

To: Los Angeles County Board of Supervisors
From: ACLU of Southern California; Black Alliance for Just Immigration; National Immigration Law Center; National Lawyers Guild – Los Angeles; Youth Justice Coalition
Date: October 29, 2019
Re: **The Los Angeles County Board of Supervisors Should Prohibit the Sheriff’s Department’s Use of County Resources in its Entanglement With ICE**

I. Background: Sheriff Alex Villanueva’s “Bait and Switch” Immigration Policies Expend Nearly \$1.5 Million of County Resources to Facilitate ICE Unlawful Arrests and Family Separation, Undermining Public Safety

During Los Angeles County Sheriff Alex Villanueva’s campaign for Sheriff, he promised voters that Los Angeles County would no longer be complicit in the separation of immigrant families caused by Immigration and Customs Enforcement’s (ICE) cruel interior enforcement, detention, and deportation practices. His upset election was primarily a referendum on former Sheriff Jim McDonnell’s stance and policies of local entanglement with ICE. In particular, Villanueva committed to physically removing and barring ICE from all Los Angeles County Sheriff’s Department (LASD) property, including for purposes of transfers of individuals to ICE custody, improving the California Values Act’s (SB 54) protections for county residents, and rebuilding trust with immigrant community members.¹

Since coming into office, however, Villanueva has chosen to continue LASD’s entanglement with ICE, in a move which many have dubbed a “bait and switch.”² He has largely maintained LASD’s destructive practice of transferring community members to ICE, only replacing ICE agents with ICE contractors to handle the transfers. LASD continues to expend nearly \$1.5 million a year of precious county taxpayer resources to facilitate ICE arrests and deportations—thereby undermining the County’s investment of \$1.5 million a year into the Los Angeles Justice Fund, a program designed to provide immigration lawyers to *defend families against deportation*.³

In light of LASD’s lack of transparency, it is difficult to ascertain the total number of community members LASD has transferred to ICE under Villanueva; still, one thing is clear: LASD is very much entangled with ICE. Villanueva has claimed that from February 1 through the end of April 2019, LASD transferred 120 community members to ICE—16 percent of whom were transferred for misdemeanors.⁴ He has also claimed that in the first four months of 2019, 400 individuals in LASD’s custody were deported—a figure that appears to be on par with 2018 levels of transfers to ICE.⁵ As Villanueva has built a reputation for making claims without evidence, and LASD has utterly failed to produce the underlying data relating to transfers to ICE, we cannot take his claims at face value.⁶ But one thing is clear: Villanueva has continued to tear families apart by transferring our community members to ICE.

Villanueva’s continued entanglement with ICE undermines public safety. Notably, in a new national study, the University of California, Davis, found no correlation between deportations and public safety; in particular, deportations had no effect on violent or property

crime, regardless of how aggressive deportations were in a given area.⁷ What is clear, however, is that law enforcement entanglement with ICE has made immigrant community members far more distrusting of law enforcement.⁸ For example, in Los Angeles in 2017, reports of domestic violence among the Latinx community dropped by 10 percent and reports of sexual assault by 25 percent, declines that former Los Angeles Police Department Chief Charlie Beck said were due to fear of the federal government.⁹ Because of the Trump administration’s draconian immigration policies, unprecedented delays in the U visa program have led this year to the first annual decline since 2007 in U visa applications from victims of crimes, including survivors of domestic violence and sexual assault, “in what law enforcement officials and lawyers called a sign that immigrants were growing wary of helping the police and prosecutors.”¹⁰

In this context, we applaud the Sheriff’s Civilian Oversight Commission (COC) for its May 2019 report and recommendations, which it issued in response to the 2017 motion by the Los Angeles County Board of Supervisors (Board) requesting the COC to conduct a review and analysis of LASD’s immigration policies.¹¹ The COC’s report includes the following key recommendations:

Recommendation 9. LASD should not provide ICE, or persons or entities contracted through ICE with access to the Inmate Reception Center (IRC) or other areas within the jail, or other LASD properties such as courthouse lockups and station jails, unless required by federal or state law.¹²

Recommendation 10. LASD should not honor ICE detainers, including requests by ICE to hold, detain, house, or transfer any inmate, unless specifically required by federal or state law.¹³

