

JEROME O. TORRES

Chula Vista, California 91911

January 26, 2025

VIA ELECTRONIC MAIL

Honorable Mayor John McCann
Honorable Councilmember Carolina Chavez
Honorable Councilmember Jose Preciado
Honorable Councilmember Michael Inzunza
Honorable Councilmember Cesar Fernandez
City of Chula Vista
276 Fourth Avenue
Chula Vista, CA 91910

Subject: Adoption of Resolution Prohibiting Police Department Assistance in the
Deportation of **"Non-Criminal"** Undocumented Immigrants

Dear Mayor and Councilmembers:

As promised, newly elected President Trump has begun laying the groundwork for his promised mass deportation of undocumented immigrants. Each day, we see the escalation via Executive Orders: troops being assigned to the border; federal employees being deputized to assist ICE; permitting ICE raids in schools, hospitals and churches; eradication of birthright citizenship, among others. It is not hyperbolic to say that in the coming weeks and months, the San Diego-Baja Region (along with other regions) will serve as the epicenter in this mass deportation campaign.

Another onerous tactic has been the DOJ legal memos issued to so-called "sanctuary states and municipalities" threatening imprisonment of government officials, et al. These memos stem from the dubious legal opinion propagated by America Legal First¹, which was founded by Stephen Miller, currently Sr. Policy Analyst for the Trump Administration.

However, there are legal guardrails that protect local government officials in the State of California on this matter. Chief among these is SB 54 (DeLeon)² and legal opinions issued by the Office of the State Attorney General³. Additional state legislation is being drafted during the current legislative session on this matter as well.

As you well know, over 60% of the estimated 274,000+ residents in Chula Vista are Latino. A significant percentage of our Latino Community are undocumented. For those undocumented immigrants **whose only legal offense** is their unauthorized presence within our Country, they deserve to be protected by the elected and appointed public servants whose salaries they pay via sales, property and TOT taxes.

January 26, 2025
Page Two

Moreover, despite their undocumented status, these individuals and families still have certain rights under the U.S. Constitution. Namely, right to due process and the right to be free from unlawful search and seizure among others.


I respectfully request that you direct the City Attorney to formulate and present to the City Council a binding resolution that would forbid our Police Department from: 1) directly or indirectly aiding or abetting any federal agency from abducting any **“non-criminal”** undocumented immigrant; nor 2) allow any Police Officer from being deputized to assist in the abduction of any **“non-criminal”** undocumented immigrant residing within our City limits.

Now is not the time to cower nor be guided by partisanship or political ambitions. Now is the time to show courage and exemplify true leadership. As an example, look to the Board of Trustees of the Southwestern Community College District who reaffirmed their support of Resolution 1992 adopted in 2017.⁴

Furthermore, please be advised that this is not the first time this matter has come before the City Council as it grappled with this matter during the first Trump Administration.⁵ Do not remain silent when your voice is greatly needed.

If you have any questions or concerns regarding this matter, please notify me as soon as possible.

Sincerely,



Jerome O. Torres

cc: City Attorney Marco Verdugo

Attachments

¹Letter from America First Legal, dated 12/23/2024, addressed to former County Supervisor Vargas

²Senate Bill 54 (De Leon)

³See California Attorney General Legal Opinion 83-902 (Official Citation: 67 Ops. Cal. Atty. Gen. 331)

⁴Resolution 1992 of Southwest Community College District Board of Trustees

⁵See Agenda Packet, April 4, 2017, Agenda Item 17-0116 and Agenda Packet April 25, 2017, Agenda Item 17-0153



December 23, 2024

Via email

Chairwoman Nora Vargas
San Diego County Board of Supervisors
1600 Pacific Highway, Room 335
San Diego, CA 92101
District1community@sdcounty.ca.gov

Dear Chairwoman Vargas:

Federal law is clear: aliens unlawfully present in the United States are subject to removal from the country, and it is a crime to conceal, harbor, or shield them.¹ It is also a crime to prevent federal officials from enforcing immigration law.² These laws were duly enacted by the people's elected representatives. Under the Supremacy Clause of the U.S. Constitution, they are the law of the land and supersede any State or local laws to the contrary. In our democratic republic, *all* State and local officials must comply with them.

Federal law imposes serious consequences for obstructing the execution of federal immigration law. So-called "sanctuary" jurisdictions that forbid compliance with federal immigration law and cooperation with the officials who enforce it are, therefore, breaking the law. Moreover, sanctuary jurisdictions are strictly prohibited from requiring their employees to violate federal immigration law.

We have identified San Diego County as a sanctuary jurisdiction that is violating federal law. In fact, on December 12, 2024, the San Diego County Board of Supervisors passed a resolution stating the County will not assist or cooperate with federal Immigration and Customs Enforcement (ICE), "including by giving ICE agents access to individuals or allowing them to use County facilities for investigative interviews or other purposes, expending County time or resources responding to ICE inquiries or communicating with ICE regarding individuals' incarceration status or release dates, or otherwise participating in any civil immigration enforcement activities." This resolution clearly violates federal law and subjects those who abide by it to significant risk of criminal and

¹ 8 U.S.C. § 1324.

