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**Ross Mirkarimi**  
**SHERIFF**

**FOR IMMEDIATE RELEASE**

July 16, 2015

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**San Francisco Sheriff Ross Mirkarimi Responds to Mayor Ed Lee's  
Call to Rescind ICE Contact Policy**

San Francisco, CA — San Francisco Sheriff Ross Mirkarimi today delivered his response to Mayor Ed Lee's July 14, 2015, letter calling on the San Francisco Sheriff's Department to rescind its policy regarding contact with Immigration and Customs Enforcement (ICE).

"This tragedy spotlights the need for legal clarity at every government level," stated Sheriff Mirkarimi. "This matter requires an open and honest conversation about the legislative intent and meaning of San Francisco's ordinances and how they comport with everyday enforcement of laws leading to deportations."

In his response, printed in its entirety below, the Sheriff asserts that the Mayor's request raises legal conflicts; the Sheriff asks for an open and immediate discussion, via a Board of Supervisors committee hearing, to resolve the conflicts, provide clarity, and produce a workable and fair ordinance.

July 15, 2015

Reference: 2015-120

The Honorable Edwin Lee  
Mayor  
City Hall, Room 200  
San Francisco, CA 94102

Dear Mayor Lee:

I received your July 14, 2015 letter regarding the San Francisco Sheriff's Department's (SFSD) Federal Immigration communications policy. Your letter does not provide legal clarity regarding my department's duty under city law. Your request to immediately rescind the policy contributes to the confusion and conflict between the Sanctuary City Ordinance (Administrative Code 12H.2) and the Due Process For All

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Ordinance (Administrative Code 12I). I urge a resolution of these conflicts so that there is a consistent and uniform understanding of the laws.

Finger pointing around this tragedy serves no purpose other than election year politics. It would serve the public interest to have an immediate open discussion of the Sanctuary City Ordinance and the Due Process For All Ordinance. I propose that you and I and other stakeholders come before a committee hearing with the Board of Supervisors so that a resolution of the conflicts can be achieved in a meaningful and transparent way.

Your request to rescind the policy and require the SFSD to contact federal immigration officials would eviscerate the city's Due Process For All Ordinance, an ordinance I supported and which you signed into law. Historically, the only reason for SFSD to notify federal immigration officials of an individual's release has been in relation to honoring an immigration detainer. This practice has been curtailed by the Due Process For All Ordinance and the federal court ruling that any detention for the release of an individual to federal immigration officials without probable cause violates the Due Process Clause and the Fourth Amendment of the United States Constitution.

At present, the only request for notification SFSD has received from federal immigration officials is contained in the detainer form which the Due Process For All Ordinance prohibits SFSD from honoring, absent limited circumstances.

The only reason to now notify federal immigration officials of an individual's release would be to facilitate the release of the individual to the federal immigration officials. This would completely circumvent the requirements and intent of the Sanctuary City Ordinance, the Due Process For All Ordinance and lead to unconstitutional detentions.

In 2013, my office worked closely with the City Attorney's Office and the Board of Supervisors before and after the Due Process For All Ordinance was implemented to provide guidance on its provisions and effects. SFSD alerted representatives from the City Attorney's Office, the Board of Supervisors and you of provisions of the Ordinance that posed operational and procedural problems. In early 2015, I met with the Deputy Secretary and Secretary of Homeland Security separately on two occasions to confirm San Francisco's laws and procedures. I also expressed concern about the legality of the detainer/notification process.

I shall continue to ensure that SFSD policy as it relates to federal immigration issues is consistent with city, state, and federal laws. I therefore request legislative direction to reconcile the conflict inherent in your proposal versus city legislation prohibiting ICE detainers except in specific circumstances. Your request would require the Board of Supervisors to amend the Administrative Code as it relates to cooperation with federal immigration officials and honoring detainers.

In addition to clarifying city law, other solutions should be considered. One such solution is to propose that an Administrative Law Judge review immigration detainees and provide a warrant or finding of probable cause for those persons who federal immigration officials seek to detain.

I will continue to cooperate with any amendments to city legislation by the Board of Supervisors. I look forward to working with all city representatives including the Board of Supervisors and the City Attorney's Office to provide legal clarity to these sensitive and complex issues.

Sincerely,

ROSS MIRKARIMI  
Sheriff

cc London Breed, President of the Board of Supervisors  
Board of Supervisors

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