As explained below, the adoption of COC recommendations 9 and 10 are crucial to ensure that Los Angeles County stops facilitating the Trump administration’s unlawful arrests and violation of federal laws and regulations. The adoption of recommendation 9 is necessary because ICE’s use of private contractors to arrest individuals violates federal immigration laws and implementing regulations. Recommendation 10 is imperative because ICE detainers are largely unconstitutional in California, as held recently by the U.S. District Court for the Central District of California in *Gonzalez v. Immigration & Customs Enf’t*.¹⁴

II. Legal Context: LASD’s Continued Entanglement With ICE Facilitates the Trump Administration’s Unlawful Arrests and Violations of Federal Laws and Regulations

A. With ICE detainers largely unconstitutional, transfers to ICE may be unconstitutional if there is any continued detention beyond one’s time of release and they facilitate ICE unlawful arrests

The County is facing the prospect of significant financial liability to a class of thousands of individuals whom LASD illegally subjected to continued detention based on ICE detainers.¹⁵ In *Roy v. Cnty. of Los Angeles*, the U.S. District Court for the Central District of California held that LASD was liable for violating the Fourth Amendment rights of thousands of individuals it detained for ICE without probable cause of any crime, including some who were held for days

after they should have been released.¹⁶ The Court asserted: “LASD officers have no authority to arrest individuals for civil immigration offenses, and thus, detaining individuals beyond their date for release violated the individuals’ Fourth Amendment rights.”¹⁷ In other words, LASD’s continued detention of individuals beyond their time of release—even if for a brief moment—constitutes a new arrest, and probable cause of a crime is required.¹⁸ ICE detainers, however, lack probable cause that individuals are involved in criminal activity.¹⁹

ICE detainers—and immigration arrests based on such detainers—must also be supported by probable cause.²⁰ In *Gonzalez*, the sister case to *Roy*, the Court found that the electronic databases ICE depends on to issue detainers are too error-ridden and incomplete to be reliable sources of information for probable cause determinations. Thus, the Court permanently enjoined ICE from issuing detainers based solely on database information, where there is no removal order, no ongoing proceedings, and no prior interview.²¹ The Court also permanently enjoined ICE from issuing detainers to states whose laws do not expressly authorize state and local law enforcement to make arrests for civil immigration purposes; California is one such state.²²

Importantly, LASD’s practice of honoring ICE detainers lacking probable cause has led to thousands of U.S. citizens being unconstitutionally detained for and transferred to ICE, and even deported.²³ In *Gonzalez*, the Court emphasized that ICE’s sole dependence on databases resulted in “many U.S. citizens becom[ing] exposed to possible false arrest,” and wrongfully detained for ICE.²⁴ For example, at the request of ICE, LASD detained plaintiff Gerardo Gonzalez, a natural-born U.S. citizen born in Pacoima, California.²⁵

Given this legal context, LASD’s practice of transferring individuals to ICE custody raises serious Fourth Amendment concerns, imposing on the County greater risks for additional financial liability. A transfer to ICE that prolongs an individual’s detention in *any* manner implicates the Fourth Amendment—requiring probable cause of a crime. ICE detainers, however, whether it is a request to detain or to transfer an individual, lacks such probable cause. In San Bernardino County, the County agreed to pay \$35,000 to settle a lawsuit by Guadalupe Plascencia, a U.S. citizen, for facilitating her transfer to ICE by placing her in a location where she did not feel free to leave and delaying her release by about 10 minutes.²⁶ Similarly, if LASD delays an individual’s release even momentarily, such as by submitting the individual to an overall release process longer than the normal process that exists for individuals without ICE detainers, the County may be liable for violating the individual’s Fourth Amendment rights. On this subject, the County Counsel and County Executive of Santa Clara County have opined that the sheriff’s department cannot accurately ascertain whether an individual falls under an SB 54 exception without delaying the individual’s release in many cases.²⁷ In addition, ICE arrests, whether or not there is a detainer, are largely based solely on the same unreliable electronic databases and thereby suffer the same Fourth Amendment infirmities the Court finds in *Gonzalez*. Thus, at a minimum, LASD’s practice of transferring individuals to ICE custody enables ICE to conduct unconstitutional arrests without probable cause based on unreliable database information.

