



County of San Mateo

Inter-Departmental Correspondence

Department: BOARD OF SUPERVISORS
DISTRICT 3
File #: 23-266

Board Meeting Date: 4/25/2023

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors
From: Supervisor Ray Mueller, District 3
Subject: Proposed Amendment to Ordinance Regarding ICE Cooperation

RECOMMENDATION:

Approve an amendment to introduced version of ordinance restricting the use of County resources to assist or cooperate with immigration authorities, previously introduced on April 11, 2023.

BACKGROUND:

On April 11, 2023, the Board of Supervisors, on a 4 to 1 vote, introduced an ordinance that restricts the use of County resources to assist or cooperate with immigration enforcement.

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

- Assist or cooperate with requests by United States Immigration and Customs Enforcement (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 would be permitted to 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.

DISCUSSION:

As noted, on April 11, 2023, the Board voted 4 to 1 to introduce the ordinance as presently drafted. I voted against introduction of the ordinance as drafted, explaining that I would support an ordinance that includes an additional narrow exception that would allow County personnel to assist with immigration enforcement when the individual subject to immigration enforcement has been convicted of murder, rape, or child molestation, provided that such assistance is consistent with the California Values Act.

The ordinance will be before the Board for a second reading and adoption at our April 25, 2023 meeting. At this meeting I intend to move to amend the ordinance, as introduced, to add a new subdivision (c) to Ordinance Code Section 2.48.010, as follows:

- (c) Notwithstanding the foregoing provisions of Sections 2.48.010(a) and 2.48.010(b), 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 investigation or enforcement activities of any local, state, or federal law enforcement agency, including with immigration enforcement activities as defined in California Government Code § 7284.4(f), if the individual who is the subject of the immigration enforcement activities has been convicted of any of the following serious or violent felonies, provided, however, that any such assistance shall be provided in conformance with the California Values Act (California Government Code § 7284, *et seq.*):
 - a. Murder, as identified in subdivision (c) of Section 1192.7 of, or subdivision (c) of Section 667.5 of, the California Penal Code;
 - b. Rape, as identified in subdivision (c) of Section 1192.7 of, or subdivision (c) of Section 667.5 of, the California Penal Code;
 - c. Lewd or lascivious act, as identified in subdivision (c) of Section 1192.7 of, or subdivision (c) of Section 667.5 of, the California Penal Code; or
 - d. The federal crimes of murder, rape, or sexual abuse of a minor, as identified in paragraph (43) of subsection (a) of Section 101 of the federal Immigration and Nationality Act (8 U.S.C. § 1101).

With the proposed amendment, the amended ordinance, like the ordinance as originally drafted, would allow for cooperation and assistance with immigration authorities in far fewer circumstances

than the California Values Act.

If the Board approves this motion to amend the ordinance, the ordinance would be re-introduced with the amendment, and it would need to be returned to the Board at a subsequent meeting for a second reading and adoption.

FISCAL IMPACT:

None