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CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CITY AND COUNTY OF SAN
FRANCISCO,

Plaintiff,

vs.

DONALD J. TRUMP, President of the United
States, UNITED STATES OF AMERICA,
JOHN F. KELLY, Secretary of United States
Department of Homeland Security,
JEFFERSON B. SESSIONS, Attorney General
of the United States, DOES 1-100,

Defendants.

Case No. 3:17-cv-00485-WHO

**DECLARATION OF SARA J. EISENBERG IN
SUPPORT OF CITY AND COUNTY OF SAN
FRANCISCO'S MOTION FOR
PRELIMINARY INJUNCTION**

Date: April 12, 2017
Time: 2:00 p.m.
Judge: Honorable William H. Orrick
Dept: Courtroom 2

Date Filed: January 31, 2017

Trial Date: Not set

1 I, Sara J. Eisenberg, declare as follows:

2 1. I am a Deputy City Attorney in the Office of the City Attorney for the City and County
3 of San Francisco ("San Francisco"). I am assigned to the above-captioned matter. I have personal
4 knowledge of the contents of this declaration, except where indicated otherwise, and I could and
5 would testify competently thereto if called upon to do so.

6 2. Attached hereto as **Exhibit A** is a true and correct copy of Chapter 12H of the
7 San Francisco Administrative Code.

8 3. Attached hereto as **Exhibit B** is a true and correct copy of Chapter 12I of the
9 San Francisco Administrative Code.

10 4. Attached hereto as **Exhibit C** is a true and correct copy of Executive Order 13768,
11 entitled "Enhancing Public Safety in the Interior of the United States," issued by President Trump on
12 January 25, 2017.

13 5. Attached hereto as **Exhibit D** is a true and correct copy of a written remarks delivered
14 by then-candidate Donald Trump in Phoenix, Arizona on August 31, 2016, which is available on the
15 Trump campaign website at [https://www.donaldjtrump.com/press-releases/donald-j.-trump-address-](https://www.donaldjtrump.com/press-releases/donald-j.-trump-address-on-immigration)
16 [on-immigration](https://www.donaldjtrump.com/press-releases/donald-j.-trump-address-on-immigration).

17 6. On February 5, 2017, shortly before the Super Bowl, President Trump appeared on
18 national television in an interview with Fox News personality Bill O'Reilly (the "O'Reilly
19 Interview"). A transcript of that interview is available at Fed. News Serv. Tr., President Donald Trump
20 is Interviewed on Fox, 2017 WLNR 3753383, at 4 (Feb. 5, 2017), a true and correct copy of which is
21 attached hereto as **Exhibit E**.

22 7. Attached hereto as **Exhibit F** is a true and correct copy of a Whitehouse issue statement
23 entitled "Standing Up For Our Law Enforcement Community," available on the Whitehouse website at
24 <https://www.whitehouse.gov/law-enforcement-community>.

25 8. Attached hereto as **Exhibit G** is a true and correct copy of the "Order on Petition for
26 Writ of Habeas Corpus," issued on March 3, 2017, by Judge Milton Hirsch of the Eleventh Judicial
27 Circuit in and for Miami-Dade, Florida in *LaCroix v. Junior*, Case No. F17-376.
28

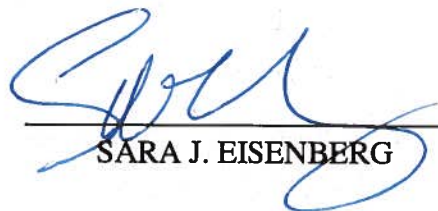
1 9. Attached hereto as **Exhibit H** is a true and correct copy of a Memorandum from Micki
2 Callahan, San Francisco Human Resources Director, to all City and County of San Francisco
3 employees on January 19, 2017, regarding "Reminder about Sanctuary City Obligations"

4 10. Attached hereto as **Exhibit I** is a true and correct copy of a San Francisco Department
5 of Public Health Policy & Procedure entitled "DPH Privacy Policy," which was adopted in March
6 2003, and most recently revised on September 23, 2013.

7 11. Attached hereto as **Exhibit J** is a true and correct copy of the San Francisco Police
8 Department's manual on Community Policing and Problem Solving.

9 I declare under penalty of perjury that the foregoing is true and correct and that this declaration
10 was executed on March 7, 2017 at San Francisco, California.

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SARA J. EISENBERG

EXHIBIT A

San Francisco Administrative Code

CHAPTER 12H: IMMIGRATION STATUS

- Sec. 12H.1. City and County of Refuge.
- Sec. 12H.2. Use of City Funds Prohibited.
- Sec. 12H.3. Clerk of Board to Transmit Copies of this Chapter; Informing City Employees.
- Sec. 12H.4. Enforcement.
- Sec. 12H.5. City Undertaking Limited to Promotion of General Welfare.
- Sec. 12H.6. Severability.

SEC. 12H.1. CITY AND COUNTY OF REFUGE.

It is hereby affirmed that the City and County of San Francisco is a City and County of Refuge.

(Added by Ord. 375-89, App. 10/24/89)

SEC. 12H.2. USE OF CITY FUNDS PROHIBITED.

No department, agency, commission, officer, or employee of the City and County of San Francisco shall use any City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information regarding release status of individuals or any other such personal information as defined in Chapter 12I in the City and County of San Francisco unless such assistance is required by Federal or State statute, regulation, or court decision. The prohibition set forth in this Chapter 12H shall include, but shall not be limited to:

(a) Assisting or cooperating, in one's official capacity, with any investigation, detention, or arrest procedures, public or clandestine, conducted by the Federal agency charged with enforcement of the Federal immigration law and relating to alleged violations of the civil provisions of the Federal immigration law, except as permitted under Administrative Code Section 12I.3.

(b) Assisting or cooperating, in one's official capacity, with any investigation, surveillance, or gathering of information conducted by foreign governments, except for cooperation related to an alleged violation of City and County, State, or Federal criminal laws.

(c) Requesting information about, or disseminating information, in one's official capacity, regarding the release status of any individual or any other such personal information as defined in Chapter 12I, except as permitted under Administrative Code Section 12I.3, or conditioning the provision of services or benefits by the City and County of San Francisco upon immigration status, except as required by Federal or State statute or regulation, City and County public assistance criteria, or court decision.

(d) Including on any application, questionnaire, or interview form used in relation to benefits, services, or opportunities provided by the City and County of San Francisco any question regarding immigration status other than those required by Federal or State statute, regulation, or court decision. Any such questions existing or being used by the City and County at the time this Chapter is adopted shall be deleted within sixty days of the adoption of this Chapter.

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(Added by Ord. 375-89, App. 10/24/89; amended by Ord. 228-09, File No. 091032, App. 10-28-2009, Ord. 96-16, File No. 160022, App. 6/17/2016, Eff. 7/17/2016)

SEC. 12H.2-1. [REPEALED.]

(Added by Ord. 282-92, App. 9/4/92; amended by Ord. 238-93, App. 8/4/93; Ord. 228-09, File No. 091032, App. 10-28-2009; repealed by Ord. 96-16, File No. 160022, App. 6/17/2016, Eff. 7/17/2016)

SEC. 12H.3. CLERK OF BOARD TO TRANSMIT COPIES OF THIS CHAPTER; INFORMING CITY EMPLOYEES.

The Clerk of the Board of Supervisors shall send copies of this Chapter, including any future amendments thereto that may be made, to every department, agency and commission of the City and County of San Francisco, to California's United States Senators, and to the California Congressional delegation, the Commissioner of the Federal agency charged with enforcement of the Federal immigration law, the United States Attorney General, and the Secretary of State and the President of the United States. Each appointing officer of the City and County of San Francisco shall inform all employees under her or his jurisdiction of the prohibitions in this ordinance, the duty of all of her or his employees to comply with the prohibitions in this ordinance, and that employees who fail to comply with the prohibitions of the ordinance shall be subject to appropriate disciplinary action. Each City and County employee shall be given a written directive with instructions for implementing the provisions of this Chapter.

(Added by Ord. 375-89, App. 10/24/89; Ord. 228-09, File No. 091032, App. 10-28-2009)

SEC. 12H.4. ENFORCEMENT.

The Human Rights Commission shall review the compliance of the City and County departments, agencies, commissions and employees with the mandates of this ordinance in particular instances in which there is question of noncompliance or when a complaint alleging noncompliance has been lodged.

(Added by Ord. 375-89, App. 10/24/89)

SEC. 12H.5. CITY UNDERTAKING LIMITED TO PROMOTION OF GENERAL WELFARE.

In undertaking the adoption and enforcement of this Chapter, the City is assuming an undertaking only to promote the general welfare. This Chapter is not intended to create any new rights for breach of which the City is liable in money damages to any person who claims that such breach proximately caused injury. This section shall not be construed to limit or proscribe any other existing rights or remedies possessed by such person.

(Added by Ord. 375-89, App. 10/24/89)

SEC. 12H.6. SEVERABILITY.

If any part of this ordinance, or the application thereof, is held to be invalid, the remainder of this ordinance shall not be affected thereby, and this ordinance shall otherwise continue in full force and effect. To this end, the provisions of this ordinance, and each of them, are severable.