In light of these serious Fourth Amendment concerns, many jurisdictions throughout California have refused to honor ICE detainers, including requests for notifications and transfers, unless they are accompanied by a judicial warrant or other documentation establishing probable

cause of a crime.²⁸ For example, Santa Clara County, San Francisco City and County, and the City of Santa Ana have all prohibited the use of municipal resources for ICE entanglement. In Santa Clara County, the Sheriff may not facilitate the transfer of an individual to ICE unless ICE “presents a valid arrest warrant signed by a federal or state judicial officer, or other signed writ or order from a federal or state judicial officer authorizing ICE’s arrest of the [individual].”²⁹ Santa Clara County also prohibits the use of county resources or personnel time to respond to ICE inquiries or to communicate with ICE regarding individuals’ release dates.³⁰ San Francisco has prohibited the use of funds or resources to further enforcement of federal immigration laws, including assisting or cooperating with any ICE investigation, detention, or arrest procedure, and requesting or disseminating information about release status, with some exceptions.³¹ Santa Ana prohibits the use of city resources to comply with ICE detainers, including requests for notifications and transfers, unless required by law.³²

B. Because ICE’s use of private contractors violates federal immigration laws and implementing regulations, LASD’s policy of granting access to private contractors enables ICE’s illegal actions

LASD’s practice of allowing ICE private contractors to take our community members into ICE custody reflects a troubling willingness by Villanueva to turn immigrants over to contractors who lack the authority to arrest and detain. ICE’s use of private contractors to execute immigration arrest warrants at LASD jails and courthouse lockups violates the Immigration and Nationality Act (INA) and its implementing regulations. By giving free rein to ICE contractors, LASD is further enabling ICE’s illegal actions.

Federal law, 8 U.S. Codes section 1357 (section 287 of the INA), outlines the powers of immigration officers. Section 287(a) of the INA provides in relevant part that “[u]nder regulations prescribed by the Attorney General, an officer or employee of the Service . . . may execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States.” In addition, 8 C.F.R. § 287.5 implements this statutory provision, specifying which immigration officers are authorized to serve arrest warrants for immigration violations:

“(3) The following immigration officers who have *successfully completed basic immigration law enforcement training* are hereby authorized and designated to exercise the power pursuant to section 287(a) of the Act to execute warrants of arrest for administrative immigration violations issued under section 236 of the Act or to execute warrants of criminal arrest issued under the authority of the United States:

- (i) Border patrol agents;
- (ii) Air and marine agents;
- (iii) Special agents;
- (iv) Deportation officers;
- (v) Detention enforcement officers or immigration enforcement agents (warrants of arrest for administrative immigration violations only);
- (vi) CBP officers;
- (vii) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

- (viii) Immigration officers who need the authority to execute arrest warrants for immigration violations under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary/Director of ICE.”³³

The regulations further define “immigration officer” to include only certain employees of the Department of Homeland Security, and list the specific courses that would qualify as “basic immigration law enforcement training.”³⁴

Thus, because only specified, properly trained ICE officers are authorized to execute immigration arrest warrants, ICE’s use of private contractors who are not trained or otherwise authorized to execute immigration arrest warrants violates the federal immigration laws and implementing regulations.³⁵

III. Legal Authority: The Board of Supervisors May Limit the Sheriff’s Spending on Facilitating ICE Transfers

The authority of the Board and the Sheriff flow from the California Constitution, California statutes and the Los Angeles County Charter (Charter).³⁶ Per the Charter, the Board “shall have all the jurisdiction and power which are now or which may hereafter be granted by the constitution and laws of the State of California or by this Charter.”³⁷ The Board “may do and perform all other acts and things required by law not enumerated in this part, or which are necessary to the full discharge of the duties of the legislative authority of the county government.”³⁸ In particular, the Board is tasked with overseeing the official conduct of all county officers and seeing that they “faithfully perform their duties,” “particularly insofar as the functions . . . relat[ing] to the assessing, collecting, safekeeping, management, or disbursement of public funds,” and may prescribe the “number, compensation, tenure, appointment and conditions of employment of county employees.”³⁹ The Board is mandated to “supervise the official conduct of all county officers,” including the Sheriff.⁴⁰

The Board has the authority to determine the Sheriff’s budget and personnel. “While the Sheriff, no doubt along with most heads of governmental offices, would understandably prefer to determine for himself the funding and personnel to be allocated to the agency for which he is responsible, that authority is vested in the Board.”⁴¹ In *County of Butte v. Superior Court*, the court upheld a Board action reducing the Sheriff’s office’s staff and pay, reasoning that the action was motivated by genuine budgetary concerns.⁴² The Board cannot “obstruct the investigative function of the sheriff of the county,” but the section does not “limit the budgetary authority of the board of supervisors over the district attorney or sheriff.”⁴³ Indeed, the Board has recently exercised its power of the purse by freezing a part of the Sheriff’s budget.⁴⁴

