

County of Santa Clara
Office of the County Executive

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DATE: January 24, 2020

TO: Honorable Board of Supervisors

FROM: David Campos, Deputy County Executive
Mike Gonzalez, Program Manager I

SUBJECT: Off-Agenda Report on Compiled Responses from County Departments on Questions Posed at the TRUTH Act Community Forum

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At the Board of Supervisors' request, the Office of Immigrant Relations (OIR), Division of Equity and Social Justice (DESJ), facilitated and coordinated the TRUTH Act forum, which took place on December 10, 2019, for the purpose of providing information to the community and consider public comment regarding County law enforcement agencies' provision of access or information to U.S. Immigration and Customs Enforcement (ICE) during 2018.

OIR held the community forum in collaboration with immigration community service organizations, including the Forum for Immigrant Rights & Empowerment (FIRE) Coalition of Santa Clara County, which is composed of the following: Services, Immigrant Rights & Education Network (SIREN), Silicon Valley De-Bug, Asian Law Alliance, Immigrant Legal Resource Center (ILRC), Pangea Legal Services, People Acting in Community Together (PACT), Sacred Heart Community Service Agency, Stanford Law School Immigrants' Rights Clinic, and YMCA Silicon Valley.

The TRUTH Act forum included the participation of the following County officials: Sheriff Laurie Smith, Assistant Sheriff Eric Taylor, Assistant District Attorney David Angel, Assistant Chief Probation Officer Jermaine Hardy, Chief of Information Security Officer Justin Dietrich, and Chief Privacy Information Officer Mike Shapiro.

At the conclusion of the forum, the Board directed OIR and DESJ to provide an off-agenda report outlining questions from the public and responses from County departments, including County Counsel, Sheriff's Office, District Attorney, Probation Department, and the Information Technology Department, among others.

The Board also directed the Administration to provide cross-collaboration with these County agencies and departments to respond to concerns raised by the public and the FIRE coalition regarding compliance by County departments with the current County Board Policy 3.54 as well as with the recent clarifying amendments from June 2019. Those amendments indicate that no County law enforcement agency is to respond to an ICE detainer, hold, notify, transfer, or otherwise cooperate with

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Susan Ellenberg, S. Joseph Simitian
County Executive: Jeffrey V. Smith

an ICE requests in order to assist with enforcing federal civil immigration laws. The amendment states that "the County does not, ***under any circumstances***, honor civil detainer requests from ICE by holding inmates on ICE's behalf for additional time after they would otherwise be released from County custody."

Under this policy, County officials also may not "provide assistance or cooperation to ICE in its civil immigration enforcement efforts, including by giving ICE agents access to individuals or allowing them to use County facilities for investigative interviews or other purposes, [or] expending County time or resources responding to ICE inquiries or communicating with ICE regarding individuals' incarceration status or release dates." And the Sheriff may exercise discretion to transfer adult inmates into ICE custody ***only*** with a valid warrant or order signed by a federal or state court judge.

The County departments present at the TRUTH Act Community Forum reaffirmed their commitment to comply with County Board Policy 3.54 and are providing in the table below a list of specific and detailed responses to questions and concerns from the Public and the FIRE Coalition.

QUESTIONS FROM THE PUBLIC AND FIRE COALITION	COUNTY DEPARTMENT RESPONSES
(1) Are there any studies on removing the place of birth on the CJIC and the jail intake form?	<i>County Counsel:</i> The County has looked into the feasibility of removing place of birth information from CJIC. Although this preliminary inquiry has not identified any specific technical or legal obstacles, the Sheriff's Office is assessing the impact on the broader law enforcement community.
(2) What is the status of the overhaul of the jail management system and the overall databases?	<i>Sheriff's Office:</i> As reported by the Office of the County Executive during the Board of Supervisors Meeting on September 10, 2019, The Jail Management System "...projected timeline for implementation is Summer 2020."
(3) (a) Is there a community input process in overhauling the new database system, and (b) can the community take part in that process?	<i>Sheriff's Office:</i> Information on the Jail Management System has been provided to the community via regular reports to the Board of Supervisors during Board and Committee meetings, as well as quarterly Jail Reforms Study Sessions. The Sheriff's Office would welcome further discussion at these meetings related to the new system.
(4) For the 2018 incident of ICE entering jails, (a) was everyone involved in the interviews notified that they could refuse to be interviewed and (b) was the defense attorney notified and (c)	<i>Sheriff's Office:</i> The Sheriff's Office has been completely transparent about the incident on March 8, 2018 and the erroneous access by ICE to the Santa Clara County jail facilities. Due to the erroneous nature of the access, ICE was given access consistent with how other local law enforcement agencies are permitted to visit with

