

# One Year Later: SB 54 Implementation in San Diego County

Updated: April 2019

By Erin Tsurumoto Grassi

In October 2017, Governor Jerry Brown signed Senate Bill 54, the California Values Act, into law. A huge victory for immigrant and refugee communities across the state, the California Values Act (SB 54) limits how local and state law enforcement can collaborate with federal immigration agencies and puts additional measures in place to provide more transparency and accountability when local and state law enforcement agencies partner with federal immigration agencies.

SB 54 went into effect on January 1, 2018. The intention of this report is to examine the ways that local San Diego law enforcement agencies have implemented SB 54 in our region. The California Immigrant Policy Center (CIPC) published a policy brief on the statewide implementation of SB 54 that outlines the general trends that are happening across the state (Gomez and Razavi). This report will address the general trends laid out by CIPC and whether or not any of our local law enforcement agencies fall into those trends.

## Background

The San Diego Immigrant Rights Consortium (SDIRC), along with other local and state partners, advocated for the passage of SB 54 in 2017, and has been closely monitoring its implementation in our region. Over the course of a year, SDIRC members and partners reached out to all local law enforcement agencies in the region and were able to meet with most of them, with the goal of understanding how those agencies work with federal immigration agencies and how they planned to change their policies to be in compliance with SB 54.

We met with the following agencies: Chula Vista Police Department, Coronado Police Department, El Cajon Police Department, Escondido Police Department, La Mesa Police Department, National City Police Department, Oceanside Police Department, San Diego County Probation Department, San Diego Harbor Police Department, San Diego Sheriff Department, and the San Diego Police Department. In addition to those 11 agencies, we also obtained the Carlsbad Police Department's updated policy.

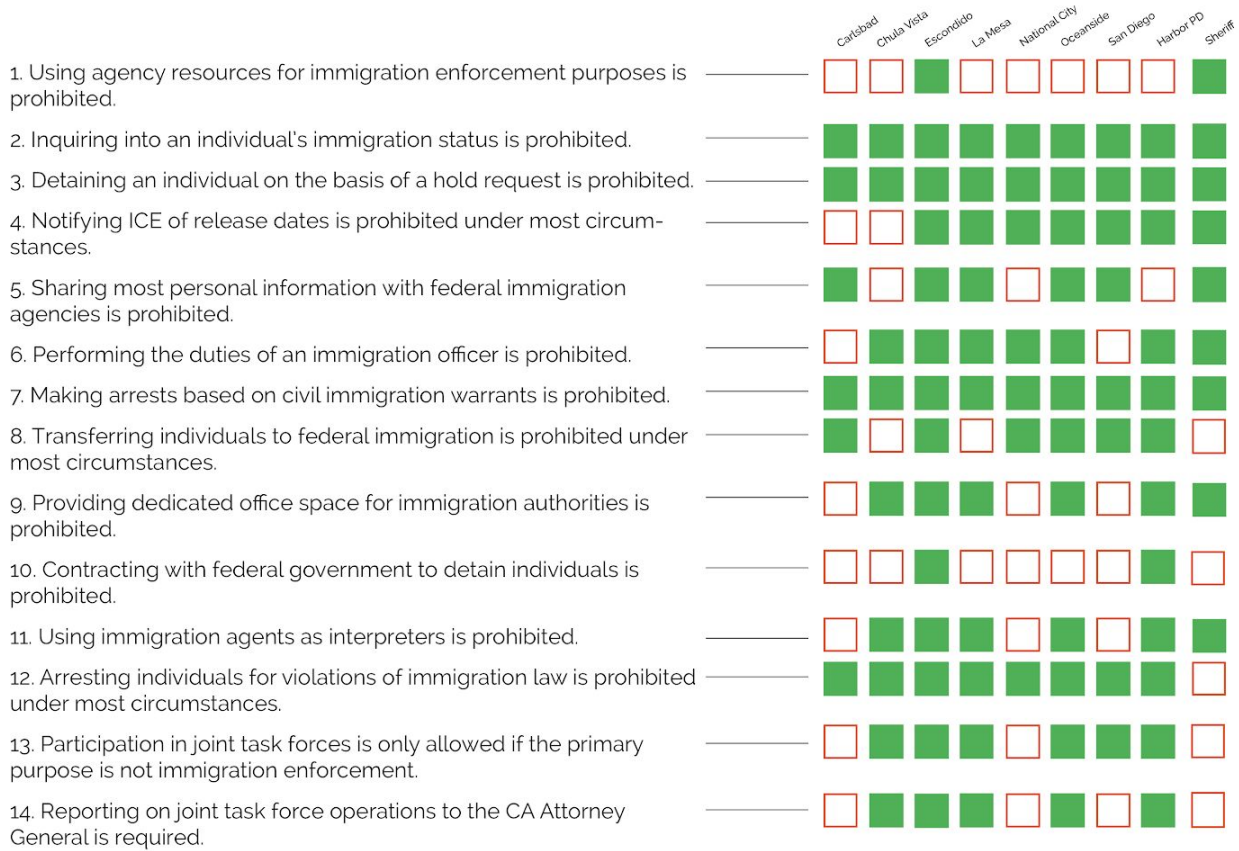
While SB 54 went into effect on January 1, 2018, most San Diego local law enforcement agencies did not finish updating their policies until much later in the year. SDIRC analyzed the policies we received and provided feedback to most departments. Some departments took community input into account – we met with several departments before their policies came out (San Diego Sheriff's Department, La Mesa Police Department, National City Police Department, San Diego Probation Department). We were able to provide feedback to various departments (Chula Vista Police Department, San Diego Sheriff's Department, San Diego Harbor Police Department, National City Police Department, Oceanside Police Department) during the draft phase. For the most part, the agencies that met with community and took community input into account had better policies than those who did not. This is not surprising – departments that are serious about building community trust understand the importance of not simply listening to community input, but incorporating it into their policies.

