Three Years Later:
SB 54 Implementation in San Diego County

Released: August 2021

By Erin Tsurumoto Grassi

In October 2017, Governor Jerry Brown signed Senate Bill 54, the California Values Act, into law. It was a huge victory for immigrant and refugee communities across the state. The landmark legislation demonstrated the State of California’s commitment to making certain that all Californians, including immigrants, feel safe by assuring Californians that state and local resources would not be used to deport them, their families and other members of the community. The California Values Act (SB 54) achieves this by limiting 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. In April of 2019, the San Diego Immigrants Rights Consortium (SDIRC) published a report that examined the ways that local San Diego law enforcement agencies had implemented SB 54 in our region. The report addressed general trends happening across the state that were outlined in a policy brief by the California Immigrant Policy Center (Gomez and Razavi). Since the release of our 2019 report, SDIRC has continued to meet with local law enforcement agencies to discuss their policies and the various ways they collaborate with federal immigration agencies.

This updated report will highlight the positive changes we have seen law enforcement agencies make in order to better serve the immigrant community, as well as the new and continuing challenges that make community members uneasy about trusting law enforcement.

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 2018, SDIRC members and partners reached out to all local law enforcement agencies in the region 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 were able to meet with most of them.

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 County Probation Department, San Diego Harbor Police Department, San Diego Sheriff Department, and the San Diego Police Department).
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 members and took community input into consideration developed better policies than those agencies 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.

When we released our first report on SB 54 implementation in 2019, we had only received policies from nine out of the twelve local law enforcement agencies in San Diego County. Two departments had not finished completing their updates, and one had refused to share it. Following the release of the 2019 report, the agency that had previously refused to share their SB 54 policy met with SDIRC immediately and shared their policy. The other two agencies finished updating their policies as well. Additionally, three departments met with us again to review their policies and eventually updated their policies to be in line with SB 54.

In 2018, Senate Bill 978 was passed, requiring all law enforcement agencies to post their policy manuals on their department websites starting January 1, 2020. Since the passage of that bill, all of the San Diego County local law enforcement agencies have posted their policies online, and we have reviewed those policies once more for any updates to their immigration policies.

**What does implementation in San Diego County look like in 2021?**

In San Diego County, all of the local law enforcement agencies have completed updating their policies on SB 54 and have posted them, along with the rest of the policy manuals, on their department websites. This is an improvement from 2018, when only nine out of the twelve departments had updated and shared their policies with SDIRC.

Additionally, we now have four departments whose policies are fully in line with SB 54: Chula Vista Police Department, Escondido Police Department, National City Police Department, and the San Diego Sheriff’s Department. When we released our 2019 report on SB 54 implementation, only the Escondido Police Department was fully in compliance with SB 54. Chula Vista Police Department and National City Police Department met with us again and worked to get their policies in full compliance. The San Diego Sheriff’s Department also met with us again, and made changes following calls from the community for them to be in full compliance with the law during the 2019 TRUTH Act Forum.

While this is good progress, the fact remains that eight out of twelve law enforcement agencies in San Diego County have policies that are still not fully compliant with SB 54.

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

In their statewide SB 54 implementation brief, the California Immigrant Policy Center (CIPC) outlined a number of ways that police departments might not be fully complying with SB 54: 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 joint task forces with federal immigration agencies so long as the primary purpose of the task force 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. Since our 2019 report on SB 54, we have gained clarity that the San Diego County Sheriff’s department bears the responsibility of reporting to the California Attorney General’s office on the region’s joint task forces.

Every local law enforcement agency in San Diego county participates on joint task forces that include federal immigration agencies. In 2020, the San Diego Sheriff’s Department submitted a list of 18 joint task forces for the region. Eight of those task forces include federal immigration agencies: East County Regional Gang Task Force, San Diego Regional Fugitive Task Force, Border Crime Suppression Team, HIDTA Operation Alliance/San Diego Narcotics Enforcement Team, Costa Pacifica, North County Regional Gang Task Force, and the San Diego Human Trafficking Task Force. Homeland Security Investigations (HSI), which is part of ICE, sits on seven of those task forces, ICE sits on one, DHS sits on one, Customs and Border Protect (CBP) sits on two, and Border Patrol sits on two.