(Added by Ord. 375-89, App. 10/24/89)

EXHIBIT B

San Francisco Administrative Code

CHAPTER 12I:

CIVIL IMMIGRATION DETAINERS

Sec. 12I.1.	Findings.
Sec. 12I.2.	Definitions.
Sec. 12I.3.	Restrictions on Law Enforcement Officials.
Sec. 12I.4.	Purpose of this Chapter.
Sec. 12I.5.	Semiannual Report.
Sec. 12I.6.	Severability.
Sec. 12I.7.	Undertaking for the General Welfare.

SEC. 12I.1. FINDINGS.

The City and County of San Francisco (the "City") is home to persons of diverse racial, ethnic, and national backgrounds, including a large immigrant population. The City respects, upholds, and values equal protection and equal treatment for all of our residents, regardless of immigration status. Fostering a relationship of trust, respect, and open communication between City employees and City residents is essential to the City's core mission of ensuring public health, safety, and welfare, and serving the needs of everyone in the community, including immigrants. The purpose of this Chapter 12I, as well as of Administrative Code Chapter 12H, is to foster respect and trust between law enforcement and residents, to protect limited local resources, to encourage cooperation between residents and City officials, including especially law enforcement and public health officers and employees, and to ensure community security, and due process for all.

The United States Immigration and Customs Enforcement ("ICE") is responsible for enforcing the civil immigration laws. ICE's programs, including Secure Communities and its replacement, the Priority Enforcement Program ("PEP"), seek to enlist local law enforcement's voluntary cooperation and assistance in its enforcement efforts. In its description of PEP, ICE explains that all requests under PEP are for voluntary action and that any request is not an authorization to detain persons at the expense of the federal government. The federal government should not shift the financial burden of federal civil immigration enforcement, including personnel time and costs relating to notification and detention, onto local law enforcement by requesting that local law enforcement agencies continue detaining persons based on non-mandatory civil immigration detainers or cooperating and assisting with requests to notify ICE that a person will be released from local custody. It is not a wise and effective use of valuable City resources at a time when vital services are being cut.

ICE's Secure Communities program (also known as "S-Comm") shifted the burden of federal civil immigration enforcement onto local law enforcement. S-Comm came into operation after the state sent fingerprints that state and local law enforcement agencies had transmitted to the California Department of Justice ("Cal DOJ") to positively identify the arrestees and to check their criminal history. The FBI would forward the fingerprints to the Department of Homeland Security ("DHS") to be checked against immigration and other databases. To give itself time to take a detainee into immigration custody, ICE would send an Immigration Detainer – Notice of Action (DHS Form I-247) to the local law enforcement official requesting that the local law enforcement official hold the individual for up to 48 hours after that individual would otherwise be released ("civil immigration detainers"). Civil Immigration detainers may be issued without evidentiary support or probable cause by border patrol agents, aircraft pilots, special agents, deportation officers, immigration inspectors, and immigration adjudication officers.

Given that civil immigration detainers are issued by immigration officers without judicial oversight, and the regulation authorizing civil immigration detainers provides no minimum standard of proof for their issuance, there are serious questions as to their constitutionality. Unlike criminal warrants, which must be supported by probable cause and issued by a neutral magistrate, there are no such requirements for the issuance of a civil immigration detainer. Several federal courts have ruled that because civil immigration detainers and other ICE "Notice of Action" documents are issued without probable cause of criminal conduct, they do not meet the Fourth Amendment requirements for state or local law enforcement officials to arrest and hold an individual in custody. (*Miranda-Olivares v. Clackamas Co.*, No. 3:12-cv-02317-ST *17 (D.Or. April 11, 2014) (finding that detention pursuant to an immigration detainer is a seizure that must comport with the Fourth Amendment). *See also Morales v. Chadbourne*, 996 F. Supp. 2d 19, 29 (D.R.I 2014); *Villars v. Kubiowski*, No. 12-cv-4586 *10-12 (N.D. Ill. filed May 5, 2014).)

On December 4, 2012, the Attorney General of California, Kamala Harris, clarified the responsibilities of local law enforcement agencies under S-Comm. The Attorney General clarified that S-Comm did not require state or local law enforcement officials to determine an individual's immigration status or to enforce federal immigration laws. The Attorney General also clarified that civil immigration detainers are voluntary requests to local law enforcement agencies that do not mandate compliance. California local law enforcement agencies may determine on their own whether to comply with non-mandatory civil immigration detainers. In a June 25, 2014, bulletin, the Attorney General warned that a federal court outside of California had held a county liable for damages where it voluntarily complied with an ICE request to detain an individual, and the individual was otherwise eligible for release and that local law enforcement agencies may also be held liable for such conduct. Over 350 jurisdictions, including Washington, D.C., Cook County, Illinois, and many of California's 58 counties, have already acknowledged the discretionary nature of civil immigration detainers and are declining to hold people in their jails for the additional 48 hours as requested by ICE. Local law enforcement agencies' responsibilities, duties, and powers are regulated by state law. However, complying with non-mandatory civil immigration detainers frequently raises due process concerns.

According to Section 287.7 of Title 8 of the Code of Federal Regulations, the City is not reimbursed by the federal government for the costs associated with civil immigration detainers alone. The full cost of responding to a civil immigration detainer can include, but is not limited to, extended detention time, the administrative costs of tracking and responding to detainers, and the legal liability for erroneously holding an individual who is not subject to a civil immigration detainer. Compliance with civil immigration detainers and involvement in civil immigration enforcement diverts limited local resources from programs that are beneficial to the City.

The City seeks to protect public safety, which is founded on trust and cooperation of community residents and local law enforcement. However, civil immigration detainers and notifications regarding release undermine community trust of law enforcement by instilling fear in immigrant communities of coming forward to report crimes and cooperate with local law enforcement agencies. A 2013 study by the University of Illinois, entitled "Insecure Communities: Latino Perceptions of Police Involvement in Immigration Enforcement," found that at least 40% of Latinos surveyed are less likely to provide information to police because they fear exposing themselves, family, or friends to a risk of deportation. Indeed, civil immigration detainers have resulted in the transfer of victims of crime, including domestic violence victims, to ICE.

The City has enacted numerous laws and policies to strengthen communities and to build trust between communities and local law enforcement. Local cooperation and assistance with civil immigration enforcement undermines community policing strategies.

In 2014, DHS ended the Secure Communities program and replaced it with PEP. PEP and S-Comm share many similarities. Just as with S-Comm, PEP uses state and federal databases to check an individual's fingerprints against immigration and other databases. PEP employs a number of tactics to facilitate transfers of individuals from local jails to immigration custody.

First, PEP uses a new form (known as DHS Form I-247N), which requests notification from local jails about an individual's release date prior to his or her release from local custody. As with civil immigration detainers, these notification requests are issued by immigration officers without judicial oversight, thus raising questions

about local law enforcement's liability for constitutional violations if any person is overdetained when immigration agents are unable to be present at the time of the person's release from local custody.

Second, under PEP, ICE will continue to issue civil immigration detainer requests where local law enforcement officials are willing to respond to the requests, and in instances of "special circumstances," a term that has yet to be defined by DHS. Despite federal courts finding civil immigration detainers do not meet Fourth Amendment requirements, local jurisdictions are often unable to confirm whether or not a detention request is supported by probable cause or has been reviewed by a neutral magistrate.

The increase in information-sharing between local law enforcement and immigration officials raises serious concerns about privacy rights. Across the country, including in the California Central Valley, there has been an increase of ICE agents stationed in jails, who often have unrestricted access to jail databases, booking logs, and other documents that contain personal information of all jail inmates.

The City has an interest in ensuring that confidential information collected in the course of carrying out its municipal functions, including but not limited to public health programs and criminal investigations, is not used for unintended purposes that could hamper collection of information vital to those functions. To carry out public health programs, the City must be able to reliably collect confidential information from all residents. To solve crimes and protect the public, local law enforcement depends on the cooperation of all City residents. Information gathering and cooperation may be jeopardized if release of personal information results in a person being taken into immigration custody.

In late 2015, Pedro Figueroa, an immigrant father of an 8-year-old U.S. citizen, sought the San Francisco Police Department's help in locating his stolen vehicle. When Mr. Figueroa went to the police station to retrieve his car, which police had located, he was detained for some time by police officers before being released, and an ICE agent was waiting to take him into immigration custody immediately as he left the police station. It was later reported that both the Police Department and the San Francisco Sheriff's Department had contact with ICE officials while Mr. Figueroa was at the police station. He spent over two months in an immigration detention facility and remains in deportation proceedings. Mr. Figueroa's case has raised major concerns about local law enforcement's relationship with immigration authorities, and has weakened the immigrant community's confidence in policing practices. Community cooperation with local law enforcement is critical to investigating and prosecuting crimes. Without the cooperation of crime victims – like Mr. Figueroa – and witnesses, local law enforcement's ability to investigate and prosecute crime, particularly in communities with large immigrant populations, will be seriously compromised.

(Added by Ord. [204-13](#), File No. 130764, App. 10/8/2013, Eff. 11/7/2013; amended by Ord. [96-16](#), File No. 160022, App. 6/17/2016, Eff. 7/17/2016)

(Former Sec. 12I.1 added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.2. DEFINITIONS.

