for the death of Newman, California Police Corporal Ronil Singh, who was shot by Gustavo Perez Arriaga, an undocumented man from Mexico who had two prior DUIs. Julia Jacobo, *Man Suspected of Killing California Police Officer Ronil Singh Charged With Murder*, ABC NEWS (Jan. 2, 2019, 3:56 PM), <https://abcnews.go.com/US/man-suspected-killing-california-police-officer-ronil-singh/story?id=60117290> [<https://perma.cc/TGN3-AF6H>].

240. This included the California Health and Human Services Agency, the California Natural Resources Agency, the State Board of Education, the California Labor and Workforce Development Agency, and the California Labor and Workforce Development Agency (reports on file with author).

## 1. Executive State LEA Department and Agencies

All the state LEAs that were in one way or another impacted by SB 54 recommended that the governor sign the bill. For instance, in recommending he sign SB 54, the CDCR noted that it was excluded from most provisions of the bill, except for a new requirement to provide people in prison with TRUTH Act notifications, as well as a prohibition against preventing people in prison from participating in programming and getting prison release credits solely because of their immigration status. The CDCR concluded that these provisions did not present concerns and were in line with their current practices.<sup>241</sup> In fact, CDCR would still be allowed to honor ICE detainer requests, notify ICE about individuals in their prisons, and transfer people to ICE, regardless of their underlying convictions, because the expanded TRUST Act standard would not apply to CDCR.

The CHP recommended the governor sign the bill—a position in direct contrast to many of its local LEA counterparts. It stated that the amendments addressed concerns related to providing informal assistance and participation to federal law enforcement agencies on task forces, especially in the wake of September 11, 2001, which placed them “in a position where interaction with non-residents . . . increased.”<sup>242</sup> They also said that the amendments addressed previously proposed onerous reporting requirements.<sup>243</sup>

It is worth emphasizing how opposed LEAs, including state agencies, were to prohibitions on database access in previous versions of SB 54. The California Governor’s Office of Emergency Services (OES), for example, noted that the amendments addressed concerns related to restoring federal, state, and local LEA access to databases like CLETS, ensuring that state and local agencies could continue participating in task forces and efforts to target so-called terrorist activity.<sup>244</sup> This highlights the significant role that access to government databases plays in police-ICE entanglement and state LEAs’ commitment to maintaining this form of entanglement. It also demonstrates the collaborative nature and depths of broader surveillance operations, at federal, state, and local levels, affecting members of marginalized communities.

Both the CHP and OES’s opposition to earlier versions of SB 54 show how state level LEAs have become immersed in the national security apparatus. This

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241. CAL. DEP’T OF CORR. AND REHAB., S.B. 54 ENROLLED BILL REPORT 1 (2017) (on file with author).

242. CAL. HIGHWAY PATROL, *supra* note 172, at 1, 9.

243. *Id.* at 1.

244. CAL. GOVERNOR’S OFF. OF EMERGENCY SERVS., S.B. 54 ENROLLED BILL REPORT 1–2 (2017) (on file with author).

immersion was exacerbated in the aftermath of the World Trade Center attacks on September 11, 2001, when various agencies were combined to form the DHS. This expanded national security apparatus both relied on and empowered state LEAs through its information sharing processes, which disproportionately implicated “non-residents,” as CHP noted. And now, it has created a status quo under which curbing any of this collaboration can be seen as harmful to the apparatus.<sup>245</sup> Even though SB 54 did not seek to disrupt information sharing more broadly, attempting to only limit information sharing for immigration enforcement purposes, the fierce opposition demonstrates how committed LEAs are to federal information access.<sup>246</sup>

## 2. Last Ten Seconds: Local LEAs Make One Last Push

Even at this stage, when some state LEAs recommended that the governor sign SB 54, local LEAs continued their opposition, including those in Pro Tem de León’s own district, asking the governor to now veto the negotiated agreement. In their veto request letters, LEAs raised public safety concerns over any limitations on how they communicated with ICE,<sup>247</sup> the need for additional crime exceptions in the revised TRUST Act standard,<sup>248</sup> the consequences of limiting ICE access to

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245. Though, even if the earlier versions of SB 54 could have narrowed the state’s involvement in this national security apparatus, it would have still only focused on immigration enforcement. In fact, information sharing is relevant to security and privacy breaches outside the realm of immigration, including with respect to collaboration between intelligence agencies, global mass surveillance operations, and in biometric technology that verify identity and legal statuses of citizens and noncitizens alike.

