Feds must find long-term fix to ‘sanctuary’ strife

By STAN SNIFF | Press-Enterprise
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The Riverside County Sheriff’s Department is caught between idealistic state laws and unrealistic federal expectations.

On one side, California legislators continue to cut communication among local jails and their federal partners at Immigration and Customs Enforcement. On the other, the U.S. Justice Department says failure to cooperate may cost local agencies essential federal funding.

County sheriffs are left to navigate a legal and ethical maze.

The dispute centers on ICE detainers and requests to notify ICE when specific, high-risk individuals soon will be released from county jail. It is not the job of patrol deputies to enforce immigration law; that task rests solely with ICE. However, the sheriff’s office does cooperate, to the extent the law allows.

Nearly all requests from ICE involve county jail inmates with a criminal record. But California legislators, pushing to block deportation of almost anyone, have passed legislation to deter transfer of custody for all but the most violent felons, regardless of consequences for public safety.

Meanwhile, the U.S. attorney general is demanding full cooperation with ICE — without addressing conflicting state law. Washington likewise has glossed over federal court rulings against ICE detainers for violations of inmates’ constitutional rights. As a result, county jails nationwide have quit honoring ICE requests to hold offenders beyond the end of their sentences or period of lawful custody.

A rational path out of this legal thicket requires a long-term solution — not empty directives or further escalation between state and federal officials.

If the federal government wants full cooperation from county jails, then Congress and the president must enable that teamwork through two steps. First, Washington should find a way to give detainers the legal weight of a judge-signed court warrant. And second, the Justice Department must challenge, in court, the California laws that both inappropriately restrict cooperation between local and federal authorities and subvert federal discretion on obtaining, from county custody, criminals who are subject to deportation. In the meantime, local jurisdictions such as Riverside County should not face loss of resources for assisting their federal law-enforcement partners.

The shackles on jail-ICE cooperation date to 2014, when California legislators passed Assembly Bill 4, the “TRUST Act.” Previously, law enforcement had considered federal ICE
detainers mandatory; county jails had detained specified offenders for up to 48 hours past their release dates, to facilitate a transfer of custody. But AB 4 thereupon barred jails from honoring ICE detainers for all but the most violent offenders.

Later in 2014, a U.S. district court ruled that local jails could not hold immigrant inmates past their release dates on the basis of an ICE detainer. Soon thereafter, the ACLU emphasized this ruling in a letter to every California sheriff’s office and other law enforcement agencies. Subsequent court rulings agreed that extending inmate custody, absent a court order, is unconstitutional, and held county sheriffs liable for any resulting violations of inmates’ rights.

In 2015, ICE responded with the Priority Enforcement Program (PEP), which through fingerprinting tracked those booked into county jails. PEP targeted serious criminals, gang members and those who threatened public safety. Upon identification of such an inmate, ICE sought local cooperation in two areas: a traditional detainer, and/or notification upon the offender’s pending release.

In September 2016, California countered with AB 2792. The “TRUTH Act,” which took effect Jan. 1, includes provisions to: help inmates avoid interviews with ICE; require jail staff to tell prisoners when ICE has sought notice of their release date; and inform inmates whether or not jail officials plan to cooperate with ICE.

In 2017, state legislators seek still tighter restraints. SB 54, the “California Values Act” would further restrict information-sharing between local agencies and ICE, precluding communication about many dangerous criminals. The bill has passed the state Senate and moved to the Assembly.

This “sanctuary state bill” has stirred public debate over how much protection illegal immigrants should get from local government — and whether a one-size-fits-all state policy is appropriate. The term “sanctuary” itself lacks a universal definition, but the Sheriff’s Department generally defines it as a jurisdiction that 1) does not cooperate with federal law enforcement partners, and 2) does not honor ICE detainers absent a lawful court order.

The Riverside County Board of Supervisors has not designated the county a sanctuary under any definition, and residents should understand that current limits on local coordination with ICE come from state legislators and federal courts — not the county Sheriff’s Department.

Indeed, it is better for immigrant communities if ICE agents focus on jailed criminals rather than fanning out through neighborhoods in search of released offenders. And all stakeholders should heed the lessons of 9/11, when the worst terror attack in U.S. history was facilitated, in part, by lack of communication and information sharing among law-enforcement partners.

If Riverside County residents want to restore discretionary communication, support inter-agency teamwork, and prevent further loss of public safety, they should ask their congressional representatives to address state law and federal ICE detainers in a way that provides a serious long-term fix. It is sound public policy that law enforcement — federal, state and local — cooperate with one another to seamlessly protect our nation and all of our communities.
Stan Sniff is the sheriff of Riverside County.