² 18 U.S.C. § 372.

civil liability. Accordingly, we are sending this letter to put you on notice of this risk and insist that you comply with our nation's laws.³

The importance of this issue is not just abstract or hypothetical. According to ICE, as of September 25, 2024, there were 425,431 convicted criminals in the United States who were illegal aliens with final orders of removal entered against them and who were not currently being detained.⁴ Additionally, there were 222,141 non-detained illegal aliens in the United States with final orders of removal who had criminal charges pending against them. This adds up to 647,572 illegal aliens. According to Acting ICE Director Patrick J. Lechleitner, one of the reasons for this high number of criminal aliens who are free from detention is that "'sanctuary' policies can end up shielding dangerous criminals, who often victimize those same [immigrant] communities."⁵

Moreover, your sanctuary policies have had a real impact on your local residents. For example, in April 2024, ICE arrested four illegal aliens who had been convicted of drug trafficking or multiple drug possession-related offenses involving methamphetamine, fentanyl, cocaine, heroin, or synthetic drugs. San Diego was named in May as the top entry point for illegal aliens crossing into the United States after 37,370 unlawful entries into San Diego in April alone. In response, County Supervisor Jim Desmond admitted that "human smugglers have identified California, particularly the San Diego border sector, as the path of least resistance for illegal immigration."⁶

I. The Federal Government has authority over immigration and aliens.

As the Supreme Court has explained, "[t]he federal power to determine immigration policy is well settled."⁷ "The Government of the United States has broad, undoubted power over the subject of immigration and the status of aliens."⁸ The U.S. Constitution empowers Congress to "establish an uniform Rule of Naturalization."⁹ Furthermore, the federal government's power over immigration comes from its "inherent power as sovereign to

³ Adam Shaw and Bill Melugin, *California county votes to ramp up sanctuary policies ahead of Trump deportation push: 'Radical policy'*, FOX NEWS, (Dec. 10, 2024), <https://perma.cc/QY27-K4X6>; Adopting a Board Policy on Immigration Enforcement to Enhance Community Safety (Districts: All), San Diego Cnty. Bd. of Supervisors (Dec. 10, 2024), <https://perma.cc/Q7G2-3K72>.

⁴ Adam Shaw, *Tens of thousands of illegal immigrants with sexual assault, murder convictions in US: ICE data*, FOX NEWS, (Sept. 27, 2024), <https://perma.cc/F4FM-6966>.

⁵ Letter from Patrick J. Lechleitner, Senior Official Performing the Duties of the ICE Director, to Hon. Tony Gonzales, U.S. House of Representatives (Sep. 25, 2024), <https://perma.cc/A5BV-UUL5>.

⁶ *ERO San Diego arrests 4 noncitizens with drug-related convictions during nationwide law enforcement effort*, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, (April 8, 2024), <https://perma.cc/ME93-TZKU>; Shari Rendall, *Illegal Aliens Flock to San Diego, Making it the Top Entry Point for Illegal Aliens*, FAIR, (May 20, 2024), <https://perma.cc/A9B4-DZXA>.

⁷ *Arizona v. United States*, 567 U.S. 387, 395 (2012).

⁸ *Id.* at 394 (citation omitted).

⁹ U.S. CONST. Art. I, § 8, cl. 4.

control and conduct relations with foreign nations.”¹⁰ Conversely, “[u]nder the Constitution the states are granted *no such powers*; they can neither add to nor take from the conditions lawfully imposed by Congress upon admission, naturalization and residence of aliens in the United States or the several states.”¹¹

Under the Immigration and Nationality Act (INA), Congress specifically permits state and local law enforcement officers to assist federal officials in enforcing immigration law.¹² No federal law, however, allows state or local officials to *subvert* or *ignore* the requirements of the INA. In fact, federal law imposes significant criminal and civil penalties on those who do so.

II. Federal law preempts any State or local law prohibiting or restricting a State or local official from communicating with DHS about an individual’s immigration status.

The INA specifically preempts State and local restrictions on local officials’ communications with DHS. It states that “[n]otwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, [DHS] information regarding the citizenship or immigration status, lawful or unlawful, of any individual.”¹³

The Supreme Court has clearly explained: “There is no doubt that Congress may withdraw specified powers from the States by enacting a statute containing an express preemption provision.”¹⁴ Congress did exactly that in Section 1373 of the INA. Therefore, sanctuary policies forbidding State or local officials from communicating with DHS are unlawful.¹⁵

¹⁰ *Arizona*, 567 U.S. at 394 (citation omitted).

¹¹ *DeCanas v. Bica*, 424 U.S. 351, 358 n.6 (1976) (quoting *Takahashi v. Fish & Game Comm’n*, 334 U.S. 410, 419 (1948) (emphasis added)).

¹² See, e.g., 8 U.S.C. § 1324(c) (arrests for criminal violation of the INA’s prohibitions against smuggling, transporting, or harboring aliens may be made not only by federal immigration officers, but also by “all other officers whose duty it is to enforce criminal laws”); *id.* § 1252c (authorizing state and local law enforcement to arrest unlawfully present aliens who have been previously removed and convicted of a felony); *id.* § 1103(a)(10) (empowering DHS to authorize state and local law enforcement officers, when an “actual or imminent mass influx of aliens . . . presents urgent circumstances requiring an immediate Federal response,” to perform functions of federal immigration officers); and *id.* § 1357(g) (allowing DHS to enter into written agreements with State or local governments to assist in “investigation, apprehension, or detention of aliens in the United States” and also specifically allowing such cooperation even without written agreements).

¹³ 8 U.S.C. § 1373(a) (emphasis added).

¹⁴ *Arizona*, 567 U.S. 399.

¹⁵ U.S. CONST. art. VI, cl. 2.

