

File No. 230132

Committee Item No. 4

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Public Safety and Ngbh Services

Date: March 9, 2023

Board of Supervisors Meeting:

Date: _____

Cmte Board

- Motion
- Resolution
- Ordinance
- Legislative Digest
- Budget and Legislative Analyst Report
- Youth Commission Report
- Introduction Form
- Department/Agency Cover Letter and/or Report
- MOU
- Grant Information Form
- Grant Budget
- Subcontract Budget
- Contract / DRAFT Mills Act Agreement
- Form 126 – Ethics Commission
- Award Letter
- Application
- Public Correspondence

OTHER

- Draft Agrmt – Request for Parole Entry – February 7, 2023
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____
- _____

Prepared by: John Carroll

Date: March 3, 2023

Prepared by: _____

Date: _____

Prepared by: _____

Date: _____

1 [Authorizing Parole Entry Agreement for Sex Offense Prosecution - Department of Homeland
2 Security/District Attorney and Sheriff]

3 **Ordinance authorizing the District Attorney and Sheriff to enter into an agreement with**
4 **the United States Department of Homeland Security (“DHS”) under which DHS would**
5 **agree to facilitate parole entry into the United States of a criminal defendant for**
6 **prosecution on multiple sex offenses in San Francisco, and the District Attorney and**
7 **Sheriff would agree to notify DHS immediately if the defendant posts bail or is**
8 **otherwise to be released from custody during or after the criminal proceeding.**

9 NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
10 **Additions to Codes** are in *single-underline italics Times New Roman font*.
11 **Deletions to Codes** are in *strikethrough italics Times New Roman font*.
12 **Board amendment additions** are in double-underlined Arial font.
13 **Board amendment deletions** are in ~~strikethrough Arial font~~.
14 **Asterisks (* * * *)** indicate the omission of unchanged Code
15 subsections or parts of tables.

16 Be it ordained by the People of the City and County of San Francisco:

17 Section 1. Findings and Background.

18 (a) On June 25, 2021, following an initial investigation by the San Francisco Police
19 Department, the Superior Court for the County of San Francisco issued a warrant of arrest for
20 a defendant (“Defendant D.Y.”) on charges of violating California Penal Code Sections
21 288.7(a) - Sexual Intercourse With a Child Under the Age of 10, three counts of 288.7(b) -
22 Oral Copulation with a Child Under the Age of 10, and two counts of 288(a) Lewd Act Upon a
23 Child, as described in San Francisco Police Department Incident Numbers 210349490 and
24 180323043 and San Francisco Superior Court Arrest Warrant Number 51835 F. Defendant
25 D.Y. is currently in Mexico, pending possible arrest and extradition to the United States for
criminal prosecution consistent with the arrest warrant. If Defendant D.Y. is paroled to the

1 United States, the Sheriff has committed to house him in the San Francisco County Jail in the
2 custody of the Sheriff, and the District Attorney has committed to prosecute the criminal
3 charges against him.

4 (b) The District Attorney intends to request that the United States Department of
5 Homeland Security (“DHS”) approve parole entry to allow Defendant D.Y. to be arrested in
6 Mexico and transported to San Francisco to facilitate the criminal prosecution for offenses
7 referenced in subsection (a). DHS has informed the District Attorney that it will not approve
8 parole entry for Defendant D.Y. unless the District Attorney and the Sheriff agree in writing to
9 notify DHS immediately if Defendant D.Y. posts bail or is otherwise to be released from
10 custody either before or after the conclusion of the criminal proceeding. Upon receiving the
11 notification from the District Attorney or Sheriff, DHS could take action to initiate the arrest and
12 effect the removal of Defendant D.Y. from the United States.

13
14 Section 2. Authorization to Enter Agreement.

15 (a) The District Attorney and the Sheriff are hereby authorized to enter into an
16 agreement with DHS, a draft of which is included in File No. 230132, the file for this
17 ordinance, to facilitate parole entry for Defendant D.Y. for prosecution on charges of violating
18 California Penal Code Sections 288.7(a), three counts of 288.7(b), and two counts of 288(a),
19 as described in San Francisco Police Department Incident Numbers 210349490 and
20 180323043 and San Francisco Superior Court Arrest Warrant Number 51835 F.
21 Notwithstanding Administrative Code Sections 12H.2(c) and 12I.3(c), the District Attorney
22 and/or the Sheriff may, under the terms of the agreement, (1) respond to a notification
23 request, as that term is defined in Section 12I.2, regarding Defendant D.Y., and (2) provide
24 information to DHS regarding the release status and/or other personal information, as those
25 terms are defined in Section 12I.2, regarding Defendant D.Y. All other requirements of

1 Administrative Code Chapters 12H and 12I shall apply, and the District Attorney and Sheriff
2 may not agree to forgo any of those requirements.

