

File No. 160022

Committee Item No. 1

Board Item No. 9

### COMMITTEE/BOARD OF SUPERVISORS

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Committee: Public Safety and Neighborhood Services

Date April 7, 2016

Board of Supervisors Meeting

Date JUNE 7, 2016

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Completed by: Erica Major Date April 1, 2016

Completed by: [Signature] Date 4/11/2016

[Administrative Code - Due Process for All and Sanctuary]

Ordinance amending the Administrative Code to prohibit the use of City funds or resources to assist in the enforcement of Federal immigration law, except for individuals who have been convicted of a violent or serious felony and held to answer for a violent or serious felony and modifying reporting requirements.

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

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

Section 1. The Administrative Code is hereby amended by revising Section 12H.2 and deleting Section 12H.2-1 in Chapter 12H, and revising Sections 12I.1, 12I.2, 12I.3, 12I.4, and 12I.5 in Chapter 12I, to read as follows:

**SEC. 12H.2. USE OF CITY FUNDS PROHIBITED.**

No department, agency, commission, officer, or employee of the City and County of San Francisco shall use any City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information regarding ~~the immigration or release~~ status of individuals or any other such personal information as defined in Chapter 12I in the City and County of San Francisco unless such assistance is required by Federal or State statute, regulation, or court decision. The prohibition set forth in this Chapter 12H shall include, but shall not be limited to:

- (a) Assisting or cooperating, in one's official capacity, with any investigation, detention, or arrest procedures, public or clandestine, conducted by the Federal agency

1 charged with enforcement of the Federal immigration law and relating to alleged violations of  
2 the civil provisions of the Federal immigration law, except as permitted under Administrative Code  
3 Section 12I.3.

4 (b) Assisting or cooperating, in one's official capacity, with any investigation,  
5 surveillance, or gathering of information conducted by foreign governments, except for  
6 cooperation related to an alleged violation of City and County, State, or Federal criminal laws.

7 (c) Requesting information about, or disseminating information, in one's official  
8 capacity, regarding, the immigration or release status of any individual or any other such  
9 personal information as defined in Chapter 12I, except as permitted under Administrative Code  
10 Section 12I.3, or conditioning the provision of services or benefits by the City and County of  
11 San Francisco upon immigration status, except as required by Federal or State statute or  
12 regulation, City and County public assistance criteria, or court decision.

13 (d) Including on any application, questionnaire, or interview form used in relation to  
14 benefits, services, or opportunities provided by the City and County of San Francisco any  
15 question regarding immigration status other than those required by Federal or State statute,  
16 regulation, or court decision. Any such questions existing or being used by the City and  
17 County at the time this Chapter is adopted shall be deleted within sixty days of the adoption of  
18 this Chapter.

19 ~~**SEC. 12H.2-1. CHAPTER PROVISIONS INAPPLICABLE TO PERSONS CONVICTED**~~  
20 ~~**OF CERTAIN CRIMES.**~~

21 ~~*Nothing in this Chapter shall prohibit, or be construed as prohibiting, a Law Enforcement*~~  
22 ~~*Officer from identifying and reporting any adult pursuant to State or Federal law or regulation who is*~~  
23 ~~*in custody after being booked for the alleged commission of a felony and is suspected of violating the*~~  
24 ~~*civil provisions of the immigration laws. In addition, nothing in this Chapter shall prohibit, or be*~~  
25 ~~*construed as prohibiting, a Law Enforcement Officer from identifying and reporting any juvenile who is*~~

1 ~~suspected of violating the civil provisions of the immigration laws if: (1) the San Francisco District~~  
2 ~~Attorney files a petition in the juvenile court alleging that the minor is a person within the description~~  
3 ~~of Section 602(a) of the California Welfare and Institutions Code and the juvenile court sustains a~~  
4 ~~felony charge based upon the petition; (2) the San Francisco Superior Court makes a finding of~~  
5 ~~probable cause after the District Attorney directly files felony criminal charges against the minor in~~  
6 ~~adult criminal court; or (3) the San Francisco Superior Court determines that the minor is unfit to be~~  
7 ~~tried in juvenile court, the minor is certified to adult criminal court, and the Superior Court makes a~~  
8 ~~finding of probable cause in adult criminal court.~~

9 ~~Nothing in this Chapter shall preclude any City and County department, agency, commission,~~  
10 ~~officer or employee from (a) reporting information to the Federal agency charged with enforcement of~~  
11 ~~the Federal immigration law regarding an individual who has been booked at any county jail facility,~~  
12 ~~and who has previously been convicted of a felony committed in violation of the laws of the State of~~  
13 ~~California, which is still considered a felony under State law; (b) cooperating with a request from the~~  
14 ~~Federal agency charged with enforcement of the Federal immigration law for information regarding an~~  
15 ~~individual who has been convicted of a felony committed in violation of the laws of the State of~~  
16 ~~California, which is still considered a felony under State law; or (c) reporting information as required~~  
17 ~~by Federal or State statute, regulation or court decision, regarding an individual who has been~~  
18 ~~convicted of a felony committed in violation of the laws of the State of California, which is still~~  
19 ~~considered a felony under State law. For purposes of this Section, an individual has been "convicted"~~  
20 ~~of a felony when: (a) there has been a conviction by a court of competent jurisdiction; and (b) all direct~~  
21 ~~appeal rights have been exhausted or waived; or (c) the appeal period has lapsed.~~

22 ~~However, no officer, employee or law enforcement agency of the City and County of San~~  
23 ~~Francisco shall stop, question, arrest or detain any individual solely because of the individual's~~  
24 ~~national origin or immigration status. In addition, in deciding whether to report an individual to the~~  
25 ~~Federal agency charged with enforcement of the Federal immigration law under the circumstances~~

1 ~~described in this Section, an officer, employee or law enforcement agency of the City and County of San~~  
2 ~~Francisco shall not discriminate among individuals on the basis of their ability to speak English or~~  
3 ~~perceived or actual national origin.~~

4 ~~This Section shall not apply in cases where an individual is arrested and/or convicted for failing~~  
5 ~~to obey a lawful order of a Police Officer during a public assembly or for failing to disperse after a~~  
6 ~~Police Officer has declared an assembly to be unlawful and has ordered dispersal.~~

7 ~~Nothing herein shall be construed or implemented so as to discourage any person, regardless of~~  
8 ~~immigration status, from reporting criminal activity to law enforcement agencies.~~

9 **SEC. 12I.1. FINDINGS.**

10 The City and County of San -Francisco (the "City") is home to persons of diverse racial,  
11 ethnic, and national backgrounds, including a large immigrant population. The City respects,  
12 upholds, and values equal protection and equal treatment for all of our residents, regardless  
3 of immigration status. Fostering a relationship of trust, respect, and open communication  
14 between City employees and City residents is essential to the City's core mission of ensuring  
15 public health, safety, and welfare, and serving the needs of everyone in the community,  
16 including immigrants. The purpose of this Chapter 12I, as well as of Administrative Code Chapter  
17 12H, is to foster respect and trust between law enforcement and residents, to protect limited  
18 local resources, to encourage cooperation between residents and City officials, including especially  
19 law enforcement and public health officers and employees, and to ensure family unity, community  
20 security, and due process for all.

21 ~~Our federal immigration system is in dire need of comprehensive reform. The United States~~  
22 ~~Immigration and Customs Enforcement ("ICE") is responsible for enforcing the civil immigration~~  
23 ~~laws. ICE's programs, including Secure Communities and its replacement, the Priority Enforcement~~  
24 ~~Program ("PEP"), seek to enlist local law enforcement's voluntary cooperation and assistance in its~~  
25 ~~enforcement efforts. In its description of PEP, ICE explains that all requests under PEP are for~~

1 voluntary action and that any request is not an authorization to detain persons at the expense of the  
2 federal government. The federal government should not shift the financial burden of federal civil  
3 immigration enforcement, including personnel time and costs related to notification and detention,  
4 onto local law enforcement by requesting that local law enforcement agencies continue  
5 detaining persons based on non-mandatory civil immigration detainers or cooperating and  
6 assisting with requests to notify ICE that a person will be released from local custody. It is not a wise  
7 and effective use of valuable City resources at a time when vital services are being cut.

8 *The United States Immigration and Customs Enforcement's "ICE's" controversial* Secure  
9 Communities program (also known as "S-Comm") shiftsed the burden of federal civil  
10 immigration enforcement onto local law enforcement. S-Comm ~~comes~~ came into operation after  
11 the state ~~sends~~ sent fingerprints that state and local law enforcement agencies haved  
12 transmitted to the California Department of Justice ("Cal DOJ") to positively identify the  
13 arrestees and to check their criminal history. The FBI would forwards the fingerprints to the  
14 Department of Homeland Security ("DHS") to be checked against immigration and other  
15 databases. To give itself time to take a detainee into immigration custody, ICE would sends an  
16 Immigration Detainer – Notice of Action (DHS Form I-247) to the local law enforcement official  
17 requesting that the local law enforcement official hold the individual for up to 48 hours after  
18 that individual would otherwise be released ("civil immigration detainers"). Civil Immigration  
19 detainers may be issued without evidentiary support or probable cause by border patrol  
20 agents, aircraft pilots, special agents, deportation officers, immigration inspectors, and  
21 immigration adjudication officers.