III. Concealing, harboring, or shielding aliens is a federal crime.

By complying with your jurisdiction's sanctuary law or policies, you and your subordinates appear to be engaging in facially criminal actions and potentially subjecting anyone implementing those policies to punishment. This is because anyone who "conceals, harbors, or shields from detection" "an alien [who] has come to, entered, or remains in the United States in violation of law," or who attempts to do so, is committing a federal crime if that person knew or acted "in reckless disregard of the" alien's unlawful presence or entrance in the United States.¹⁶ Similarly, it is a crime if an individual "encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law."¹⁷ It is also a crime to aid and abet the above violations or to engage in conspiracy to commit them.¹⁸ The penalty for any of the above crimes is five years' imprisonment *per alien* involved.¹⁹

Furthermore, because the language "come to, entered, or remains" is phrased in disjunctive form, federal appellate courts have held that the above provisions apply to conduct regardless of whether an alien may be considered lawfully present at the time of the conduct, so long as the alien had initially "come to" or "entered" the United States unlawfully.²⁰ Accordingly, if an alien initially enters the United States illegally and later receives parole status or some other temporary quasi-lawful status, that later lawful status fails to insulate you or others implementing your jurisdiction's sanctuary law or policies from criminal exposure and long prison sentences.

IV. Your jurisdiction's sanctuary policies could expose you and your subordinates to criminal liability for conspiracy to commit a federal offense and conspiracy to impede a federal officer.

Because your jurisdiction's sanctuary laws or policies usually require multiple officials to coordinate their activities, all such officials could be criminally liable under multiple federal criminal conspiracy statutes.

¹⁶ 8 U.S.C. § 1324(a)(1)(A)(iii).

¹⁷ 8 U.S.C. § 1324(a)(1)(A)(iv).

¹⁸ 8 U.S.C. § 1324(a)(1)(A)(v).

¹⁹ 8 U.S.C. § 1324(a)(1)(B)(ii) ("for each alien in respect to whom such a violation occurs").

²⁰ *United States v. Esparza*, 882 F.2d 143, 145–46 (5th Cir. 1989); accord *United States v. Francisco*, 30 F. App'x 48, 49 (4th Cir. 2002); see also *United States v. Hernandez-Garcia*, 284 F.3d 1135, 1138 (9th Cir. 2002) (holding that the disjunctive nature of the list means that not all three elements must be proved for the statute to apply and that Section 1324 therefore applies "[s]o long as an alien has come to the United States unlawfully and the transporter knows this").

For example, “[i]f two or more persons conspire either to commit any offense against the United States ... in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy,” then every person involved in the conspiracy faces a penalty of up to five years’ imprisonment.²¹ Thus, because 8 U.S.C. § 1324 makes it a crime to conceal, harbor, or shield aliens, every employee in your agency who is involved in implementing sanctuary policies—even if they do not directly conceal, harbor, or shield an alien—would potentially face five years in prison.

Similarly, it is a crime for “two or more persons ... [to] conspire to prevent ... any person from ... discharging any duties” of “any office, trust, or place of confidence under the United States.”²² This crime carries a penalty of up to six years’ imprisonment. Thus, employees in your jurisdiction involved in implementing sanctuary policies that prevent federal immigration officers from carrying out their duties would potentially face six years in prison.

Additionally, it is a crime carrying a penalty of up to 20 years’ imprisonment for anyone who “knowingly ... engages in misleading conduct toward another person, with intent to ... cause or induce any person to ... be absent from an official proceeding to which such person has been summoned by legal process” or to “hinder, delay, or prevent the communication to a law enforcement officer or judge of the United States of information relating to the commission or possible commission of a Federal offense or a violation of ... parole[] or release pending judicial proceedings.”²³ This means that you and your subordinates could potentially face up to 20 years in prison for any misleading actions that help an alien to avoid removal proceedings. You and your subordinates would also potentially face the same risk for taking actions that prevent federal authorities from getting information about aliens’ immigration violations or their failure to abide by conditions for release pending immigration proceedings.

V. Your jurisdiction’s sanctuary policies could expose you and the other individual officials and employees involved to potential personal financial liability to private plaintiffs.

Concealing, harboring, or shielding aliens could also trigger liability under the federal Racketeer Influenced and Corrupt Organizations Act (RICO) statute.²⁴ Civil RICO remedies are available to “[a]ny person injured in his business or property by reason of a violation” and “shall recover threefold the damages he sustains and the cost of the suit,

²¹ 18 U.S.C. § 371.

²² 18 U.S.C. § 372.

²³ 18 U.S.C. § 1512(b)(2)(D) and (b)(3).

²⁴ See 18 U.S.C. 1961(1) (listing 8 U.S.C. § 1324 as a predicate RICO offense).

including a reasonable attorney’s fee.” 18 U.S.C. § 1964(c). Public officials who have committed RICO violations may be sued in their individual capacities.²⁵ Thus, any individual who has been harmed by your jurisdiction’s sanctuary policies, such as victims of crimes committed by aliens you have harbored, may sue you and any other officials involved in harboring that alien for triple damages. Also, you and the other public officials and employees who enforce or follow your jurisdiction’s sanctuary policies could face liability under the substantive due process state-created danger doctrine.²⁶

VI. Conclusion

As President Theodore Roosevelt said, “[n]o man is above the law and no man is below it; nor do we ask any man’s permission when we require him to obey it. Obedience to the law is demanded as a right; not asked as a favor.”²⁷ The American people have spoken through their representatives. Your jurisdiction’s sanctuary laws or policies therefore make a mockery of American democracy and demonstrate a shocking disrespect for the rule of law. For these reasons alone, you should abandon them. But no matter your views on our Union, the fact of the matter is that you and the other officials who support or enforce sanctuary laws, policies, and regulations have a very personal stake in the matter – you each could face criminal prosecution and civil liability for your illegal acts. We urge you to do the right thing, protect your citizens, and comply with federal law.