Because limiting the Sheriff’s spending on facilitating ICE transfers does not “obstruct the investigative function of the sheriff of the county,” and because such an action is motivated by genuine budgetary concerns, the Board has the authority to curb the Sheriff’s entanglement with ICE. Prohibiting LASD’s entanglement with ICE would not transfer away or abridge any of the Sheriff’s statutory duties, which do not mandate cooperation with ICE. Further, a decision

to limit the Sheriff's budget would be motivated by genuine budgetary concerns, as LASD's expenditure of about \$1.5 million a year in assisting ICE to further deportations could be instead spent on services, including deportation defense, for our county's immigrant community members. Disentangling LASD from ICE would also reduce the County's financial liability.

IV. Recommendation to the Board of Supervisors: Prohibit the Sheriff's Department's Use of County Resources in its Entanglement With ICE

Following the COC report and the landmark *Gonzalez* decision, the Board should fully adopt COC's recommendations 9 and 10. The Board should proscribe LASD's use of County funds to honor ICE detainers, including requests by ICE to hold, detain, house, transfer any person in LASD custody or to notify ICE of an individual's release date, unless specifically required by federal or state law. LASD personnel time and resources should not be used to identify, investigate, arrest, detain, transfer custody, or otherwise facilitate the arrest of a person to ICE based on an ICE detainer or administrative warrant, or on the belief that the person is present in the United States without a visa or immigration authorization document or that the person has committed a violation of immigration law. Furthermore, ICE, whether ICE agents or private contractors, should not be given access to county property under LASD control or be allowed to use its databases, facilities, or equipment—unless ICE produces a criminal warrant.

In conclusion, the Board should not allow a single penny of county resources from being spent in advancing the Trump administration's racist, America-first, and unconstitutional mass deportation agenda.

¹ See, e.g., Elizabeth Marcellino, *New LA County Sheriff Promises to 'Physically Remove' ICE from Jails*, NBC CHANNEL 4 (Dec. 19, 2018), available at <https://www.nbclosangeles.com/news/local/Alex-Villanueva-Limit-Cooperation-ICE-503111661.html>.

² See Maya Lau, *ICE still playing role in L.A. jails despite Sheriff Villanueva kicking ICE agents out*, L.A. TIMES (June 25, 2019), available at <https://www.latimes.com/local/lanow/la-me-sheriff-ice-jail-20190625-story.html>.

³ CNTY. OF L.A. SHERIFF CIVILIAN OVERSIGHT COMM'N, L.A. COUNTY SHERIFF CIVILIAN SHERIFF'S DEPARTMENT COOPERATION WITH IMMIGRATION AND CUSTOMS ENFORCEMENT 20, Addendum A (May 21, 2019), available at http://file.lacounty.gov/SDSInter/bos/commissionpublications/report/1055898_ImmigrationFinalReport-5-21-2019.pdf (hereinafter "COC Report"). The Los Angeles County Sheriff's Department (LASD) spends at least \$1,378,000 every year in work related to the U.S. Immigration and Customs Enforcement (ICE). *Id.* LASD employs 13 custody assistants to carry out duties associated with ICE civil detainer requests, for example, reviewing detainees to determine if the person in question meets the hundreds of felony and misdemeanor offenses qualifying for transfers under SB 54. *Id.* The annual salary and benefits for each custody assistant is \$106,000 per year. *Id.*

Los Angeles County has contributed \$3 million into the Los Angeles Justice Fund over a two-year period. See, e.g., Supervisor Hilda L. Solis, *Los Angeles County Expands LA Justice Fund to Separated Children* (July 3, 2018), <https://hildalsolis.org/los-angeles-county-expands-la-justice-fund-to-separated-children/>. Also for comparison, the County recommended a 2019 appropriation of \$1,322,000 to the Office of Immigrant Affairs to cover all of its program costs. CNTY. OF LOS ANGELES, 2019–20 RECOMMENDED BUDGET, VOL. I (Apr. 2017), <https://ceo.lacounty.gov/wp-content/uploads/2019/04/2019-20-Recommended-Budget-Volume-I-Online-Final.pdf>.

⁴ Lau, *supra* note 2.