22 Given that civil immigration detainers are issued by immigration officers without judicial  
23 oversight, and the regulation authorizing civil immigration detainers provides no minimum  
24 standard of proof for their issuance, there are serious questions as to their constitutionality.  
25 Unlike criminal warrants, which must be supported by probable cause and issued by a neutral

1 magistrate, there ~~is~~ are no such requirements for the issuance of a civil immigration detainer. ~~At~~  
2 ~~least one~~ Several federal courts in Indiana ~~has~~ ve ruled that because civil immigration detainees  
3 and other ICE "Notice of Action" documents are issued without probable cause of criminal  
4 conduct, they do not meet the Fourth Amendment requirements for state or local law  
5 enforcement officials to arrest and hold an individual in custody. (Miranda-Olivares v.  
6 Clackamas Co., No. 3:12-cv-02317-ST \*17 (D.Or. April 11, 2014) (finding that detention pursuant to  
7 an immigration detainer is a seizure that must comport with the Fourth Amendment). See also Morales  
8 v. Chadbourne, 996 F. Supp. 2d 19, 29 (D.R.I. 2014); Villars v. Kubiowski, No. 12-cv-4586 \*10-12  
9 (N.D. Ill. filed May 5, 2014).)

10 On December 4, 2012, the Attorney General of California, Kamala Harris, clarified the  
11 responsibilities of local law enforcement agencies under S-Comm. The Attorney General  
12 clarified that S-Comm ~~does~~ id not require state or local law enforcement officials to determine  
13 an individual's immigration status or to enforce federal immigration laws. The Attorney  
14 General also clarified that civil immigration detainees are voluntary requests to local law  
15 enforcement agencies that do not mandate compliance. California local law enforcement  
16 agencies may determine on their own whether to comply with non-mandatory civil immigration  
17 detainees. In a June 25, 2014, bulletin, the Attorney General warned that a federal court outside of  
18 California had held a county liable for damages where it voluntarily complied with an ICE request to  
19 detain an individual, and the individual was otherwise eligible for release and that local law  
20 enforcement agencies may also be held liable for such conduct. ~~Other~~ Over 350 jurisdictions,  
21 including Berkeley, California; Richmond, California; Santa Clara County, California; Washington,  
22 D. C., ~~and~~ Cook County, Illinois, and many of California's 58 counties have already  
23 acknowledged the discretionary nature of civil immigration detainees and are declining to hold  
24 people in their jails for the additional ~~forty eight~~ (48) hours as requested by ICE. Local law  
25 enforcement agencies' responsibilities, duties, and powers are regulated by state law.

1 However, complying with non-mandatory civil immigration detainers ~~falls outside the scope of~~  
2 ~~those responsibilities and~~ frequently raises due process concerns.

3 According to Section 287.7 of Title 8 of the Code of Federal Regulations, the City is not  
4 reimbursed by the federal government for the costs associated with civil immigration detainers  
5 alone. The full cost of responding to a civil immigration detainer can include, but is not limited  
6 to, extended detention time, the administrative costs of tracking and responding to detainers,  
7 and the legal liability for erroneously holding an individual who is not subject to a civil  
8 immigration detainer. Compliance with civil immigration detainers and involvement in civil  
9 immigration enforcement diverts limited local resources from programs that are beneficial to  
10 the City.

11 The City seeks to protect public safety, which is founded on trust and cooperation of  
12 community residents and local law enforcement. However, civil immigration detainers and  
13 notifications regarding release undermine community trust of law enforcement by instilling fear  
14 in immigrant communities of coming forward to report crimes and cooperate with local law  
15 enforcement agencies. A 2013 study by the University of Illinois, entitled "Insecure  
16 Communities: Latino Perceptions of Police Involvement in Immigration Enforcement," found  
17 that at least 40% ~~percent~~ of Latinos surveyed are less likely to provide information to police  
18 because they fear exposing themselves, family, or friends to a risk of deportation. Indeed, civil  
19 immigration detainers have resulted in the transfer of victims of crime, including domestic  
20 violence victims, to ICE. ~~According to a national 2011 study by the Chief Justice Earl Warren~~  
21 ~~Institute on Law and Social Policy at UC Berkeley, entitled "Secure Communities by the Numbers: An~~  
22 ~~Analysis of Demographics and Due Process" ("2011 Warren Institute Study"), ICE has falsely detained~~  
23 ~~approximately 3,600 U.S. citizens as a result of S-Comm. Thus, S-Comm leaves even those with legal~~  
24 ~~status vulnerable to civil immigration detainers issued without judicial review or without proof of~~



1 *riminal activity, in complete disregard for the due process rights of those subject to the civil*  
2 *immigration detainers.*

3       The City has enacted numerous laws and policies to strengthen communities and to  
4 build trust between communities and local law enforcement. Local cooperation and assistance with  
5 civil immigration enforcement keep families united. In contrast, ICE civil immigration detainers have  
6 resulted in the separation of families. According to the 2011 Warren Institute Study, it is estimated that  
7 more than one third of those targeted by S-Comm have a U.S. citizen spouse or child. Complying with  
8 civil immigration detainers thus resulted in the deportation of potential aspiring U.S. citizens.  
9 According to the 2011 Warren Institute Study, Latinos make up 93% of those detained through S-  
10 Comm, although they only account for 77% of the undocumented population in the U.S. As a result, S-  
11 Comm has had a disproportionate impact on Latinos.

12       *The City has enacted numerous laws and policies to prevent its residents from becoming*  
13 *entangled in the immigration system. But, the enforcement of immigration laws is a responsibility of the*  
14 *federal government. A December 2012 ICE news release stated that deportations have hit record*  
15 *figures each year. According to the Migration Policy Institute's 2013 report, entitled "Immigration*  
16 *Enforcement in the United States: The Rise of a Formidable Machinery," the federal government*  
17 *presently spends more on civil immigration enforcement than all federal criminal law enforcement*  
18 *combined. Local funds should not be expended on such efforts, especially because such entanglement*  
19 *undermines community policing strategies.*

20       In 2014, DHS ended the Secure Communities program and replaced it with PEP. PEP and S-  
21 Comm share many similarities. Just as with S-Comm, PEP uses state and federal databases to check  
22 an individual's fingerprints against immigration and other databases. PEP employs a number of  
23 tactics to facilitate transfers of individuals from local jails to immigration custody.

24       First, PEP uses a new form (known as DHS Form I-247N), which requests notification from  
25 local jails about an individual's release date prior to his or her release from local custody. As with

1 civil immigration detainees, these notification requests are issued by immigration officers without  
2 judicial oversight, thus raising questions about local law enforcement's liability for constitutional  
3 violations if any person is overdetained when immigration agents are unable to be present at the time  
4 of the person's release from local custody.

5 Second, under PEP, ICE will continue to issue civil immigration detainer requests where local  
6 law enforcement officials are willing to respond to the requests, and in instances of "special  
7 circumstances," a term that has yet to be defined by DHS. Despite federal courts finding civil  
8 immigration detainees do not meet Fourth Amendment requirements, local jurisdictions are often  
9 unable to confirm whether or not a detention request is supported by probable cause or has been  
10 reviewed by a neutral magistrate.

11 The increase in information-sharing between local law enforcement and immigration officials  
12 raises serious concerns about privacy rights. Across the country, including in the California Central  
13 Valley, there has been an increase of ICE agents stationed in jails, who often have unrestricted access  
14 to jail databases, booking logs, and other documents that contain personal information of all jail  
15 inmates.

16 The City has an interest in ensuring that confidential information collected in the course of  
17 carrying out its municipal functions, including but not limited to public health programs and criminal  
18 investigations, is not used for unintended purposes that could hamper collection of information vital to  
19 those functions. To carry out public health programs, the City must be able to reliably collect  
20 confidential information from all residents. To solve crimes and protect the public, local law  
21 enforcement depends on the cooperation of all City residents. Information gathering and cooperation  
22 may be jeopardized if release of personal information results in a person being taken into immigration  
23 custody.

24 In late 2015, Pedro Figueroa, an immigrant father of an 8-year-old U.S. citizen, sought the San  
25 Francisco Police Department's help in locating his stolen vehicle. When Mr. Figueroa went to the

1 police station to retrieve his car, which police had located, he was detained for some time by police  
2 officers before being released, and an ICE agent was waiting to take him into immigration custody  
3 immediately as he left the police station. It was later reported that both the Police Department and the  
4 San Francisco Sheriff's Department had contact with ICE officials while Mr. Figueroa was at the  
5 police station. He spent over two months in an immigration detention facility and remains in  
6 deportation proceedings. Mr. Figueroa's case has raised major concerns about local law  
7 enforcement's relationship with immigration authorities, and has weakened the immigrant community's  
8 confidence in policing practices. Community cooperation with local law enforcement is critical to  
9 investigating and prosecuting crimes. Without the cooperation of crime victims – like Mr. Figueroa –  
10 and witnesses, local law enforcement's ability to investigate and prosecute crime, particularly in  
11 communities with large immigrant populations, will be seriously compromised.