While local law enforcement agencies are allowed to participate on joint task forces with federal immigration agencies under SB 54, this collaboration is still problematic because there is lack of transparency on these task forces. Very little is known or disclosed about the specific activities each agency conducts on these multi-agency joint task forces. In addition, we are concerned that there is nothing to stop federal agencies from making collateral immigration arrests when the purpose of the joint task force is not immigration enforcement. That happened in 2018, during an Operation Stonegarden activity, when the Sheriff called Border Patrol regarding a vehicle they had stopped (Koran and Srikrishnan). Border Patrol “self-deployed” and deported the two individuals who had been stopped by the Sheriff’s department.

Since 2018, participation by federal immigration agencies on joint task forces has increased; particularly HSI participation. In 2019, HSI was added to three additional joint task forces, and Border Patrol was added to one additional joint task force. In 2020, HSI was added to another joint task force, as well as DHS. The increased presence of immigration agencies on these task forces -- to limit collaboration between local law enforcement and federal immigration agencies -- ignores the concerns community groups have raised regarding these task forces during the yearly TRUTH Act forums and goes against the spirit of SB 54.

Ultimately, the lack of transparency on joint task forces and continued expansion of federal immigration agencies on these task forces continues to be a concern and does not serve to engender public trust.

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 local law enforcement agencies have this written in their policy. Initially, some departments (San Diego Sheriff’s Department, Escondido Police Department, Oceanside Police Department) shifted to having shared workspaces, but it is our understanding that practice has stopped. The San Diego Sheriff’s Department still allows ICE access to individuals in county jails, but ICE must now sign in as visitors and no longer roam the jail freely. This change, combined with having to complete paperwork required under the TRUTH Act, lessened the presence of ICE in Sheriff detention facilities -- ICE actually conducted no interviews in San Diego County jails in 2020. In Escondido, ICE agents used to have access keys to the Escondido Police Department building, but they no longer do.

These are both shifts in the right direction, but there is more that these departments could do. 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 jails.
altogether. In our region, Oceanside stopped allowing ICE access to their facility, including the parking lot. As long as ICE continues to have access to the facilities of our local law enforcement agencies, community trust in local law enforcement is at risk.

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. This was the case with the San Diego County Sheriff. Prior to SB 54 passing, release dates were available online 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, added a link that shows all of the individuals they have in custody who are currently pending release that day -- the “Inmates Pending Release Report”. This report was not on the website prior to SB 54, and made it easier for people (including federal immigration agents) to see who is being released on any given day because they did not need to have the specific information on the individual who was detained to access it. Following pressure from SDIRC and community members, the Sheriff decided to remove the “Inmates Pending Release Report” from their website. In a letter to SDIRC, Sheriff Gore stated that following discussion with his staff, law enforcement partners and community groups, he had “reached the conclusion that the concerns related to this report significantly outweigh the value of it.”

Federal immigration officials no longer have access to the Automated Regional Justice Information System (ARJIS) database, and the county has stopped collecting information about an individual’s immigration status in ARJIS. This is significant progress.

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 policy language created by a private corporation called Lexi-Pol. The model policy that Lexi-Pol created did not mirror best practices and was 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, most of our local law enforcement agencies did not use language from Lexi-Pol and developed their own policies. However, there were still some local law enforcement agencies in our region that did use Lexi-Pol to create their policies. Carlsbad Police Department is one example of a department that used Lexi-Pol language (Carlsbad Police Department). 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. This created more work for both the agencies and our coalition because we had to meet with those departments to try to address those gaps. While some departments made adjustments that put them fully in compliance with SB 54 (National City, Chula Vista), there are others that continue to have gaps in their policies and are presently not in compliance with SB 54.