⁵ Jorge L. Macias, *Indocumentados 'criminales' son entregados a "la migra" para su deportación*, LA OPINIÓN (July 31, 2019), available at <https://laopinion.com/2019/07/31/indocumentados-criminales-son-entregados-a-la-migra-para-su-deportacion/>. In a recent press release, ICE stated that LASD honored "less than 500" ICE detainees. U.S. Immigration and Customs Enforcement, *Local ICE director discusses sanctuary policy impact on public safety* (Sept. 26, 2019), <https://www.ice.gov/news/releases/local-ice-director-discusses-sanctuary-policy-impact-public-safety>.

⁶ The Times Editorial Board, *Editorial: L.A. County thought it was getting a progressive sheriff. Instead, like Trump, Alex Villanueva is painting his political adversaries as criminals*, L.A. TIMES (Aug. 16, 2019), available at <https://www.latimes.com/opinion/story/2019-08-16/amateur-moves-la-county-sheriff-alex-villanueva>. LASD has failed to produce information in response to a California Public Records Act request seeking data relating to LASD transfers to ICE from January 1, 2018 to August 6, 2019.

⁷ Anna Flagg, *Deportations Reduce Crime? That’s Not What the Evidence Shows*, N.Y. TIMES (Sept. 23, 2019), available at <https://www.nytimes.com/2019/09/23/upshot/deportations-crime-study.html>.

⁸ When local law enforcement agencies work with ICE, unauthorized immigrants are dramatically less likely to trust that law enforcement will keep their communities safe. Tom K. Wong et al., *How Interior Immigration Enforcement Affects Trust in Law Enforcement*, U.S. IMMIGRATION POL’Y CTR., UC SAN DIEGO (Apr. 3, 2019), available at <http://usipc.ucsd.edu/publications/usipc-working-paper-2.pdf>.

⁹ Jennifer Medina, *Too Scared to Report Sexual Abuse. The Fear: Deportation.*, N.Y. TIMES (Apr. 30, 2017), available at [https://www.nytimes.com/2017/04/30/us/immigrants-deportation-sexual-abuse.html?module\(=inline; see also Cora Engelbrecht, Fewer Immigrants Are Reporting Domestic Abuse. Police Blame Fear of Deportation., N.Y. TIMES \(June 3, 2018\), available at https://www.nytimes.com/2018/06/03/us/immigrants-houston-domestic-violence.html](https://www.nytimes.com/2017/04/30/us/immigrants-deportation-sexual-abuse.html?module(=inline; see also Cora Engelbrecht, Fewer Immigrants Are Reporting Domestic Abuse. Police Blame Fear of Deportation., N.Y. TIMES (June 3, 2018), available at https://www.nytimes.com/2018/06/03/us/immigrants-houston-domestic-violence.html). In addition, 80 percent of county residents said that contact with a government agency or program increased the risk of deportation. MikeMcPhate, *California Today: Worries Over Deportation*, N.Y. TIMES (Apr. 5, 2017), <https://www.nytimes.com/2017/04/05/us/california-today-worries-over-deportation.html>.

¹⁰ Zolan Kanno-Youngs, *Trump’s Immigration Crackdown Has Blunted Police Efforts to Be Tough on Crime*, N.Y. TIMES (May 14, 2019), available at <https://www.nytimes.com/2019/05/14/us/politics/trumps-immigration-visa-crime.html>.

¹¹ COC Report, *supra* note 3.

¹² *Id.* at 5.

¹³ *Id.* A “detainer is a request that [another law enforcement] agency advise [ICE], prior to release of the [individual], in order for [ICE] to arrange to assume custody” of the individual. 8 C.F.R. § 287.7(a). “Thus, the sole purpose of a detainer is to request the continued detention of an [individual] so that ICE officials may assume custody of that [individual] and investigate whether to initiate removal proceedings against her.” *Morales v. Chadbourne*, 793 F.3d 208, 214–15 (1st Cir. 2015). “[F]ederal law leaves compliance with immigration holds wholly within the discretion of states and localities.” *Flores v. City of Baldwin Park*, 2015 WL 756877, at *4 (C.D. Cal. Feb. 23, 2016).

¹⁴ *See Gonzalez v. Immigration & Customs Enf’t*, 2019 WL 4734579 (C.D. Cal. Sept. 27, 2019).

¹⁵ *See Roy v. Cnty. of Los Angeles*, 2018 WL 914773 (C.D. Cal. Feb. 7, 2018), *reconsideration denied*, 2018 WL 3439168 (July 11, 2018).