12 **SEC. 12I.2. DEFINITIONS.**

13 "Administrative warrant" means a document issued by the federal agency charged with the  
14 enforcement of the Federal immigration law that is used as a non-criminal, civil warrant for  
15 immigration purposes.

16 "Eligible for release from custody" means that the individual may be released from  
17 custody because one of the following conditions has occurred:

- 18 (1a) All criminal charges against the individual have been dropped or dismissed.  
19 (2b) The individual has been acquitted of all criminal charges filed against him or her.  
20 (3c) The individual has served all the time required for his or her sentence.  
21 (4d) The individual has posted a bond, or has been released on his or her own  
22 recognizance.  
23 (5e) The individual has been referred to pre-trial diversion services.  
24 (6f) The individual is otherwise eligible for release under state or local law.  
25

1 "Civil immigration detainer" means a non-mandatory request issued by an authorized  
2 federal immigration officer under Section 287.7 of Title 8 of the Code of Federal Regulations,  
3 to a local law enforcement official to maintain custody of an individual for a period not to  
4 exceed ~~forty-eight (48) hours, excluding Saturdays, Sundays, and holidays,~~ and advise the  
5 authorized federal immigration officer prior to the release of that individual.

6 "Convicted" means the state of having been proved guilty in a judicial proceeding,  
7 unless the convictions have been expunged or vacated pursuant to applicable law. The date  
8 that an individual is Convicted starts from the date of release.

9 "Firearm" means a device, designed to be used as a weapon, from which is expelled  
10 through a barrel, a projectile by the force of an explosion or other form of combustion as  
11 defined in Penal Code Section 16520.

12 "Law enforcement official" means any City Department or officer or employee of a City  
13 Department, authorized to enforce criminal statutes, regulations, or local ordinances; operate  
14 jails or maintain custody of individuals in jails; and operate juvenile detention facilities or  
15 maintain custody of individuals in juvenile detention facilities.

16 "Notification request" means a non-mandatory request issued by an authorized federal  
17 immigration officer to a local law enforcement official asking for notification to the authorized  
18 immigration officer of an individual's release from local custody prior to the release of an individual  
19 from local custody. Notification requests may also include informal requests for release information by  
20 the Federal agency charged with enforcement of the Federal immigration law.

21 "Personal information" means any confidential, identifying information about an individual,  
22 including, but not limited to, home or work contact information, and family or emergency contact  
23 information.

24 "Serious Felony" means all serious felonies listed under Penal Code Section 1192.7(c)  
25 that also are defined as violent felonies under Penal Code Section 667.5(c); rape as defined

1 in Penal Code Sections 261, and 262: exploding a destructive device with intent to injure as  
2 defined in Penal Code Section 18740: assault on a person with caustic chemicals or  
3 flammable substances as defined in Penal Code Section 244: shooting from a vehicle at a  
4 person outside the vehicle or with great bodily injury as defined in Penal Code Sections  
5 26100(c) and (d).

6 "Violent Felony" means any crime listed in Penal Code Section 667.5(c); human  
7 trafficking as defined in Penal Code Section 236.1; felony assault with a deadly weapon as  
8 defined in Penal Code Section 245; any crime involving use of a firearm, assault weapon,  
9 machine ~~gun~~ gun, or .50 BMG rifle, while committing or attempting to commit a felony that is  
10 charged as a sentencing enhancement as listed in Penal Code Sections 12022.4 and  
11 12022.5.

### 12 **12I.3. RESTRICTIONS ON LAW ENFORCEMENT OFFICIALS.**

13 (a) Except as provided in subsection (b), a law enforcement official shall not detain an  
14 individual on the basis of a civil immigration detainer after that individual becomes eligible for  
15 release from custody ~~or respond to a federal immigration officer's notification request.~~

16 (b) Law enforcement officials may continue to detain an individual in response to a  
17 civil immigration detainer for up to ~~forty-eight (48)~~ hours after that individual becomes eligible  
18 for release and ~~may respond to a federal immigration officer's notification request if the~~  
19 continued detention is consistent with state and federal law, and the individual meets both of the  
20 following criteria:

21 (1) The individual has been Convicted of a Violent Felony in the seven years  
22 immediately prior to the date of the civil immigration detainer ~~or notification request~~; and

23 (2) A magistrate has determined that there is probable cause to believe the individual  
24 is guilty of a Violent Felony and has ordered the individual to answer to the same pursuant to  
25 Penal Code Section 872.

1 In determining whether to continue to detain an individual based solely on a civil  
2 immigration detainer ~~or respond to a notification request~~ as permitted in this subsection (b),  
3 law enforcement officials shall consider evidence of the individual's rehabilitation and evaluate  
4 whether the individual poses a public safety risk. Evidence of rehabilitation or other mitigating  
5 factors to consider includes, but is not limited to: the individual's ties to the community,  
6 whether the individual has been a victim of any crime, the individual's contribution to the  
7 community, and the individual's participation in social service or rehabilitation programs.

8 This subsection (b) shall expire by operation of law on October 1, 2016, or upon a  
9 resolution passed by the Board of Supervisors that finds for purposes of this Chapter, the  
10 federal government has enacted comprehensive immigration reform that diminishes the need  
11 for this subsection (b), whichever comes first.

12 (c) Except as provided in subsection (d), a law enforcement official shall not respond  
13 to a federal immigration officer's notification request.

14 (d) Law Enforcement officials may respond to a federal immigration officer's  
15 notification request if the individual meets both of the following criteria:

16 (1) The individual either:

17 (A) has been Convicted of a Violent Felony in the seven years  
18 immediately prior to the date of the notification request; or

19 (B) has been Convicted of a Serious Felony in the five years immediately  
20 prior to the date of the notification request; or

21 (C) has been Convicted of three felonies identified in Penal Code  
22 sections 1192.7(c) or 667.5(c), or Government Code sections 7282.5(a)(2) or 7282.5(a)(3),  
23 other than domestic violence, arising out of three separate incidents in the five years  
24 immediately prior to the date of the notification request; and

1           (2) A magistrate has determined that there is probable cause to believe the  
2 individual is guilty of a felony identified in Penal Code sections 1192.7(c) or 667.5(c), or  
3 Government Code sections 7282.5(a)(2) or 7282.5(a)(3), other than domestic violence, and  
4 has ordered the individual to answer to the same pursuant to Penal Code Section 872.

5           In determining whether to respond to a notification request as permitted by this  
6 subsection (d), law enforcement officials shall consider evidence of the individual's  
7 rehabilitation and evaluate whether the individual poses a public safety risk. Evidence of  
8 rehabilitation or other mitigating factors to consider includes, but is not limited to, the  
9 individual's ties to the community, whether the individual has been a victim of any crime, the  
10 individual's contribution to the community, and the individual's participation in social service or  
11 rehabilitation programs.

12           (ee) Law enforcement officials shall not arrest or detain an individual, or provide any  
13 individual's personal information to a federal immigration officer, on the basis of an administrative  
14 warrant, prior deportation order, or other civil immigration document based solely on alleged  
15 violations of the civil provisions of immigration laws.

16           (eef) Law enforcement officials shall make good faith efforts to seek federal  
17 reimbursement for all costs incurred in continuing to detain an individual, after that individual  
18 becomes eligible for release, in response each civil immigration detainer.

19           **SEC. 12I.4. PURPOSE OF THIS CHAPTER.**

20           The intent of this Chapter 12I is to address requests for non-mandatory civil  
21 immigration detainers, voluntary notification of release of individuals, transmission of personal  
22 information, and civil immigration documents based solely on alleged violations of the civil provisions  
23 of immigration laws. Nothing in this Chapter shall be construed to apply to matters other than  
24 those relating to federal civil immigration detainers, notification of release of individuals,  
25 transmission of personal information, or civil immigration documents, based solely on alleged

1 violations of the civil provisions of immigration laws. In all other respects, local law enforcement  
2 agencies may continue to collaborate with federal authorities to protect public safety. This  
3 collaboration includes, but is not limited to, participation in joint criminal investigations that are  
4 permitted under local policy or applicable city or state law.