246. In December 2019, ICE lost access to CLETS after ICE ERO refused to sign an agreement from the California attorney general stating they would not “use certain sensitive California databases for immigration enforcement operations.” Saira Hussain, *California DOJ Cuts Off ICE Deportation Officers From State Law Enforcement Database*, ELEC. FRONTIER FOUND. (Dec. 18, 2019), <https://www.eff.org/deeplinks/2019/12/california-doj-cuts-ice-deportation-officers-state-law-enforcement-database> [https://perma.cc/S9JA-JWKM].

247. See Letter From Timothy H.B. Yaryan, Legis. Couns. & Advoc., Ass’n for L.A. Deputy Sheriffs, to Edmund G. Brown, Jr., Governor of Cal. (Sept. 21, 2017) (on file with author).

248. See Letter From Cory M. Salzillo, Legis. Dir., Cal. State Sheriffs’ Ass’n, to Edmund G. Brown, Jr., Governor of Cal. (Sept. 19, 2017) (on file with author) (stating concerns about “undocumented criminals” that were “repeat drunk drivers, misdemeanor hit and run drivers, those who assault peace officers, serial thieves, animal abusers, chronic abusers of dangerous drugs such as methamphetamine and heroin, and known criminal gang members arrested for most misdemeanor crimes”); Letter From Marc Coopwood, President, & Shaun Rundle, Legis. Rep., Cal. Peace Officers’ Ass’n, to Edmund G. Brown, Jr., Governor of Cal. (Sept. 28, 2017) (on file with author) (stating concerns about people who committed serious crimes that were felonies but then reduced to misdemeanors under Proposition 47 in 2014).

jails, and the burden of the task force reporting requirements.<sup>249</sup> The Los Angeles Police Protective League, which represents LAPD officers led by Chief Beck, also pointed to Special Order 40 as adequate to achieve what SB 54 intended to do in Los Angeles.<sup>250</sup> All repeated their claim that they did not engage in, or have the intention of engaging in, immigration enforcement.

### III. THE AFTERMATH

On October 5, 2017, Governor Brown signed SB 54, as amended on September 11, into law, stating:

In enshrining these new protections, it is important to note what the bill does not do . . . [T]he bill does not prohibit sheriffs from granting immigration authorities access to California jails to conduct routine interviews, nor does it prevent cooperation in deportations for anyone in state prison or for those in local jails for any of the hundreds of serious offenses listed in the TRUST Act.<sup>251</sup>

This Part reviews SB 54 in its final form and considers whether SB 54 succeeded early on in what it set out to do.

#### A. A Strong Reformatory Effort

Notwithstanding the seven rounds of amendments, the final amended version of SB 54 made California the state with the strongest law in the nation against police-ICE entanglement. The bill prohibited LEAs from: participating in the 287(g) program; asking about immigration status or using immigration authorities as interpreters; and honoring any ICE detainer requests.<sup>252</sup> LEAs were also prohibited from sharing personal information or release dates with immigration authorities unless it was information that was publicly available. The bill did, however, allow LEAs to send and receive information from immigration authorities regarding the citizenship or immigration status of a person in their custody.

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249. See Letter From Marc Coopwood & Shaun Rundle, *supra* note 248.

250. Letter From Timothy H.B. Yaryan, Legis. Couns. & Advoc., L.A. Police Protective League, to Edmund G. Brown, Jr., Governor of Cal. (Sept. 21, 2017) (on file with author). LAPD's Special Order 40 is a civil immigration enforcement policy that prohibits officers from asking about someone's immigration status or arresting someone for U.S. immigration law violations. Smith, *supra* note 214.

251. Letter From Edmund G. Brown, Jr., Governor of Cal., to the Cal. State Senate (Oct. 5, 2017) (on file with author).

252. AAAJ REPORT, *supra* note 28, at 10–11.

While the final version of SB 54 did a lot of work to prevent LEA involvement in civil immigration matters, it was still much less prohibitive in the criminal immigration context. It allowed, for example, LEAs to make arrests for criminal immigration violations if it was an arrest for unlawful reentry following a deportation, and (1) the person had a prior aggravated felony conviction, and (2) the reentry was identified during unrelated LEA activity. Moreover, while SB 54 initially sought the complete removal of ICE from jails and prisons, the bill now only prohibited ICE from having dedicated office spaces in local jails. It exempted CDCR (as in, state prisons) from the bill except that CDCR had to provide TRUTH Act protections to imprisoned individuals. The bill also allowed LEAs to continue taking part in joint task forces as long as the joint operation's primary purpose was not immigration enforcement or violative of a local law or policy. Originally, the bill sought to prohibit any use of state and local databases like CLETS for immigration enforcement; however, the final version only required that the California attorney general draft policies that would encourage LEAs to limit ICE access to these databases. To monitor LEA compliance with the bill, SB 54 also required that LEAs annually report their task force involvement and the number of ICE transfer requests they complied with to the attorney general.

