



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Southern California

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Board of Supervisors
Orange County
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Michelle.Steel@ocgov.com
Todd.Spitzer@ocgov.com
Lisa.Bartlett@ocgov.com

Re: Request for TRUTH Act Forum in Orange County

Dear County Counsel Page and Supervisors Do, Nelson, Steel, Spitzer, and Bartlett:

I am writing to request that the Orange County Board of Supervisors schedule and hold a Transparent Review of Unjust Transfers and Holds (“TRUTH”) Act Forum in **October 2018**.

Because the Orange County Sheriff’s Department (“OCSD”) has provided Immigration and Customs Enforcement (“ICE”) access to individuals in Orange County jails in 2017, the Board of Supervisors is required by state law to hold at least one community forum during 2018. *See* Cal. Gov’t Code § 7283.1(d) (“[T]he governing board of any county ... in which a local law enforcement agency has provided ICE access to an individual during the last year *shall* hold at least one community forum *during the following year...*”) (emphasis added).

Despite numerous requests from Orange County residents and advocacy organizations, the Board of Supervisors has failed to schedule and hold a community forum. For example, in June 2018, the California Immigrant Youth Justice Alliance and the Orange County Rapid Response Network sent the Board of Supervisors a letter requesting that the County hold a TRUTH Act Forum in August 2018. *See* Ex. 1. Members of the public have also requested that the Board of Supervisors hold a TRUTH Act Forum at Board of Supervisors meetings in July and August

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2018. The County has failed to respond to these multiple requests and schedule a TRUTH Act Forum.

On March 22, 2018, Advancing Justice – Asian Law Caucus and the National Day Laborer Organizing Network sent a Public Records Act request seeking information about how many ICE requests the OCSD had received and/or responded to since January 1, 2017. On May 21, 2018, the OCSD responded to the request and stated that, since January 2017, the OCSD had screened about 1,761 inmates after receiving immigration detainers and that 772 inmates had been released to ICE. The OCSD's responses to ICE requests in 2017 constitute ICE access and thus trigger the TRUTH Act Forum to take place this year. As the governing body of the County, the Board of Supervisors must convene the TRUTH Act Forum.

Given the OCSD's close relationship with ICE, the public has significant concerns regarding the use of County resources to facilitate the Trump Administration's mass deportation agenda that tears families apart and causes serious harm to Orange County residents. For this reason, I respectfully request that OCSD leadership, including Sheriff Sandra Hutchens and Undersheriff Don Barnes, participate in the TRUTH Act Forum to respond to the public's growing concerns.

Finally, as you may know, other counties that have held TRUTH Act Forums, including Contra Costa County and Fresno County, have had their sheriff and chief probation officer attend and provide the public with information on the level and type of ICE access granted in the previous year. Further, these counties have also allowed advocates from the ACLU and other advocacy organizations to give a presentation at the forums to provide legal context surrounding the County's engagement with federal immigration authorities, including the TRUTH Act and the California Values Act. Therefore, I respectfully request that the Board of Supervisors permit me and/or another advocate to present at the Orange County TRUTH Act Forum.

I look forward to your timely response and expect that the Board will schedule a TRUTH Act Forum as soon as possible. Since the forum requires a 30-day notice to the public, the forum must be scheduled as soon as possible in order for the Board to be in compliance with the law. If the TRUTH Act Forum is not scheduled, I will have no choice but to report the County to the California Attorney General's Office and consider all other legal means to respond to the County's failure to abide by state law.

If you have any questions about this letter, you may reach me at sahmed@aclusocal.org or 213.977.5284. Thank you very much for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "S. Ahmed".

Sameer Ahmed
Staff Attorney
ACLU of Southern California

EXHIBIT 1

June 27, 2018

Board of Supervisors
Orange County
333 W. Santa Ana Blvd.
Santa Ana, CA 92701

Re: Request for TRUTH Act Forum in Orange County

Dear Supervisors:

The California Immigrant Youth Justice Alliance (CIYJA) and the Orange County Rapid Response Network request that you set a date for the Transparent Review of Unjust Transfers and Holds (“TRUTH”) Act Forum in August 2018. This request is in response to the Orange Co Sheriff’s Office providing Immigration and Customs Enforcement (“ICE”) access to individuals in Orange County jails in 2017 and the public’s need for transparency from the Sheriff’s Office.

TRUTH Act Requirements

The TRUTH Act went into effect in California in January 2017.¹ The TRUTH Act requires that beginning in January 2018, “the governing board of any county...in which a local law enforcement agency has provided ICE access to an individual during the last year shall hold at least one community forum during the following year...” Cal. Gov’t Code § 7283.1(d).

Under the law, “ICE access” is broadly defined and includes when law enforcement responds to an ICE hold, notification, or transfer request; provides ICE dates and times of parole or probation check-ins, provides ICE information not available to public; or allows ICE to interview an individual. § 7283(d)(1)-(5).

When the Sheriff’s Office shares any such information or access with ICE, the Board of Supervisors must convene a TRUTH Act Forum. This Forum must be open to the public about ICE access to individuals and to receive and consider public comment. § 7283.1(d).