5 **SEC. 121.5. ANNUAL SEMIANNUAL REPORT.**

6 By no later than July 1, 2014, the Sheriff and Juvenile Probation Officer shall each  
7 provide to the Board of Supervisors and the Mayor a written report stating the number of  
8 detentions that were solely based on civil immigration detainees during the first six months  
9 following the effective date of this Chapter, and detailing the rationale behind each of those  
10 civil immigration detainees. Thereafter, the Sheriff and Juvenile Probation Officer shall each  
11 annually submit a written report to the Board of Supervisors and the Mayor, by January 1st  
12 and July 1st of each year, addressing the same following issues for the time period covered  
13 by the report:

14 (a) a description of all communications received from the Federal agency charged with  
15 enforcement of the Federal immigration law, including but not limited to the number of civil  
16 immigration detainees, notification requests, or other types of communications.

17 (b) a description of any communications the Department made to the Federal agency  
18 charged with enforcement of the Federal immigration law, including but not limited to any  
19 Department's responses to inquires as described in subsection 121.5 and the Department's  
20 determination of the applicability of subsections 121.3(b), 121.3(d) and 121.3(e).

21 Section 2. Effective Date. This ordinance shall become effective 30 days after  
22 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the  
23 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board  
24 of Supervisors overrides the Mayor's veto of the ordinance.



1 Section 3. Scope of Ordinance. In enacting this ordinance, the Board of Supervisors  
2 intends to amend only those words, phrases, paragraphs, subsections, sections, articles,  
3 numbers, punctuation marks, charts, diagrams, or any other constituent parts of the Municipal  
4 Code that are explicitly shown in this ordinance as additions, deletions, Board amendment  
5 additions, and Board amendment deletions in accordance with the "Note" that appears under  
6 the official title of the ordinance.

7  
8 APPROVED AS TO FORM:  
9 DENNIS J. HERRERA, City Attorney

10 By:

  
11 JANA CLARK  
12 Deputy City Attorney

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**REVISED LEGISLATIVE DIGEST**  
(5/24/2016, Amended in Board)

[Administrative Code - Due Process for All and Sanctuary]

**Ordinance amending the Administrative Code to prohibit the use of City funds or resources to assist in the enforcement of Federal immigration law, except for individuals who have been convicted of a violent or serious felony and held to answer for a violent or serious felony and modifying reporting requirements.**

Existing Law

Administrative Code Chapter 12I prohibits detaining individuals on the basis of a Federal civil immigration detainer unless that individual has been convicted of a violent felony in the seven years prior and has been held to answer for a violent felony. Chapter 12I also requires the Sheriff and Juvenile Probation Officer to provide an annual written report to the Board of Supervisors and the Mayor stating the number of detentions that were based solely on civil immigration detainees and detailing the rationale behind each of those civil immigration detainees. Administrative Code Chapter 12H prohibits the use of City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information regarding immigration, except under certain exceptions. Law enforcement officials may identify and report adults booked for a felony and suspected of violating the civil immigration laws, and juveniles with sustained felony petitions or tried as adults and suspected of violating the civil immigration laws. In addition, Administrative Code Chapter 12H allows City officials to; (1) report adults with prior felony convictions who have been booked into county jail; (2) cooperate with Federal immigration authorities requests for information for adults with prior felony conviction; or (3) report as required by state or federal law those adults with prior felony convictions.

Amendments to Current Law

This Ordinance would amend Administrative Code Chapters 12H and 12I to prohibit the use of City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information regarding the release status of individuals or their personal information. The Ordinance would amend Chapters 12H and 12I to limit the circumstances under which law enforcement officials may disseminate information to Federal immigration authorities. The Ordinance would permit law enforcement officials to respond to a federal immigration officer's request for notification of an individual's release from local custody only if the individual meets both of the following criteria:

(1) The individual either:

(A) has been Convicted of a Violent Felony in the seven years immediately prior to the date of the notification request; or

(B) has been Convicted of a Serious Felony in the five years immediately prior to the date of the notification request; or

(C) has been Convicted of three Violent or Serious Felonies arising out of three separate incidents in the ten years immediately prior to the date of the notification request; and

(2) A magistrate has determined that there is probable cause to believe the individual is guilty of a felony identified in Penal Code sections 1192.7(c) or 667.5(c), or Government Code sections 7282.5(a)(2) or 7282.5(a)(3), other than domestic violence; and has ordered the individual to answer to the same pursuant to Penal Code Section 872.

“Violent Felony” and “Serious Felony” are defined by reference to the Penal Code.

The Ordinance also would modify the Chapter 12I reporting requirements to require a semi-annual written report that includes (a) a description of all communications received from the Federal agency charged with enforcement of the Federal immigration law, categorized by number of civil immigration detainees, notification requests, or other types of communications and (b) a description of any communications the Department made to the Federal agency charged with enforcement of the Federal immigration law, including any Department’s responses to communications received and the Department’s determination of the applicability of subsections 12I.3(d) and 12I.3(e).

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RECEIVED VIA EMAIL  
APRIL 7, 2016  
FILE NO. 160022

**City and County of San Francisco  
Juvenile Probation Department**

**ALLEN A. NANCE**  
CHIEF PROBATION OFFICER

375 WOODSIDE AVENUE  
SAN FRANCISCO, CA 94127  
(415) 753-7556

April 7, 2016

Erica Major  
Assistant Committee Clerk  
Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102

APR 11 11 56 AM '16  
CITY OF SAN FRANCISCO

re: BOS FILE 160022 re: Administrative Code - Due Process for All and Sanctuary

Dear Ms. Major:

Please find below comments from the San Francisco Juvenile Probation Department regarding BOS File #160022:

1. As written, we believe that 12I.3 does not permit the Juvenile Probation Department to enforce federal immigration law since the term "Convicted of a Violent Felony" does not apply to juvenile cases which are civil court and not criminal court matters. Further, the clause that references "...and held to answer for a violent felony" would be applicable if the word "or" was used in place of the word "and."
2. As a matter of clarification, the criminal conduct alleged in these juvenile matters carries the same weight and impact on victims and public safety as those incidents committed by adult offenders. At the same time, the legislature and the People view juvenile offenders and adult offenders dissimilarly in many respects. If this distinction should be extended to matters of immigration as well, the language in the ordinance should be explicit to exclude the inclusion of juvenile court matters involving violent felonies where the minor is not held at the detention hearing and no sustained felony is found by the juvenile court.

Please do not hesitate to contact my office should more clarification be necessary.

Sincerely,

Allen A. Nance  
Chief Probation Officer

1516-RBM-19

**Youth Commission**  
City Hall ~ Room 345  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4532



(415) 554-6446  
(415) 554-6140 FAX  
[www.sfgov.org/youth\\_commission](http://www.sfgov.org/youth_commission)

**YOUTH COMMISSION**  
**MEMORANDUM**

**TO:** Erica Major, Committee Clerk, Public Safety & Neighborhood Services Committee  
**FROM:** Youth Commission  
**DATE:** Thursday, February 18, 2016  
**RE:** Referral response to BOS Files No. 160022

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At our **Tuesday, February 16, 2016 meeting**, the Youth Commission voted to unanimously support the following motion:

**To support BOS File No. 160022**—Ordinance amending Administrative Code, Chapter 12I, to prohibit law enforcement officials from responding to a federal immigration officer's request for voluntary notification that a person will be released from local custody, except for adults who have been convicted of a violent felony and held to answer for a violent felony.

\*\*\*

Youth Commissioners thank the Board of Supervisors for their attention to issue. If you have any questions, please contact our office at (415) 554-6446, or your Youth Commissioner.

A handwritten signature in black ink that reads "Luis Avalos-Nunez".

Chair, Luis Avalos-Nunez  
Adopted on February 16, 2016  
2015-2016 San Francisco Youth Commission



# San Francisco Sheriff's Department

INTER-OFFICE CORRESPONDENCE

REFERRED TO IN  
CUM MTEE  
4/7/2016  
FILE NO. 160077

March 11, 2016  
Reference: 2016-037

To: All Personnel

From: Sheriff Vicki L. Hennessy *Vicki L. Hennessy*

Re: SFSD Central Warrant Bureau Confirmation of Warrants in the Criminal Data Base – General ICE Warrants – Criminal and Civil in the Criminal Justice Data Base - Specific

San Francisco Sheriff's Central Warrant Bureau is responsible for verifying criminal and traffic warrants from all local, state, and federal law enforcement agencies. When we receive a request from a law enforcement officer on a specific subject, we either confirm or do not confirm the warrant for booking. The warrant clerk is always required to contact the issuing agency and ask for additional information to make sure the officer has the right person. Once a criminal warrant is confirmed for booking it is up to the arresting agency to book the individual on the warrant at the county jail. The SFSD clerk confirming the warrant does not have the authority to tell the officer to either book or not book.

### Immigration and Custom Enforcement (ICE) Warrants

It has recently come to my attention that the majority of warrants from ICE entered into the Criminal Justice Data Base are **not** actually criminal warrants. Most appear in the system with no charges attached to the warrant and say "deported criminal", "aggravated felon" or "failure to appear for removal". These are, in effect, "**administrative**" warrants and are another method of requesting a civil detainer of the subject, which is not allowed by the San Francisco Due Process for All Ordinance. There are also some "**criminal**" warrants which are to be confirmed for booking according to established procedure.