¹⁶ *Id.* at *23. The court also held that the LASD unconstitutionally incarcerated thousands of individuals with low bail amounts who would not even have been booked into jail if it were not for ICE detainers. *Id.* at *25.

¹⁷ *Id.* at *23.

¹⁸ *See id.* (“Because any continued detention constitutes a new arrest under the Fourth Amendment, LASD could only arrest these individuals if LASD officers had probable cause to suspect that the individuals were involved in criminal activity.”); *see also Miranda-Olivares v. Clackamas Cnty.*, 2014 WL 1414305, at *10 (D. Or. Apr. 11, 2014) (holding that where a “continued detention exceed[s] the scope of the Jail’s lawful authority over the released detainee,” the detention “constitute[s] a new arrest, and must be analyzed under the Fourth Amendment.”).

¹⁹ Courts “have universally . . . interpreted *Arizona v. United States* as precluding local law enforcement officers from arresting individuals solely based on known or suspected civil immigration violations.” *Santos v. Frederick Cnty. Bd. of Comm’rs*, 725 F.3d 451, 465 (4th Cir. 2013) (citing 567 U.S. 387 (2012)). “The rationale for this . . . is straightforward[:] A law enforcement officer may arrest a suspect only if the officer has probable cause to believe that the suspect is involved in criminal activity.” *Id.* (quoting *Brown v. Texas*, 443 U.S. 47, 51 (1979)) (internal quotation marks omitted). “Because civil immigration violations do not constitute crimes, suspicion or knowledge that an individual has committed a civil immigration violation, by itself, does not give a law enforcement officer probable cause to believe that the individual is engaged in criminal activity.” *Id.*

²⁰ The Fourth Amendment applies to immigration arrests on detainees. *See e.g., Tejeda-Mata v. INS*, 626 F.2d 721, 724-25 (9th Cir. 1980) (applying “the constitutional requirement of probable cause” to immigration arrests); *Morales v. Chadbourne*, 793 F.3d 208, 211 (1st Cir. 2015) (holding an ICE agent must have probable cause to issue an immigration detainer). The Fourth Amendment’s protection against unreasonable seizure in the context of a warrantless detainer serves an exceedingly important function in the immigration context because many of the backstops that exist in the criminal justice system are absent in the immigration system. *Gonzalez v. Immigration & Customs Enf’t*, 2019 WL 4734579, at *16 (C.D. Cal. Sept. 27, 2019).

²¹ *Id.* at *18-22.

²² *Id.* at *18.

²³ *See id.* at *20; *see also* United States v. Brignoni-Ponce, 422 U.S. 873, 886–87 (1975); AARTI KOHLI ET AL., SECURE COMMUNITIES BY THE NUMBERS: AN ANALYSIS OF DEMOGRAPHICS AND DUE PROCESS 2 (2011), https://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf (“3,600 United States citizens have been arrested by ICE through the Secure Communities program.”); Jacqueline Stevens, U.S. *Government Unlawfully Detaining and Deporting U.S. Citizens as Aliens*, UNIV. OF VIRGINIA JOURNAL OF SOC. POL’Y AND LAW, 18, 606 (2011), available at <https://jacquelinestevens.org/US-Unlawfully-Detaining.StevensVSP18.32011.pdf>; Paige St. John & Joel Rubin, *ICE held an American man in custody for 1,273 days. He’s not the only one who had to prove his citizenship*, L.A. TIMES (Apr. 27, 2018), available at <http://www.latimes.com/local/lanow/la-me-citizens-ice-20180427-htmstory.html>.

²⁴ *Gonzalez*, 2019 WL 4734579, at *20. For example, from 2006 to 2017, ICE wrongfully detained more than 3,500 U.S. citizens in Texas alone. DAVID BIER, U.S. CITIZENS TARGETED BY ICE: U.S. CITIZENS TARGETED BY IMMIGRATION AND CUSTOMS ENFORCEMENT IN TEXAS, CATO INST. (Aug. 28, 2019), <https://www.cato.org/publications/immigration-research-policy-brief/us-citizens-targeted-ice-us-citizens-targeted>. From 2017 to 2019, law enforcement agencies detained 420 citizens in Florida. ACLU OF FL, CITIZENS ON HOLD: A LOOK AT ICE’S FLAWED DETAINER SYSTEM IN MIAMI-DADE COUNTY (Mar. 20, 2019), <https://www.acluf.org/en/publications/citizens-hold-look-ices-flawed-detainer-system-miami-dade-county>.