Best regards,

/s/ James Rogers
James Rogers
Senior Counsel
America First Legal Foundation

²⁵ *Genty v. Resol. Tr. Corp.*, 937 F.2d 899, 913 (3d Cir. 1991) (holding that plaintiffs could not sue municipality for triple damages under the RICO statute but that they could bring “a RICO action against the municipal officers themselves”); *Pelfresne v. Vill. of Rosemont*, 22 F. Supp. 2d 756, 761 (N.D. Ill. 1998) (individual municipal officials sued in their individual capacities were “proper RICO persons” who could be sued for triple damages).

²⁶ See, e.g., *Polanco v. Diaz*, 76 F. 4th 918 (9th Cir. 2024); *Irish v. Fowler*, 979 F.3d 65 (1st Cir. 2020); *L.R. v. School District of Philadelphia*, 836 F.3d 235 (3d Cir. 2016); *Pena v. DePrisco*, 432 F. 3d 38 (2d Cir. 2005).

²⁷ Theodore Roosevelt, *Third Annual Message to the Senate and House of Representatives*, Dec. 7. 1903, available at <https://perma.cc/E7BD-ZQBS>.



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SB-54 Law enforcement: sharing data. (2017-2018)

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Date Published: 10/05/2017 09:00 PM

Senate Bill No. 54

CHAPTER 495

An act to amend Sections 7282 and 7282.5 of, and to add Chapter 17.25 (commencing with Section 7284) to Division 7 of Title 1 of, the Government Code, and to repeal Section 11369 of the Health and Safety Code, relating to law enforcement.

[Approved by Governor October 05, 2017. Filed with Secretary of State October 05, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

SB 54, De León. Law enforcement: sharing data.

Existing law provides that when there is reason to believe that a person arrested for a violation of specified controlled substance provisions may not be a citizen of the United States, the arresting agency shall notify the appropriate agency of the United States having charge of deportation matters.

This bill would repeal those provisions.

Existing law provides that whenever an individual who is a victim of or witness to a hate crime, or who otherwise can give evidence in a hate crime investigation, is not charged with or convicted of committing any crime under state law, a peace officer may not detain the individual exclusively for any actual or suspected immigration violation or report or turn the individual over to federal immigration authorities.

This bill would, among other things and subject to exceptions, prohibit state and local law enforcement agencies, including school police and security departments, from using money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, as specified, and would, subject to exceptions, proscribe other activities or conduct in connection with immigration enforcement by law enforcement agencies. The bill would apply those provisions to the circumstances in which a law enforcement official has discretion to cooperate with immigration authorities. The bill would require, by October 1, 2018, the Attorney General, in consultation with the appropriate stakeholders, to publish model policies limiting assistance with immigration enforcement to the fullest extent possible for use by public schools, public libraries, health facilities operated by the state or a political subdivision of the state, and courthouses, among others. The bill would require, among others, all public schools, health facilities operated by the state or a political subdivision of the state, and courthouses to implement the model policy, or an equivalent policy. The bill would state that, among others, all other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, including the University of California, are encouraged to adopt the model policy. The bill would require that a law enforcement agency that chooses to participate in a joint law enforcement task force, as defined, submit a report annually pertaining to task force operations to the

Department of Justice, as specified. The bill would require the Attorney General, by March 1, 2019, and annually thereafter, to report on the types and frequency of joint law enforcement task forces, and other information, as specified, and to post those reports on the Attorney General's Internet Web site. The bill would require law enforcement agencies to report to the department annually regarding transfers of persons to immigration authorities. The bill would require the Attorney General to publish guidance, audit criteria, and training recommendations regarding state and local law enforcement databases, for purposes of limiting the availability of information for immigration enforcement, as specified. The bill would require the Department of Corrections and Rehabilitation to provide a specified written consent form in advance of any interview between a person in department custody and the United States Immigration and Customs Enforcement regarding civil immigration violations.

This bill would state findings and declarations of the Legislature relating to these provisions.

By imposing additional duties on public schools and local law enforcement agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 7282 of the Government Code is amended to read:

7282. For purposes of this chapter, the following terms have the following meanings:

- (a) "Conviction" shall have the same meaning as subdivision (d) of Section 667 of the Penal Code.
- (b) "Eligible for release from custody" means that the individual may be released from custody because one of the following conditions has occurred:
 - (1) All criminal charges against the individual have been dropped or dismissed.
 - (2) The individual has been acquitted of all criminal charges filed against him or her.
 - (3) The individual has served all the time required for his or her sentence.
 - (4) The individual has posted a bond.
 - (5) The individual is otherwise eligible for release under state or local law, or local policy.
- (c) "Hold request," "notification request," and "transfer request" have the same meanings as provided in Section 7283. Hold, notification, and transfer requests include requests issued by the United States Immigration and Customs Enforcement or the United States Customs and Border Protection as well as any other immigration authorities.
- (d) "Law enforcement official" means any local agency or officer of a local agency authorized to enforce criminal statutes, regulations, or local ordinances or to operate jails or to maintain custody of individuals in jails, and any person or local agency authorized to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities.
- (e) "Local agency" means any city, county, city and county, special district, or other political subdivision of the state.
- (f) "Serious felony" means any of the offenses listed in subdivision (c) of Section 1192.7 of the Penal Code and any offense committed in another state which, if committed in California, would be punishable as a serious felony as defined by subdivision (c) of Section 1192.7 of the Penal Code.
- (g) "Violent felony" means any of the offenses listed in subdivision (c) of Section 667.5 of the Penal Code and any offense committed in another state which, if committed in California, would be punishable as a violent felony

as defined by subdivision (c) of Section 667.5 of the Penal Code.