Chart 1

San Diego Law Enforcement Agency Compliance with SB 54 <sup>1</sup>



## How Well Does Each San Diego Local Law Enforcement Agency's Written Policy Comply with SB 54?



### What does implementation in San Diego County look like?

In San Diego County, nine of the twelve local law enforcement agencies have either completed updating their policies, or have a final draft that they are beginning to implement. Those nine agencies are: Carlsbad Police Department, Chula Vista Police Department, Escondido Police Department, La Mesa Police Department, National City Police Department, Oceanside Police Department, San Diego Harbor Police Department, San Diego Police Department, and the San Diego Sheriff's Department. Two agencies are still working to complete their updates (San Diego County Probation and the El Cajon Police Department). One agency (Coronado Police Department) refused to share their policy, stating that they do not share their policies and procedures publicly, which is unfortunate given the importance of transparency in building trust with the community. Coronado, however, provided a letter to specify whether or not they are following certain components of SB 54.

### How San Diego regional law enforcement measures up statewide

CIPC outlined a number of ways that police departments might not be complying fully with SB 54 in their policy brief on statewide SB 54 implementation: lack of transparency and oversight on joint task forces agencies participate on with federal immigration agencies; shared space, resources and telecommunications systems with Immigration and Customs Enforcement (ICE); public posting of release dates and providing additional information to federal immigration; and relying on inadequate language in policies created by a private corporation called Lexi-Pol (Gomez and Razavi).

### *Task forces*

Under SB 54, local and state agencies are allowed to participate on task forces so long as the primary purpose of the taskforce is not immigration enforcement. SB 54 also stipulates that for each joint task force where federal immigration agencies are present, one of the local or state law enforcement agencies must provide reports and statistics.

Every department in San Diego County participates on joint task forces that include federal immigration agencies. The San Diego Sheriff's policy lists 12 different regional task forces that local agencies may be participating in with federal immigration agencies. Very little information is available regarding what that participation actually entails. Additionally, while many of the departments in San Diego County specifically state that their purpose for taskforce participation is not immigration enforcement, none of the policies provide clarity around who will be responsible for reporting information back to the California Attorney General for each task force.

Four agencies specifically mention the role that they will play in ensuring that the task force(s) that their officers are on comply with the reporting requirement in SB 54: Chula Vista Police Department, La Mesa Police Department, Oceanside Police Department, and San Diego Harbor Police Department. La Mesa Police Department's policy states that the Police Chief will be responsible for ensuring that reporting from one of the agencies happens. Chula Vista Police Department, Oceanside Police Department, and San Diego Harbor Police Departments' policies state that their departments will submit a report annually to the Attorney General.