New and continued challenges to building community trust

While SB 54 still allows for some collaboration between local law enforcement agencies and federal immigration agencies, this does not come without a cost. This collaboration, though not against SB 54, violates the spirit of the law and erodes community trust. Some of that collaboration was outlined in the 2019 SDIRC report and is listed above: shared work spaces and resources, and participation on joint task forces. However, there are a couple of additional types
of collaboration that we did not mention in our previous report: transfers to ICE and the sharing of data collected from automated license plate readers.

Transfers to ICE

While most transfers to ICE are not allowed under SB 54, there is an exception for individuals who have been convicted of certain crimes. The San Diego Sheriff’s Department is transferring individuals to ICE who fall within the transfer exceptions under SB 54. On the positive side, the San Diego Sheriff’s Department has been decreasing the number of individuals they transfer to ICE. In 2017, they transferred 1143 people to ICE. In 2019 that number was 271, and in 2020, they transferred 78 individuals to ICE.

There is a time limitation on some of the crimes that allow law enforcement agencies to transfer people to ICE. For certain misdemeanors, the individual had to be convicted within the past 5 years, and for certain felonies, the individual had to be convicted in the last 15 years. The San Diego Sheriff’s Department has provided SDIRC with statistics on the transfers they make to ICE, including the qualifying conviction that allowed them to transfer the individual to ICE under SB 54. In the past, they did not provide the date of the qualifying convictions. Without the dates of the qualifying convictions, there is no way for the public to know whether or not the transfers were allowed under SB 54. However, they did provide the dates of the qualifying convictions for the 2020 transfer data when they shared that with SDIRC in May 2021.

Further, while transfers to ICE are allowed under certain circumstances, they are not necessary. There are several Sheriff’s departments across the state that do not transfer any individuals to ICE (i.e. Contra Costa, Humboldt, Los Angeles, Santa Clara, San Joaquin, San Francisco). Transferring individuals to ICE violates the spirit of SB 54 and the appearance of continued collaboration between local law enforcement agencies and ICE discourages community members from calling and cooperating with local law enforcement due to fear.

Automated License Plate Readers

Law enforcement agencies across the country use Automated License Plate Readers (ALRP) to gather data on vehicles. Local police use this data in criminal investigations -- to identify if a vehicle was at the scene of a crime, to recover stolen vehicles, find children who have been abducted, etc. The data is then uploaded into a database, either controlled by the local department itself or by a third party vendor. Most often, departments use a third party vendor to store and maintain their ALPR data. The use of ALPRs can be considered controversial because they can be used to track and record the movement of everyday people without their knowledge or consent, and a number of agencies have abused this technology. (Electronic Frontier Foundation, 2017). While SDIRC acknowledges that the use of ALPR cameras is problematic, for the purposes of this report we will focus specifically on the storage of the data collected by ALPRs in databases, who has access to those databases, and whether or not local law enforcement agencies may be in violation of SB 54.

Every local police department in San Diego County and the San Diego Sheriff’s Department uses ALPRs. The San Diego Sheriff’s Department manages the county’s network of ALPRs and stores that data in a database that is managed by ARJIS (Electronic Frontier Foundation, 2019). According to the ARJIS policy, the data that is scanned and stored on a stand-alone regional server (ARJIS). As mentioned previously, ARJIS has stopped allowing federal immigration agencies access to their databases, so any ALPR data that is stored on their databases is not shared with ICE or BP.

However, many of our local law enforcement agencies are not just using ARJIS to store their data. As mentioned above, many departments utilize a third party entity to store and maintain their ALPR data. Vigilant Solutions is the primary
company that sells ALPR equipment, and it also collects and stores ALPR data on a database called LEARN. In addition to
law enforcement agencies, Vigilant Solutions and other companies also sell their technology to private entities, including
banks, credit reporting agencies and insurance companies. The data that is collected through Vigilant Solutions is then
made available to all of the law enforcement agencies and private entities that use their system (Immigrant Legal
Resource Center and ACLU Foundation of Northern California, 2021), although an agency does have the option to
indicate who it wishes or does not wish to allow access to their data.