SB 54 also made some important changes to the TRUST Act standard. First, the standard now applied to notification and transfer requests and was revised to remove Proposition 47 crimes from the list of exceptions that could trigger entanglement. Second, the TRUST Act no longer applied to detainer requests because SB 54 prohibited honoring such requests. Third, the revised standard included five- and fifteen-year washout periods for certain misdemeanor and felony offenses, respectively, after which LEAs were prohibited from honoring notification and transfer requests.<sup>253</sup> Otherwise, LEAs were prohibited from honoring notification requests unless it was triggered by the criminal conviction of a crime listed under the revised TRUST Act standard, or a specified charge or conviction punishable with state imprisonment. Lastly, honoring transfer requests either required meeting the revised standard, or a judicial warrant or probable cause determination from a federal judge of a federal criminal immigration law violation. Transfer requests based on unlawful reentry would only be allowed if they met this revised standard.

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253. A washout, or lookback, period refers to a specified period of time after which prior criminal offenses will not be considered priors if there was an otherwise qualifying, subsequent criminal conviction.

## B. Law Enforcement Undermines SB 54 After It Becomes Law

In becoming law, SB 54 brought clarity to the present role that California LEAs play in immigration enforcement. It created a legal floor for all LEAs to follow, but with noteworthy exceptions for CDCR.<sup>254</sup> Importantly, it left the ceiling open for local jurisdictions throughout the state to go beyond SB 54 to enact more restrictive policies against police-ICE entanglement.<sup>255</sup> In practice, however, the passage of SB 54 did not guarantee uniform implementation, nor did it guarantee that all local LEAs would go further to protect immigrants.<sup>256</sup> Though as a sign of preemptive compliance, one LEA ended its 287(g) agreement—the last one in the state<sup>257</sup>—while another announced it was removing ICE from its jails.<sup>258</sup> Nevertheless, the practical implications of SB 54 after January 1, 2018 remained to be seen. The ICE Out of California coalition wasted no time reaching out to local LEAs and drafting model SB 54 policies for them to adopt to help mitigate enforcement discrepancies. The California attorney general also sent out its own information bulletin to all state and local LEA executives explaining how SB 54 changed LEAs' ability to engage in immigration enforcement—though almost four months after SB 54 became law.<sup>259</sup>

Despite the governor's signature, many sheriffs remained opposed to SB 54. One of those sheriffs, outspoken opponent and sheriff of Orange County, Sandra Hutchens, asserted that approval “of SB 54 present[ed] California law

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254. See Jerome Ma & Nicholas Pavlovic, *California Divided: The Restrictions and Vulnerabilities in Implementing SB 54*, 26 ASIAN AM. L.J. 127, 143, 158–59 (2019).

255. See *id.* at 162–63.

256. See Ulloa, *supra* note 87 (explaining that “unlike some city and campus police chiefs who threw their support behind SB 54, at least 40 of the 58 sheriffs in the state remained staunch opponents of the legislation through its passage” and that now they would “be tasked with crafting new policies and training officers to limit their communication with ICE”).

257. Alma Fausto & Roxana Kopetman, *Sheriff's Department No Longer Checking Immigration Status of Inmates, Cancels Agreement With ICE*, ORANGE CNTY. REG. (Dec. 28, 2017, 11:09 AM), <https://www.oregister.com/2017/12/27/sheriffs-department-no-longer-checking-immigration-status-of-inmates-cancels-agreement-with-ice> [<https://perma.cc/SNE6-9AKX>].

258. Cristian Ponce, *ICE Will Be Gone From Monterey County Jail by Week's End*, CALIFORNIAN (Dec. 18, 2017, 5:26 PM), <https://www.thecalifornian.com/story/news/2017/12/18/ice-agent-removed/961693001> [<https://perma.cc/NJ2D-U2DQ>].