Therefore, when asked to query the criminal justice data base to confirm an ICE warrant, CWB will follow these guidelines:

1. Contact the ICE confirmation phone number per procedure to make the usual inquiries.
2. Confirm the warrant as either **criminal** or **administrative**.
  - a. If the warrant returns as a **criminal warrant**, follow established procedure for criminal warrant confirmations.

- b. If the warrant comes back as a **civil or administrative warrant**, inform the requesting party that while it is confirmed, it is a civil warrant and will not be accepted for booking at the San Francisco County Jail.
  - i. CWB staff will not print any relevant information. CWB will print out the NCIC hit and immediately copy the clerk's log sheet into an ICE file.
  - ii. The information will be scanned into an ICE folder and maintained on the shared drive.
3. Booking staff at County Jail #1 presented with a **civil or administrative ICE** warrant for booking from any agency, will refuse the arrest and document such refusal. **This does not apply to criminal ICE warrants that have been confirmed.**

I have attached examples of both a criminal ICE warrant and two civil/administrative ICE warrants to assist you in the determination.

If there are any discrepancies or questions not covered by this directive, please contact Sheriff's Legal through the Central Warrant Bureau emergency notification process at: (415) 558-2411.

Thank you for your attention to this matter.

**SAMPLE RESPONSE FROM NCIC INQUIRY: ADMINISTRATIVE (CIVIL)  
WARRANTS**

**Administrative Warrant of Removal:**

~~WARNING REGARDING FOLLOWING PERSON~~ SUBJECT OF NIC/N30770847 HAS AN  
OUTSTANDING ADMINISTRATIVE WARRANT OF REMOVAL FROM THE UNITED STATES.  
CONTACT LESC

AT (877) 999-5372 FOR IMMEDIATE HIT CONFIRMATION AND AVAILABILITY OF  
BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER.

MKE/IMMIGRATION VIOLATION - FAILURE TO APPEAR FOR REMOVAL  
ORI/VTIN81000 NAM/SMITH, JOHN SEX/M RAC/W POB/FN DOB/19510101  
HGT/510 WGT/180 EYE/BRO HAIR/BRO CTZ/FN SKN/DRK  
SMT/SC LF ARM  
SOC/77010000

OFF/ALIEN UNLAWFULLY PRESENT DUE TO ORDER OF REMOVAL OR EXCLUSION FROM  
THE USA

OCA/ASD1234-T HIS/KNOWN AS JOHNNY BOY

ORI IS BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, LAW ENFORCEMENT  
SUPPORT CENTER  
(877) 999-5372

NIC/N30770847 DTE/19980505 0000 HET DLU/20090101 0600 EST

\*\*\*\*\*THIS RECORD MAY BE USED ONLY BY CRIMINAL JUSTICE AGENCIES FOR  
CRIMINAL JUSTICE PURPOSES.

\*\*\*\*\*END OF IMMIGRATION VIOLATOR FILE RESPONSE\*\*\*\*\*

**Administrative Warrant of Arrest:**

~~WARNING REGARDING FOLLOWING PERSON~~ SUBJECT OF NIC/N30770847 HAS AN  
OUTSTANDING ADMINISTRATIVE WARRANT OF ARREST FOR IMMIGRATION VIOLATIONS  
FOR FAILURE TO COMPLY WITH NATIONAL SECURITY REGISTRATION. CONTACT LESC  
AT (877) 999-5372 FOR IMMEDIATE HIT CONFIRMATION AND AVAILABILITY OF  
BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER.

MKE/IMMIGRATION VIOLATION - NATIONAL SECURITY REGISTRATION  
ORI/VTIN81000 NAM/SMITH, JOHN SEX/M RAC/W POB/FN DOB/19510101  
HGT/510 WGT/180 EYE/BRO HAIR/BRO CTZ/FN SKN/DRK  
SMT/SC LF ARM  
SOC/77010000

OFF/BOUGHT FOR VIOLATION OF NATIONAL SECURITY REGISTRATION

OCA/ASD1234-T HIS/KNOWN AS JOHNNY BOY

ORI IS BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, LAW ENFORCEMENT  
SUPPORT CENTER (877) 999-5372

NIC/N30770847 DTE/19980505 0000 HET DLU/20090101 0600 EST

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CRIMINAL JUSTICE PURPOSES.

\*\*\*\*\*END OF IMMIGRATION VIOLATOR FILE RESPONSE\*\*\*\*\*



SAMPLE RESPONSE FROM NCIC INQUIRY: CRIMINAL ICE WARRANT

One Example of a Criminal Warrant

\*\*\*MESSAGE KEY ZW SEARCHES WANTED PERSON FILE FELONY RECORDS REGARDLESS OF EXTRADITION AND MISDEMEANOR RECORDS INDICATING POSSIBLE INTERSTATE EXTRADITION FROM THE INQUIRING AGENCY'S LOCATION. ALL OTHER NCIC PERSONS FILES ARE SEARCHED WITHOUT LIMITATIONS.

MKB/WANTED PERSON

EXL/1 - FULL EXTRADITION UNLESS OTHERWISE NOTED IN THE MIS FIELD

ORI/VTIC0900 NAM/TEST, TEST SEX/M RAC/W POB/EY

DOB/19000101 HGT/509 WGT/175 EYE/BRO HAI/BLK

SKN/LGT

MNU/PP-1234567 SOC/123456789

OFF/FRAUD - FALSE STATEMENT

DOW/20090114 OCA/2-M-TEST

VLD/20120411

MIS/CRIMINAL WARRANT IN VIOLATION OF TITLE 18 USC, SECTION 1542, FALSE STATEMENT

MIS/ON A PASSPORT APPLICATION; ISSUED BY THE U S DISTRICT COURT, EASTERN

MIS/DISTRICT OF VIRGINIA

DNA/N

ORI IS ICE LESC 802 872-6020

DOB/19730515

AKA/TESTER, TEST

AKA/ALPHA, BET

MNU/PP-5678943

SOC/9854321

NIC/W123456789 DTR/20090115 1510 EST DLU/20120411 1301 EST

IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

Again, members shall continue to act upon criminal warrants entered by ICE into NCIC pursuant to relevant directives (e.g., G.O. 302.06, WALES).



# DEPARTMENT BULLETIN

FILE NO. 160027  
SUBMITTED + PRESENTED

4/7/16

A

16-015

02/08/16

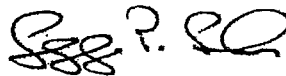
## Enforcement of Immigration Laws

Members are reminded that it is the policy of the San Francisco Police Department to foster trust and cooperation with all people of this City and to encourage them to communicate with San Francisco police officers without fear of inquiry regarding their immigration status. It is also Department policy, consistent with its obligations under state and federal law, to adhere to the City of Refuge Ordinance, San Francisco Administrative Code Section 12H.2-1. This ordinance prohibits the use of City resources to assist in the enforcement of federal immigration laws except in certain limited circumstances.

In accordance with the City of Refuge Ordinance and state law, members of the Department shall adhere to the following:

1. **DETENTION/DOCUMENTS.** Members shall not stop, question, or detain any individual solely because of the individual's national origin, foreign appearance, inability to speak English, or immigration status (also see DGO 5.03, Investigative Detentions). The mere presence of so called "illegal aliens" is not a criminal offense.
  - a. In the course of their duties, e.g., traffic enforcement, investigations, taking reports, officers shall not ask for documents regarding an individual's immigration status.
2. **ASSISTING THE INS. (U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT- ICE)** Members shall not enforce immigration laws or assist the INS (ICE) in the enforcement of immigration laws.

Per DB 15-141, both sworn and non-sworn members are required to electronically acknowledge this Department Bulletin in HRMS.

  
GREGORY P. SUHR  
Chief of Police



A  
16-048  
04/01/16

### Prohibition on the Enforcement of Administrative Immigration Warrants

Members are reminded that it is the policy of the San Francisco Police Department to foster trust and cooperation with all people of this City and to encourage them to communicate with San Francisco police officers without fear of inquiry regarding their immigration status. It is also Department policy (DGO 5.15 and reminder DB 16-015), consistent with its obligations under state and federal law, to adhere to the City of Refuge Ordinance, pursuant to SF Administrative Code §12H.2-1. This ordinance prohibits the use of City resources to assist in the enforcement of federal immigration laws except in certain limited circumstances.

One of those limited circumstances allows for the enforcement of federal criminal warrants for arrest. Federal administrative (civil) warrants are not to be enforced and will not be accepted by San Francisco Sheriff's Department personnel at CJ1. NCIC warrant responses will make clear whether the warrant is civil or criminal.

"Administrative Warrant of Removal" warrants shall not be enforced.

"Administrative Warrant of Arrest" warrants shall not be enforced.

"Criminal Warrant in violation of Title 18 USC, Section XXX." may be enforced (see DGO 6.18)

Attached are samples of NCIC print-outs of both administrative (civil) and criminal warrants that were provided for your reference by the SFSD.