"Administrative warrant" means a document issued by the federal agency charged with the enforcement of the Federal immigration law that is used as a non-criminal, civil warrant for immigration purposes.

"Eligible for release from custody" means that the individual may be released from custody because one of the following conditions has occurred:

- (a) All criminal charges against the individual have been dropped or dismissed.
- (b) The individual has been acquitted of all criminal charges filed against him or her.
- (c) The individual has served all the time required for his or her sentence.
- (d) The individual has posted a bond, or has been released on his or her own recognizance.
- (e) The individual has been referred to pre-trial diversion services.

(f) The individual is otherwise eligible for release under state or local law.

"Civil immigration detainer" means a non-mandatory request issued by an authorized federal immigration officer under Section 287.7 of Title 8 of the Code of Federal Regulations, to a local law enforcement official to maintain custody of an individual for a period not to exceed 48 hours and advise the authorized federal immigration officer prior to the release of that individual.

"Convicted" means the state of having been proved guilty in a judicial proceeding, unless the convictions have been expunged or vacated pursuant to applicable law. The date that an individual is Convicted starts from the date of release.

"Firearm" means a device, designed to be used as a weapon, from which is expelled through a barrel, a projectile by the force of an explosion or other form of combustion as defined in Penal Code Section 16520.

"Law enforcement official" means any City Department or officer or employee of a City Department, authorized to enforce criminal statutes, regulations, or local ordinances; operate jails or maintain custody of individuals in jails; and operate juvenile detention facilities or maintain custody of individuals in juvenile detention facilities.

"Notification request" means a non-mandatory request issued by an authorized federal immigration officer to a local law enforcement official asking for notification to the authorized immigration officer of an individual's release from local custody prior to the release of an individual from local custody. Notification requests may also include informal requests for release information by the Federal agency charged with enforcement of the Federal immigration law.

"Personal information" means any confidential, identifying information about an individual, including, but not limited to, home or work contact information, and family or emergency contact information.

"Serious Felony" means all serious felonies listed under Penal Code Section 1192.7(c) that also are defined as violent felonies under Penal Code Section 667.5(c); rape as defined in Penal Code Sections 261, and 262; exploding a destructive device with intent to injure as defined in Penal Code Section 18740; assault on a person with caustic chemicals or flammable substances as defined in Penal Code Section 244; shooting from a vehicle at a person outside the vehicle or with great bodily injury as defined in Penal Code Sections 26100(c) and (d).

"Violent Felony" means any crime listed in Penal Code Section 667.5(c); human trafficking as defined in Penal Code Section 236.1; felony assault with a deadly weapon as defined in Penal Code Section 245; any crime involving use of a firearm, assault weapon, machine gun, or .50 BMG rifle, while committing or attempting to commit a felony that is charged as a sentencing enhancement as listed in Penal Code Sections 12022.4 and 12022.5.

(Added by Ord. [204-13](#), File No. 130764, App. 10/8/2013, Eff. 11/7/2013; amended by Ord. [96-16](#), File No. 160022, App. 6/17/2016, Eff. 7/17/2016)

(Former Sec. 121.2 added by Ord. 391-90, App. 12/6/90; amended by Ord. 278-96, App. 7/3/96; Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.3. RESTRICTIONS ON LAW ENFORCEMENT OFFICIALS.

(a) Except as provided in subsection (b), a law enforcement official shall not detain an individual on the basis of a civil immigration detainer after that individual becomes eligible for release from custody.

(b) Law enforcement officials may continue to detain an individual in response to a civil immigration detainer for up to 48 hours after that individual becomes eligible for release if the continued detention is consistent with state and federal law, and the individual meets both of the following criteria:

(1) The individual has been Convicted of a Violent Felony in the seven years immediately prior to the date of the civil immigration detainer; and

(2) A magistrate has determined that there is probable cause to believe the individual is guilty of a Violent Felony and has ordered the individual to answer to the same pursuant to Penal Code Section 872.

In determining whether to continue to detain an individual based solely on a civil immigration detainer as permitted in this subsection (b), law enforcement officials shall consider evidence of the individual's rehabilitation and evaluate whether the individual poses a public safety risk. Evidence of rehabilitation or other mitigating factors to consider includes, but is not limited to: the individual's ties to the community, whether the individual has been a victim of any crime, the individual's contribution to the community, and the individual's participation in social service or rehabilitation programs.

This subsection (b) shall expire by operation of law on October 1, 2016, or upon a resolution passed by the Board of Supervisors that finds for purposes of this Chapter, the federal government has enacted comprehensive immigration reform that diminishes the need for this subsection (b), whichever comes first.

(c) Except as provided in subsection (d), a law enforcement official shall not respond to a federal immigration officer's notification request.

(d) Law Enforcement officials may respond to a federal immigration officer's notification request if the individual meets both of the following criteria:

(1) The individual either:

(A) has been Convicted of a Violent Felony in the seven years immediately prior to the date of the notification request; or

(B) has been Convicted of a Serious Felony in the five years immediately prior to the date of the notification request; or

(C) has been Convicted of three felonies identified in Penal Code sections 1192.7(c) or 667.5(c), or Government Code sections 7282.5(a)(2) or 7282.5(a)(3), other than domestic violence, arising out of three separate incidents in the five years immediately prior to the date of the notification request; and

(2) A magistrate has determined that there is probable cause to believe the individual is guilty of a felony identified in Penal Code sections 1192.7(c) or 667.5(c), or Government Code sections 7282.5(a)(2) or 7282.5(a)(3), other than domestic violence, and has ordered the individual to answer to the same pursuant to Penal Code Section 872.

In determining whether to respond to a notification request as permitted by this subsection (d), law enforcement officials shall consider evidence of the individual's rehabilitation and evaluate whether the individual poses a public safety risk. Evidence of rehabilitation or other mitigating factors to consider includes, but is not limited to, the individual's ties to the community, whether the individual has been a victim of any crime, the individual's contribution to the community, and the individual's participation in social service or rehabilitation programs.

(e) Law enforcement officials shall not arrest or detain an individual, or provide any individual's personal information to a federal immigration officer, on the basis of an administrative warrant, prior deportation order, or other civil immigration document based solely on alleged violations of the civil provisions of immigration laws.

(f) Law enforcement officials shall make good faith efforts to seek federal reimbursement for all costs incurred in continuing to detain an individual, after that individual becomes eligible for release, in response each civil immigration detainer.

(Added by Ord. [204-13](#), File No. 130764, App. 10/8/2013, Eff. 11/7/2013; amended by Ord. [96-16](#), File No. 160022, App. 6/17/2016, Eff. 7/17/2016)

(Former Sec. 12I.3 added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.4. PURPOSE OF THIS CHAPTER.

The intent of this Chapter 12I is to address requests for non-mandatory civil immigration detainers, voluntary notification of release of individuals, transmission of personal information, and civil immigration documents based solely on alleged violations of the civil provisions of immigration laws. Nothing in this Chapter shall be construed to apply to matters other than those relating to federal civil immigration detainers, notification of release of individuals, transmission of personal information, or civil immigration documents, based solely on alleged violations of the civil provisions of immigration laws. In all other respects, local law enforcement agencies may continue to collaborate with federal authorities to protect public safety. This collaboration includes, but is not limited to, participation in joint criminal investigations that are permitted under local policy or applicable city or state law.

(Added by Ord. [204-13](#), File No. 130764, App. 10/8/2013, Eff. 11/7/2013; amended by Ord. [96-16](#), File No. 160022, App. 6/17/2016, Eff. 7/17/2016)

(Former Sec. 12I.4 added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.5. SEMIANNUAL REPORT.

By no later than July 1, 2014, the Sheriff and Juvenile Probation Officer shall each provide to the Board of Supervisors and the Mayor a written report stating the number of detentions that were solely based on civil immigration detainers during the first six months following the effective date of this Chapter, and detailing the rationale behind each of those civil immigration detainers. Thereafter, the Sheriff and Juvenile Probation Officer shall each submit a written report to the Board of Supervisors and the Mayor, by January 1st and July 1st of each year, addressing the following issues for the time period covered by the report:

(a) a description of all communications received from the Federal agency charged with enforcement of the Federal immigration law, including but not limited to the number of civil immigration detainers, notification requests, or other types of communications.

(b) a description of any communications the Department made to the Federal agency charged with enforcement of the Federal immigration law, including but not limited to any Department's responses to inquiries as described in subsection 12I.5 and the Department's determination of the applicability of subsections 12I.3(b), 12I.3(d) and 12I.3(e).

(Added by Ord. [204-13](#), File No. 130764, App. 10/8/2013, Eff. 11/7/2013; amended by Ord. [96-16](#), File No. 160022, App. 6/17/2016, Eff. 7/17/2016)

(Former Sec. 12I.5 added by Ord. 391-90, App. 12/6/90; amended by Ord. 304-92, App. 9/29/92; Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.6. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or word of this Chapter 12I or its¹ application, is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter 12I. The Board of Supervisors hereby declares that it would have passed this Chapter 12I and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this Chapter 12I would be subsequently declared invalid or unconstitutional.

(Added by Ord. [204-13](#), File No. 130764, App. 10/8/2013, Eff. 11/7/2013)

(Former Sec. 12I.6 added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

CODIFICATION NOTE

1. So in Ord. [204-13](#).

SEC. 12I.7. UNDERTAKING FOR THE GENERAL WELFARE.

