



## Mayor and City Council

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December 16, 2024

Mr. Rob Bonta, Attorney General  
California Department of Justice  
Office of the Attorney General  
P.O. Box 903447  
Sacramento, CA 94203-4470  
[rob.bonta@doj.ca.gov](mailto:rob.bonta@doj.ca.gov)

VIA E-Mail and US Mail

SUBJECT: Request for Clarification: Navigating SB 54 and Federal Immigration Laws

Dear Attorney General Bonta:

The City of El Cajon City Council is contemplating a resolution declaring its intent to comply with federal immigration laws and assist federal authorities in their enforcement efforts to the maximum legal extent permissible. This resolution, if adopted, underscores the City of El Cajon's priorities of upholding public safety and adhering to the rule of law.

The City Council acknowledges that immigration enforcement is a complex and sensitive issue, touching on foundational principles of state and federal jurisdiction, public safety, and trust within our community. Provisions of SB 54 add to the complexities that the City must navigate, especially as state and federal immigration policies are inconsistent, putting cities and their personnel in a difficult position.

This letter seeks clarification on navigating these complexities, particularly regarding SB 54, the Supremacy Clause of the U.S. Constitution (Article VI, Clause 2), and potential legal consequences for cooperating with federal immigration authorities.

### ***City Concerns***

While recognizing some of the intentions behind SB 54, the City expresses deep concern about its impact on protecting residents from individuals engaged in criminal activities, including gang involvement, human trafficking, and drug distribution. These activities pose serious threats to public safety, particularly for vulnerable populations within our community.

A 2024 Immigration and Customs Enforcement report indicates that there could be as many as 435,000 convicted criminals living in the U.S. illegally, many for violent crimes such as assault,

sexual assault, prostitution, human trafficking, and child exploitation. Further, on September 25, 2024, Patrick J. Lechleitner, Deputy Director of Immigration and Customs Enforcement, penned a letter to The Honorable Tony Gonzales, U.S. House of Representatives, that included a table identifying the number of non-detained individuals living in the United State illegally, categorized by their criminal history (attached). The following table is an excerpt from the letter:

**National Docket Data for Noncitizens by Criminality and  
Most Serious Charge Categories as of July 21, 2024\***

<i>Most Serious Charge Category</i>	<i>Non-Detained</i>		<i>Total</i>
	<i>Convicted Criminal</i>	<i>Pending Criminal Charges</i>	
Assault	62,231	42,915	105,146
Dangerous Drugs	56,533	13,846	70,379
Sexual Assault	15,811	4,250	20,061
Homicide	13,099	1,845	14,944
Sex Offense (not involving assault or commercialized sex)	9,461	2,650	12,111
Commercialized Sexual Offense	2,200	1,771	3,971
Kidnapping	2,521	851	3,372

\*ICE's non-detained docket is a list of every person the United States believes is a removable non-citizen who is physically present in the United States and who is not currently held in ICE detention.

It is unknown how many of these individuals are in El Cajon or the San Diego region; however, if some of them are here, they pose a serious threat to our community. The City Council is concerned that under SB 54, the City is limited in its ability to protect our community from these individuals.

**Questions for the Attorney General**

The City of El Cajon seeks the Attorney General's clarification on the following issues related to SB 54 (2017) and its implications for local law enforcement.

**1) Clarification of SB 54's Scope and Exceptions:**

Could the Attorney General specify the extent to which SB 54 limits local law enforcement's ability to cooperate with federal authorities on immigration matters, particularly in cases involving individuals who pose a significant public safety risk? For example, does SB 54 allow for cooperation in cases involving noncitizens engaged in violent gang activity, those charged with serious felonies, or individuals with a documented pattern of child exploitation or sex trafficking?

2) **Supremacy Clause and Legal Precedence:**

Can the Attorney General provide insights into how courts have addressed potential conflicts between SB 54 and federal immigration enforcement under the Supremacy Clause of the U.S. Constitution (Article VI, Clause 2)? Is there legal precedent in which state law has been upheld despite apparent conflicts with federal law? Specifically, is there a legal basis for SB 54 to withstand federal preemption challenges?

3) **State Enforcement of SB 54:**

If the City of El Cajon engages in cooperative efforts with federal immigration authorities in cases involving felony offenders, what enforcement actions or penalties will the State of California pursue under SB 54? Are there specific procedural steps the Attorney General's Office would take in response to perceived noncompliance?