An additional agency, Escondido Police Department, mentions that reporting is required, but does not specify their actual role in reporting to the Attorney General. They also failed to provide any clarity around which other agency on the task force would provide the reports. So while Escondido is technically in compliance with SB 54, their policy still lacks transparency around task forces.

The lack of information on joint task forces alone is concerning and does not serve to engender public trust. The lack of clarity regarding which agency is responsible for sharing reports with the California Attorney General could put a number of our local agencies at risk with not being in compliance with SB 54.

### *Shared Spaces and Resources*

Providing dedicated space and resources to federal immigration agencies is prohibited under SB 54. In San Diego County, we did see the elimination of dedicated office space for federal immigration and most agencies have this written in their policy. However, we have seen agencies (San Diego Sheriff Department, Escondido Police Department) shift to having shared workspaces. For example, ICE used to have their own dedicated desktop computer and desk in the jails before SB 54. Now they no longer have their own desks and desktop computers -- they bring laptop computers and work in a shared space instead. While SB 54 does not prevent them from going into the jails, a couple of counties in the state have stopped allowing ICE to enter their facilities altogether. That is not the case in San Diego and ICE still continues to have access to individuals in custody. While no longer providing federal immigration agencies with dedicated office space is

certainly a move in the right direction, the shift to shared office space and resources while not in violation of SB 54, certainly goes against the spirit of the law and does not help build community trust.

### *Publicly Posting Release Dates and Providing Additional Information to Federal Immigration*

As a response to no longer being able to notify federal immigration agencies of release dates under SB 54, some law enforcement agencies statewide moved to posting release dates publicly. In San Diego County, the release dates are available online, but release dates have been available online since before SB 54 passed under the Sheriff's "Who Is In Jail" page. The "Who Is in Jail" page is an inmate locator system that allows individuals to look up someone who is in detention, if they know the individual's information. The Sheriff, however, did add a link that shows all of the individuals they have in custody who are currently pending release that day. This was not on the website prior to SB 54, and makes it easier for people (including federal immigration agents) to see who is being released on any given day because you no longer have to have an individual's specific information to be able to find out when they are being released.

While federal immigration officials continue to have access to the Automated Regional Justice Information System (ARJIS), the database local San Diego County law enforcement agencies enter crime information into, the county has stopped collecting information about an individual's immigration status in ARJIS. The San Diego Police Department took things a step further. Not only does San Diego Police Department no longer ask for or collect immigration information, but they are going back and redacting information they collected in the past on individuals' immigration status. While it is still not ideal for immigration officials to be able to access local law enforcement databases, the fact that immigration information is no longer collected and inputted into ARJIS is a good step forward.

### *Lexi-Pol*

In their policy brief on statewide SB 54 implementation, CIPC noted that many local law enforcement agencies, particularly smaller departments, were not in compliance with SB 54 because they relied on inadequate language in policies created by a private corporation called Lexi-Pol. The model policies that Lexi-Pol created did not mirror best practices and were not fully in compliance with SB 54. While CIPC has notified Lexi-Pol of those issues, it still impacted the way that local law enforcement agencies implemented SB 54.

In San Diego County, the majority of local law enforcement agencies did not use language from Lexi-Pol and developed their own policies. There were three departments that used the Lexi-Pol policies to develop their policies: Carlsbad Police Department, Oceanside Police Department, and National City Police Department. Chula Vista Police Department's policy also had language from Lexi-Pol from previous policies since they do use Lexi-Pol, but they developed the actual policy on their own, with feedback from community stakeholders.

Similar to other agencies across the state that used the Lexi-Pol language for their SB 54 policies, the departments that used the Lexi-Pol policies on SB 54 in San Diego County had some significant gaps in their policies. SDIRC did not meet with Carlsbad Police Department, but we did meet with the other two departments to raise our concerns. Oceanside Police Department made changes to improve their policy. At the time of this report, National City Police Department had a final draft that they were beginning to implement, but was receptive towards making changes.

### ***Beyond SB 54***

On the positive side, some San Diego County law enforcement agencies are taking measures that go beyond what SB 54 requires them to do, and put specific language in their policies to demonstrate to community members that they do not enforce immigration laws.

For example, Chula Vista Police Department's policy specifically states that they "do not do immigration sweeps." National City Police Department requires that in cases when an undocumented person is arrested, officers "must list in detail the reasons for the detention, including all the facts that led to the reasonable suspicion that suspect was involved in criminal activity, unrelated to immigration status."