In enacting and implementing this Chapter 12I the City is assuming an undertaking only to promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an obligation for breach of which it is liable in money damages to any person who claims that such breach proximately caused injury.

(Added by Ord. [204-13](#), File No. 130764, App. 10/8/2013, Eff. 11/7/2013)

(Former Sec. 12I.7 added by Ord. 391-90, App. 12/6/90; amended by Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.8.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 409-97, App. 10/31/97; Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.10.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

SEC. 12I.11.

(Added by Ord. 391-90, App. 12/6/90; amended by Ord. 38-01, File No. 010010, App. 3/16/2001; repealed by Ord. 171-03, File No. 030422, App. 7/3/2003)

EXHIBIT C

Presidential Documents

Executive Order 13768 of January 25, 2017

Enhancing Public Safety in the Interior of the United States

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the Immigration and Nationality Act (INA) (8 U.S.C. 1101 *et seq.*), and in order to ensure the public safety of the American people in communities across the United States as well as to ensure that our Nation's immigration laws are faithfully executed, I hereby declare the policy of the executive branch to be, and order, as follows:

Section 1. Purpose. Interior enforcement of our Nation's immigration laws is critically important to the national security and public safety of the United States. Many aliens who illegally enter the United States and those who overstay or otherwise violate the terms of their visas present a significant threat to national security and public safety. This is particularly so for aliens who engage in criminal conduct in the United States.

Sanctuary jurisdictions across the United States willfully violate Federal law in an attempt to shield aliens from removal from the United States. These jurisdictions have caused immeasurable harm to the American people and to the very fabric of our Republic.

Tens of thousands of removable aliens have been released into communities across the country, solely because their home countries refuse to accept their repatriation. Many of these aliens are criminals who have served time in our Federal, State, and local jails. The presence of such individuals in the United States, and the practices of foreign nations that refuse the repatriation of their nationals, are contrary to the national interest.

Although Federal immigration law provides a framework for Federal-State partnerships in enforcing our immigration laws to ensure the removal of aliens who have no right to be in the United States, the Federal Government has failed to discharge this basic sovereign responsibility. We cannot faithfully execute the immigration laws of the United States if we exempt classes or categories of removable aliens from potential enforcement. The purpose of this order is to direct executive departments and agencies (agencies) to employ all lawful means to enforce the immigration laws of the United States.

Sec. 2. Policy. It is the policy of the executive branch to:

(a) Ensure the faithful execution of the immigration laws of the United States, including the INA, against all removable aliens, consistent with Article II, Section 3 of the United States Constitution and section 3331 of title 5, United States Code;

(b) Make use of all available systems and resources to ensure the efficient and faithful execution of the immigration laws of the United States;

(c) Ensure that jurisdictions that fail to comply with applicable Federal law do not receive Federal funds, except as mandated by law;

(d) Ensure that aliens ordered removed from the United States are promptly removed; and

(e) Support victims, and the families of victims, of crimes committed by removable aliens.

Sec. 3. Definitions. The terms of this order, where applicable, shall have the meaning provided by section 1101 of title 8, United States Code.

Sec. 4. *Enforcement of the Immigration Laws in the Interior of the United States.* In furtherance of the policy described in section 2 of this order, I hereby direct agencies to employ all lawful means to ensure the faithful execution of the immigration laws of the United States against all removable aliens.

Sec. 5. *Enforcement Priorities.* In executing faithfully the immigration laws of the United States, the Secretary of Homeland Security (Secretary) shall prioritize for removal those aliens described by the Congress in sections 212(a)(2), (a)(3), and (a)(6)(C), 235, and 237(a)(2) and (4) of the INA (8 U.S.C. 1182(a)(2), (a)(3), and (a)(6)(C), 1225, and 1227(a)(2) and (4)), as well as removable aliens who:

- (a) Have been convicted of any criminal offense;
- (b) Have been charged with any criminal offense, where such charge has not been resolved;
- (c) Have committed acts that constitute a chargeable criminal offense;
- (d) Have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency;
- (e) Have abused any program related to receipt of public benefits;
- (f) Are subject to a final order of removal, but who have not complied with their legal obligation to depart the United States; or
- (g) In the judgment of an immigration officer, otherwise pose a risk to public safety or national security.

Sec. 6. *Civil Fines and Penalties.* As soon as practicable, and by no later than one year after the date of this order, the Secretary shall issue guidance and promulgate regulations, where required by law, to ensure the assessment and collection of all fines and penalties that the Secretary is authorized under the law to assess and collect from aliens unlawfully present in the United States and from those who facilitate their presence in the United States.

Sec. 7. *Additional Enforcement and Removal Officers.* The Secretary, through the Director of U.S. Immigration and Customs Enforcement, shall, to the extent permitted by law and subject to the availability of appropriations, take all appropriate action to hire 10,000 additional immigration officers, who shall complete relevant training and be authorized to perform the law enforcement functions described in section 287 of the INA (8 U.S.C. 1357).

Sec. 8. *Federal-State Agreements.* It is the policy of the executive branch to empower State and local law enforcement agencies across the country to perform the functions of an immigration officer in the interior of the United States to the maximum extent permitted by law.

(a) In furtherance of this policy, the Secretary shall immediately take appropriate action to engage with the Governors of the States, as well as local officials, for the purpose of preparing to enter into agreements under section 287(g) of the INA (8 U.S.C. 1357(g)).

(b) To the extent permitted by law and with the consent of State or local officials, as appropriate, the Secretary shall take appropriate action, through agreements under section 287(g) of the INA, or otherwise, to authorize State and local law enforcement officials, as the Secretary determines are qualified and appropriate, to perform the functions of immigration officers in relation to the investigation, apprehension, or detention of aliens in the United States under the direction and the supervision of the Secretary. Such authorization shall be in addition to, rather than in place of, Federal performance of these duties.

(c) To the extent permitted by law, the Secretary may structure each agreement under section 287(g) of the INA in a manner that provides the most effective model for enforcing Federal immigration laws for that jurisdiction.

Sec. 9. *Sanctuary Jurisdictions.* It is the policy of the executive branch to ensure, to the fullest extent of the law, that a State, or a political subdivision of a State, shall comply with 8 U.S.C. 1373.

(a) In furtherance of this policy, the Attorney General and the Secretary, in their discretion and to the extent consistent with law, shall ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (sanctuary jurisdictions) are not eligible to receive Federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary. The Secretary has the authority to designate, in his discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction. The Attorney General shall take appropriate enforcement action against any entity that violates 8 U.S.C. 1373, or which has in effect a statute, policy, or practice that prevents or hinders the enforcement of Federal law.

(b) To better inform the public regarding the public safety threats associated with sanctuary jurisdictions, the Secretary shall utilize the Declined Detainer Outcome Report or its equivalent and, on a weekly basis, make public a comprehensive list of criminal actions committed by aliens and any jurisdiction that ignored or otherwise failed to honor any detainers with respect to such aliens.

(c) The Director of the Office of Management and Budget is directed to obtain and provide relevant and responsive information on all Federal grant money that currently is received by any sanctuary jurisdiction.

Sec. 10. *Review of Previous Immigration Actions and Policies.* (a) The Secretary shall immediately take all appropriate action to terminate the Priority Enforcement Program (PEP) described in the memorandum issued by the Secretary on November 20, 2014, and to reinstitute the immigration program known as “Secure Communities” referenced in that memorandum.

(b) The Secretary shall review agency regulations, policies, and procedures for consistency with this order and, if required, publish for notice and comment proposed regulations rescinding or revising any regulations inconsistent with this order and shall consider whether to withdraw or modify any inconsistent policies and procedures, as appropriate and consistent with the law.

(c) To protect our communities and better facilitate the identification, detention, and removal of criminal aliens within constitutional and statutory parameters, the Secretary shall consolidate and revise any applicable forms to more effectively communicate with recipient law enforcement agencies.

Sec. 11. *Department of Justice Prosecutions of Immigration Violators.* The Attorney General and the Secretary shall work together to develop and implement a program that ensures that adequate resources are devoted to the prosecution of criminal immigration offenses in the United States, and to develop cooperative strategies to reduce violent crime and the reach of transnational criminal organizations into the United States.

Sec. 12. *Recalcitrant Countries.* The Secretary of Homeland Security and the Secretary of State shall cooperate to effectively implement the sanctions provided by section 243(d) of the INA (8 U.S.C. 1253(d)), as appropriate. The Secretary of State shall, to the maximum extent permitted by law, ensure that diplomatic efforts and negotiations with foreign states include as a condition precedent the acceptance by those foreign states of their nationals who are subject to removal from the United States.

Sec. 13. *Office for Victims of Crimes Committed by Removable Aliens.* The Secretary shall direct the Director of U.S. Immigration and Customs Enforcement to take all appropriate and lawful action to establish within U.S. Immigration and Customs Enforcement an office to provide proactive, timely, adequate, and professional services to victims of crimes committed by removable aliens and the family members of such victims. This office shall provide quarterly reports studying the effects of the victimization by criminal aliens present in the United States.

