

RESOLUTION NO. 65,223–N.S.

SUPPORTING ASSEMBLY BILL 1081 REGARDING LOCAL GOVERNMENT  
PARTICIPATION IN THE FEDERAL SECURE COMMUNITIES PROGRAM

WHEREAS, Alameda County was the fourth Bay Area county to participate in the federal Secure Communities program, a program administered by the federal Immigration and Customs Enforcement agency (ICE), which requires that those participating state and local government law enforcement agencies automatically forward the fingerprints of all people arrested, whether or not they are in the country legally. With that information, ICE can coordinate with local law enforcement and target people suspected of immigration violations for detention and deportation; and

WHEREAS, in 1971, the Berkeley City Council declared Berkeley to be a City of Refuge with the passage of Resolution No. 44,784 and reaffirmed that decision in 1986 relating to Central American refugees (Resolution No. 52,596); and

WHEREAS, on May 22, 2008, the Berkeley City Council reaffirmed its status of a “City of Refuge” through its passage of Resolution No. 63,711, which requires that “no department, agency, commission, officer or employee of the City of Berkeley shall use any City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information status of individuals in the City of Berkeley”; and

WHEREAS, the resolution further states “the spirit and intent of Berkeley’s refuge Resolutions would be violated if City funds, facilities or staff were utilized to assist the Federal government’s inhumane immigration policies and practices”; and

WHEREAS, as part of its “City of Refuge” policy, City departments and employees are specifically prohibited from “Requesting information about, or dissemination information regarding, the immigration status of any individual”; and

WHEREAS, Secure Communities is a voluntary federal program, not required by statute, and therefore participation in the program would appear to violate the City’s “City of Refuge” policy; and

WHEREAS, a report produced by the Center for Constitutional Rights in August 2010 found that the vast majority (79 percent) of the people deported due to Secure Communities have no criminal charges or were picked up for low-level offenses, such as traffic offenses or petty juvenile mischief; ICE’s own data concur that more than a quarter (28 percent) of the people transferred to ICE custody through Secure Communities have had no criminal charges; and

WHEREAS, in Alameda County, this program has led to the deportation of 558 people since its inception; and

WHEREAS, in light of some of the problems with the implementation of Secure Communities, Assemblymember Tom Ammiano has introduced Assembly Bill (AB) 1081, which would modify the May 8, 2009 memorandum of agreement between the

State of California and the U.S. Department of Homeland Security regarding the implementation of ICE's Secure Communities program; and

WHEREAS, AB 1081 specifically mentions the City of Berkeley's concern about the local application of this federal program, referring to "the wishes of local jurisdictions, including San Francisco, Santa Clara [County], and Berkeley, which have actively worked for decades to build community trust in law enforcement and have expressed concern that the Secure Communities program has been deployed without adequate notice or consent"; and

WHEREAS, on December 14, 2010, the Berkeley City Council voted unanimously to send a letter to the Governor and State Attorney General requesting that the State "stop sharing arrestee fingerprint data with federal law enforcement agencies for the purpose of deporting illegal immigrants arrested for minor crimes" and that the "State of California should also opt out of the Secure Communities program altogether"; and

WHEREAS, AB 1081 modifies California's participation in the program to "authorize a local government to participate in the Secure Communities program only upon the passage of an ordinance or resolution authorizing participation by the legislative body of the local government" and requires such local governments to submit a "a plan to guard against, and monitor, racial profiling associated with the local government's participation in the program," including possible exceptions to protect domestic violence victims and juveniles and people suspected rather than convicted of a crime.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby expresses its support for Assembly Bill (AB) 1081, authored by Assemblymember Tom Ammiano.

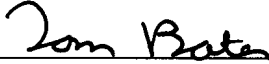
BE IT FURTHER RESOLVED that the Council directs the City Clerk to send a copy of this resolution to Assembly Speaker John A. Perez, California State Assembly Members Tom Ammiano and Nancy Skinner, and State Senator Loni Hancock.

The foregoing Resolution was adopted by the Berkeley City Council on March 29, 2011 by the following vote:

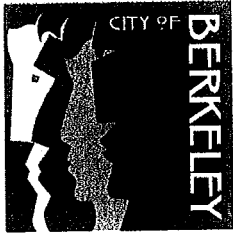
Ayes: Anderson, Arreguin, Capitelli, Maio, Moore, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: None.

  
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Tom Bates, Mayor

Attest:   
\_\_\_\_\_  
Mark Numa Inville, CMC, Deputy City Clerk



City Clerk Department

December 22, 2010

Governor Jerry Brown  
State Capitol Building  
Sacramento, CA 95814

Attorney General Kamala Harris  
Attorney General's Office  
California Department of Justice  
Attn: Public Inquiry Unit  
P.O. Box 944255  
Sacramento, CA 94244-2550

RE: Opposition to Secure Communities

At its meeting of December 14, 2010, the Berkeley City Council approved a motion requesting that the Governor and the state Attorney General either stop the state Department of Justice ("DOJ") from sharing arrestee fingerprint data with federal law enforcement agencies for the purpose of deporting illegal immigrants arrested for minor crimes or have California opt out of the Secure Communities program altogether.

Sincerely,

Deanna Despain, CMC  
City Clerk

Cc: David Venturella, Assistant Director of Secure Communities  
Lynn Suter, State Lobbyist  
Eric Brenman, Commission Secretary  
Phil Kamlarz, City Manager