San Diego Police Department has not only stopped collecting immigration information on their arrest forms, but is going back and redacting that information for cases prior to the date SB 54 went into effect.

All departments stated the importance of making sure that all victims and witnesses feel safe contacting local law enforcement. Several others clearly outlined the process for handling U-Visas (Carlsbad Police Department, Chula Vista Police Department, Oceanside Police Department, National City Police Department, San Diego Harbor Police Department).

National City Police Department accepts the *matricula consular* as a valid form of identification.

Oceanside Police Department previously housed an ICE agent in their facility. Due to SB 54 requirements around dedicated office space, they could no longer legally provide office space for that agent. They could have chosen to allow the agent to remain and work in a shared workspace; however, they decided they would no longer house an ICE agent in their department.

### **Opportunities for Improvement**

While there are areas where San Diego County law enforcement agencies have done well implementing SB 54 and have even gone beyond what SB 54 requires them to do by law, there is still room for improvement for the region as a whole.

First, all agencies must finish updating their policies to be in compliance with SB 54, and they should make those policies public. Updating and making these policies available to the public not only helps the community understand how their local law enforcement agencies are implementing SB 54, but also helps build community trust.

Second, there needs to be clarity around joint task forces – which agencies participate on which joint task force, what participation entails, and which specific agency is responsible for reporting to the Attorney General for each task force.

Third, while local agencies are not prohibited from allowing federal immigration agencies to use a shared space in their facilities, this still creates a perception that local agencies are closely collaborating with them. Some agencies in the state recognize this and do not allow federal immigration authorities access to their facilities at all.

Finally, the California Attorney General published guidelines on databases that are not used for immigration enforcement in October of 2018. While agencies are not required to adhere to these guidelines, they are encouraged to do so. San Diego County agencies should make changes to their policies on databases to be in alignment with the Attorney General's guidelines.

### **Conclusion**

SB 54 was a significant win for our state, particularly in the border region where our communities are far more likely to come into contact with Department of Homeland Security (DHS) agencies than anywhere else. As implementation in San Diego has proven, there is still plenty of work to be done to both ensure that all of our local law enforcement agencies

are in compliance with the law and address areas where the bill itself fell short. While we know that many of our local agencies may in practice be fully in compliance with SB 54, their policies do not necessarily reflect this. Unfortunately, practice is not enough — written policy is important for institutional clarity, as well as accountability and transparency to the public. We need our local law enforcement agencies, if they have not done so already, to put their practices into written policy. We look forward to continue partnering with our local agencies as they work to address the gaps in compliance with SB 54 as soon as possible.

At the end of the day, we must remember that the California Values Act is not a ceiling, but a floor. It is a foundation that our local law enforcement agencies can build upon, and as they work to build trust with the immigrant community, our hope is that they will work to create policies that go beyond SB 54 and provide additional protection to families in our region.

## References

Gomez, Felicia and Layla Razavi. *Policy Brief: Implementing SB 54 “The California Values Act”*. The California Immigrant Policy Center, 2018.

Senate Bill 54 (The California Values Act)

[https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB54](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB54)

## Endnotes

1. The requirements in this chart have been shortened from the actual language in SB 54. To see the full language, please click here:  
[https://docs.google.com/spreadsheets/d/15c9e\\_qFQnkJUEQ22szVXwlbzDXX6Kk93xJV0hmi80vM/edit?usp=sharing](https://docs.google.com/spreadsheets/d/15c9e_qFQnkJUEQ22szVXwlbzDXX6Kk93xJV0hmi80vM/edit?usp=sharing)

## Acknowledgements

This report was written by Erin Tsurumoto Grassi from Alliance San Diego, using data that was collected by members and partners of the San Diego Immigrant Rights Consortium (SDIRC) during meetings with local law enforcement agencies in San Diego County.

Thank you to the following SDIRC member and partner organizations for meeting with local law enforcement agencies in San Diego County regarding SB 54 Implementation: Alianza Comunitaria, American Civil Liberties Union of San Diego and Imperial Counties, American Friends Service Committee, California Immigrant Policy Center, the Council on American Islamic Relations San Diego, CSA San Diego, Human Rights Council of Oceanside, Indivisible Downtown San Diego, National Latino Research Center at California State University San Marcos, North County Immigration Task Force, South Bay People Power, and Universidad Popular.