Federal immigration agencies are among those who utilize Vigilant Solutions’ LEARN database for ALPR data. This means
that unless a department chooses to opt out from sharing their data with federal immigration agencies, these agencies
will have access to their ALPR data through Vigilant Solutions. This is what happened with the Chula Vista Police
Department (Solis, 2020). Chula Vista Police Department has used ALPRs for a long time, but they switched to using
Vigilant Solutions in 2017 and gained access to Vigilant Solutions’ LEARN database, which includes ALPR data from over
800 different law enforcement agencies. However, when they switched, they did not realize that ICE and Border Patrol
had access to that database (Solis, 2021). Chula Vista Police Department has stopped allowing ICE and Border Patrol
access to any of the data they share through Vigilant Solutions and has opted to only share data on Vigilant Solutions
with other agencies that are bound by SB 54. While that is a good step forward and provides a measure of accountability,
it does not guarantee that another entity that has access to Chula Vista’s data through LEARN will not share that
information with federal immigration agencies.

SDIRC met with the San Diego Sheriff Department and learned that the San Diego Sheriff’s Department has changed its
policy to only share the ALPR data they share on the LEARN database with five other San Diego County agencies (Chula
Vista Police Department, San Diego Police Department, Carlsbad Police Department, the San Diego District Attorney and
ARJIS). We also learned that they did a recent test on the data in ARJIS to make certain that federal immigration agencies
cannot share that data. That test confirmed that data stored on ARJIS is not shared with federal immigration agencies
and cannot be accessed by them. It is encouraging to hear that ARJIS is secure and that the San Diego Sheriff’s
Department is taking steps to limit who can access the data they share on LEARN. However, if the San Diego Sheriff’s
Department is only sharing their ALPR data with other local agencies who they already share that same data with in
ARJIS, it would appear there is no need to use the LEARN database to share their data at all. SDIRC raised the question of
the necessity of using two databases, and the San Diego Sheriff’s Department committed to looking into that further.

While Chula Vista Police Department’s ALPR program has received the most attention in the media recently, it is
important to remember that Chula Vista Police Department is not the only agency in our region that contracts with
Vigilant Solutions. There are others that still contract with Vigilant Solutions and it is unclear whether or not any of those
departments allow ICE and Border Patrol access to their ALPR data. A survey conducted by the California State Auditor
between August 12, 2019 and August 26, 2019, asked police departments if they were using an ALPR system and which
vendor they were using (Howle, 2020). In San Diego County, the following jurisdictions responded that they were using
Vigilant Solutions: Carlsbad Police Department, Chula Vista Police Department, Coronado Police Department, Escondido
Police Department, La Mesa Police Department, the San Diego Sheriff’s Department, and the San Diego Police
Department. El Cajon Police Department and National City Police Department also reported using an ALPR system, but
use a different vendor than Vigilant Solutions.

In 2015, Assembly Bill 34 passed, requiring CA law enforcement agencies who use ALPRs to publicly post their ALPR
policies online by January 1, 2016. Almost every department in our region has their ALPR policy posted online -- La Mesa
Police Department is the only department that does not. Despite the fact that most departments in our region have their
ALPR policies publicly posted, the policies do not provide us with much clarity on what is actually happening with the
data. Most departments mention that data will be stored on a database, but they do not always indicate who is
maintaining those databases or who has access to those databases. Many of the departments, such as Coronado Police
Department, simply stated in their policies that data would be transferred to “designated storage” (Coronado Police Department). Some of the departments, such as Escondido Police Department, indicated on their policies that the data would be stored on ARJIS (Escondido Police Department).

Carlsbad Police Department’s policy is the only one that indicates they are using a third party vendor (Vigilant Solutions), but their policy says data can be stored on ARJIS and/or Vigilant Solutions’ databases, which does not provide much clarity on where the data is being stored (Carlsbad Police Department). The lack of transparency from local law enforcement agencies over the use of ALPR vendors and where they are storing their ALPR data is alarming.

At the end of the day, there is simply no way to really know to what extent ALPR data from our region is being shared with federal immigration agencies and that is a huge problem.