4) **Indemnification and Legal Protections for Law Enforcement:**

In the event that federal authorities mandate local government participation in immigration enforcement, how would SB 54 apply? Would the State indemnify or otherwise protect police officers who comply with federal orders that might conflict with SB 54? Additionally, could SB 54's provisions be deemed unenforceable under such circumstances?

**Conclusion**

While we appreciate the underlying purpose of SB 54, the incoming federal administration has an entirely different viewpoint on the issue. This divergence of opinion translates into a precarious legal position for cities, city council members, city management, and public safety personnel. It is therefore vital to understand where the commands of SB 54 fit vis-à-vis the U.S. Constitution and the mandates being voiced by the incoming Trump administration.

Again, the City of El Cajon is committed to upholding public safety and adhering to the rule of law. I look forward to your response.

Sincerely,



Bill Wells  
Mayor

Attachment

cc: El Cajon City Council



**U.S. Immigration  
and Customs  
Enforcement**

September 25, 2024

The Honorable Tony Gonzales  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Gonzales:

Thank you for your March 13, 2024 letter to the Department of Homeland Security (DHS). I am responding on behalf of the Department and apologize for the delay.

U.S. Immigration and Customs Enforcement (ICE) recognizes the importance of its relationships with its law enforcement partners to carry out its mission. In recent years, however, as you know, some jurisdictions have reduced their cooperation with ICE, to include refusal to honor ICE detainer requests, even for noncitizens who have been convicted of serious felonies and pose an ongoing threat to public safety. ICE recognizes that some jurisdictions are concerned that cooperating with federal immigration officials will erode trust with immigrant communities and make it harder for local law enforcement to serve those populations. However, “sanctuary” policies can end up shielding dangerous criminals, who often victimize those same communities.

Despite the challenges of operating within a broken immigration system, and in the face of an enormous workload and consistently limited funding, DHS continues to enforce the law to secure our borders. We are removing and returning record numbers of migrants who are unable to establish a legal basis to remain in the United States, and prioritizing for removal those who present national security and public safety risks, and recent border crossers. From mid-May 2023 through the end of July 2024, DHS removed or returned more than 893,600 individuals, including more than 138,300 individuals in family units. The majority of all individuals encountered at the Southwest Border over the past three years have been removed, returned, or expelled.

Your letter requests the number of noncitizens on ICE’s docket convicted or charged with a crime. As of July 21, 2024, there were 662,566 noncitizens with criminal histories on ICE’s national docket, which includes those detained by ICE, and on the agency’s non-detained docket. Of those, 435,719 are convicted criminals, and 226,847 have pending criminal charges. Please refer to the following chart. It is important to note that detention determinations are made using a few guidelines. First, ICE is bound by statutory requirements not to release certain noncitizens from ICE custody during the pendency of removal proceedings and notes that most noncitizens who are convicted of homicide are typically not eligible for release from ICE custody under §236(c) of the Immigration and Nationality Act. Second and in limited circumstances when

236(c) does not apply, ICE officers may use their discretion in making custody determinations and release noncitizens with conditions. ICE custody determinations are made on a case-by-case basis and take into account the individual case circumstances, primarily considering risk of flight, national security threat, and threat to public safety. ICE takes other factors into consideration as well, including when a noncitizen has a serious medical condition, is the primary caregiver of minor children, or other humanitarian considerations.

**National Docket Data for Noncitizens by Criminality and Most Serious Charge Category as of July 21, 2024**

Most Serious Charge Category	Currently Detained		Non-Detained	
	Convicted Criminal	Pending Criminal Charges	Convicted Criminal	Pending Criminal Charges
<b>Total</b>	<b>10,288</b>	<b>4,706</b>	<b>425,431</b>	<b>222,141</b>
<i>Antitrust</i>	-	-	1	1
<i>Arson</i>	36	3	792	177
<i>Assault</i>	2,348	1,498	62,231	42,915
<i>Bribery</i>	3	-	131	22
<i>Burglary</i>	365	126	14,301	3,266
<i>Civil Rights</i>	-	-	1	-
<i>Commercialized Sexual Offenses</i>	18	12	2,200	1,771
<i>Conservation</i>	1	1	225	183
<i>Damage Property</i>	46	65	1,396	1,270
<i>Dangerous Drugs</i>	1,352	328	56,533	13,846
<i>Embezzlement</i>	6	-	233	97
<i>Extortion</i>	4	5	217	136
<i>Family Offenses</i>	150	71	6,477	3,861
<i>Flight / Escape</i>	121	37	2,317	949

