

1 [Supporting adoption of a policy of restricting use of local funds to respond to civil immigration
2 detainers]

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4 **Resolution supporting adoption by the San Francisco Sheriff's Department and the San**
5 **Francisco Juvenile Probation Department of a policy restricting use of local funds to**
6 **respond to civil immigration detainers.**

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8 WHEREAS, Entanglement between local law enforcement and Immigration and
9 Customs Enforcement (ICE) harms public safety and interferes with community policing
10 strategies by increasing fear in immigrant communities of coming forward to report crimes and
11 cooperate with local law enforcement; and

12 WHEREAS, San Francisco County is under no obligation to use its limited resources to
13 enforce federal civil immigration laws; and

14 WHEREAS, The enforcement of immigration laws is a responsibility of the federal
15 government; and

16 WHEREAS, 8 CFR § 287.7 expressly provides that ICE detainers are merely
17 "requests" that local law enforcement advise the Department of Homeland Security when the
18 individual is due to be released, and that the agency continue holding the individual beyond
19 the scheduled time of release for up to 48 hours, excluding weekends and federal holidays, in
20 order for ICE to arrange to assume custody; and

21 WHEREAS, Due to troubling misrepresentations by ICE, many local law enforcement
22 agencies erroneously believe ICE detainers are mandatory and that local law enforcement
23 agencies are legally required to comply; and

24 WHEREAS, ICE detainers are generally issued before a finding of probable cause that
25 an individual is deportable, and have even been imposed on U.S. Citizens by mistake; and

1 WHEREAS, ICE detainers are routinely imposed on individuals without any criminal
2 convictions or whose cases are dismissed, but the federal government only reimburses part of
3 the costs associated with ICE detainers, if there is a written agreement with the State or local
4 subdivision of a State; and

5 WHEREAS, ICE will not indemnify local agencies for costs or liability incurred as a
6 result of wrongful detainers; and

7 WHEREAS, The criminal justice system has a process for determining whether an
8 individual should be released, which includes the impact on public safety as a primary
9 consideration, and said safeguards will remain in place; and

10 WHEREAS, United States citizens charged with crimes are regularly released on bail;
11 and

12 WHEREAS, Since ICE's controversial Secure Communities program ("S-Comm") was
13 activated against the objections of San Francisco Sheriff Michael Hennessey on June 8, 2010,
14 ICE has detained and deported over 430 individuals under the program; and

15 WHEREAS, S-Comm encourages racial profiling, including the disproportionate
16 targeting Latino men and other young men of color nationwide. According to a recent study
17 released by the Chief Justice Earl Warren Institute on Law and Social Policy at UC Berkeley,
18 Latinos have made up a disproportionate 93% of those detained through S-Comm, though
19 they account for only 75% of the undocumented population in the U.S.; and

20 WHEREAS, The Warren Institute report further found that ICE has falsely detained
21 approximately 3,600 U.S. citizens as a result of S-Comm enforcement; and

22 WHEREAS, The Warren Institute report found that only 41% of immigrants in
23 immigration court proceedings are represented by a lawyer, and only 24% of those
24 immigrants in proceedings through S-Comm have legal representation; and

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1 WHEREAS, The Board of Supervisors has a long history of promoting a
2 comprehensive approach to rebuild our broken immigration system to ensure secure and
3 thriving communities in the city of San Francisco; and

4 WHEREAS, By means of this resolution, San Francisco joins states, cities, and
5 counties
6 across the nation, including Cook County, Illinois and Santa Clara County, California, that are
7 informed about the discretionary nature of ICE detainers and refuse to enforce them, except in
8 situations where full federal reimbursement is provided; and

9 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
10 encourages and supports the Sheriff's Department and the San Francisco Juvenile Probation
11 Department in adopting and implementing a policy of not honoring civil detainer requests from
12 ICE unless there is a prior written agreement with the federal government by which all costs
13 incurred by the County in complying with the ICE detainer shall be reimbursed; and, be it

14 FURTHER RESOLVED, That the Board of Supervisors of the City and County of San
15 Francisco directs the Clerk of the Board to send a copy of this resolution to the Sheriff of the
16 City and County of San Francisco and the Chief of the Juvenile Probation Department.

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