SEC. 2. Section 7282.5 of the Government Code is amended to read:

7282.5. (a) A law enforcement official shall have discretion to cooperate with immigration authorities only if doing so would not violate any federal, state, or local law, or local policy, and where permitted by the California Values Act (Chapter 17.25 (commencing with Section 7284)). Additionally, the specific activities described in subparagraph (C) of paragraph (1) of subdivision (a) of, and in paragraph (4) of subdivision (a) of, Section 7284.6 shall only occur under the following circumstances:

(1) The individual has been convicted of a serious or violent felony identified in subdivision (c) of Section 1192.7 of, or subdivision (c) of Section 667.5 of, the Penal Code.

(2) The individual has been convicted of a felony punishable by imprisonment in the state prison.

(3) The individual has been convicted within the past five years of a misdemeanor for a crime that is punishable as either a misdemeanor or a felony for, or has been convicted within the last 15 years of a felony for, any of the following offenses:

(A) Assault, as specified in, but not limited to, Sections 217.1, 220, 240, 241.1, 241.4, 241.7, 244, 244.5, 245, 245.2, 245.3, 245.5, 4500, and 4501 of the Penal Code.

(B) Battery, as specified in, but not limited to, Sections 242, 243.1, 243.3, 243.4, 243.6, 243.7, 243.9, 273.5, 347, 4501.1, and 4501.5 of the Penal Code.

(C) Use of threats, as specified in, but not limited to, Sections 71, 76, 139, 140, 422, 601, and 11418.5 of the Penal Code.

(D) Sexual abuse, sexual exploitation, or crimes endangering children, as specified in, but not limited to, Sections 266, 266a, 266b, 266c, 266d, 266f, 266g, 266h, 266i, 266j, 267, 269, 288, 288.5, 311.1, 311.3, 311.4, 311.10, 311.11, and 647.6 of the Penal Code.

(E) Child abuse or endangerment, as specified in, but not limited to, Sections 270, 271, 271a, 273a, 273ab, 273d, 273.4, and 278 of the Penal Code.

(F) Burglary, robbery, theft, fraud, forgery, or embezzlement, as specified in, but not limited to, Sections 211, 215, 459, 463, 470, 476, 487, 496, 503, 518, 530.5, 532, and 550 of the Penal Code.

(G) Driving under the influence of alcohol or drugs, but only for a conviction that is a felony.

(H) Obstruction of justice, as specified in, but not limited to, Sections 69, 95, 95.1, 136.1, and 148.10 of the Penal Code.

(I) Bribery, as specified in, but not limited to, Sections 67, 67.5, 68, 74, 85, 86, 92, 93, 137, 138, and 165 of the Penal Code.

(J) Escape, as specified in, but not limited to, Sections 107, 109, 110, 4530, 4530.5, 4532, 4533, 4534, 4535, and 4536 of the Penal Code.

(K) Unlawful possession or use of a weapon, firearm, explosive device, or weapon of mass destruction, as specified in, but not limited to, Sections 171b, 171c, 171d, 246, 246.3, 247, 417, 417.3, 417.6, 417.8, 4574, 11418, 11418.1, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 18745, 18750, and 18755 of, and subdivisions (c) and (d) of Section 26100 of, the Penal Code.

(L) Possession of an unlawful deadly weapon, under the Deadly Weapons Recodification Act of 2010 (Part 6 (commencing with Section 16000) of the Penal Code).

(M) An offense involving the felony possession, sale, distribution, manufacture, or trafficking of controlled substances.

(N) Vandalism with prior convictions, as specified in, but not limited to, Section 594.7 of the Penal Code.

(O) Gang-related offenses, as specified in, but not limited to, Sections 186.22, 186.26, and 186.28 of the Penal Code.

(P) An attempt, as defined in Section 664 of, or a conspiracy, as defined in Section 182 of, the Penal Code, to commit an offense specified in this section.

(Q) A crime resulting in death, or involving the personal infliction of great bodily injury, as specified in, but not limited to, subdivision (d) of Section 245.6 of, and Sections 187, 191.5, 192, 192.5, 12022.7, 12022.8, and 12022.9 of, the Penal Code.

(R) Possession or use of a firearm in the commission of an offense.

(S) An offense that would require the individual to register as a sex offender pursuant to Section 290, 290.002, or 290.006 of the Penal Code.

(T) False imprisonment, slavery, and human trafficking, as specified in, but not limited to, Sections 181, 210.5, 236, 236.1, and 4503 of the Penal Code.

(U) Criminal profiteering and money laundering, as specified in, but not limited to, Sections 186.2, 186.9, and 186.10 of the Penal Code.

(V) Torture and mayhem, as specified in, but not limited to, Section 203 of the Penal Code.

(W) A crime threatening the public safety, as specified in, but not limited to, Sections 219, 219.1, 219.2, 247.5, 404, 404.6, 405a, 451, and 11413 of the Penal Code.

(X) Elder and dependent adult abuse, as specified in, but not limited to, Section 368 of the Penal Code.

(Y) A hate crime, as specified in, but not limited to, Section 422.55 of the Penal Code.

(Z) Stalking, as specified in, but not limited to, Section 646.9 of the Penal Code.

(AA) Soliciting the commission of a crime, as specified in, but not limited to, subdivision (c) of Section 286 of, and Sections 653j and 653.23 of, the Penal Code.

(AB) An offense committed while on bail or released on his or her own recognizance, as specified in, but not limited to, Section 12022.1 of the Penal Code.