Sec. 14. *Privacy Act.* Agencies shall, to the extent consistent with applicable law, ensure that their privacy policies exclude persons who are not United States citizens or lawful permanent residents from the protections of the Privacy Act regarding personally identifiable information.

Sec. 15. *Reporting.* Except as otherwise provided in this order, the Secretary and the Attorney General shall each submit to the President a report on the progress of the directives contained in this order within 90 days of the date of this order and again within 180 days of the date of this order.

Sec. 16. *Transparency.* To promote the transparency and situational awareness of criminal aliens in the United States, the Secretary and the Attorney General are hereby directed to collect relevant data and provide quarterly reports on the following:

(a) the immigration status of all aliens incarcerated under the supervision of the Federal Bureau of Prisons;

(b) the immigration status of all aliens incarcerated as Federal pretrial detainees under the supervision of the United States Marshals Service; and

(c) the immigration status of all convicted aliens incarcerated in State prisons and local detention centers throughout the United States.

Sec. 17. *Personnel Actions.* The Office of Personnel Management shall take appropriate and lawful action to facilitate hiring personnel to implement this order.

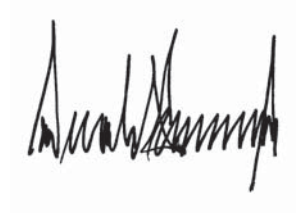
Sec. 18. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

A handwritten signature in black ink, appearing to be "Donald Trump", is located in the upper right quadrant of the page. The signature is stylized with a large, prominent 'D' and a series of sharp, vertical strokes.

THE WHITE HOUSE,
January 25, 2017.

EXHIBIT D



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- AUGUST 31, 2016 -

DONALD J. TRUMP: ADDRESS ON IMMIGRATION

Thank you, Phoenix. I am so glad to be back in Arizona, a state that has a very special place in my heart.

I love the people of Arizona and, together, we are going to win the White House in November.

Tonight is not going to be a normal rally speech.

Instead, I am going to deliver a detailed policy address on one of the greatest challenges facing our country today: immigration.

I have just landed having returned from a very important and special meeting with the President of Mexico – a man I like and respect very much, and a man who truly loves his country. Just like I am a man who loves the United States.

We agreed on the importance of ending the illegal flow of drugs, cash, guns and people across our border, and to put the cartels out of business.

We also discussed the great contributions of Mexican-American citizens to our two countries, my love for the people of Mexico, and the close friendship between our two nations.

It was a thoughtful and substantive conversation. This is the first of what I expect will be many conversations in a Trump Administration about creating a new relationship between our two countries.

But to fix our immigration system, we must change our leadership in Washington. There is no other way.

The truth is, our immigration system is worse than anyone realizes. But the facts aren't known because the media won't report on them, the politicians won't talk about them, and the special interests spend a lot of money trying to cover them up.

Today you will get the truth.

The fundamental problem with the immigration system in our country is that it serves the needs of wealthy donors, political activists and powerful politicians. Let me tell you who it doesn't serve: it doesn't serve you, the American people.

When politicians talk about immigration reform, they usually mean the following: amnesty, open borders, and lower wages.

Immigration reform should mean something else entirely: it should mean improvements to our laws and policies to make life better for American citizens.

But if we are going to make our immigration system work, then we have to be prepared to talk honestly and without fear about these important and sensitive issues.

CATEGORIES

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STATEMENTS

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OCTOBER 2016

SEPTEMBER 2016

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MAY 2016

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DECEMBER 2015

NOVEMBER 2015

OCTOBER 2015

SEPTEMBER 2015

AUGUST 2015

JULY 2015

JUNE 2015

MAY 2015

APRIL 2015

MARCH 2016

For instance, we have to listen to the concerns that working people have over the record pace of immigration and its impact on their jobs, wages, housing, schools, tax bills, and living conditions. These are valid concerns, expressed by decent and patriotic citizens from all backgrounds.

We also have to be honest about the fact that not everyone who seeks to join our country will be able to successfully assimilate. It is our right as a sovereign nation to choose immigrants that we think are the likeliest to thrive and flourish here.

Then there is the issue of security. Countless innocent American lives have been stolen because our politicians have failed in their duty to secure our borders and enforce our laws.

I have met with many of the parents who lost their children to Sanctuary Cities and open borders. They will be joining me on the stage later today.

Countless Americans who have died in recent years would be alive today if not for the open border policies of this Administration. This includes incredible Americans like 21-year-old Sarah Root. The man who killed her arrived at the border, entered federal custody, and then was released into a U.S. community under the policies of this White House. He was released again after the crime, and is now at large.

Sarah had graduated from college with a 4.0, top of her class, the day before.

Also among the victims of the Obama-Clinton open borders policies was Grant Ronnebeck, a 21 year-old convenience store clerk in Mesa, Arizona. He was murdered by an illegal immigrant gang member previously convicted of burglary who had also been released from Federal Custody.

Another victim is Kate Steinle, gunned down in the Sanctuary City of San Francisco by an illegal immigrant deported five previous times.

Then there is the case of 90 year-old Earl Olander, who was brutally beaten and left to bleed to death in his home. The perpetrators were illegal immigrants with criminal records who did not meet the Obama Administration's priorities for removal.

In California, a 64 year-old Air Force Veteran, Marilyn Pharis, was sexually assaulted and beaten to death with a hammer. Her killer had been arrested on multiple occasions, but was never deported.

A 2011 report from the Government Accountability Office found that illegal immigrants and other non-citizens in our prisons and jails together had around 25,000 homicide arrests to their names.

On top of that, illegal immigration costs our country more than \$113 billion dollars a year. For the money we are going to spend on illegal immigration over the next ten years, we could provide one million at-risk students with a school voucher.

While there are many illegal immigrants in our country who are good people, this doesn't change the fact that most illegal immigrants are lower-skilled workers with less education who compete directly against vulnerable American workers, and that these illegal workers draw much more out from the system than they will ever pay in.

But these facts are never reported.

Instead, the media and my opponent discuss one thing, and only this one thing: the needs of people living here illegally.

The truth is, the central issue is not the needs of the 11 million illegal immigrants – or however many there may be.

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That has never been the central issue. It will never be the central issue.

Anyone who tells you that the core issue is the needs of those living here illegally has simply spent too much time in Washington.

Only out of touch media elites think the biggest problem facing American society today is that there are 11 million illegal immigrants who don't have legal status.

To all the politicians, donors and special interests, hear these words from me today: there is only one core issue in the immigration debate and it is this: the well-being of the American people. Nothing even comes a close second.

Hillary Clinton, for instance, talks constantly about her fears that families will be separated. But she's not talking about the American families who have been permanently separated from their loved ones because of a preventable death. No, she's only talking about families who came here in violation of the law.

We will treat everyone living or residing in our country with dignity. We will be fair, just and compassionate to all. But our greatest compassion must be for American citizens.

President Obama and Hillary Clinton have engaged in gross dereliction of duty by surrendering the safety of the American people to open borders. President Obama and Hillary Clinton support Sanctuary Cities, they support catch-and-release on the border, they support visa overstay, they support the release of dangerous criminals from detention – and they support unconstitutional executive amnesty.

Hillary Clinton has pledged amnesty in her first 100 days, and her plan will provide Obamacare, Social Security and Medicare for illegal immigrants – breaking the federal budget. On top of that, she promises uncontrolled low-skilled immigration that continues to reduce jobs and wages for American workers, especially African-American and Hispanic workers. This includes her plan to bring in 620,000 new refugees in a four-year term.

Now that you've heard about Hillary Clinton's plan – about which she has not answered a single substantive question – let me tell you about my plan.

While Hillary Clinton meets only with donors and lobbyists, my plan was crafted with the input from federal immigration officers, along with top immigration experts who represent workers, not corporations. I also worked with lawmakers who've led on this issue on behalf of American citizens for many years, and most importantly, I've met with the people directly impacted by these policies.

Number One: We will build a wall along the Southern Border.

On day one, we will begin working on an impenetrable physical wall on the southern border. We will use the best technology, including above-and below-ground sensors, towers, aerial surveillance and manpower to supplement the wall, find and dislocate tunnels, and keep out the criminal cartels, and Mexico will pay for the wall.

Number Two: End Catch-And-Release

Under my Administration, anyone who illegally crosses the border will be detained until they are removed out of our country.

Number Three: Zero tolerance for criminal aliens.

According to federal data, there are at least 2 million criminal aliens now inside the country. We will begin moving them out day one, in joint operations with local, state and federal law enforcement.

Beyond the 2 million, there are a vast number of additional criminal illegal immigrants who have fled or evaded justice. But their days on the run will soon be over. They go out, and they go out fast.

Moving forward, we will issue detainers for all illegal immigrants who are arrested for any crime whatsoever, and they will be placed into immediate removal proceedings. We will terminate the Obama Administration's deadly non-enforcement policies that allow thousands of criminal aliens to freely roam our streets.

Since 2013 alone, the Obama Administration has allowed 300,000 criminal aliens to return back into U.S. communities – these are individuals encountered or identified by ICE but who were not detained or processed for deportation.

My plan also includes cooperating closely with local jurisdictions to remove criminal aliens.

We will restore the highly successful Secure Communities program. We will expand and revitalize the popular 287(g) partnerships, which will help to identify hundreds of thousands of deportable aliens in local jails. Both of these programs have been recklessly gutted by this Administration. This is yet one more area where we are headed in a totally opposite direction.