Per DB 15-141, sworn members are required to electronically acknowledge this Department Bulletin in HRMS.

A handwritten signature in black ink, appearing to read 'Greg P. Suhr', is positioned above the printed name.

GREGORY P. SUHR  
Chief of Police

**SAMPLE RESPONSE FROM NCIC INQUIRY: ADMINISTRATIVE (CIVIL)  
WARRANTS**

**Administrative Warrant of Removal**

~~WARNING REGARDING FOLLOWING RECORDS - SUBJECT OF (IC/210770847 HAS AN  
OUTSTANDING ADMINISTRATIVE WARRANT OF REMOVAL FROM THE UNITED STATES,  
CONTACT LESC  
AT (877) 999-5372 FOR IMMEDIATE HIT CONFIRMATION AND AVAILABILITY OF  
BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER.~~

ICE/IMMIGRATION VIOLATION - FAILURE TO APPEAR FOR REMOVAL  
ORI/VFINS1000 NAM/SMITH, JOHN SEX/M RAC/W DOB/EN 19510101  
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SMT/SC LF ARM  
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OFF/ALIEN UNLAWFULLY PRESENT DUE TO ORDER OF REMOVAL OR EXCLUSION FROM  
THE USA  
OCA/ASD1234-T HIS/KNOWN AS JOHNNY BOY  
ORI IN BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, LAW ENFORCEMENT  
SUPPORT CENTER  
(877) 999-5372  
N3/210770847 DTE/1988005 0000 HIT DLS/20050101 0000 EST  
\*\*\*THIS RECORD MAY BE USED ONLY BY CRIMINAL JUSTICE AGENCIES FOR  
CRIMINAL JUSTICE PURPOSES.  
\*\*\*\*END OF IMMIGRATION VIOLATOR FILE RESPONSE\*\*\*\*

**Administrative Warrant of Arrest**

~~WARNING REGARDING FOLLOWING RECORDS - SUBJECT OF (IC/210770847 HAS AN  
OUTSTANDING ADMINISTRATIVE WARRANT OF ARREST FOR IMMIGRATION VIOLATIONS  
FOR FAILURE TO COMPLY WITH NATIONAL SECURITY REGISTRATION. CONTACT LESC  
AT (877) 999-5372 FOR IMMEDIATE HIT CONFIRMATION AND AVAILABILITY OF  
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OFF/BOUGHT FOR VIOLATION OF NATIONAL SECURITY REGISTRATION  
OCA/ASD1234-T HIS/KNOWN AS JOHNNY BOY  
ORI IN BUREAU OF IMMIGRATION AND CUSTOMS ENFORCEMENT, LAW ENFORCEMENT  
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CRIMINAL JUSTICE PURPOSES.  
\*\*\*\*END OF IMMIGRATION VIOLATOR FILE RESPONSE\*\*\*\*

**Major, Erica (BOS)**

---

**From:** Board of Supervisors, (BOS)  
**Sent:** Monday, May 23, 2016 11:10 AM  
**To:** BOS-Supervisors; Major, Erica (BOS)  
**Subject:** File 160022 FW: Academics Letter in support of Upholding Due Process for All  
**Attachments:** Academics Letter of Support for Upholding Due Process for All - 2016.5.22.pdf

**From:** Kathleen Coll [mailto:kcoll66@gmail.com]  
**Sent:** Monday, May 23, 2016 10:52 AM  
**To:** Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>  
**Cc:** Bill Hing <bhing@usfca.edu>; Peter Mancina <peter.mancina@gmail.com>  
**Subject:** Academics Letter in support of Upholding Due Process for All

Dear Members of the Board of Supervisors,

See attached letter from local scholars and scholars of our region in the fields of immigration, law, policy and education in support of the Upholding Due Process for All ordinance.

A hard copy of the letter will be delivered to each Supervisor's office today as well.

Any questions please email Prof. Coll at this address, or call/text 415.216.6059.

Thank you very much for your consideration,

Kathleen Coll, Bill Ong Hing, Peter Mancina

May 22, 2016

**VIA EMAIL TO BOARD.OF.SUPERVISORS@SFGOV.ORG**

Honorable Members of the San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Place  
City Hall, Room 244  
San Francisco, CA 94102

**Re: Academics Letter of Support for Upholding Due Process for All**

Dear Honorable Supervisors,

We are local scholars in the fields of immigration, law, policy, and education who respect San Francisco's leadership and history as a Sanctuary City. Sanctuary principles and policies have allowed municipal agencies to meet the objectives of providing services to and protecting the safety and trust of all city residents. In the face of misguided federal immigration programs and hateful anti-immigrant rhetoric in national politics, we write to express our strong support for the **Upholding Due Process Ordinance** (Avalos, BOS File No. 160022) to preserve and strengthen Sanctuary protections in San Francisco.

Since the passage of the Sanctuary City ordinance (Administrative Code 12H) in 1989, federal immigration policies and enforcement programs have sought to involve San Francisco city employees in immigration enforcement. Threats to federal funding led to amendments to the ordinance in 1992 and 1993. In 2011, the implementation of the federal Secure Communities (S-Comm) program enabled Immigration and Customs Enforcement (ICE) to receive the fingerprints of all individuals upon booking by local law enforcement, triggering automatic requests that local authorities detain legal permanent residents and undocumented people who otherwise should be released. In 2013, the Board passed the Due Process for All ordinance in an effort to preserve immigrant community trust in local law enforcement and prevent constitutional violations.

ICE's newest deportation program, the Priority Enforcement Program (PEP), is the latest attempt to undermine Sanctuary protections in San Francisco. Under PEP, ICE sends "notification" requests to local jails, which in turn seek release details and personal information to facilitate direct custody transfer to ICE. PEP, like the discredited and discontinued Secure Communities (S-Comm) program that preceded it, has been sold to municipal authorities on the false premise that cities can fight crime by assisting in deportations. Yet there is no evidence that policies involving local law enforcement in immigration enforcement prevent crime. These notification requests also carry a risk of liability to local law enforcement and the city. Even a few minutes of detention past a person's scheduled release violates the Fourth Amendment.

Fortunately, the proposed Upholding Due Process ordinance offers an important opportunity to take decisive action. This legislation updates the Due Process for All Ordinance, which currently responds to ICE holds, to extend its protections to equally damaging requests for notification of personal information. It also removes the obsolete Sanctuary Ordinance provision that allowed for reporting immigrants who had been charged with a felony. This section was added in the 1990s to secure a stream of federal funding that no longer exists, and moreover, is no longer applicable as ICE receives all fingerprints automatically at booking.

No one should be afraid to ask for help or city services due to their immigration status. Recently, Pedro Figueroa, a resident of the Mission District and father of an 8-year-old U.S. citizen, sought help from the police in retrieving his stolen vehicle. In the course of his attempt to retrieve his property, the SFPD and Sheriff's Department contacted ICE and Mr. Figueroa landed in immigration detention for two months. His immigration case is ongoing. Contact with the police should not have had such drastic consequences for any San Franciscan.

In October, 2015 the Board resolution opposing the Priority Enforcement Program sent a powerful message about San Francisco's continued commitment to due process, Sanctuary, and the rights of all its residents. Pedro Figueroa's case is one of many that highlight the consequences of a failure to uphold the separation between local law enforcement and federal immigration enforcement. We hope that you will endorse the protection of all San Franciscans, and continue your leadership amongst U.S. cities, by voting in support of the **Upholding Due Process Ordinance**.

Sincerely,

Kathleen Coll, Assistant Professor of Politics, University of San Francisco  
Peter Mancina, PhD, Doctoral Candidate, Anthropology, Vanderbilt University  
Bill Ong Hing, Professor of Law, University of San Francisco

Jess Auerbach, PhD Candidate, Anthropology (MSc Forced Migration, Oxford), Stanford University

Rachel Brahinsky, Assistant Professor, Urban Affairs, Director of MA Programs in Urban & Public Affairs, University of San Francisco

Maria del Socorro Castañeda-Liles, Assistant Professor of Religious Studies, Santa Clara U.