(AC) Rape, sodomy, oral copulation, or sexual penetration, as specified in, but not limited to, paragraphs (2) and (6) of subdivision (a) of Section 261 of, paragraphs (1) and (4) of subdivision (a) of Section 262 of, Section 264.1 of, subdivisions (c) and (d) of Section 286 of, subdivisions (c) and (d) of Section 288a of, and subdivisions (a) and (j) of Section 289 of, the Penal Code.

(AD) Kidnapping, as specified in, but not limited to, Sections 207, 209, and 209.5 of the Penal Code.

(AE) A violation of subdivision (c) of Section 20001 of the Vehicle Code.

(4) The individual is a current registrant on the California Sex and Arson Registry.

(5) The individual has been convicted of a federal crime that meets the definition of an aggravated felony as set forth in subparagraphs (A) to (P), inclusive, of paragraph (43) of subsection (a) of Section 101 of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101), or is identified by the United States Department of Homeland Security's Immigration and Customs Enforcement as the subject of an outstanding federal felony arrest warrant.

(6) In no case shall cooperation occur pursuant to this section for individuals arrested, detained, or convicted of misdemeanors that were previously felonies, or were previously crimes punishable as either misdemeanors or felonies, prior to passage of the Safe Neighborhoods and Schools Act of 2014 as it amended the Penal Code.

(b) In cases in which the individual is arrested and taken before a magistrate on a charge involving a serious or violent felony, as identified in subdivision (c) of Section 1192.7 or subdivision (c) of Section 667.5 of the Penal Code, respectively, or a felony that is punishable by imprisonment in state prison, and the magistrate makes a finding of probable cause as to that charge pursuant to Section 872 of the Penal Code, a law enforcement official shall additionally have discretion to cooperate with immigration officials pursuant to subparagraph (C) of paragraph (1) of subdivision (a) of Section 7284.6.

SEC. 3. Chapter 17.25 (commencing with Section 7284) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 17.25. Cooperation with Immigration Authorities

7284. This chapter shall be known, and may be cited, as the California Values Act.

7284.2. The Legislature finds and declares the following:

- (a) Immigrants are valuable and essential members of the California community. Almost one in three Californians is foreign born and one in two children in California has at least one immigrant parent.
- (b) A relationship of trust between California's immigrant community and state and local agencies is central to the public safety of the people of California.
- (c) This trust is threatened when state and local agencies are entangled with federal immigration enforcement, with the result that immigrant community members fear approaching police when they are victims of, and witnesses to, crimes, seeking basic health services, or attending school, to the detriment of public safety and the well-being of all Californians.
- (d) Entangling state and local agencies with federal immigration enforcement programs diverts already limited resources and blurs the lines of accountability between local, state, and federal governments.
- (e) State and local participation in federal immigration enforcement programs also raises constitutional concerns, including the prospect that California residents could be detained in violation of the Fourth Amendment to the United States Constitution, targeted on the basis of race or ethnicity in violation of the Equal Protection Clause, or denied access to education based on immigration status. See *Sanchez Ochoa v. Campbell, et al.* (E.D. Wash. 2017) 2017 WL 3476777; *Trujillo Santoya v. United States, et al.* (W.D. Tex. 2017) 2017 WL 2896021; *Moreno v. Napolitano* (N.D. Ill. 2016) 213 F. Supp. 3d 999; *Morales v. Chadbourne* (1st Cir. 2015) 793 F.3d 208; *Miranda-Olivares v. Clackamas County* (D. Or. 2014) 2014 WL 1414305; *Galarza v. Szalczyk* (3d Cir. 2014) 745 F.3d 634.
- (f) This chapter seeks to ensure effective policing, to protect the safety, well-being, and constitutional rights of the people of California, and to direct the state's limited resources to matters of greatest concern to state and local governments.
- (g) It is the intent of the Legislature that this chapter shall not be construed as providing, expanding, or ratifying any legal authority for any state or local law enforcement agency to participate in immigration enforcement.

7284.4. For purposes of this chapter, the following terms have the following meanings:

- (a) "California law enforcement agency" means a state or local law enforcement agency, including school police or security departments. "California law enforcement agency" does not include the Department of Corrections and Rehabilitation.
- (b) "Civil immigration warrant" means any warrant for a violation of federal civil immigration law, and includes civil immigration warrants entered in the National Crime Information Center database.
- (c) "Immigration authority" means any federal, state, or local officer, employee, or person performing immigration enforcement functions.
- (d) "Health facility" includes health facilities as defined in Section 1250 of the Health and Safety Code, clinics as defined in Sections 1200 and 1200.1 of the Health and Safety Code, and substance abuse treatment facilities.
- (e) "Hold request," "notification request," "transfer request," and "local law enforcement agency" have the same meaning as provided in Section 7283. Hold, notification, and transfer requests include requests issued by United States Immigration and Customs Enforcement or United States Customs and Border Protection as well as any other immigration authorities.
- (f) "Immigration enforcement" includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal civil immigration law, and also includes any and all efforts to investigate, enforce, or assist in the investigation or enforcement of any federal criminal immigration law that penalizes a person's presence in, entry, or reentry to, or employment in, the United States.
- (g) "Joint law enforcement task force" means at least one California law enforcement agency collaborating, engaging, or partnering with at least one federal law enforcement agency in investigating federal or state crimes.
- (h) "Judicial probable cause determination" means a determination made by a federal judge or federal magistrate judge that probable cause exists that an individual has violated federal criminal immigration law and that authorizes a law enforcement officer to arrest and take into custody the individual.
- (i) "Judicial warrant" means a warrant based on probable cause for a violation of federal criminal immigration law and issued by a federal judge or a federal magistrate judge that authorizes a law enforcement officer to arrest

and take into custody the person who is the subject of the warrant.