²⁵ *Gonzalez*, 2019 WL 4734579, at *1.

²⁶ ACLU So. Cal., *Guadalupe Plascencia, a U.S. Citizen Unlawfully Detained by ICE, Wins Settlement* (Oct. 26, 2019), <https://www.aclusocal.org/en/press-releases/guadalupe-plascencia-us-citizen-unlawfully-detained-ice-wins-settlement>.

²⁷ Memorandum from County Executive Jeffrey V. Smith & County Counsel James R. Williams, Use of County Resources to Assist U.S. Immigration and Customs Enforcement, (June 4, 2019).

²⁸ Unlike criminal arrest warrants, administrative arrest warrants are neither issued by a judge nor based on sworn testimony, and the statute and regulation that mention these warrants identify no standard of proof for their issuance. *See* 8 U.S.C. § 1226(a) (2012); 8 C.F.R. § 287.5(e)(3) (2017).

²⁹ CTY. OF SANTA CLARA, BOARD POLICY 3.54 RELATING TO CIVIL IMMIGRATION DETAINER REQUEST, available at <https://www.sccgov.org/sites/scc/gov/CountyPolicies/Board-Policy-3.54-Cooperation-with-U.S.-Immigration-and-Customs-Enforcement.pdf>.

³⁰ *Id.*

³¹ CITY & CNTY. OF SAN FRANCISCO, SAN FRANCISCO ADMIN. CODE: CHAPTER 12H-12I, <https://sfgov.org/oceia/sites/default/files/Documents/SF%20Admin%20Code%2012H-12I.pdf>. Law enforcement may respond to ICE notification requests if the individual has received a violent felony conviction in the past seven years, a serious felony conviction in the past five years, or three or more convictions for most felonies in the past five years, and if the person has again been held to answer by a judge for most felonies. *Id.* at 12I.3. Law enforcement discretion, however, must include the consideration of factors such as community ties and rehabilitation. *Id.*

³² CITY COUNCIL OF CITY OF SANTA ANA, ORDINANCE NO. NS-2908, available at https://library.municode.com/ca/santa_ana/ordinances/code_of_ordinances?nodeId=811808.

³³ 8 C.F.R. § 287.5 (emphasis added).

³⁴ 8 C.F.R. §§ 1.2; 287.1.

³⁵ This conclusion is reinforced by the statute’s express inclusion of an exception to the general rule. Section 287(g) permits state and local law enforcement agencies to enter into agreements with ICE to carry out immigration enforcement functions if certain training and supervision requirements are met. The existence of section 287(g) demonstrates that ICE may not delegate its immigration enforcement authority to non-ICE officers except under the specific parameters created by statute. *See* Arizona v. United States, 567 U.S. 387, 408 (2012) (“Federal law specifies limited circumstances in which state officers may perform the functions of an immigration officer.”). As the Supreme Court has explained, under the “federal statutory structure,” immigrant arrests warrants “are executed by federal officers who have received training in the enforcement of the immigration law.” *Id.* at 407-08.

³⁶ CAL. CONST. art. XI; Cal Gov’t Code § 25000; Los Angeles County Charter Art. III, Sec. 10 (hereinafter “Charter”).

³⁷ Charter, Art. III, Sec. 10.

³⁸ Cal. Gov’t Code § 25207.

³⁹ Cal Gov’t Code §§ 25300, 25303; Charter, Art. III, Sec. 11.

⁴⁰ Cal. Gov’t Code § 25303.

⁴¹ County of Butte v. Superior Court, 176 Cal. App. 3d 693, 699 (Cal. Ct. App. 1985).

⁴² The court distinguished from *Hicks v. Board of Supervisors*, 69 Cal. App. 3d 228, in which the Board used its budgetary authority to transfer the district attorney's statutory duties to the sheriff's office, and held that the Board in *Butte* did not intend to transfer away the Sheriff's statutorily mandated functions

⁴³ Cal. Gov't Code § 25303.

⁴⁴ Matt Stiles & Alene Tchekmedyan, *In a sharp rebuke, L.A. County supervisors vote to freeze sheriff's spending*, L.A. TIMES (Oct. 1, 2019), available at <https://www.latimes.com/california/story/2019-09-26/1-a-county-supervisors-sheriff-budget-freeze>.