On my first day in office, I am also going to ask Congress to pass "Kate's Law" – named for Kate Steinle – to ensure that criminal aliens convicted of illegal reentry face receive strong mandatory minimum sentences.

Another reform I am proposing is the passage of legislation named for Detective Michael Davis and Deputy Sheriff Danny Oliver, two law enforcement officers recently killed by a previously-deported illegal immigrant. The Davis-Oliver bill will enhance cooperation with state and local authorities to ensure that criminal immigrants and terrorists are swiftly identified and removed.

We are going to triple the number of ICE deportation officers. Within ICE, I am going to create a new special Deportation Task Force, focused on identifying and removing quickly the most dangerous criminal illegal immigrants in America who have evaded justice.

The local police know who every one of these criminals are. There's no great mystery to it, they've put up with it for years. And now, finally, we will turn the tables and law enforcement will be allowed to clear up this dangerous and threatening mess.

We're also going to hire 5,000 more Border Patrol agents, and put more of them on the border, instead of behind desks. We will expand the number of Border Patrol Stations.

I've had a chance to spend time with these incredible law enforcement officers, and I want to take a moment to thank them. The endorsement I've received from the Border Patrol officers means more to me than I can say.

Number Four: Block Funding For Sanctuary Cities

We will end the Sanctuary Cities that have resulted in so many needless deaths. Cities that refuse to cooperate with federal authorities will not receive taxpayer dollars, and we will work with Congress to pass legislation to protect those jurisdictions that do assist federal authorities.

Number Five: Cancel Unconstitutional Executive Orders & Enforce All Immigration Laws

We will immediately terminate President Obama's two illegal executive amnesties, in which he defied federal law and the constitution to give amnesty to approximately 5 million illegal immigrants.

Hillary Clinton has pledged to keep both of these illegal amnesty programs – including the 2014 amnesty which has been blocked by the Supreme Court. Clinton has also pledged to add a third executive amnesty.

Clinton's plan would trigger a Constitutional Crisis unlike almost anything we have ever seen before. In effect, she would be abolishing the lawmaking powers of Congress in order to write her own laws from the Oval Office.

In a Trump Administration, all immigration laws will be enforced. As with any law enforcement activity, we will set priorities. But, unlike this Administration, no one will be immune or exempt from enforcement – and ICE and Border Patrol officers will be allowed to do their jobs. Anyone who has entered the United States illegally is subject to deportation – that is what it means to have laws and to have a country.

Our enforcement priorities will include removing criminals, gang members, security threats, visa overstays, public charges – that is, those relying on public welfare or straining the safety net, along with millions of recent illegal arrivals and overstays who've come here under the current Administration.

Number Six: We Are Going To Suspend The Issuance Of Visas To Any Place Where Adequate Screening Cannot Occur

According to data provided to the Senate Subcommittee on Immigration and the National Interest, between 9/11 and the end of 2014, at least 380 foreign-born individuals were convicted in terror cases inside the United States. The number is likely higher, but the Administration refuses to provide this information to Congress.

As soon as I enter office, I am going to ask the Department of State, Homeland Security and the Department of Justice to begin a comprehensive review of these cases in order to develop a list of regions and countries from which immigration must be suspended until proven and effective vetting mechanisms can be put into place.

Countries from which immigration will be suspended would include places like Syria and Libya.

For the price of resettling 1 refugee in the United States, 12 could be resettled in a safe zone in their home region.

Another reform involves new screening tests for all applicants that include an ideological certification to make sure that those we are admitting to our country share our values and love our people.

For instance, in the last five years, we've admitted nearly 100,000 immigrants from Iraq and Afghanistan – in these two countries, according to Pew research, a majority of residents say that the barbaric practice of honor killings against women are often or sometimes justified.

Applicants will be asked for their views about honor killings, about respect for women and gays and minorities, attitudes on Radical Islam, and many other topics as part of the vetting procedure.

Number Seven: We will ensure that other countries take their people back when we order them deported

There are at least 23 countries that refuse to take their people back after they have been ordered to leave the United States, including large numbers of violent criminals. Due to a Supreme Court decision, if these violent offenders cannot be sent home, our

law enforcement officers have to release them into U.S. communities. There are often terrible consequences, such as Casey Chadwick's tragic death in Connecticut just last year. Yet, despite the existence of a law that commands the Secretary of State to stop issuing visas to these countries, Secretary Hillary Clinton ignored this law and refused to use this powerful tool to bring nations into compliance.

The result of her misconduct was the release of thousands of dangerous criminal aliens who should have been sent home.

According to a report from the Boston Globe, from the year 2008 through 2014, nearly 13,000 criminal aliens were released back into U.S. communities because their home countries would not take them back. Many of these 13,000 releases occurred on Hillary Clinton's watch – she had the power and the duty to stop it cold and she didn't do it.

Those released include individuals convicted of killings, sexual assault and some of the most heinous crimes imaginable, who went on to reoffend at a very high rate.

Number Eight: We will finally complete the biometric entry-exit visa tracking system.

For years, Congress has required a biometric entry-exit visa tracking system, but it has never been completed.

In my Administration, we will ensure that this system is in place at all land, air, and sea ports. Approximately half of new illegal immigrants came on temporary visas and then never left. Beyond violating our laws, visa overstays pose a substantial threat to national security. The 9/11 Commission said that this tracking system should be a high priority and "would have assisted law enforcement and intelligence officials in August and September 2001 in conducting a search for two of the 9/11 hijackers that were in the U.S. on expired visas."

Last year alone, nearly a half a million individuals overstayed their temporary visas. Removing visa overstays will be a top priority of my Administration. If people around the world believe they can just come on a temporary visa and never leave – the Obama-Clinton policy – then we have a completely open border. We must send the message that visa expiration dates will be strongly enforced.

Number Nine: We will turn off the jobs and benefits magnet.

We will ensure that E-Verify is used to the fullest extent possible under existing law, and will work with Congress to strengthen and expand its use across the country.

Immigration law doesn't exist just for the purpose of keeping out criminals. It exists to protect all aspects of American life – the worksite, the welfare office, the education system and much else. That is why immigration limits are established in the first place. If we only enforce the laws against crime, then we have an open border to the entire world.

I will enforce all of our immigration laws.

The same goes for government benefits. The Center for Immigration Studies estimates that 62 percent of households headed by illegal immigrants used some form of cash or non-cash welfare programs, like food stamps or housing assistance. This directly violates the federal public charge law designed to protect the U.S. treasury.

Those who abuse our welfare system will be priorities for removal.

Number 10: We will reform legal immigration to serve the best interests of America and its workers

We've admitted 59 million immigrants to the United States between 1965 and 2015.

Many of these arrivals have greatly enriched our country. But we now have an obligation to them, and to their children, to control future immigration – as we have following previous immigration waves – to ensure assimilation, integration and upward mobility.

Within just a few years immigration as a share of national population is set to break all historical records.

The time has come for a new immigration commission to develop a new set of reforms to our legal immigration system in order to achieve the following goals:

- To keep immigration levels, measured by population share, within historical norms
- To select immigrants based on their likelihood of success in U.S. society, and their ability to be financially self-sufficient. We need a system that serves our needs – remember, it's America First.
- To choose immigrants based on merit, skill and proficiency
- And to establish new immigration controls to boost wages and to ensure that open jobs are offered to American workers first.

We want people to come into our country, but they have to come in legally and properly-vetted, and in a manner that serves the national interest.

We've been living under outdated immigration rules from decades ago. To avoid this happening in the future, I believe we should sunset our visa laws so that Congress is forced to periodically revise and revisit them. We wouldn't put our entire federal budget on autopilot for decades, so why should we do the same for immigration?

Let's talk about the big picture

These ten steps, if rigorously followed and enforced, will accomplish more in a matter of months than our politicians have accomplished on this issue in the last fifty years.

Because I am not a politician, because I am not beholden to any special interest, I will get this done for you and your family.

We will accomplish all of the steps outlined above, and when we do, peace and law and justice and prosperity will prevail. Crime will go down, border crossings will plummet, gangs will disappear, and welfare use will decrease. We will have a peace dividend to spend on rebuilding America, beginning with our inner cities.

For those here today illegally who are seeking legal status, they will have one route and only one route: to return home and apply for re-entry under the rules of the new legal immigration system that I have outlined above. Those who have left to seek entry under this new system will not be awarded surplus visas, but will have to enter under the immigration caps or limits that will be established.

We will break the cycle of amnesty and illegal immigration. There will be no amnesty.

Our message to the world will be this: you cannot obtain legal status, or become a citizen of the United States, by illegally entering our country.

This declaration alone will help stop the crisis of illegal crossings and illegal overstays.

People will know that you can't just smuggle in, hunker down, and wait to be legalized. Those days are over.

In several years, when we have accomplished all of our enforcement goals – and truly ended illegal immigration for good, including the construction of a great wall, and the establishment of our new lawful immigration system – then and only then will we be in a position to consider the appropriate disposition of those who remain. That discussion can only take place in an atmosphere in which illegal immigration is a

memory of the past, allowing us to weigh the different options available based on the new circumstances at the time.