was the information given in the preferred language of the individuals? (d) Were any of them [individuals] further sought out by ICE after the incidents?	an inmate, which does not include notice to the inmate. The defense attorney was made aware of the incident. The Sheriff's Office has no way of formally tracking ICE interactions once an individual is released from our custody.
(5) How was the protocol changed since the new revision of the Board Policy 3.54 for ICE in the facilities?	Sheriff's Office: The Sheriff's Office has implemented frequent roll-call training at all facilities related to the County Board Policy and restricting access for ICE for the purpose of civil immigration enforcement.
(6) How often are the jail staff trained about Board Policy 3.54?	Sheriff's Office: Training frequencies depend on the staff's role and position within the facilities. For example, staff who are assigned to entry points and visitation receive more frequent training. Training is also included for all new staff as part of the Jail Training Program.
(7) What happens when an individual is transferred from a county that honors an ICE warrant?	Sheriff's Office: Anyone who is transferred to Santa Clara County, regardless of the policies of the transferring County, falls under our policies and procedures once in our lawful custody.
(8) How many times has ICE tried to enter the jails since May 2018?	Sheriff's Office: Since March 8, 2018, there have been no successful attempts by ICE to enter Santa Clara County jail facilities in violation of the Board Policy.
(9) Given that CLETS is a statewide database, what is the Sheriff's Office doing to prevent ICE from accessing information?	Sheriff's Office: The Sheriff's Office has a long-standing policy of not cooperating with or providing information to ICE for the purpose of civil immigration enforcement, which would include information from local or state databases, such as CLETS. However, the Sheriff's Office does not have control regarding access the State may provide. The Sheriff's Office abides by all California and federal laws regulating the use of information from CLETS and conforms to the operating policies and regulations of the California Department of Justice. This includes the restrictions defined under the TRUTH and Values Acts.
(10) (a) What did the Sheriff's Office mean by stating that ICE will no longer have access to County information via CLETS as of today (December 10, 2019)? (b) How will this new policy be enforced?	Sheriff's Office: As of December 10, 2019, the U.S. Immigration and Customs Enforcement agency terminated its agreement with the County of Santa Clara for passthrough access to the California Department of Justice network and California Law Enforcement Telecommunications System (CLETS). According to the letter received, "This contract is being terminated for the convenience

	of the Government as the County of Santa Clara California Law Enforcement Telecommunications System (SLETS) and its usage falls under California Senate Bill (SB) 54 law which restricts the use of the system for immigration law enforcement.” The Sheriff’s Office immediately removed access and terminated all CLETS accounts associated with ICE.
(11) (a) How many ICE requests for holds, notifications, transfers, or attempts for jail access did County agencies receive in 2018? (b) How is this information tracked and reported to the public?	Sheriff’s Office: Consistent with the County’s longstanding policy, Santa Clara County does not honor civil detainer requests, holds or notifications from ICE. The County received 1,013 civil detainer requests, hold requests, or transfer requests from ICE in 2018. Since the erroneous access by ICE almost two year ago, there have been no successful attempts by ICE to enter Santa Clara County jail facilities, in violation of the Board Policy.
(12) Could there be a public education process by both County IT and the Sheriff IT department to help the community understand how (a) data is shared by the County and (b) how they feed into state and federal databases?	Sheriff’s Office: The Sheriff’s Office welcomes an opportunity to educate the public related to our systems and general reporting requirements at the appropriate Board of Supervisors or Committee meeting. The Sheriff’s Office is required, by statute, to report specific information to the California Department of Justice related to each arrest/booking. We also share limited information to facilitate the protection of victims/witnesses, as required by law, and to provide inmates with critical services, including, but not limited to, healthcare, educational opportunities, commissary, and telephone calls.
(13) How are County agencies implementing and ensuring compliance with the County’s current policy regarding communication with ICE?	Sheriff’s Office: The Sheriff’s Office has implemented training and procedures in order to ensure compliance with the County Board Policy related to communication with ICE and civil immigration enforcement.
(14) If violations of policy occur, is there a reporting mechanism, and how is it resolved?	Sheriff’s Office: The Sheriff’s Office takes the violation of any policy seriously and investigates violations of policy using a formal investigative process. This may include an investigation by our Internal Affairs and/or Criminal Investigation Unit.
(15) (a) What was the DA’s intention in requesting information from DMV of individuals who applied for driver licenses? (b) Were any of those AB60 license holders? (c)	District Attorney: The Office of the District Attorney routinely seeks DMV records concerning drivers charged with driving on a revoked or suspended license. We need this information in order to ascertain and when warranted prove that a driver’s license was revoked, and that the driver was notified of the

<p>Do you [DA staff] know if there were any immigration consequences because of this request?</p>	<p>revocation. Accordingly, we seek comprehensive licensing records for charged drivers. However, we do not seek immigration status from the DMV. We would not have any records as to which program allowed the driver to attain his or her license. Since there is no nexus between our prosecution for a vehicle code violation and subsequent federal immigration action, we do not have any reason to believe nor any knowledge that any such actions occurred. In sum, we seek driving records for vehicle code prosecutions, and we do not seek, retain nor share immigration status information.</p>
<p>(16) How are County agencies implementing and ensuring compliance with the County's current policy regarding communication with ICE?</p>	<p>Probation:</p> <p>In June 2017, the Probation Department, consistent with the County's policy, notified all probation staff that the County prohibits its departments and employees from using County resources, including staff time, to assist ICE. This includes contacting ICE or otherwise responding to any inquiries from ICE regarding the whereabouts of a probationer or the scheduled release date of a client and communicating with ICE regarding a probationer's contact information or current status.</p> <p>In addition, Probation staff were instructed if they received any communication (email, phone call, letter, in person request, or any other communication) from a representative from Homeland Security or ICE about any probationer, to not respond. ICE requests may come in many forms and some may not be as obvious as others. Therefore, all reported communications with ICE are reviewed by an Executive Manager and only after consultation with County Counsel is a response provided to ICE. Probation staff are not prohibited from communicating with ICE if ICE has a criminal warrantor related to violations of criminal laws. Thus, the County policy does not change our general practice of cooperating with law enforcement agencies, and only prohibits providing any information to ICE regarding our probationers for the purposes of facilitating their potential deportation.</p>
<p>(17) How often are County agency staff trained regarding Board Policy 3.54?</p>	<p>Probation:</p> <p>On June 8, 2017, Probation staff received the County policy and department protocol. However, all staff should receive a refresher every 12 months, like with other County policies on important/sensitive issues. Therefore, moving forward the Probation Department will provide all staff with an annual update of the County policy.</p>

<p>(18) If violations of policy occur, is there a reporting mechanism, and how is it resolved?</p>	<p>Probation: Anyone can submit a complaint if they believe a violation of the current County policy has occurred. The requirements for submitting a complaint are outlined on Probation Department's website, under <u>Contact Us: Internal Affairs - File a Complaint</u>. The Probation Department's procedure for handling complaints is a public document and is available for review Monday through Friday, 8:00 am to 5:00 pm at 2314 North First Street, San Jose, CA 95131, or on the website. Any personnel actions that may result from a complaint are confidential and precluded by law from disclosure.</p>
<p>(19) Could there be a public education process by both County IT and the Sheriff IT department to help the community understand how (a) data is shared by the County and (b) how they feed into state and federal databases?</p>	<p>County IT Department: Information has been provided to the community via regular reports to the Board of Supervisors during Board and Committee meetings, as well as quarterly Jail Reforms Study Sessions. In 2016, the Blue Ribbon Commission on Improving Custody Operations, among other community advocate groups, included the jail management system as part of their recommendations for improving operations. These recommendations have helped guide the project priorities. With regard to data sharing, we welcome opportunities to further educate the public on how we meet our legal obligations to provide information to state and federal databases.</p>

On December 10, 2019, the Board also directed the Administration to publish County department responses, if approved by County Counsel, in an accessible format for public review. Public dissemination includes posting the County departmental responses on the official Santa Clara County Clerk of the Board website, on the OIR webpage "front and center," County website for press releases, and any other relevant county websites.

OIR and DESJ look forward to continuing their ongoing commitment to educate, connect and increase the public's ability to access information relating to Santa Clara County's commitment to the safety and well-being of our immigrant community consistent with Board's policy of non-involvement in the enforcement of immigration law.

Cc: Chief Board Aides

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