Jeff Duncan-Andrade, Associate Professor of Education, San Francisco State University

Cybell Fox, Associate Professor of Sociology, UC Berkeley

Valerie Francisco, Assistant Professor of Asian American Studies, San Jose State University

Ilaria Giglioli, PhD Candidate, Geography, UC Berkeley

Pablo Gonzalez, Lecturer, Ethnic Studies, UC Berkeley

Ron Hayduk, Professor of Political Science, Queens College, City University of New York (& San Francisco State University)

Karina Hodoyan, Association Professor and Director of the Center for Latina/o Studies in the Americas, University of San Francisco

Seth Holmes, Associate Professor of Public Health and Medical Anthropology, UC Berkeley

Susanna Jones, Professor of Social Work, Long Island University

Susan Katz, Professor of Education, University of San Francisco

Felix S. Kury, Founder & Program Director, Clínica Martín-Baro, UCSF-San Francisco State University

Yu-Hui (Amy) Lin, Ph.D. Student, Ethnic Studies, UC Berkeley

Christopher Loperena, Assistant Professor, International Studies, University of San Francisco

Lois Ann Lorentzen, Professor of Theology and Religious Studies, University of San Francisco

Beatriz Manz, Professor of Geography & Ethnic Studies, UC Berkeley

Keally McBride, Professor of Politics, University of San Francisco

Melissa R. Michelson, Professor of Political Science, Menlo College

Nancy R. Mirabal, Associate Professor, American Studies, University of Maryland College Park

Rachel Morello-Frosch, Professor of Public Health & Environmental Science, Policy and Management, UC Berkeley

Karen Musalo, Professor of Law & Director of Center for Gender & Refugee Studies, UC Hastings

Genevieve Negrón-Gonzales, Assistant Professor of Education, University of San Francisco

Alan Pelaez Lopez, Graduate Student, UC Berkeley

Ana Maria Pineda, Associate Professor of Ethnic Studies, Santa Clara University

James Quesada, Professor & Chair of Anthropology, San Francisco State University

Ramon Quintero, Graduate Student, UCLA

Anna Sampaio, Associate Professor & Director of Ethnic Studies, Santa Clara University

Jesica Siham Fernandez, Lecturer, Santa Clara University

Lok Siu, Associate Professor of Ethnic Studies, UC Berkeley

Sarah Song, Professor of Law and Political Science, UC Berkeley

Jayashri Srikantiah, Professor of Law and Director, Immigrants' Rights Clinic, Stanford Law School

James Taylor, Professor of Politics, University of San Francisco

Juan Velasco, Associate Professor of English & Modern Languages, Santa Clara University

Barbara Voss, Associate Professor of Anthropology, Stanford University

Lisa Weissman-Ward, Supervising Attorney & Lecturer at Law, Stanford Law School

Chris Zepeda-Millán, Assistant Professor, Ethnic Studies, UC Berkeley

*Institutional affiliations for identification purposes only*



SAMPLE RESPONSE FROM NCIC INQUIRY: CRIMINAL ICE WARRANT

One Example of a Criminal Warrant

\*\*\*MESSAGE KEY ZW SEARCHES WANTED PERSON FILE FELONY RECORDS REGARDLESS OF EXTRADITION AND MISDEMEANOR RECORDS INDICATING POSSIBLE INTERSTATE EXTRADITION FROM THE INQUIRING AGENCY'S LOCATION. ALL OTHER NCIC PERSONS FILES ARE SEARCHED WITHOUT LIMITATIONS.

MHE/WANTED PERSON  
EXL/1 - FULL EXTRADITION UNLESS OTHERWISE NOTED IN THE MIS FIELD  
ORI/VTICR0900 NAM/TEST, TEST SEX/M RAC/W POB/EY  
DOB/19000101 HGT/509 WGT/175 EYE/BRO HAI/BLK  
SKN/LST  
MNU/PP-1234567 SOC/123456789  
OFF/FRAUD - FALSE STATEMENT  
DOW/20090114 OCA/2-M-TEST  
VID/20125411  
MIS/CRIMINAL WARRANT IN VIOLATION OF TITLE 18 USC, SECTION 1542, FALSE STATEMENT  
MIS/ON A PASSPORT APPLICATION; ISSUED BY THE U S DISTRICT COURT, EASTERN MD/DISTRICT OF VIRGINIA  
DRA/N  
ORI IS ICE LEGS 882 872-6020  
DOB/19730515  
AKA/TESTER, TEST  
AKA/ALPHA, BUT  
MNU/PP-5678943  
SOC/8854321  
NIC/W123456789 DTR/20090115 IS10 EST DEL/20120411 1301 EST  
IMMED CONFIRM WARRANT AND EXTRADITION WITH ORI

Again, members shall continue to act upon criminal warrants entered by ICE into NCIC pursuant to relevant directives (e.g., G.O. 302.06, WALES).

160072

---

**From:** Board of Supervisors, (BOS)  
**Sent:** Wednesday, May 25, 2016 4:44 PM  
**To:** BOS-Supervisors; Major, Erica (BOS)  
**Subject:** File 160022 FW: decisions

-----Original Message-----

**From:** Barabara Sinelnikoff [mailto:corkwreath@att.net]  
**Sent:** Tuesday, May 24, 2016 5:24 PM  
**To:** Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>  
**Subject:** decisions

What is wrong with you friggen people. If you are here illegally, you SHOULD be deported, if you are female, use the girls room, if you are a male, use the boys room. Since when do we cater to the minority? You are going way beyond the politically correct crap. This attitude is what is ruining our great city. I was born and raised here and as the years have gone on, it has gotten worse and worse. Businesses, people, are leaving because of all your stupid rules and laws. You seem to make them up as you go along.

B. Sinelnikoff

16002

**From:** Board of Supervisors, (BOS)  
**Sent:** Wednesday, May 25, 2016 4:44 PM  
**To:** BOS-Supervisors; Major, Erica (BOS)  
**Subject:** File 160002 FW: Sanctuary City Status

**From:** Louise Delaney [mailto:ezlawless@aol.com]  
**Sent:** Wednesday, May 25, 2016 4:38 PM  
**To:** Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>  
**Subject:** Sanctuary City Status

May 25, 2016  
San Francisco Board of Supervisors  
1 Dr. Carlton B. Goodlett Pl.  
City Hall #244  
San Francisco, 94102-4689

Dear San Francisco Board of Supervisors:

It is currently reported that you have recently voted to uphold the odious 'sanctuary city' status of San Francisco. While there are *many* such cities in the United States, your city has been highlighted due to the 2015 murder of Ms. Kathryn Steinle by a felonious person, here in the US without proper documentation and having been previously deported several times.

All of you had the opportunity to make an effort to correct this situation and bring some semblance of condolence and justice to the Steinle family and recognition of needed safety to the citizens of the US by ending your sanctuary city status. But, alas, you chose otherwise.

Our family over the years has entertained an extensive number of relatives and friends from Europe. All of them have enjoyed visiting California - and San Francisco has always been a beautiful destination point.

This year is no different; but with one exception. We will no longer encourage nor facilitate any travel or other vacation arrangements to or near San Francisco. Our personal family will not travel with them; and we will do everything in our power to discourage vacationers and any other travelers we know from going to San Francisco as long as the egregious 'sanctuary city' policy is in place.

We have already informed several of our planned visitors of our decision to 'boycott' your city - and while certainly a few non-SF voters or foreigners will mean nothing to you - all of our anticipated vacationers have agreed there are other lovely areas of the US in which to spend their time and more importantly - **money**.

Although I doubt any of you will change your mind - I sincerely hope that you might in the future; and to please reassess the need to eliminate even the hint of anything that would result in the type of illegal criminal activity that results in unnecessary death such as the nation witnessed with Ms. Steinle.

Very truly yours,

Louise and Edward Delaney  
5039 Briggs Avenue  
La Crescenta, CA 91214  
818-248-7946



160077

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**From:** Board of Supervisors, (BOS)  
**Sent:** Tuesday, May 24, 2016 1:08 PM  
**To:** BOS-Supervisors; Major, Erica (BOS)  
**Subject:** File 160022 FW: sanctuary law

**From:** Mike Regan [mailto:myoldgoat@yahoo.com]  
**Sent:** Tuesday, May 24, 2016 12:19 PM  
**To:** Yee, Norman (BOS) <norman.yee@sfgov.org>; Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>  
**Subject:** sanctuary law

Please DO NOT reaffirm the cities sanctuary law. I am tired of this city doing everything it can to bring illegal people into our city. I am tired of paying for services for these people that do not want to work. I am tired of our citizens being hurt by these people. Illegals from all over come to SF so they can get resources. It is an attractant and we need to stop.

Mike Regan

160022

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**From:** Board of Supervisors, (BOS)  
**Sent:** Tuesday, May 10, 2016 1:20 PM  
**To:** BOS-Supervisors; Major, Erica (BOS)  
**Subject:** File 160022 FW: Please restore Due Process

**From:** Arinna Weisman [mailto:arinnaweisman@aol.com]  
**Sent:** Tuesday, May 10, 2016 12:26 PM  
**To:** Board of Supervisors, (BOS) <board.of.supervisors@sfgov.org>  
**Subject:** Please restore Due Process

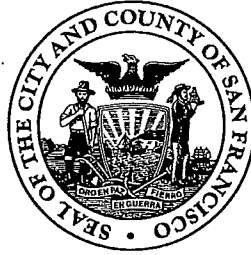
Greetings,  
Thanks for all your efforts. I am writing to ask that you support restoring due process, because our immigrant communities are a core and integral part of San Francisco. Please vote yes to restore Due Process today, May 10th."