3 (b) Within 30 days of an agreement with DHS being executed by all parties, the
4 District Attorney shall provide the final agreement, with personally identifying information for
5 Defendant D.Y. redacted, to the Clerk of the Board for inclusion in File No. 230132, the file for
6 this ordinance.

7

8 Section 3. Effective Date. This ordinance shall become effective 30 days after
9 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
10 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
11 of Supervisors overrides the Mayor's veto of the ordinance.

12

13 APPROVED AS TO FORM:
14 DAVID CHIU, City Attorney

15 By: /S/ Sarah Crowley
16 SARAH CROWLEY

17

n:\legana\as2023\2300211\01655241.docx

18

19

20

21

22

23

24

25

LEGISLATIVE DIGEST

[Authorizing Parole Entry Agreement for Sex Offense Prosecution - Department of Homeland Security/District Attorney and Sheriff]

Ordinance authorizing the District Attorney and Sheriff to enter into an agreement with the United States Department of Homeland Security (“DHS”) under which DHS would agree to facilitate parole entry into the United States of a criminal defendant for prosecution on multiple sex offenses in San Francisco, and the District Attorney and Sheriff would agree to notify DHS immediately if the defendant posts bail or is otherwise to be released from custody during or after the criminal proceeding.

Existing Law

Under existing law, City employees may not use City resources to provide information to the United States Department of Homeland Security (“DHS”) about the release status or personal information of any individual in City custody, except in limited circumstances.

Amendments to Current Law

On June 25, 2021, the Superior Court for the County of San Francisco issued a warrant of arrest for a criminal defendant (“Defendant D.Y.”) on multiple sex offense charges. Defendant D.Y. is currently in Mexico. The District Attorney intends to request that the United States Department of Homeland Security (“DHS”) approve parole entry (extradition) to allow Defendant D.Y. to be arrested in Mexico and transported to San Francisco for criminal prosecution. DHS has informed the District Attorney that it will not approve parole entry for Defendant D.Y. unless the District Attorney and the Sheriff agree in writing to notify DHS immediately if Defendant D.Y. posts bail or is otherwise to be released from custody either before or after the conclusion of the criminal proceeding. The proposed ordinance would authorize the District Attorney and Sheriff to notify DHS in this case.

n:\legana\as2023\2300211\01655243.docx



BROOKE JENKINS
District Attorney

February 7, 2023

VIA E-MAIL

Parole and Law Enforcement Programs Unit
Homeland Security Investigations
Washington, D.C.

Parole and Law Enforcement Programs Unit:

REQUEST FOR PAROLE ENTRY OF

DATE OF BIRTH: [REDACTED]

[REDACTED], a citizen of Mexico, is wanted to stand trial in the San Francisco Superior Court, on the following felony charges:

- Count 1—PC 288.7(a) Sexual Intercourse with a Child Under 10
- Count 2—PC 288.7(b) Oral Copulation with a Child Under 10
- Count 3—PC 288.7(b) Oral Copulation with a Child Under 10
- Count 4—PC 288.7(b) Oral Copulation with a Child Under 10
- Count 5—PC 288(a) Lewd Act Upon a Child
- Count 6—PC 288(a) Lewd Act Upon a Child

On or about June 24, 2021, a warrant of arrest was issued for [REDACTED] with bail set in the amount of five-million dollars (\$5,000,000).

It is anticipated that [REDACTED] will be arrested in Mexico and ordered extradited to the United States. His removal date to the United States remains to be determined. If paroled into the United States, [REDACTED] will be housed at the San Francisco County Jail, in the State of California.

The San Francisco Sheriff's Department is the law enforcement agency which will oversee [REDACTED] at all times, until sentencing. [REDACTED] will be prosecuted by the San Francisco County District Attorney's Office.

The San Francisco Sheriff and the San Francisco District Attorney hereby assure the Department of Homeland Security, Immigration and Customs Enforcement (ICE), of the following:

1. If a Detainer is issued by ICE, the Detainer will follow [REDACTED] and be part of his legal documents no matter which jurisdiction he is transferred to.
2. Pursuant to California law, Senate Bill 54, the San Francisco District Attorney and the San Francisco Sheriff assure ICE that they will honor the terms of the Detainer by

notifying ICE immediately should [REDACTED] become eligible to post bail and he posts bail and be scheduled for release from custody.