Right now, however, we are in the middle of a jobs crisis, a border crisis, and a terrorism crisis. All energies of the federal government and the legislative process must now be focused on immigration security. That is the only conversation we should be having at this time.

Whether it's dangerous materials being smuggled across the border, terrorists entering on visas, or Americans losing their jobs to foreign workers, these are the problems we must now focus on fixing – and the media needs to begin demanding to hear Hillary Clinton's answer on how her policies will affect Americans and their security.

These are matters of life-and-death for our country and its people, and we deserve answers from Hillary Clinton.

What we do know, despite the total lack of media curiosity, is that Hillary Clinton promises a radical amnesty combined with a radical reduction in immigration enforcement. The result will be millions more illegal immigrants, thousands more violent crimes, and total chaos and lawlessness.

This election is our last chance to secure the border, stop illegal immigration, and reform our laws to make your life better.

This is it. We won't get another opportunity – it will be too late.

So I want to remind everyone what we are fighting for – and who we are fighting for.

So I am going to ask all the Angel Moms to come join me on the stage right now.

[[PAUSE FOR ANGEL MOMS – EACH SAYS THE NAME OF THEIR CHILD INTO THE MICROPHONE]]

Now is the time for these voices to be heard.

Now is the time for the media to begin asking questions on their behalf.

Now is the time for all of us, as one country, Democrat and Republican, liberal and conservative, to band together to deliver justice and safety and security for all Americans.

Let's fix this problem.

Let's secure our border.

Let's stop the drugs and the crime.

Let's protect our Social Security and Medicare.

And let's get unemployed Americans off of welfare and back to work in their own country.

Together, we can save American lives, American jobs, and American futures.

Together, we can save America itself.

Join me in this mission to Make America Great Again.

Thank you, and God Bless you all!

Next Release: **Donald J. Trump Remarks in Mexico City, Mexico**

Previous Release: **SENATOR DAVID PERDUE STATEMENT ON TRUMP'S IMMIGRATION
SPEECH**

EXHIBIT E

President Donald Trump is Interviewed on Fox, 2017 WLNR 3753383

NewsRoom

2/5/17 Fed. News Serv. Transcripts (Pg. Unavail. Online)
2017 WLNR 3753383

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February 5, 2017

President Donald Trump is Interviewed on Fox

Subject: Politics Time: 16:00:00 Date: 2017-02-05

BILL O'REILLY, FOX NEWS HOST: So another big week for the Trump administration. Judge Gorsuch, that roll-out went very smoothly I think.

DONALD TRUMP, PRESIDENT OF THE UNITED STATES: Yes it did.

O'REILLY: All right. But the refugee deal, not so much.

TRUMP: I think it was very smooth. You had 109 people out of hundreds of thousands of travelers and all we did was vet those people very, very carefully.

O'REILLY: You wouldn't do anything differently if you had to do it over again?

(CROSSTALK)

TRUMP: Look...

O'REILLY: I mean, some of your people didn't really know what the order was?

TRUMP: Well, that's not what General Kelly said. General Kelly, who's now Secretary Kelly, he said he totally knew, he was aware of it, and it was very smooth.

O'REILLY: All right.

TRUMP: It was 109 people.

O'REILLY: Let's talk about Iran. Your assessment; do you think we're on a collision course, we being the United States, with that country?

TRUMP: I think it was the worst deal I've ever seen negotiated. I think it was a deal that should of never been negotiated.

O'REILLY: The nuke deal you're talking about?

TRUMP: Absolutely. The deal that was made by the Obama administration. I think it's a shame that we've had a deal like that and that we had to sign a deal like that. And there was no reason to do it. And, if you're going to do it, have a good deal.

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We gave them \$1.7 billion in cash, which is unheard of. And we put the money up and we have really nothing to show for it.

O'REILLY: Possible you tear it up?

TRUMP: We'll see what happens.

(CROSSTALK)

O'REILLY: So it's possible.

TRUMP: I mean, we're going to see what happens. I can say this, they have total disregard for our country. They are the number one terrorist state. They're sending money all over the place -- and weapons. And can't do that.

O'REILLY: Sanctions, that's how you're going to start with them?

TRUMP: Just started .

O'REILLY: But you're moving a carrier right?

TRUMP: I never talk about military moves. I always criticized President Obama where they'd have an announcement that they're going into Mosul or they're going to some place and they give the name, the date, the time, I don't believe in that.

O'REILLY: So you're not real bullish on Iran at this point?

TRUMP: No, I'm not bullish. I think they have total disrespect for our country. I understand, that deal -- I would of lived with it if they said, OK, we're all together now.

But it was just the opposite. It's like they're emboldened where they follow our planes, they circle our ships with their little boats, and they lost respect because they can't believe anybody could be so stupid as to make a deal like that.

O'REILLY: You talked to Putin last week, you had a busy week last week.

TRUMP: A pretty busy week, yes, busy week-and-a-half.

O'REILLY: Do you respect Putin?

TRUMP: I do respect him but...

O'REILLY: Do you? Why?

TRUMP: Well, I respect a lot of people but that doesn't mean I'm going to get along with them. He's a leader of his country. I say it's better to get along with Russia than not. And if Russia helps us in the fight against ISIS, which is a major fight, and Islamic terrorism all over the world...

O'REILLY: Right.

TRUMP: Major fight, that's a good thing. Will I get along with him? I have no idea.

O'REILLY: But he's a killer though. Putin's a killer.

TRUMP: There are a lot of killers. We've got a lot of killers. What, you think our country's so innocent? You think our country's so innocent?

O'REILLY: I don't know of any government leaders that are killers.

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TRUMP: Well, take a look at what we've done too. We've made a lot of mistakes. I've been against the war in Iraq from the beginning.

O'REILLY: Yes. Mistakes are different than...

TRUMP: A lot of mistakes, OK, but a lot of people were killed. So a lot of killers around, believe me.

O'REILLY: All right. Let's talk about Mexico. There was a report you talked to President Nieto and you told him -- this was the report, I want to know if it's true or not, that if his army couldn't handle the drug cartels that U.S. Army soldiers would, did you say that?

TRUMP: We have to do something about the cartels. I did talk to him about it. I want to help him with it. I think he's a very good man. We have a very good relationship, as you probably know. He seemed very willing to get help from us because he has got a problem.

O'REILLY: Got a problem.

TRUMP: And it's a real problem for us. Don't forget those cartels are operating in our country and they're poisoning the youth of our country.

O'REILLY: At this point do you consider Mexico a corrupt country? Because this stuff has been going on for decades.

TRUMP: I love the people. I really like this administration. I think he's a good man. We get along very well. But they have problems controlling aspects of their country, there's no question about it.

And I would say the drugs and the drug cartels, number one.

O'REILLY: Have you figured out what kind of a tariff you're going to levy on Mexico to pay for the wall?

TRUMP: Well, right now it's very unfavorable. Right now we're losing our jobs to Mexico. You look at the plants, you look at these massive plants.

And I have to tell you I've turned it around, already I've turned it around, you see that. Ford has been phenomenal. They canceled the plan. They're building tremendous...

O'REILLY: Yes, you intimidated them. They're afraid of you.

TRUMP: No, General Motors has got Mary Barra...

O'REILLY: Oh come on, they're afraid of you. You know these companies.

TRUMP: I don't know if they're afraid -- no, no, they want to do what's right.

O'REILLY: They want to do what's right?

TRUMP: They're going to bring jobs back...

O'REILLY: Why didn't they do what was right in the past? They're afraid of you.

TRUMP: Because the wrong people spoke to them. But they're going to do what's right and they're bringing jobs back to Michigan and Ohio...

O'REILLY: All right.

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TRUMP: ... and Pennsylvania and all the places that have lost the jobs. So that's already happening. I think you're going to see a tremendous job growth in this country.

O'REILLY: Let's turn domestic policy. I just spent the week in California. As you know, they are now voting on whether they should become a sanctuary state.

So California and the USA are on a collision course. How do you see it?

TRUMP: Well, I think it's ridiculous. Sanctuary cities, as you know, I'm very much opposed to sanctuary cities. They breed crime. There's a lot of problems. If we have to we'll defund, we give tremendous amounts of money to California...

O'REILLY: So you're going to defund...

TRUMP: California in many ways is out of control, as you know. Obviously the voters agree, otherwise they wouldn't have voted for me.

O'REILLY: So defunding is your weapon of choice...

TRUMP: Well, it's a weapon, I don't want to defund the state or a city.

O'REILLY: But you're willing to do it.

TRUMP: I don't want to defund anybody. I want to give them the money they need to properly operate as a city or a state. If they're going to have sanctuary cities, we may have to do that. Certainly that would be a weapon.

O'REILLY: Is there any validity to the criticism of you that you say things you can't back up factually, and as the president, if you say, for example, that there are 3 million illegal aliens who voted, and then you don't have the data to back it up, some people are going to say, that's irresponsible for a president to say that, is there any validity to it?

TRUMP: Well, many people have come out and said I am right, you know that. O'REILLY: I know, but you have got to have data to back that up.

TRUMP: Let me just tell you -- let me just tell you, and it doesn't have to do with the vote, although the end result. It has to do with the registration. And when you look at the registration and you see dead people that have voted, when you see people that are registered in two states, that have voted in two states, when you see other things, when you see illegals, people that are not citizens and they are on the registration roles.

