[Supporting Policy Restricting Use of Local Funds to Respond to Civil Immigration Detainers]

Resolution supporting adoption by the San Francisco Sheriff's Department and the San Francisco Juvenile Probation Department of a policy restricting use of local funds to respond to civil immigration detainers.

WHEREAS, Entanglement between local law enforcement and Immigration and Customs Enforcement (ICE) harms public safety and interferes with community policing strategies by increasing fear in immigrant communities of coming forward to report crimes and cooperate with local law enforcement; and

WHEREAS, San Francisco County is under no obligation to use its limited resources to enforce federal civil immigration laws; and

WHEREAS, The enforcement of immigration laws is a responsibility of the federal government; and

WHEREAS, 8 CFR § 287.7 expressly provides that ICE detainers are merely "requests" that local law enforcement advise the Department of Homeland Security when the individual is due to be released, and that the agency continue holding the individual beyond the scheduled time of release for up to 48 hours, excluding weekends and federal holidays, in order for ICE to arrange to assume custody; and

WHEREAS, Due to troubling misrepresentations by ICE, many local law enforcement agencies erroneously believe ICE detainers are mandatory and that local law enforcement agencies are legally required to comply; and

WHEREAS, ICE detainers are generally issued before a finding of probable cause that an individual is deportable, and have even been imposed on U.S. Citizens by mistake; and

WHEREAS, ICE detainers are routinely imposed on individuals without any criminal

convictions or whose cases are dismissed, but the federal government only reimburses part of the costs associated with ICE detainers, if there is a written agreement with the State or local subdivision of a State; and

WHEREAS, ICE will not indemnify local agencies for costs or liability incurred as a result of wrongful detainers; and

WHEREAS, The criminal justice system has a process for determining whether an individual should be released, which includes the impact on public safety as a primary consideration, and said safeguards will remain in place; and

WHEREAS, United States citizens charged with crimes are regularly released on bail; and

WHEREAS, Since ICE's controversial Secure Communities program ("S-Comm") was activated against the objections of San Francisco Sheriff Michael Hennessey on June 8, 2010, ICE has detained and deported over 430 individuals under the program; and

WHEREAS, S-Comm encourages racial profiling, including the disproportionate targeting Latino men and other young men of color nationwide. According to a recent study released by the Chief Justice Earl Warren Institute on Law and Social Policy at UC Berkeley, Latinos have made up a disproportionate 93% of those detained through S-Comm, though they account for only 75% of the undocumented population in the U.S.; and

WHEREAS, The Warren Institute report further found that ICE has falsely detained approximately 3,600 U.S. citizens as a result of S-Comm enforcement; and

WHEREAS, The Warren Institute report found that only 41% of immigrants in immigration court proceedings are represented by a lawyer, and only 24% of those immigrants in proceedings through S-Comm have legal representation; and

WHEREAS, The Board of Supervisors has a long history of promoting a comprehensive approach to rebuild our broken immigration system to ensure secure and thriving communities in the city of San Francisco; and

WHEREAS, By means of this resolution, San Francisco joins states, cities, and counties across the nation, including Cook County, Illinois and Santa Clara County, California, that are informed about the discretionary nature of ICE detainers and refuse to enforce them, except in situations where full federal reimbursement is provided; now, therefore, be it

RESOLVED, That the Board of Supervisors of the City and County of San Francisco encourages and supports the Sheriff's Department and the San Francisco Juvenile Probation Department in adopting and implementing a policy of not honoring civil detainer requests from ICE unless there is a prior written agreement with the federal government by which all costs incurred by the County in complying with the ICE detainer shall be reimbursed; and, be it

FURTHER RESOLVED, That the Board of Supervisors of the City and County of San Francisco directs the Clerk of the Board to send a copy of this resolution to the Sheriff of the City and County of San Francisco and the Chief of the Juvenile Probation Department.

City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 111269 **Date Passed:** December 13, 2011

Resolution supporting adoption by the San Francisco Sheriff's Department and the San Francisco Juvenile Probation Department of a policy restricting use of local funds to respond to civil immigration detainers.

December 01, 2011 Public Safety Committee - RECOMMENDED

December 13, 2011 Board of Supervisors - ADOPTED

Ayes: 8 - Avalos, Campos, Chiu, Cohen, Kim, Mar, Mirkarimi and Wiener

Noes: 3 - Chu, Elsbernd and Farrell

File No. 111269

I hereby certify that the foregoing Resolution was ADOPTED on 12/13/2011 by the Board of Supervisors of the City and County of San Francisco.

Angela Calvillo
Clerk of the Board

UNSIGNED

Mayor Edwin Lee

12/23/11

Date Approved

Date: December 23, 2011

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter.

Angela Calvillo
Clerk of the Board

File No.
111269