

POLICY RESOLUTION NO. _____

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY
OF SANTA CLARA TO AMEND BOARD OF SUPERVISORS POLICY
3.54 CIVIL IMMIGRATION DETAINER AND NOTIFICATION
REQUESTS**

WHEREAS, the Board of Supervisors wishes to give direction and set policy for such matters for which the responsibility of decisions is placed on it by virtue of State codes, County Charter or specific ordinances and resolutions or relates to its broad policy-making authority to matters regarding Santa Clara County; and

WHEREAS, the Board of Supervisors wishes to clearly state and compile policies and to provide for distribution of these policies to affected decision-makers; and

WHEREAS, the Policy Manual is not set by ordinance, is not legally binding, and can be changed by adoption of a resolution approved by a majority of the Board of Supervisors and is intended to give guidance to staff and future members of the Board of Supervisors;

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NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of the County of Santa Clara, State of California, that the Board of Supervisors' Policy Manual is hereby amended by adoption of this Resolution to Amend Policy 3.54 Civil Immigration Detention and Notification Requests, attached hereto as Exhibit "A" and incorporated herein, and the Clerk of the Board is directed to incorporate the policy into the manual so that it is available to all County staff.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California, on _____, 201__, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

DAVE CORTESE, President
Board of Supervisors

ATTEST:

MEGAN DOYLE
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:



GRETA HANSEN
Lead Deputy County Counsel

Exhibits to this Resolution:

A – Resolution to Amend Policy 3.54 Civil Immigration Detention and Notification Requests

Exhibit A

3.54 CIVIL IMMIGRATION DETAINER AND NOTIFICATION REQUESTS

It is the policy of Santa Clara County (County) not to honor civil detainer requests from the United States Immigration and Customs Enforcement (ICE). A civil detainer is any request by ICE that the County extend the detention of inmates in the County jail who face possible removal by ICE. It is the policy of the County to honor ICE Requests for Notification so long as there is a clear, prior written Memorandum of Understanding (MOU) between the County and ICE or the United States Department of Homeland Security (DHS) that limits the issuance of Requests for Notification and the County's cooperation with such Requests for Notification, as follows:

- (A) Upon written request by ICE for notification of the County's planned release of a County inmate in cases where ICE has probable cause to act to remove an individual from the United States, the County will exercise its discretion to honor the Request for Notification if one or more of the following apply:
 - (1) The individual has been convicted of a serious or violent felony offense for which he or she is currently in custody.
 - (a) For purposes of the policy, a serious felony is any felony listed in subdivision (c) of Section 1192.7 of the Penal Code and a violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code.
 - (2) The individual has been convicted of a serious or violent felony within 10 years of the Request for Notification, or was released after having served a sentence for a serious or violent felony within 5 years of the request, whichever is later.
 - (a) If the individual has been convicted of a homicide crime, a Request for Notification will be honored regardless of when the conviction occurred.
 - (b) This subsection also applies if the County Department of Correction has been informed by a law enforcement agency, either directly or through a criminal justice database, that the individual has been convicted of a serious or violent offense in another jurisdiction which, if committed in this state, would have been punishable as a serious or violent felony.
 - (3) The individual has been convicted of engaging in acts of terrorism or espionage for which he or she is currently in custody.
- (B) In the case of individuals younger than 18 years of age, the County shall not honor a Request for Notification.

- (C) Except for individuals who meet the criteria set forth above or unless ICE agents have a criminal warrant, or County officials have a legitimate law enforcement purpose that is not related to the enforcement of immigration laws, ICE agents shall not be given access to individuals or be allowed to use County facilities for investigative interviews or other purposes, and County personnel shall not expend County time or resources responding to ICE inquiries or communicating with ICE regarding individuals' incarceration status or release dates.
- (D) In addition, the County shall require in the MOU, and at all times while this policy is in force and effect shall have in place an independent quarterly process providing for auditing of both County and DHS/ICE actions. This audit process shall provide oversight for the proper implementation of this policy. Further, all Requests for Notification sent by ICE to the County, whether denied or approved, shall be reported to the offices of each member of the County Board of Supervisors daily.