259. See KEVIN GARDNER, CAL. DEP'T OF JUST., INFORMATION BULLETIN NO. DLE-2018-01, RESPONSIBILITIES OF LAW ENFORCEMENT AGENCIES UNDER THE CALIFORNIA VALUES ACT, CALIFORNIA TRUST ACT, AND THE CALIFORNIA TRUTH ACT (2018), [https://oag.ca.gov/sites/all/files/agweb/pdfs/law\\_enforcement/dle-18-01.pdf](https://oag.ca.gov/sites/all/files/agweb/pdfs/law_enforcement/dle-18-01.pdf) [<https://perma.cc/6KWZ-TQ8K>].

enforcement with a significant challenge.”<sup>260</sup> This harsh opposition persisted, even though many of her sheriff peers claimed SB 54 would not do much to change the status quo of how they engaged with other LEAs and with ICE. Not surprisingly, LEA strategies to undermine SB 54 continued after its legislative journey concluded.

It was widely speculated that once the governor signed the bill, the Trump administration would challenge SB 54 in court. In March 2018, Attorney General Jeff Sessions—endorsed by many of the state’s LEA lobby groups<sup>261</sup>—was invited to CPOA’s 26th Annual Law Enforcement Legislative Day to announce the federal government’s 2018 lawsuit challenging the constitutionality of SB 54. In doing so, he called legislators who supported SB 54 “lawless open borders radicals.”<sup>262</sup> The National Sheriffs’ Association, which represents all fifty-eight of California’s elected county sheriffs, also filed a friend of the court brief in support of the lawsuit.<sup>263</sup> Following unfavorable decisions for the federal government from the U.S. District Court for the Eastern District of California and the U.S. Court of Appeals for the Ninth Circuit, the U.S. Supreme Court denied the federal administration’s petition for a writ of certiorari challenging the constitutionality of SB 54.<sup>264</sup>

Separately, LEAs sought to legislatively undermine previously negotiated amendments to SB 54. For instance, CSSA attempted to add more exceptions to the revised TRUST Act standard through AB 2931, a bill introduced by Fresno Assemblymember Jim Patterson. The bill, however, failed to get out of its first

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260. Press Release, Orange Cnty. Sheriff’s Dep’t, OC Sheriff Sandra Hutchens’ Statement on SB 54 (Oct. 5, 2017) [hereinafter Orange Cnty. Sheriff’s Dep’t Press Release] (on file with author).

261. He was endorsed by CSSA and PORAC. See Letter From Donny Youngblood, President, Cal. State Sheriff’s Ass’n, & Gregory J. Ahern, Chair, Cal. State Sheriffs’ Ass’n Pol. Action Comm., to Jeff Sessions, U.S. Senator (Dec. 20, 2016), <https://www.judiciary.senate.gov/imo/media/doc/12.20.16%20CA%20State%20Sheriffs%20Assoc%20Sessions%20AG%20endorsement.pdf> [<https://perma.cc/G5CF-Z5RH>]; Darwin BondGraham, *Trump Has a Friend in California Law Enforcement*, E. BAY EXPRESS (Mar. 28, 2018), <https://www.eastbayexpress.com/oakland/trump-has-a-friend-in-california-law-enforcement> [<https://perma.cc/ZD9Q-PUS7>].

262. BondGraham, *supra* note 261.

263. Motion of National Sheriffs’ Ass’n & Victims’ Organizations for Leave to File Amici Curiae Brief in Support of Plaintiff at 2, *United States v. California*, No. 2:18-cv-00490 (E.D. Cal. Apr. 6, 2018) (“In keeping with its mission to support law enforcement officers and law enforcement, NSA supports the enforcement of the nation’s immigration laws, which . . . Senate Bill 54 (‘SB 54’) frustrate[s].”).

264. David G. Savage, *California ‘Sanctuary’ Rules Stay in Place After Supreme Court Rejects Trump’s Challenge*, L.A. TIMES (June 15, 2020, 8:03 AM), <https://www.latimes.com/politics/story/2020-06-15/supreme-court-rejects-trumps-challenge-to-california-sanctuary-law> [<https://perma.cc/5GG7-QJ2J>].

policy committee.<sup>265</sup> During the 2018 budget negotiations, the state budget committees also considered amending SB 54 to allow LEAs to facilitate the deportation of noncitizens “based on charges alone—without even a hearing to determine whether those charges [we]re supported by probable cause.”<sup>266</sup> It was rumored that moderate Democrats under pressure from their local LEAs were behind this budget negotiations push. Yet, opposition from the ICE Out of California coalition prevented these proposed changes to SB 54.