(j) "Public schools" means all public elementary and secondary schools under the jurisdiction of local governing boards or a charter school board, the California State University, and the California Community Colleges.

(k) "School police and security departments" includes police and security departments of the California State University, the California Community Colleges, charter schools, county offices of education, schools, and school districts.

7284.6. (a) California law enforcement agencies shall not:

(1) Use agency or department moneys or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, including any of the following:

(A) Inquiring into an individual's immigration status.

(B) Detaining an individual on the basis of a hold request.

(C) Providing information regarding a person's release date or responding to requests for notification by providing release dates or other information unless that information is available to the public, or is in response to a notification request from immigration authorities in accordance with Section 7282.5. Responses are never required, but are permitted under this subdivision, provided that they do not violate any local law or policy.

(D) Providing personal information, as defined in Section 1798.3 of the Civil Code, about an individual, including, but not limited to, the individual's home address or work address unless that information is available to the public.

(E) Making or intentionally participating in arrests based on civil immigration warrants.

(F) Assisting immigration authorities in the activities described in Section 1357(a)(3) of Title 8 of the United States Code.

(G) Performing the functions of an immigration officer, whether pursuant to Section 1357(g) of Title 8 of the United States Code or any other law, regulation, or policy, whether formal or informal.

(2) Place peace officers under the supervision of federal agencies or employ peace officers deputized as special federal officers or special federal deputies for purposes of immigration enforcement. All peace officers remain subject to California law governing conduct of peace officers and the policies of the employing agency.

(3) Use immigration authorities as interpreters for law enforcement matters relating to individuals in agency or department custody.

(4) Transfer an individual to immigration authorities unless authorized by a judicial warrant or judicial probable cause determination, or in accordance with Section 7282.5.

(5) Provide office space exclusively dedicated for immigration authorities for use within a city or county law enforcement facility.

(6) Contract with the federal government for use of California law enforcement agency facilities to house individuals as federal detainees, except pursuant to Chapter 17.8 (commencing with Section 7310).

(b) Notwithstanding the limitations in subdivision (a), this section does not prevent any California law enforcement agency from doing any of the following that does not violate any policy of the law enforcement agency or any local law or policy of the jurisdiction in which the agency is operating:

(1) Investigating, enforcing, or detaining upon reasonable suspicion of, or arresting for a violation of, Section 1326(a) of Title 8 of the United States Code that may be subject to the enhancement specified in Section 1326(b)(2) of Title 8 of the United States Code and that is detected during an unrelated law enforcement activity. Transfers to immigration authorities are permitted under this subsection only in accordance with paragraph (4) of subdivision (a).

(2) Responding to a request from immigration authorities for information about a specific person's criminal history, including previous criminal arrests, convictions, or similar criminal history information accessed

through the California Law Enforcement Telecommunications System (CLETS), where otherwise permitted by state law.

(3) Conducting enforcement or investigative duties associated with a joint law enforcement task force, including the sharing of confidential information with other law enforcement agencies for purposes of task force investigations, so long as the following conditions are met:

(A) The primary purpose of the joint law enforcement task force is not immigration enforcement, as defined in subdivision (f) of Section 7284.4.

(B) The enforcement or investigative duties are primarily related to a violation of state or federal law unrelated to immigration enforcement.

(C) Participation in the task force by a California law enforcement agency does not violate any local law or policy to which it is otherwise subject.

(4) Making inquiries into information necessary to certify an individual who has been identified as a potential crime or trafficking victim for a T or U Visa pursuant to Section 1101(a)(15)(T) or 1101(a)(15)(U) of Title 8 of the United States Code or to comply with Section 922(d)(5) of Title 18 of the United States Code.

(5) Giving immigration authorities access to interview an individual in agency or department custody. All interview access shall comply with requirements of the TRUTH Act (Chapter 17.2 (commencing with Section 7283)).

(c) (1) If a California law enforcement agency chooses to participate in a joint law enforcement task force, for which a California law enforcement agency has agreed to dedicate personnel or resources on an ongoing basis, it shall submit a report annually to the Department of Justice, as specified by the Attorney General. The law enforcement agency shall report the following information, if known, for each task force of which it is a member:

(A) The purpose of the task force.

(B) The federal, state, and local law enforcement agencies involved.

(C) The total number of arrests made during the reporting period.

(D) The number of people arrested for immigration enforcement purposes.

(2) All law enforcement agencies shall report annually to the Department of Justice, in a manner specified by the Attorney General, the number of transfers pursuant to paragraph (4) of subdivision (a), and the offense that allowed for the transfer, pursuant to paragraph (4) of subdivision (a).

(3) All records described in this subdivision shall be public records for purposes of the California Public Records Act (Chapter 3.5 (commencing with Section 6250)), including the exemptions provided by that act and, as permitted under that act, personal identifying information may be redacted prior to public disclosure. To the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation or a related investigation, that information shall not be disclosed.

(4) If more than one California law enforcement agency is participating in a joint task force that meets the reporting requirement pursuant to this section, the joint task force shall designate a local or state agency responsible for completing the reporting requirement.

(d) The Attorney General, by March 1, 2019, and annually thereafter, shall report on the total number of arrests made by joint law enforcement task forces, and the total number of arrests made for the purpose of immigration enforcement by all task force participants, including federal law enforcement agencies. To the extent that disclosure of a particular item of information would endanger the safety of a person involved in an investigation, or would endanger the successful completion of the investigation or a related investigation, that information shall not be included in the Attorney General's report. The Attorney General shall post the reports required by this subdivision on the Attorney General's Internet Web site.

