

September 15, 2020

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Marin County Board of Supervisors  
3501 Civic Center Drive  
San Rafael, CA 94903

**SUBJECT: Immigration Resolution**

Dear Supervisors:

**RECOMMENDATION:** Adopt resolution

When adopting the budget in June 2020, your Board directed the County Administrator and the Office of the County Counsel to develop a proposed action supporting the County's immigrant community and protecting that community from federal immigration enforcement. In response, staff have worked with a Board subcommittee of Supervisor Rodoni and Supervisor Rice and proposes the attached resolution for your Board's consideration.

**Background**

Marin County is a general law county and a political subdivision of the State of California. The Sheriff-Coroner is elected, has independent statutory authority, and is accountable directly to his constituents. Immigration and Customs Enforcement (ICE) is a federal agency under the executive branch which enforces the nation's immigration and customs laws.

While the Board has general authority to supervise the conduct of county officers, there are significant limitations regarding the law enforcement authority of the elected County Sheriff and District Attorney. The Board's authority cannot be construed to affect the independent and constitutionally and statutorily designated investigative and prosecutorial function of the elected Sheriff and District Attorney of a California county (Government Code Section 25303). The Sheriff's authority includes the sole and exclusive authority to keep the Marin County jail and the inmates in it (Government Code Section 26605). The Board of Supervisors approves the County budget, including for the Sheriff's Office, but the Sheriff has sole discretion regarding how his office's approved budget is expended.

The Sheriff is responsible for crime prevention and law enforcement (patrol) in unincorporated areas of the County, which is approximately 26

percent of the County's total population. City and Town law enforcement is responsible for remaining 74 percent.

**Prior Board actions to Support Our Immigrant Community**

In recent years, your Board has taken numerous actions and provided direction to staff to ensure that all Marin County residents, regardless of immigration status, receive the services to which they are legally entitled – as well as to respect and appreciate the contributions of our immigrant community in Marin. These actions include the following:

- December 13, 2016 – Resolution 2016-142 affirms equity and inclusion as priorities, taking a stand against all forms of discrimination;
- March 21, 2017 – Resolution 2017-25 supports the rights of immigrants, urges a relationship of trust and respect, and commits to provide essential services to all Marin residents regardless of immigration status;
- May 2017 – Supports SB 54 (“The California Values Act”) was implemented to regulate how local law enforcement cooperates with federal immigration authorities (ICE);
- May 2018 – Marin joins amicus brief in federal court to oppose federal efforts to block SB 54 in California; and
- TRUTH Act hearings – December 6, 2018 and July 9, 2019 – consistent with state law, requires an annual community forum if law enforcement provides any 'ICE access' for civil immigration enforcement purposes.

**Other Northern California County Actions**

Many cities and counties nationwide have adopted resolutions, polices, ordinances, regulations or other practices that restrict immigration enforcement cooperation with ICE. These restrictions include refusing or prohibiting compliance with ICE detainers, imposing conditions on detainer acceptance, denying ICE access to interview incarcerated aliens, or otherwise regulating information exchanges between local personnel and federal immigration officers. Most Northern California counties that have adopted similar policies have done so by adopting resolutions while two, San Francisco and Humboldt have enacted ordinances.

**Proposed Marin County Resolution**

The attached resolution reaffirms your Board's commitment to the value of the diversity of backgrounds, perspectives and experiences of all people in Marin as cause for celebration, and further strengthens our community and aspiration to be a model for inclusion and equity for all populations, including immigrants, refugees, and other newcomers.

The recommended resolution: 1) reaffirms your Board's support for Senate Bill 54, "The California Values Act"; 2) acknowledges Sheriff Doyle's recent policy changes that reduces cooperation with federal immigration enforcement; 3) reaffirms your direction to County departments to provide County services to all Marin residents regardless of immigration status; and 4) urges the Sheriff to consider further changes that would further reduce his cooperation with ICE.

Specifically, the Board of Supervisors urges the Sheriff to consider the following policy changes:

- Meet all California legal requirements while minimizing the extent to which the posting of information facilitates federal immigration enforcement;
- When considering ICE notification requests for a detainee with a prior conviction, the Board urges the Sheriff's Office to only respond to the notification request if the detainee in question has a conviction for a "serious or violent felony" as described in Government Code Section 7282.5(a)(1); and
- When considering ICE notification requests for a detainee who has no prior convictions but does have pending charges described in Government Code Section 7282.5(b), the Board urges the Sheriff's Office to only respond to the notification request if a judge has found at a preliminary hearing that there is probable cause on the pending charges.

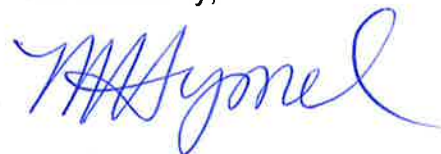
Please let me know if you have any questions or concerns.

Sincerely,



Brian E. Washington  
County Counsel

Reviewed by,



Matthew Hymel  
County Administrator