3. The parties understand that if [REDACTED] posts bail, ICE will take immediate action to effect the removal of the subject, which may result in him being removed from the U.S. before the criminal case is adjudicated.
4. The parties also provide an assurance that if [REDACTED] is acquitted or if no probable cause is found, they will immediately notify ICE.

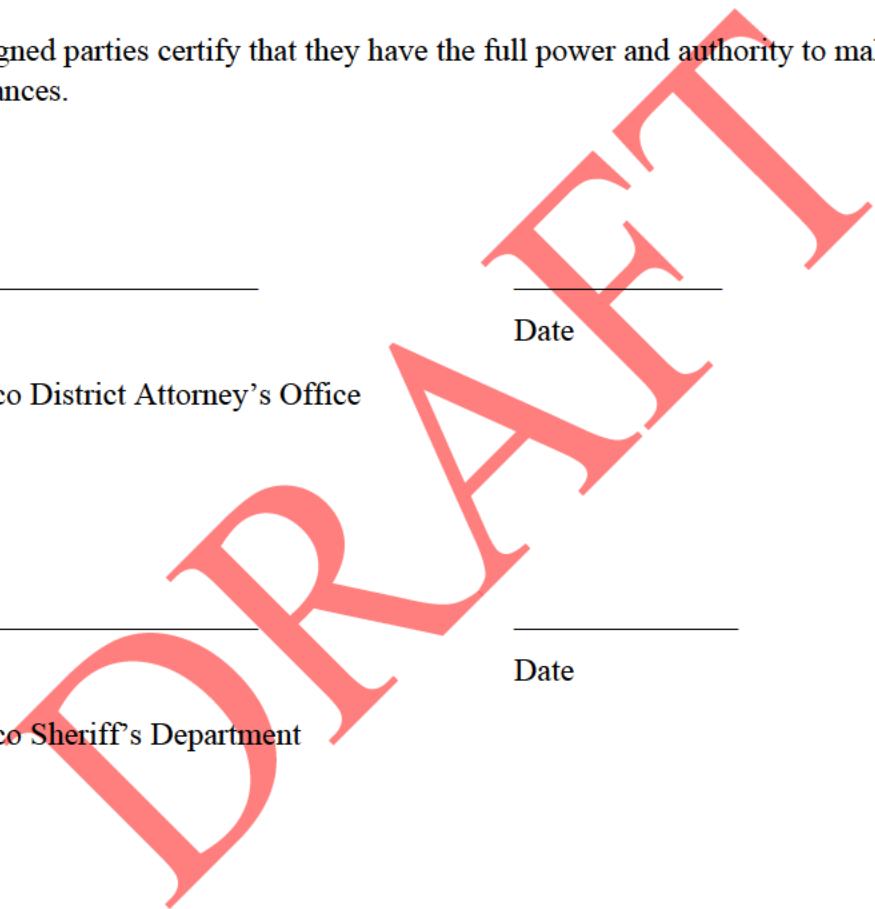
The undersigned parties certify that they have the full power and authority to make the above stated assurances.

TITLE
San Francisco District Attorney's Office

Date

TITLE
San Francisco Sheriff's Department

Date



From: [Conine-Nakano, Susanna \(MYR\)](#)
To: [BOS Legislation, \(BOS\)](#)
Cc: [Paulino, Tom \(MYR\)](#); [McCaffrey, Edward \(DAT\)](#); [Power, Andres \(MYR\)](#)
Subject: Mayor -- Ordinance -- Authorizing Parole Entry Agreement for Sex Offense Prosecution
Date: Tuesday, February 7, 2023 4:04:44 PM
Attachments: [Mayor -- Ordinance -- Authorizing Parole Entry Agreement for Sex Offense Prosecution.zip](#)

Hello Clerks,

Attached for introduction to the Board of Supervisors is an Ordinance authorizing the District Attorney and Sheriff to enter into an agreement with the United States Department of Homeland Security (“DHS”) under which DHS would agree to facilitate parole entry into the United States of a criminal defendant for prosecution on multiple sex offenses in San Francisco, and the District Attorney and Sheriff would agree to notify DHS immediately if the defendant posts bail or is otherwise to be released from custody during or after the criminal proceeding

Please let me know if you have any questions.

Best,
Susanna

Susanna Conine-Nakano
Office of Mayor London N. Breed
City & County of San Francisco
1 Dr. Carlton B. Goodlett Place, Room 200
San Francisco, CA 94102
415-554-6147