Additionally, LEAs focused on enforcement—or nonenforcement—of SB 54. In fact, those most vocal in their opposition to SB 54 undermined it once it became law by adopting policies inconsistent with SB 54 and developing new ways to work with ICE.<sup>267</sup> LEAs that had followed local sanctuary policies for decades and claimed, like CSSA and the Cal Chiefs, that they did not wish to engage in immigration enforcement also implemented policies that undermined SB 54.<sup>268</sup> A

265. See Assemb. B. 2931, 2017–2018 Leg., Reg. Sess. (Cal. 2018).

266. Letter From ICE Out of California Coalition to Anthony Rendon, Speaker of the Assemb., & Toni Atkins, Senate President Pro Tempore (June 12, 2018) (on file with author).

267. E.g., Cindy Carcamo, *Orange County May Take Stand Against State’s ‘Sanctuary’ Laws*, L.A. TIMES (Mar. 27, 2018, 10:45 AM), <https://www.latimes.com/local/california/la-me-anti-sanctuary-movement-in-oc-20180327-story.html> [https://perma.cc/4QSH-TN3G] (discussing efforts by Orange County to undermine SB 54); Sandra Hutchens, *Opinion, California Sheriff: Why Won’t the State Allow Us to Communicate With the Feds?*, HILL (Apr. 6, 2018, 6:00 AM), <https://thehill.com/opinion/immigration/381825-california-sheriff-why-wont-the-state-allow-us-to-enforce-immigration-law> [https://perma.cc/UX93-UCU8] (same). Some SB 54 opponents adopted Lexipol policies that did not comply with SB 54, including Santa Barbara County, which “post[ed] release date and time information in advance of an individual’s release from jail”; provided ICE “work space where they c[ould] conduct their duties”; allowed their officers and staff to assist ICE in emergency situations, even when the emergency was related to immigration enforcement; and participated in an MOU with Bureau of Customs and Border Protection (CBP) to support efforts in the region to improve border security. AAAJ REPORT, *supra* note 28, at 15 n.10, 18 n.28, 20, 21, 24–25. Fresno County Sheriff Margaret Mims was a vocal opponent of SB 54 and sought ways to collaborate with ICE. See Yesenia Amaro, *Fresno County Sheriff Attended Meeting to Oppose Sanctuary Law. So Did Alleged Hate Group*, FRESNO BEE (Jan. 14, 2019, 10:53 AM), <https://www.fresnobee.com/news/local/article224028465.html> [https://perma.cc/7BZT-PGPF]. Though the CHP was not visibly opposed to SB 54 during the legislative committee hearings, current and retired CHP officers allegedly bragged about not complying with SB 54 policing protocols on social media. Darwin BondGraham, *In a Private Facebook Group, California Police Brag About Breaking State Law to Help ICE*, APPEAL (Nov. 22, 2019), <https://theappeal.org/in-a-private-facebook-group-california-police-brag-about-breaking-state-law-to-help-ice> [https://perma.cc/TU79-BY7X].

268. Los Angeles County and Santa Cruz County Sheriffs “created their own policies [that] did not include all of SB 54’s prohibitions, rather only selectively included some of them.” AAAJ REPORT, *supra* note 28, at 17. They also “post[ed] release date and time information in advance of an individual’s release from jail.” *Id.* at 18 n.28. Like LEAs who opposed SB 54, Los Angeles and Monterey County sheriffs and the University of California-San Diego police still participated in Operation Stonegarden, which “uses LEAs as a ‘force-multiplier’ for CBP,

2019 report concluded that “implementation of SB 54 remain[ed] largely partial and unfinished.”<sup>269</sup> It found that, of the 169 LEA policies analyzed in the report, twenty-three used out-of-date or incomplete post-SB 54 prohibitions related to immigration enforcement.<sup>270</sup> Additionally, forty of the LEAs used Lexipol-drafted policies that were out of compliance with SB 54, while five LEAs had no policies related to immigration enforcement at all.<sup>271</sup> These various policies undermined SB 54 protections by: using the public information or the specific criminal history information exceptions to provide release date information that included personally identifying information to federal immigration agencies;<sup>272</sup> allowing ICE to enter nonpublic jail areas to conduct in custody transfers of people being released from their jails, effectively flouting attorney general transfer reporting requirements;<sup>273</sup> providing work spaces in jails for ICE;<sup>274</sup> helping patrol the U.S. border;<sup>275</sup> and engaging in immigration enforcement-related task

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turning them into an arm of border patrol.” *Id.* at 24–25. While “LEA agencies are focused on enforcing only local and state laws . . . various CBP public relations news releases indicate[d] that many of the operations conducted . . . led only to the apprehension of individuals entering the country [without authorization] with no smugglers identified.” *Id.* at 24.