<i>Forgery</i>	117	53	7,525	4,627
<i>Fraudulent Activities</i>	296	57	15,979	5,127
<i>Gambling</i>	1	-	155	222
<i>General Crimes</i>	245	138	10,998	7,851
<i>Health / Safety</i>	6	1	448	228
<i>Homicide</i>	277	51	13,099	1,845
<i>Immigration</i>	947	444	51,933	40,142
<i>Invasion of Privacy</i>	151	37	3,866	3,222
<i>Juvenile Offenders</i>	1	-	20	14
<i>Kidnapping</i>	85	27	2,521	851
<i>Larceny</i>	330	217	18,234	12,397
<i>Liquor</i>	31	26	1,367	1,186
<i>Military</i>	-	-	-	11
<i>Obscenity</i>	22	2	151	77
<i>Obstructing Judiciary, Congress, Legislature, Etc.</i>	118	54	7,446	4,579
<i>Obstructing the Police</i>	181	131	6,567	3,543
<i>Public Peace</i>	93	77	5,642	2,485
<i>Robbery</i>	285	71	10,031	2,039
<i>Sex Offenses (Not Involving Assault or Commercialized Sex)</i>	446	69	9,461	2,650
<i>Sexual Assault</i>	509	142	15,811	4,250

<i>Smuggling</i>	15	2	218	154
<i>Sovereignty</i>	-	-	29	6
<i>Stolen Property</i>	31	23	2,508	1,593
<i>Stolen Vehicle</i>	53	38	2,663	1,189
<i>Tax Revenue</i>	1	2	106	58
<i>Threat</i>	54	35	1,101	635
<i>Traffic Offenses</i>	1,090	720	77,074	49,269
<i>Weapon Offenses</i>	453	143	13,423	3,397

You also requested ICE's current detention capacity. Under the DHS appropriations bill enacted on March 23, 2024, ICE Enforcement and Removal Operations (ERO) is funded at 41,500 beds through the rest of the fiscal year (FY), which is an increase from 34,000 in FY 2023.

Regarding the number of declined detainers since FY 2021, from October 1, 2020, through July 22, 2024, ICE lifted<sup>1</sup> 24,796 detainers. Of those, 23,591 were declined by state and local law enforcement agencies, and 1,205 were lifted due to insufficient notice to ICE. Additionally, from October 1, 2020, through July 22, 2024, ERO issued 2,897 detainers that were declined by state or local law enforcement agencies and where the subject of the detainer had a subsequent apprehension by ERO.

Thank you again for your letter. Should you wish to discuss this matter further, please do not hesitate to contact the ICE Office of Congressional Relations at [CongressToICE@ice.dhs.gov](mailto:CongressToICE@ice.dhs.gov).

Sincerely,



Patrick J. Lechleitner  
Deputy Director and  
Senior Official Performing the Duties of the Director

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<sup>1</sup> ICE may lift a detainer at any time after it has been issued. The lifting of a detainer is based upon the totality of the case and ICE may lodge another detainer at a later date, if appropriate. The circumstances under which ICE may lift a detainer are unlimited; however, these circumstances may include, but are not limited to, criminal convictions and pending criminal charges, the noncitizen has lawful status to remain or reside in the United States, health-related concerns, etc.

cc:    The Honorable Garret Graves  
          The Honorable Jay Obernolte  
          The Honorable John H. Rutherford  
          The Honorable Andy Harris  
          The Honorable Byron Donalds  
          The Honorable Anthony D’Esposito  
          The Honorable Nancy Mace  
          The Honorable Brandon Williams  
          The Honorable John Rose  
          The Honorable Randy Feenstra  
          The Honorable Ralph Norman

          The Honorable Bruce Westerman  
          The Honorable Lori Chavez-DeRemer  
          The Honorable Nicole Malliotakis  
          The Honorable Diana Harshbarger  
          The Honorable Chuck Edwards  
          The Honorable Carlos Gimenez  
          The Honorable Dan Crenshaw  
          The Honorable Ashley Hinson  
          The Honorable Michael Guest  
          The Honorable C. Scott Franklin  
          The Honorable James Moylan