(e) This section does not prohibit or restrict any government entity or official from sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual, or from requesting from federal immigration authorities immigration status information, lawful or unlawful, of any individual, or maintaining or exchanging that information with any other federal, state, or local government entity, pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.

(f) Nothing in this section shall prohibit a California law enforcement agency from asserting its own jurisdiction over criminal law enforcement matters.

7284.8. (a) The Attorney General, by October 1, 2018, in consultation with the appropriate stakeholders, shall publish model policies limiting assistance with immigration enforcement to the fullest extent possible consistent with federal and state law at public schools, public libraries, health facilities operated by the state or a political subdivision of the state, courthouses, Division of Labor Standards Enforcement facilities, the Agricultural Labor Relations Board, the Division of Workers Compensation, and shelters, and ensuring that they remain safe and accessible to all California residents, regardless of immigration status. All public schools, health facilities operated by the state or a political subdivision of the state, and courthouses shall implement the model policy, or an equivalent policy. The Agricultural Labor Relations Board, the Division of Workers' Compensation, the Division of Labor Standards Enforcement, shelters, libraries, and all other organizations and entities that provide services related to physical or mental health and wellness, education, or access to justice, including the University of California, are encouraged to adopt the model policy.

(b) For any databases operated by state and local law enforcement agencies, including databases maintained for the agency by private vendors, the Attorney General shall, by October 1, 2018, in consultation with appropriate stakeholders, publish guidance, audit criteria, and training recommendations aimed at ensuring that those databases are governed in a manner that limits the availability of information therein to the fullest extent practicable and consistent with federal and state law, to anyone or any entity for the purpose of immigration enforcement. All state and local law enforcement agencies are encouraged to adopt necessary changes to database governance policies consistent with that guidance.

(c) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2), the Department of Justice may implement, interpret, or make specific this chapter without taking any regulatory action.

7284.10. (a) The Department of Corrections and Rehabilitation shall:

(1) In advance of any interview between the United States Immigration and Customs Enforcement (ICE) and an individual in department custody regarding civil immigration violations, provide the individual with a written consent form that explains the purpose of the interview, that the interview is voluntary, and that he or she may decline to be interviewed or may choose to be interviewed only with his or her attorney present. The written consent form shall be available in English, Spanish, Chinese, Tagalog, Vietnamese, and Korean.

(2) Upon receiving any ICE hold, notification, or transfer request, provide a copy of the request to the individual and inform him or her whether the department intends to comply with the request.

(b) The Department of Corrections and Rehabilitation shall not:

(1) Restrict access to any in-prison educational or rehabilitative programming, or credit-earning opportunity on the sole basis of citizenship or immigration status, including, but not limited to, whether the person is in removal proceedings, or immigration authorities have issued a hold request, transfer request, notification request, or civil immigration warrant against the individual.

(2) Consider citizenship and immigration status as a factor in determining a person's custodial classification level, including, but not limited to, whether the person is in removal proceedings, or whether immigration authorities have issued a hold request, transfer request, notification request, or civil immigration warrant against the individual.

7284.12. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 4. Section 11369 of the Health and Safety Code is repealed.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.



RESOLUTION NO. 1992

SOUTHWESTERN COMMUNITY COLLEGE DISTRICT
UPHOLDING THE CIVIL RIGHTS OF ALL RESIDENTS

WHEREAS, the vision and values of the Southwestern Community College District demonstrate our commitment to equity, dignity and respect; and

WHEREAS, the Governing Board has adopted Resolution 1984: Supporting and Respecting Immigrants and Resolution 1988: Guiding Principles for Undocumented Students; and

WHEREAS, the Governing Board of the Southwestern Community College District wishes to further demonstrate its commitment to the Civil Rights Act of 1964 that outlaws discrimination based on race, color, religion, sex or national origin and California's Unruh Civil Rights Act which additionally outlaws discrimination based on ancestry, age, disability, medical condition, marital status, or sexual orientation; and

WHEREAS, the Governing Board of the Southwestern Community College District believes all residents deserve equal protection of the laws as guaranteed by the Fourteenth Amendment of the United States Constitution; and


WHEREAS, the Governing Board of the Southwestern Community College District further believes the Fourteenth Amendment's Equal Protection Clause requires us to provide equal protection under the law to all people within our jurisdiction to reject irrational or unnecessary discrimination against people belonging to various groups;

NOW THEREFORE BE IT RESOLVED, the Southwestern Community College District Police will not detain, question or arrest any individual solely on the basis of personal characteristics such as religion or suspected immigration status; and

BE IT FURTHER RESOLVED, the Southwestern Community College District will not release any personally identifiable student information, including any data related to immigration status, without a judicial warrant, or court order, unless authorized by the student; and,

BE IT FURTHER RESOLVED, the Southwestern Community College District will not participate in the creation or maintenance of any registry designed to facilitate discriminatory treatment of its residents or students based on any personal characteristic protected by the Unruh Act or the United States Constitution.

PASSED AND ADOPTED by the Governing Board of the Southwestern Community College District this 10th day of January, 2017.




Tim Nader, Governing Board President



Griselda A. Delgado, Governing Board Vice President




Roberto Alcantar, Governing Board Member




Norma L. Hernandez, Governing Board Member



Norm E. Vargas, Governing Board Member



Freda Hernandez, Student Governing Board Member



Robert P. Deegan, Governing Board Secretary