Letter Requesting TRUTH Act Forum

Page 2 of 2

¹ Codified at Cal. Gov’t Code §§ 7283 *et. seq.*

Sheriff Hutchens Has Provided ICE Access, Triggering a TRUTH Act Forum

Under the TRUTH Act, if a law enforcement agency chooses to respond to an ICE request for notification with the release information for the person, the agency must provide the same notification in writing to both the individual and his or her attorney or designee. § 7283.1(b).

The Sheriff's Office has chosen to collaborate with ICE by allowing ICE to conduct interviews in the county's jails additional to sharing information about individuals.

The Sheriff's Office responses to ICE notification requests constitute ICE access and trigger the TRUTH Act forum. As a governing body of the county, the Orange County County Board of Supervisors must convene the TRUTH Act Forum.

Urgent Need for a TRUTH Act Forum

CIYJA and the Orange County Rapid Response Network request that the Board of Supervisors hold the TRUTH Act Forum. Community members are deeply concerned by the interagency's previous partnership with ICE that authorized Orange County Sheriff's Department (OCSD) deputies to interview and process immigrant detainees in county jails for removal.² The community is also concerned about the Sheriff's recent decision to make release dates of community members from jail available online and easily attainable by ICE.³

Moreover, this attempt at weakening protections is the latest in a series of incidents which have undermined community confidence in the department. Since 2010, both the Musick Facility and the Theo Lacy Facility have participated in the federal program, commonly known as "Beds for Feds," to house undocumented immigrants who are awaiting deportation hearings or deportation.⁴ The contract allows up to 838 detainees to be housed in the county jail system. A March 2017 report by the Department of Homeland Security's Office of Inspector General

Letter Requesting TRUTH Act Forum

Page 3 of 3

² Grace Wyler, "Being a Sanctuary City: What It Means, What Cities Can Do, and What They Can't," The Orange County Register, last modified December 16, 2016, <http://www.ocregister.com/articles/sanctuary-738673-ice-immigration.html>

³ Kopetman, R. (2018, March 26). In response to California sanctuary law, Orange County Sheriff makes public inmates' release dates, <https://www.ocregister.com/2018/03/26/in-response-to-california-sanctuary-law-orange-county-sheriff-makes-public-inmates-release-dates/>

⁴ "Review of Orange County Detention Facilities," Orange County grand jury, 2011, <http://www.ocgrandjury.org/pdfs/2011DetentionFacilities/review-oange-county-detention-facilities.pdf>

revealed that immigrant detainees housed at the Theo Lacy Facility are subject to serious health and safety risks.⁵ A total of 48 deaths occurred under the jurisdiction and responsibility of the Orange County Sheriff's Department from 2010 to 2016.⁶

With respect to civil rights within the jail system, in 2014, the U.S. Department of Justice's Civil Rights Division concluded in an investigation of the Orange County Sheriff's Department that systemic deficiencies persisted with regard to the use of force in the county jails.⁷ The OCSD has failed to implement recommendations by the last six grand jury reports, which uncovered the need to upgrade antiquated and ineffective jail surveillance. Previous grand juries found that all Orange County adult jail facilities have inadequate video surveillance equipment.⁸ It has also been documented that OCSD personnel routinely instigate fights among individuals and/or fail to intervene and protect individuals in a timely manner. Whether not intentional or deliberate, negligence contributes to an unsafe environment.⁹ The community's need for transparency has never been greater.

We request that the date of the TRUTH Act Forum be set at the Board of Supervisors meeting on July 17, 2018. We urge the Board to set the forum for the month of August in response to the community's urgent need for transparency around ICE access to jails.

Thank you for supporting the law and the public's need for transparency.

Sincerely,

/s/ Ana Ramirez Zarate
Resilience Orange County
ana@resilienceoc.org

/s/ Crissel Rodriguez
Crissel Rodriguez
Southern California Regional Organizer
California Immigrant Youth Justice Alliance

⁵ Lim, E., & Ramirez, D. (2017, June). Orange County Jails. A Report by the American Civil Liberties Union of Southern California Jails Project. Retrieved from <https://www.aclusocal.org/sites/default/files/ocjails2017-aclu-social-report.pdf>

⁶ "Death in Custody Data, Orange County Deaths, 2010 — May 2016 (Preliminary)," State of California, Department of Justice, May 2016

⁷ "Investigation of the Orange County Jail: Investigatory Results Letter," U.S. Department of Justice, Civil Rights Division, March 4, 2014, https://www.justice.gov/sites/default/files/crt/legacy/2014/03/26/ocj_investletter_3-4-14.pdf

⁸ "Annual Report on Jails and Juvenile Detention Facilities 2013-2014," Orange County grand jury, last accessed January 3, 2016, http://www.ocgrandjury.org/pdfs/2013_2014_GJreport/JailsReport.pdf

⁹ Lim, E., & Ramirez, D. (2017, June). Orange County Jails. A Report by the American Civil Liberties Union of Southern California Jails Project. Retrieved from <https://www.aclusocal.org/sites/default/files/ocjails2017-aclu-social-report.pdf>

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