Best Wishes,

Linda Arinna Weisman

[www.arinnaweisman.org](http://www.arinnaweisman.org)

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

# MEMORANDUM

TO: Youth Commission  
FROM: Erica Major, Assistant Committee Clerk, Public Safety and Neighborhood Services Committee  
DATE: February 12, 2016  
SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS

The Board of Supervisors has received the following, which at the request of the Youth Commission is being referred as per Charter Section 4.124 for comment and recommendation. The Commission may provide any response it deems appropriate within 12 days from the date of this referral.

File: 160022

**Ordinance amending Administrative Code, Chapter 12l, to prohibit law enforcement officials from responding to a federal immigration officer's request for voluntary notification that a person will be released from local custody, except for adults who have been convicted of a violent felony and held to answer for a violent felony.**

Please return this cover sheet with the Commission's response to **Erica Major, Assistant Committee Clerk, Public Safety and Neighborhood Services.**

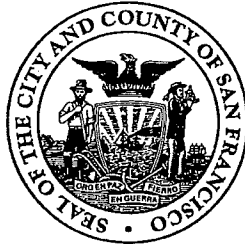
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RESPONSE FROM YOUTH COMMISSION      Date: \_\_\_\_\_

- No Comment
- Recommendation Attached

\_\_\_\_\_  
Chairperson, Youth Commission

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Vicki Hennessy, Sheriff, Sheriff's Department  
Greg Suhr, Chief, Police Department  
Allen Nance, Chief Probation Officer, Juvenile Probation Department  
Karen Fletcher, Chief Adult Probation Officer, Adult Probation Department  
George Gascon, District Attorney, Office of the District Attorney  
Jeff Adachi, Public Defender, Office of the Public Defender  
Brian Strong, Program Director, Capital Planning Program  
Ben Rosenfield, City Controller, Office of the Controller  
Barbara A. Garcia, Director, Department of Public Health  
Micki Callahan, Director, Department of Human Resources  
Adrienne Pon, Executive Director, Office of Civic Engagement and  
Immigrant Affairs

FROM: Erica Major, Assistant Committee Clerk, Government Audit and Oversight  
Committee, Board of Supervisors

DATE: March 29, 2016

SUBJECT: SUBSTITUTE LEGISLATION INTRODUCED

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The Board of Supervisors' Government Audit and Oversight Committee has received the following proposed legislation, introduced by Supervisor Avalos on March 22, 2016:

**File No. 160022**

**Ordinance amending the Administrative Code to prohibit the use of City funds or resources to assist in the enforcement of Federal immigration law, except for individuals who have been convicted of a violent felony and held to answer for a violent felony.**

If you have any additional comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.



Referral from the Office of the Clerk of the Board  
Government Audit and Oversight Committee  
March 29, 2016  
Page 2

C:

Theodore Toet, Sheriff's Department  
Katherine Gorwood, Sheriff's Department  
Eileen Hirst, Sheriff's Department  
Christine Fountain, Police Department  
Sergeant Rachael Kilshaw, Police Department  
Sheryl Cowan, Juvenile Probation Department  
LaShaun Williams, Adult Probation Department  
Cristine Soto DeBerry, Office of the District Attorney  
Maxwell Szabo, Office of the District Attorney  
Todd Rydstrom, Office of the Controller  
Peg Stevenson, Office of the Controller  
Greg Wagner, Department of Public Health  
Colleen Chawla, Department of Public Health  
Susan Gard, Department of Human Resources

BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

## MEMORANDUM

TO: Vicki Hennessy, Sheriff, Sheriff's Office  
Greg Suhr, Chief, Police Department  
George Gascon, District Attorney, Office of the District Attorney  
Dennis Herrera, City Attorney, Office of the City Attorney  
Jeff Adachi, Public Defender, Office of the Public Defender  
Karen L. Fletcher, Chief Adult Probation Officer, Adult Probation Department  
Allen Nance, Chief Probation Officer, Juvenile Probation Department  
Nicole Elliott, Liaison to the Board of Supervisors, Mayor's Office of Criminal Justice

FROM: Erica Major, Assistant Committee Clerk, Public Safety and Neighborhood Services Committee, Board of Supervisors

DATE: January 20, 2016

SUBJECT: LEGISLATION INTRODUCED

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The Board of Supervisors' Public Safety and Neighborhood Services Committee has received the following proposed legislation, introduced by Supervisor Avalos on January 12, 2016:

**File No. 160022**

**Ordinance amending Administrative Code, Chapter 12I, to prohibit law enforcement officials from responding to a federal immigration officer's request for voluntary notification that a person will be released from local custody, except for adults who have been convicted of a violent felony and held to answer for a violent felony.**

If you have any comments or reports to be included with the file, please forward them to me at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102.

c:  
Kathy Gorwood, Sheriff's Office  
Christine Fountain, Police Department  
Sergeant Rachael Kilshaw, Police Department  
Cristine Soto DeBerry, Office of the District Attorney  
Maxwell Szabo, Office of the District Attorney  
Jon Givner, Office of the City Attorney  
LaShaun Williams, Adult Probation Department  
Sheryl Cowan, Juvenile Probation Department

BOS-11, GAO, PSNS  
COB, Leg Rep. Pop. A.  
mayors office

President, District 5  
BOARD of SUPERVISORS



City Hall  
1 Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-7450  
Fax No. 554-7454  
TDD/TTY No. 544-5227

London Breed

**PRESIDENTIAL ACTION**

Date: March 29, 2016

To: Angela Calvillo, Clerk of the Board of Supervisors

Madam Clerk,

Pursuant to Board Rules, I am hereby:

Waiving 30-Day Rule (Board Rule No. 3.23)

File No. \_\_\_\_\_ (Primary Sponsor)

Title. \_\_\_\_\_

Transferring (Board Rule No. 3.3)

File No. 160022 Avalos  
(Primary Sponsor)

Title. Administrative Code - Due Process for All and Sanctuary

From: Government Audit & Oversight Committee

To: Public Safety & Neighborhood Services Committee

Assigning Temporary Committee Appointment (Board Rule No. 3.1)

Supervisor \_\_\_\_\_

Replacing Supervisor \_\_\_\_\_

For: \_\_\_\_\_ Meeting  
(Date) (Committee)

RECEIVED  
BOARD OF SUPERVISORS  
SAN FRANCISCO  
2016 MAR 30 AM 10:31

London Breed, President  
Board of Supervisors

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.  
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
- 3. Request for hearing on a subject matter at Committee.
- 4. Request for letter beginning "Supervisor  inquires"
- 5. City Attorney request.
- 6. Call File No.  from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No.
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission     Youth Commission     Ethics Commission
- Planning Commission     Building Inspection Commission

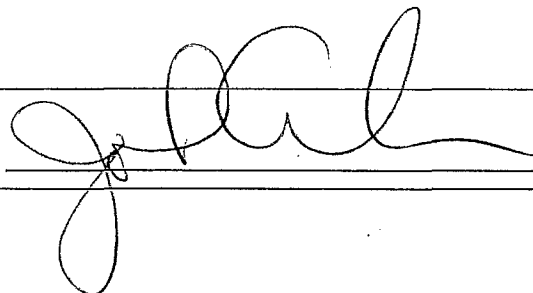
**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative**

**Sponsor(s):**

**Subject:**

**The text is listed below or attached:**

Signature of Sponsoring Supervisor:



For Clerk's Use Only:

Print Form

# Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp  
or meeting date

I hereby submit the following item for introduction (select only one):

- 1. For reference to Committee.  
An ordinance, resolution, motion, or charter amendment.
- 2. Request for next printed agenda without reference to Committee.
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- 5. City Attorney request.
- 6. Call File No. [ ] from Committee.
- 7. Budget Analyst request (attach written motion).
- 8. Substitute Legislation File No. [ ]
- 9. Request for Closed Session (attach written motion).
- 10. Board to Sit as A Committee of the Whole.
- 11. Question(s) submitted for Mayoral Appearance before the BOS on [ ]

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

- Small Business Commission
- Youth Commission
- Ethics Commission
- Planning Commission
- Building Inspection Commission

**Note: For the Imperative Agenda (a resolution not on the printed agenda), use a Imperative**

**Sponsor(s):**

Supervisor John Avalos, David Campos, Jane Kim, Eric Mar, Aaron Peskin

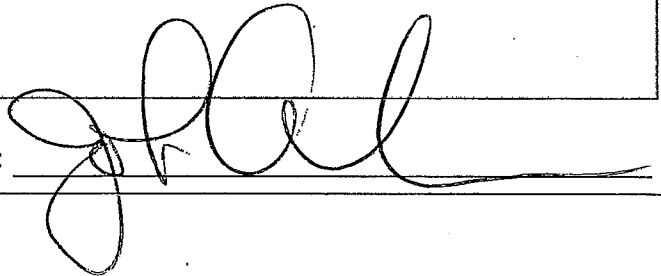
**Subject:**

Ordinance - Administrative Code - Due Process for All Notification

**The text is listed below or attached:**

[Empty box for text listing]

Signature of Sponsoring Supervisor:



For Clerk's Use Only:

