



County of San Mateo

Inter-Departmental Correspondence

Department: BOARD OF SUPERVISORS
DISTRICT 1
File #: 23-219

Board Meeting Date: 4/11/2023

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors
From: Supervisor Dave Pine, District 1
Supervisor David J. Canepa, District 5
Subject: Ordinance Regarding ICE Cooperation

RECOMMENDATION:

Introduction of an ordinance restricting the use of County resources to assist or cooperate with immigration authorities, and waive the reading of the ordinance in its entirety.

BACKGROUND:

The United States Immigration and Customs Enforcement (ICE), which is responsible for enforcing federal civil immigration laws, often seeks to enlist local law enforcement's voluntary cooperation and assistance in enforcing immigration laws. Such cooperation and assistance by local agencies may include, for instance, continuing to detain persons based on non-mandatory civil immigration detainers or cooperating and assisting with requests to notify ICE when a person will be released from local custody. Such actions often shift the financial burden of civil immigration enforcement onto local agencies.

Unlike judicial warrants, which must be supported by probable cause and issued by a neutral judicial officer, civil immigration detainers are issued by immigration officers without judicial oversight.

When local law enforcement agencies voluntarily assist ICE and other immigration authorities, such assistance can contribute to the separation of families, community distrust of local government, fear of accessing necessary government services by immigrant communities, and reluctance to share vital information and to cooperate with local authorities.

DISCUSSION:

San Mateo County is home to persons of diverse racial, ethnic, and national backgrounds, including a large immigrant population, and all San Mateo County immigrant residents, whether they are U.S. citizens, permanent residents, undocumented residents, refugees, or residents with any other

immigration status, are valued and integral members of our social, cultural, and economic fabric.

The County seeks to protect public health and safety, which is founded on trust and cooperation of and between community residents and local law enforcement, and the County has enacted numerous laws and policies to strengthen communities and to build and bolster trust between communities and local law enforcement.

In September 2018, the San Mateo County Board of Supervisors unanimously approved funding to support a rapid response network, as well as to fund local non-profit legal service organizations to assist in representing San Mateo County residents in removal defense.

Beginning in 2019, the Board of Supervisors has held a special meeting each year in accordance with the California Transparent Review of Unjust Transfers and Holds (TRUTH) Act, which requires the local governing body of any county, city, or city and county in which a local law enforcement agency has provided ICE access to an individual during the last year to hold at least one public community forum during the following year to provide information to the public about ICE's access to individuals and to receive and consider public comment.

In November 2021, in response to requests from residents, faith communities, and civic organizations, the San Mateo County Sheriff's Office adopted a policy of not assisting with ICE detainer, transfer, and notification requests unless presented with a valid judicial warrant, joining other California counties, including, Humboldt, Los Angeles, Marin, Santa Clara, and San Francisco with similar policies.

At the last Truth Act forum, on November 9, 2022, the Supervisors present at that time, including Supervisors Pine and Slocum, directed staff to prepare an ordinance to limit County cooperation with Immigration Authorities, which staff has done, and we recommend that the Board adopt this ordinance.

Under the proposed ordinance, all County departments, agencies, commissions, officers, agents, representatives, and employees are prohibited from using County resources, property, personnel, time, labor, or funds to:

- Assist or cooperate with requests by ICE or other immigration authorities to hold, detain, house, transfer, or otherwise facilitate the arrest of any person in the custody of the San Mateo County Sheriff's Office, Probation Department, or any other County Department, unless pursuant to a judicial warrant or otherwise required by federal or state statute, regulation, or court decision.
- Communicate with immigration authorities regarding an individual's release time, date, or place, home or work address, or contact information, or to otherwise assist or cooperate in any immigration enforcement activities, including information gathering, unless pursuant to a judicial warrant or otherwise required by federal or state statute, regulation, or court decision.
- Provide access to or use of non-public County property, including but not limited to, County jails, stations, courthouse holding cells, conference rooms, and databases to immigration authorities, unless pursuant to a judicial warrant or otherwise required by federal or state statute, regulation, or court decision.

Notwithstanding the foregoing prohibitions, County departments, agencies, commissions, officers, agents, representatives, and employees may use County resources, property, personnel, time, labor, or funds to assist or cooperate with immigration authorities solely for the purpose of providing assistance with the investigative activities of any local, state, or federal law enforcement agency relating to suspected violations of any federal or state criminal statute, regulation, or court decision, provided, however, that such activities do not involve immigration enforcement as defined in the California Values Act.

The County Attorney's Office has reviewed and approved the proposed ordinance as to form.

FISCAL IMPACT:

None