269. *Id.* at 3. See, e.g., SAN DIEGO IMMIGRANT RTS. CONSORTIUM, HOW LAW ENFORCEMENT AGENCIES IN SAN DIEGO COUNTY ARE IMPLEMENTING SB 54 (2019) (showing mixed compliance by San Diego County LEAs’ written policies since SB 54 passed).

270. AAAJ REPORT, *supra* note 28, at 3.

271. *Id.* The report additionally noted that:

In the absence of guidance from the CA DOJ for SB 54, implementation for these five months after the law was signed, the company Lexipol aimed to sell their updated “Immigration Violations” policy to LEAs, promising they were SB 54 compliant. . . . Lexipol sold their updated Immigration Violations model policy as one that was “carefully crafted to balance the need to protect the civil rights of community members with the need to safeguard lives and property and enforce the law.

This “balanced” new SB-54-inclusive Lexipol policy left out much of the specific language included in the law and subsequently encouraged LEA officers to take immigration enforcement-related action not allowed by SB 54.

*Id.* at 14. See generally Ingrid V. Eagly & Joanna C. Schwartz, *Lexipol: The Privatization of Police Policymaking*, 96 TEX. L. REV. 891 (2018) (describing the role of Lexipol in police policymaking).

272. AAAJ REPORT, *supra* note 28, at 18–20.

273. *Id.* at 3–4, 20. This practice is especially problematic because LEAs already have transfer exceptions based on the TRUST Act standard and with these transfers that prevent a break in the chain of custody, LEAs help ICE detain individuals protected by SB 54. See, e.g., Yesenia Amaro, *Fresno County Sheriff ‘Lied’ About ICE Cooperation, Attorneys Say. Here’s Her Response*, FRESNO BEE (Aug. 4, 2020, 1:31 PM), <https://www.fresnobee.com/news/local/article244033727.html> [<https://perma.cc/A5WR-CKDX>].

274. AAAJ REPORT, *supra* note 28, at 20.

275. *Id.* at 24–25.

forces.<sup>276</sup> Despite these efforts to undermine SB 54, the report still found that “SB 54 implementation led to a 41 [percent] decrease in ICE arrests at local jails” when compared to the five months before the bill became law.<sup>277</sup>

This nonenforcement of the law by LEAs is particularly telling. It demonstrates the need for the state attorney general to hold LEAs accountable for violating SB 54 and other, similar state laws.<sup>278</sup> Whether an enforcement mechanism would actually deter LEA violations of the law is a topic for another Article, but what seems obvious is that leaving people who are supposed to be protected by SB 54 without any remedy for LEA violations is a critical weakness of SB 54.<sup>279</sup> LEA nonenforcement of SB 54 also relates to, and is enabled in part by, the impunity from the laws that LEAs enjoy in the United States.<sup>280</sup> Here, nonenforcement of SB 54 stands as another example of the limits of the law to create immediate change on the ground, and of LEAs’ power within the immigration context to decide whether to enforce the actual law.<sup>281</sup> Not only are the limits of law reform efforts evident here but so too are the grave legal consequences to immigrant communities.

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276. In 2019, the attorney general published the California Department of Justice’s first SB 54 required annual report on joint law enforcement task forces and LEA transfers to ICE custody. The 2019 report found that, in 2018, seven arrests for immigration enforcement purposes resulted from joint task force activity in California, while the 2020 report revealed that that number increased to thirty-five. CAL. DEP’T OF JUST., VALUES ACT, SENATE BILL 54: ANNUAL REPORT FOR 2018, at 3 (2019), <https://data-openjustice.doj.ca.gov/sites/default/files/2019-06/values-act-sb54-2018.pdf> [<https://perma.cc/83XY-VX47>]; CAL. DEP’T OF JUST., VALUES ACT, SENATE BILL 54: ANNUAL REPORT FOR 2019, at 2 (2020), <https://data-openjustice.doj.ca.gov/sites/default/files/2020-02/SB54%20Pub%202019.pdf> [<https://perma.cc/BT82-EDPF>]. Despite the state law requirement for agencies to report this information to the Department of Justice and multiple attempts by the department to encourage compliance, not all LEAs reported this information to the attorney general. *Id.* at 1.

277. AAAJ REPORT, *supra* note 28, at 3.

278. *Id.* at 29 (discussing various ways the attorney general can ensure compliance, including amending SB 54 to give them the ability to levy fines against LEAs that violate SB 54).

279. Cf. Yvette Cabrera, *Sheriff’s Department Acknowledges Trust Act Violation*, VOICE OC (Dec. 8, 2020), <https://voiceofoc.org/2014/07/sheriffs-department-acknowledges-trust-act-violation> [<https://perma.cc/JA7S-VFZ2>] (discussing the challenges of holding LEAs liable for violating the 2013 TRUST Act).

280. See, e.g., Katherine Hawkins, *Unqualified Impunity: When Government Officials Break the Law, They Often Get Away With It*, PROJECT ON GOV’T OVERSIGHT (Oct. 22, 2020), <https://www.pogo.org/analysis/2020/10/unqualified-impunity-when-government-officials-break-the-law-they-often-get-away-with-it> [<https://perma.cc/H7LQ-BVUA>].

281. Cf. Erika Lee, *Birthright Citizenship, Immigration, and the U.S. Constitution: The Story of United States v. Wong Kim Ark*, in RACE LAW STORIES 89, 103 (Rachel F. Moran & Devon Wayne Carbadó eds., 2008) (arguing that *Wong Kim Ark* was a hollow victory because immigration officials still discriminate against U.S. citizens in the Chinese community).

## CONCLUSION

President Trump's administration and LEAs throughout the country remained committed to police-ICE entanglement.<sup>282</sup> This Comment showed that California was by no means insulated from this commitment. First, this Comment deployed existing literature to demonstrate that LEAs, including those in California, are entangled in immigration enforcement in ways that go beyond civil immigration enforcement and rely on the criminal legal system. Therefore, when enforcement of immigration laws has come to rely on the criminal legal system, it is inaccurate for LEAs to claim that they do not, or do not wish to, engage in immigration enforcement. Second, this Comment showed how LEA reliance on the civil and criminal immigration enforcement binary was instrumental in how they used their lobbying power to push back against disentanglement efforts.

Importantly, by highlighting LEA opposition to SB 54, this Comment illustrated how the LEA commitment to remain entangled with ICE impeded SB 54's real potential to protect criminalized noncitizens from a federal administration obsessed with anti-immigration policies. LEA opposition to SB 54 was largely under the guise that LEAs engaged in only criminal enforcement, not immigration enforcement, and invoked the good immigrant, bad immigrant binary to mask the impact of their immigration enforcement activity. This opposition impacted not just the final text of the bill, but the legislative intent, the framing of the negotiations, and the scope of the arguments that legislators were ultimately able to hear and to entertain. Even after the bill was signed, LEAs continued to undermine the law. By offering a close look at LEA lobbying efforts against SB 54, this Comment has provided a critical understanding of the views of LEAs on the propriety of engaging in immigration enforcement. What these views illuminate is that LEAs in California remain largely committed to police-ICE entanglement and to their role as force multipliers for federal immigration enforcement.

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282. See Debbie Cenziper, Madison Muller, Monique Beals, Rebecca Holland & Andrew Ba Tran, *Under Trump, ICE Aggressively Recruited Sheriffs as Partners to Question and Detain Undocumented Immigrants*, WASH. POST (Nov. 23, 2021), <https://www.washingtonpost.com/investigations/interactive/2021/trump-ice-sheriffs-immigrants-287g/> [https://perma.cc/D6SL-B2TD].

## APPENDIX

Table 1: California Law Enforcement Lobby Senate Bill 54 Positions

<i>California State Senate Legislative Process</i>					
Law Enforcement Association, Department, Union / Committee or Floor Hearing	Senate Public Safety 1/31/2017 (amended 1/24/2017)	Senate Appropriations <sup>283</sup> 3/13/2017 (amended 3/6/2017)	Senate Floor 3/16/2017 (amended 3/6/2017)	Senate Floor 3/17/2017 (amended 3/6/2017)	Senate Floor 3/30/2017 (amended 3/29/2017)
Association for Los Angeles Deputy Sheriffs	N/A <sup>284</sup>	N/A	N/A	N/A	N/A
California College and University Police Chiefs Association	Support	N/A	Support	Support	Support
California Peace Officers' Association	N/A	N/A	Oppose	Oppose	Oppose
California Police Chiefs Association	N/A	N/A	N/A	N/A	N/A
California State Sheriffs' Association	Oppose	N/A	Oppose	Oppose	Oppose
Los Angeles County Sheriff's Department	N/A	N/A	N/A	N/A	N/A

283. This committee did not list support or opposition positions as part of its SB 54 analysis.

284. N/A means that, presumably, the law enforcement lobbying group did not submit a letter to the respective committee or did not submit a position letter in time to be reflected in the respective committee or floor's bill analysis.

Los Angeles Police Department, Chief of Police Charlie Beck	N/A	N/A	N/A	N/A	N/A
Los Angeles Police Protective League	N/A	N/A	N/A	N/A	N/A
Orange County Sheriff, Sandra Hutchens	N/A	N/A	N/A	N/A	N/A
Peace Officers Research Association of California	N/A	N/A	N/A	N/A	N/A
Riverside Sheriffs' Association	N/A	N/A	N/A	N/A	N/A
San Bernardino County Sheriff	N/A	N/A	N/A	N/A	Oppose
San Bernardino County Sheriff, John McMahon	N/A	N/A	N/A	N/A	N/A
Sheriff- Coroner, County of Santa Cruz, Jim Hart	N/A	N/A	N/A	N/A	N/A
Ventura County Sheriff's Office	N/A	N/A	N/A	N/A	N/A

Table 2: California Law Enforcement Lobby Senate Bill 54 Positions

California State Assembly Legislative Process						
Law Enforcement Association, Department, Union / Committee or Floor Hearing	Assembly Public Safety 6/12/2017 (amended 3/29/2017)	Assembly Judiciary 7/6/2017 (amended 6/19/2017)	Assembly Appropriations 8/21/2017 (amended 7/10/2017)	Assembly Floor 9/6/2017 (amended 7/10/2017)	Assembly Floor 9/15/2017 (amended 9/11/2017)	Senate Floor Concurrence <sup>285</sup> 9/15/2017 (amended 9/11/2017)
Association for Los Angeles Deputy Sheriffs	Oppose	Oppose	N/A <sup>286</sup>	N/A	N/A	N/A
California College and University Police Chiefs Association	Support	N/A	N/A	N/A	N/A	N/A
California Peace Officers' Association	Oppose	N/A	N/A	N/A	N/A	N/A
California Police Chiefs Association	Oppose	Oppose	Oppose	N/A	N/A	N/A
California State Sheriffs' Association	Oppose	Oppose	N/A	N/A	N/A	Oppose
Los Angeles County Sheriff's Department	Oppose	N/A	N/A	N/A	N/A	N/A
Los Angeles Police Department, Chief of Police Charlie Beck	N/A	N/A	N/A	N/A	N/A	N/A

285. A bill that is amended in the second house must go back to its house of origin to have its amendments concurred in through another floor vote in the house of origin.

286. N/A means that presumably the law enforcement lobbying group did not submit a letter to the respective committee or did not submit a position letter in time to be reflected in the committee or floor's bill analysis.

Los Angeles Police Protective League	Oppose	Oppose	N/A	N/A	N/A	N/A
Orange County Sheriff, Sandra Hutchens	Oppose	N/A	N/A	N/A	N/A	N/A
Peace Officers Research Association of California	Oppose	Oppose	Oppose	N/A	N/A	N/A
Riverside Sheriffs' Association	Oppose	N/A	N/A	N/A	N/A	N/A
San Bernardino County Sheriff	N/A	N/A	N/A	N/A	N/A	Oppose
San Bernardino County Sheriff, John McMahon	Oppose	N/A	N/A	N/A	N/A	N/A
Sheriff-Coroner, County of Santa Cruz, Jim Hart	Support	N/A	N/A	N/A	N/A	N/A
Ventura County Sheriff's Office	N/A	N/A	N/A	N/A	N/A	N/A

*Table 3: California Law Enforcement Lobby Senate Bill 54 Positions*

<b>Governor of California's Desk<sup>287</sup></b>	
<b>Law Enforcement Association, Department, Union</b>	<b>Position<sup>288</sup></b>
Association for Los Angeles Deputy Sheriffs	Veto
California Department of Corrections and Rehabilitation	Sign
California Governor's Office of Emergency Services	Sign
California Highway Patrol	Sign
California Peace Officers' Association	Veto
California State Sheriffs' Association	Veto
Los Angeles Police Protective League	Veto
Orange County Sheriff's Department	Veto

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287. Once a bill passes the senate floor and the assembly floor, it goes to the governor's desk where the governor has until the end of session to sign or veto the bill.

288. Position letters on file with author.