**Summary of where we saw improvement since 2019**

Since we last released a report on SB 54 implementation, we have seen some local law enforcement agencies work to improve their policies and practices to better comply with SB 54 and to be more in line with the desires of the community. This included the Sheriff removing the “Inmates Pending Release Report” from the website, requiring ICE to sign in as visitors when they visit the jail, updating their written policy so it would be fully in compliance with SB 54, and reducing the number of people transferred to ICE. National City and Chula Vista also updated their policies to be fully in compliance with SB 54. The number of agencies whose policies are in full compliance with SB 54 increased from one to four. Escondido and Oceanside stopped allowing ICE access to their facilities, and federal immigration agencies are no longer allowed access to ARJIS. Finally, all of the agencies have publicly posted their policies online. These changes are an important part of building and maintaining community trust. It is our hope that agencies will continue to look for ways to improve their policies and improve the ways they serve our immigrant communities. Some suggestions on how they can do this are in the following section.

**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.

We recommend our local law enforcement agencies do the following:

1. Update their policies to be in full compliance with SB 54 as soon as possible. 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.
2. Increase transparency around joint task forces and define the scope of activities for each participating agency, including what specific agencies are doing to guarantee that their participation does not inadvertently lead to community members being deported.
3. Stop allowing federal immigration agencies access to their facilities, including county jails. While local agencies are not prohibited from allowing ICE and other federal immigration agencies access to their facilities, doing so creates the perception that local agencies are closely collaborating with them. Several local law enforcement agencies in the state recognize this and do not allow federal immigration authorities access to their facilities at all.
4. Stop sharing ALPR data with federal immigration agencies through the third party companies they contract with, such as Vigilant Solutions. Since there is no way to control who shares their ALPR data once it is on a third party database such as LEARN, we would recommend that local law enforcement agencies stop allowing the data to be shared with other agencies through Vigilant Solutions or other third party entities altogether. ALPR data is
already shared and stored on ARJIS, which means that San Diego County agencies already have access to each other’s ALPR data. Additionally, there needs to be more clarity in the ALPR policies on how data is stored and which other agencies get access.

5. Stop transferring individuals to ICE. While certain transfers are still allowed under SB 54, this violates the spirit of SB 54 and erodes community trust. If the San Diego Sheriff’s Department is truly serious about building community trust, we recommend that the Sheriff follow the lead of several other sheriff’s departments in the state, and stop transferring individuals to ICE.

Conclusion

The enactment of 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 we have worked to implement SB 54 in our region, we have seen firsthand the benefits of the California Values Act. However, there is still plenty of work left to be done to both ensure that all of our local law enforcement agencies are in full compliance with the law and to address areas where the legislation itself falls short. We look forward to continuing to partner with our local agencies as they work to address both their own gaps in compliance with SB 54 and the gaps in SB 54 itself.

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

Automated Regional Justice Information System (ARJIS) Acceptable Use Policy for the Regional License Plate Reader System


https://www.eff.org/pages/automated-license-plate-readers-alpr

Electronic Frontier Foundation. (December 17, 2019). Surveillance Tech in San Diego County, California.
https://www.eff.org/pages/tecnologia-de-vigilancia-en-el-condado-de-san-diego-california

Escondido Police Department. Escondido Police Department Instruction: Automated License Plate Recognition Systems.


San Diego Sheriff’s Department. SB 54 Reporting. https://www.sdsheriff.net/resources/open-data/immigration-sb-54

Senate Bill 54 (The California Values Act) 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

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 for the implementation phase with local law enforcement agencies in San Diego County, as well as data that was obtained through TRUTH Act forum organizing efforts.

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, Asian Pacific American Labor Alliance (APALA) San Diego, Border
Angels, California Immigrant Policy Center, the Council on American Islamic Relations San Diego, CSA San Diego, Human Rights Council of Oceanside, Indivisible San Diego Persist, National Latino Research Center at California State University San Marcos, North County Immigration Task Force, San Diego La Raza Lawyers Association, South Bay People Power, and Universidad Popular.