

Does My Jail Cooperate with ICE?

RESEARCH REPORT



February 2018

A Know Your Rights Guide for Marin County



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PURPOSE

What is the Purpose of this Resource?

In July 2017, Canal Alliance filed a California Public Records Act (PRA) request to understand the level of cooperation between the Marin County Sheriff's Office and Immigration and Customs Enforcement (ICE). This is crucial because in Marin, as in many other counties, this cooperation is the primary way that community members are turned over to ICE.¹ Canal Alliance received documents from the Sheriff dating from January 2015 to July 2017. Representatives from Canal Alliance and the Immigrant Legal Resource Center (ILRC) reviewed the documents and met with the Marin County Sheriff in February of 2018 to share the findings of the PRA request and elicit their feedback.

What follows is a summary of the PRA request findings, the Sheriff's current policies and information obtained during conversations between ILRC, Canal Alliance, and the Marin County Sheriff, pertaining to the Marin County Jail.

¹ ICE can arrest people in other contexts. For example, at home or in the street. Because of this, Know Your Rights information in all contexts remains important. However, contact with the criminal system remains the primary way that people get transferred to ICE.

What are Marin County Sheriff's Policies?

Data shows that the Marin County Sheriff's Department cooperates with ICE to the degree permitted under the law, and their own policies.² On average, 133³ persons per year were flagged to be turned over to ICE. Of this number, 92% are Latino.

Summary: The primary way that people find themselves in deportation proceedings is through contact with the local criminal system. The Sheriff's cooperation with ICE, however, is voluntary, and it is lawful to cease nearly all cooperation entirely. If law enforcement decides to cooperate with ICE, there are several California laws - including the TRUTH Act and the California Values Act - which regulate this cooperation.

How does ICE find people in jail? When someone is booked into jail, fingerprints are sent to the FBI and then shared with ICE. Prior contact with ICE can result in a "flag" which could result in ICE trying to arrest the individual. Another way that ICE finds out about people is through jail interviews.

² The Marin County Sheriff's Office's policies can be found here: www.marinsheriff.org/services/forms

³ The 133 average is calculated from the arrests made in 2015, 2016, and 2017.

Below are the various ways in which the Sheriff cooperates with ICE

ICE Notifications: If ICE suspects that someone should be deported, ICE may ask the Sheriff for notification of that person's release date from jail.⁴ Advance notification provides ICE with the opportunity to arrest the person upon release from jail. Although the Sheriff is not compelled to provide ICE with this information, the Sheriff regularly does so.

The Law: Under the TRUTH Act, the Sheriff is required to give written notice to the detainee that ICE has requested their release date. If the Sheriff decides to cooperate with ICE and disclose the release date, the Sheriff must inform the detainee and another person of their choosing (e.g., attorney, relative, other person of choice) that they have provided the release date to ICE. Under SB 54, the Sheriff is prohibited from sharing release dates unless a person has a certain type of criminal history or unless that information is "publicly available". Because release dates are publicly available in Marin, the Sheriff has decided to also share them with ICE.

What's happening in Marin: The Sheriff appears to cooperate with ICE to the degree permitted under the law. The Sheriff recently made public inmate release dates through the Marin County Booking Log website⁵ and the Sheriff is currently cooperating with ICE requests for release dates, as purportedly permitted under SB 54 since release dates are "publicly available." This is consistent with the Sheriff's history of cooperating with ICE in these requests. Data from 2017 shows that the Sheriff received an average of 1-4 notification requests a week, with most notifications happening on weekdays. Of those who were detained and flagged to be turned over to ICE in 2017, ICE requested release date information in 88% of the cases.

⁴ Release dates are generally provided in response to the form I-247, the form which ICE generally uses for request for notice of an individual's release date.

⁵ <https://apps.marincounty.org/BookingLog/>

COOPERATION WITH ICE

ICE Interviews: Sometimes ICE agents will enter jails to interview immigrants in order to place them in deportation proceedings. The Sheriff may deny ICE access to the jail entirely.

The Law: If a Sheriff allows these interviews to occur, the TRUTH Act requires the Sheriff to provide a written consent form to anyone whom ICE wants to interview. This consent allows the person to refuse the interview, to agree to the interview only if an attorney is present, or to agree to the interview without an attorney.

What's happening in Marin: The Sheriff is allowing these interviews to happen but appears to be following the law with regards to providing consent forms prior to any ICE interviews. Although the data here is incomplete, in 2017 at least 9% of people accepted an interview with ICE, and 4% chose to be interviewed without an attorney. Thus far in 2018, it appears that everyone has declined interviews with ICE. It should be noted that even when an individual declines the ICE interview, ICE agents may nevertheless arrest the individual after release from jail.

Advice: Always decline the interview. If you would like to proceed with the interview for any reason, do so only with your attorney present.

Other Cooperation: The Sheriff has indicated that their office does not participate in joint projects (“joint taskforces”) with immigration officials or “immigration raids.”

CALIFORNIA VALUES ACT SB54

How Will California's New Law Affect Marin County?

Effective **January 2018**, the California Values Act (SB 54), prohibits law enforcement from looking into an individual's immigration status, prohibits law enforcement from using immigration agents as interpreters, prohibits providing immigration agents exclusive office space, and creates **"sanctuary policies" for spaces such as courthouses, schools, health facilities and others (due October 2018)**. While SB 54 creates a new state standard, it is important to consider that nearly all ICE cooperation is voluntary and stronger policies may be adopted at the discretion of local government.

*Suspected SB 54 violations may be reported to (415) 621-2488.
To learn more about SB 54 visit www.iceoutofca.org/ca-values-act-sb54*

What does this all mean for me?

Now more than ever, it is important to Know Your Rights!

What Are Your Rights in Jail?

- ✓ When you are charged for a criminal offense, you have the right to an attorney paid for by the government. If you are an immigrant, make sure that your defense attorney is aware of your status. Your attorney is required to tell you how your criminal case might affect your immigration status.
- ✓ Jails, like the one in Marin County, are able to share your fingerprints with ICE when you are booked. ICE uses this information to assess whether they are interested in an individual.
- ✓ You have the right to written notification if ICE has requested your release date. You have the right to written notification that ICE agents want to interview you and you may decline the interview. This means that ICE cannot interview you in the jail unless you consent.
- ✓ You have the right not to answer any questions or sign any documents. Never sign anything provided to you by ICE without first speaking to an attorney.
- ✓ Memorize contact information of your friends, family, and criminal defense attorney for use in your immigration case. Give copies of your criminal and other important documents to trusted family or friends for use in your immigration case.

What Are Your Rights If ICE Picks You Up?

- ✓ If ICE picks you up from the jail, you will likely be transferred to an immigration detention facility. Family members can locate you by checking www.locator.ice.gov
- ✓ Even if ICE detains you in immigration jail, you may be able to get out on an immigration bond.
- ✓ If ICE comes to your home, make sure never to open your door to ICE agents. Instead, call Marin's Rapid Response Number: **415-991-4545**.
- ✓ Many people will have the right to go to court to fight their immigration case.
- ✓ You still have the right to remain silent and not sign any documents. This includes the right not to sign a "voluntary departure," (a.k.a. "voluntary return") which gives up your ability to fight your deportation case.
- ✓ For a complete list of your rights in the criminal justice system and deportation proceedings, see "Know Your Rights: A Guide for Immigrants in the California Justice System" available at www.ilrc.org/enforcement.
- ✓ For local resources to obtain an attorney for someone in deportation proceedings, contact Canal Alliance.⁶

⁶ www.canalalliance.org Phone Number: (415) 454.3967 Email: immigration@canalalliance.org