Look, Bill, we can be babies, but you take a look at the registration, you have illegals, you have dead people, you have this, it's really a bad situation, it's really bad. And... O'REILLY: So you think you're going to be proven correct in that statement?

TRUMP: Well, I think I already have, a lot of people have come out and said that I am correct.

O'REILLY: Yes, but the data has to show that 3 million illegals voted.

TRUMP: Look, forget that, forget all of that, just take a look at the registration and we're going to do it. And I'm going to set up a commission to be headed by Vice President Mike Pence, and we're going to look at it very, very carefully.

O'REILLY: Well, that's good. Let's get to the bottom of it.

2017, can Americans expect a tax cut?

TRUMP: I think so, yes. And I think that before the end of the year I would like to say yes.

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O'REILLY: OK, can Americans in 2017 expect a new health care plan rolled out by the Trump administration this year?

TRUMP: Yes, in the process and maybe it'll take till sometime into next year but we're certainly going to be in the process. Very complicated, Obamacare is a disaster. You have to remember, Obamacare doesn't work.

So we are putting in a wonderful plan. It's -- statutorily it takes a while to get. We're going to be putting it in fairly soon. I think that, yes, I would like to say by the end of the year, at least the rudiments, but we should have something within the year and the following year.

O'REILLY: All right. Last question, you get four hours of sleep or some crazy thing like that. When your head hits the pillow, do you ever say to yourself, I can't believe I'm here, I cannot believe that I am the president of the United States when I wasn't a politician, I didn't start out this way, that wasn't my life goal, does that ever come into your mind? TRUMP: Well, I must tell you, the other day I walked into the main entrance of the White House and I said to myself, this is sort of amazing, or you walk into Air Force One. It's like a surreal experience in a certain way, but you have to get over it, because there's so much work to be done, whether it's jobs or other nations that truly hate us, you have to get over it.

O'REILLY: Football, how do you see this game?

TRUMP: Well, I like Bob Kraft, I like Coach Belichick, and Tom Brady's my friend.

O'REILLY: They're all taking gas because of that, you know they're...

TRUMP: I know they're taking a lot of heat.

(CROSSTALK)

O'REILLY: Right.

TRUMP: But you know what, they're also getting a lot popularity out of it. I think they're going to do very well. Tom's a winner. He's going to win.

O'REILLY: So you're rooting for the Patriots.

TRUMP: The coach is a great coach. I think the other team is fantastic though. No, I think it's a fantastic team, turned out to be a good quarterback. But, you know, there's less pressure on the Patriots because they've been there.

You know, once you've won, once you've done it, and they've done it, once you've done it there's a lot less pressure. So we'll see what happens. But, you know, you have to stick up for your friends, right?

O'REILLY: Sure, now FOX Sports is demanding I ask you to make a prediction.

TRUMP: Well, I hate to make predictions.

O'REILLY: But you have to.

TRUMP: I hate to do it. But I'll say...

(CROSSTALK)

O'REILLY: ... leave and let you do it.

TRUMP: I'll say I don't even know what are the odds; I guess it's pretty even, right, two great teams.

O'REILLY: Yes, but you've got to.

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TRUMP: Pretty even. So I'll say the Patriots will win.

O'REILLY: By how many points?

TRUMP: By 8 points.

O'REILLY: All right. So that's a good presidential prediction and we'll see.

(CROSSTALK)

TRUMP: ... doing those things, but that's OK.

O'REILLY: You don't need data on that?

TRUMP: I need no data.

O'REILLY: OK. Mr. President, thanks very much for taking the time.

TRUMP: Thank you so much.

END

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NewsRoom

EXHIBIT F



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Standing Up For Our Law Enforcement Community

One of the fundamental rights of every American is to live in a safe community. A Trump Administration will empower our law enforcement officers to do their jobs and keep our streets free of crime and violence. The Trump Administration will be a law and order administration. President Trump will honor our men and women in uniform and will support their mission of protecting the public. The dangerous anti-police atmosphere in America is wrong. The Trump Administration will end it.

The Trump Administration is committed to reducing violent crime. In 2015, homicides increased by 17% in America's fifty largest cities. That's the largest increase in 25 years. In our nation's capital, killings rose by 50 percent over the past four years. There were thousands of shootings in Chicago last year alone.

Our country needs more law enforcement, more community engagement, and more effective policing.

Our job is not to make life more comfortable for the rioter, the looter, or the violent disrupter. Our job is to make life more comfortable for parents who want their kids to be able to walk the streets safely. Or the senior citizen waiting for a bus. Or the young child walking home from school.

Supporting law enforcement means supporting our citizens' ability to protect themselves. We will uphold Americans' Second Amendment rights at every level of our judicial system.

President Trump is committed to building a border wall to stop illegal immigration, to stop the gangs and the violence, and to stop the drugs from pouring into our communities. He is dedicated to enforcing our border laws, ending sanctuary cities, and stemming the tide of lawlessness associated with illegal immigration.

Supporting law enforcement also means deporting illegal aliens with violent criminal records who have remained within our borders.

It is the first duty of government to keep the innocent safe, and President Donald Trump will fight for the safety of every American, and especially those Americans who have not known safe neighborhoods for a very long time.



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EXHIBIT G

**IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA**

JAMES LACROIX,

CASE NO. F17-376

F17-1770

Petitioner,

v.

DANIEL JUNIOR

as director of the Miami-Dade County Department of Corrections,

Respondent.

_____ /

ORDER ON PETITION FOR WRIT OF *HABEAS CORPUS*

Petitioner is charged with no crime and is serving no sentence. Yet he was, at the time these proceedings were initiated, incarcerated in the Miami-Dade County correctional system with no prospect of imminent release. Seeking to have his liberty restored immediately, he brings this petition for writ of *habeas corpus*. See *gen'ly* Fla. Const. Art. I § 13; Fla. Stat. Ch. 79.

I. Facts

The present petition is a consequence of an important change in the policy of the Miami-Dade County Department of Corrections (“the Department”). That change in policy is in turn a consequence of a recent presidential order.

The Department “operates the eighth largest jail system in the country. There are between 4,300 [and] 4,500 persons incarcerated daily in [its] four detention facilities.” See <http://www.miamidade.gov/corrections/>. The cost to Miami-Dade County of incarcerating its inmate population is staggering. Understandably, the county is not eager to house anyone it is not obliged to house, and not eager to house anyone any longer than it is obliged to house him. If

an inmate is convicted and given more than a year's sentence he will be shipped off to state prison, where the state and not the county will bear the burden of maintaining him. If an inmate is acquitted or his case otherwise resolved, he will be released forthwith.

It often happens, however, that Immigrations and Customs Enforcement ("ICE"), the federal agency responsible for the deportation of those whose presence in this country is unlawful, will file a detainer or lodge a request with the Department, seeking to have the Department retain an inmate whom the Department would otherwise release, so that ICE can arrange to take custody of him. *See* Respondent's "Response to Emergency Petition for Writ of *Habeas Corpus* and Motion to Dismiss" (hereinafter "Response") at 2 (referring to DHS Form I-247X, one of the documents commonly employed by ICE to give notice that it wishes someone held by the Department). Such detainers or requests are not evidence that a crime has been committed, or that someone is in this country illegally. They are not evidence of anything. They simply indicate that ICE believes it has a basis to inquire further as to the status of the person sought. *See* Response at 3.

This practice, however, gives rise to two inequities. First, it obliges the Department to house, oversee, and control prisoners in whom neither the state nor the county has any ongoing interest; and it obliges the Department to do so at county expense, because neither ICE nor any other instrumentality of the federal government makes the county whole for the cost of this housing, overseeing, and controlling. Second, it results in the continued incarceration in county jails of persons neither charged with, nor sentenced for violating, any state or county law, and whose ongoing incarceration by the county is therefore difficult to justify.

In 2013, to address these concerns, the Miami-Dade County Commission determined that

the Department simply could not continue to hold, for pick-up by ICE at some future date, any person who had neither charges pending against him nor a sentence imposed upon him. This “2013 commission vote ... effectively banned county jails from honoring the [ICE] requests, since Washington consistently refused to pay the full tab for local jail time.” Douglas Hanks, *Under Trump Crackdown, 1,000-Plus ‘Sanctuary’ Inmates Could be Detained*, Miami Herald (Feb. 6, 2017) p. 3A. “Before the County Commission changed its detention policy ... Miami-Dade said it received 2,500 detainer requests in 2012 and spent about \$670,000 complying with them.” *Id.* (It is unclear whether that very considerable figure reflects just the cost of compliance, or includes the more general costs of continued housing, supervision, and the like.)

In January of this year, however, “an executive order [was] signed ... by President Donald Trump that threatened to cut federal grants for any counties or cities that don’t cooperate fully with Immigration and Customs Enforcement.” Patricia Mazzei, *Miami-Dade Mayor Orders Jails to Comply with Trump Crackdown on ‘Sanctuary’ Counties*, Miami Herald (Jan. 26, 2017), <http://www.miamiherald.com/news/local/community/miami-dade/article128984759.html>. In the face of this presidential edict, Miami-Dade Mayor Carlos Gimenez immediately reversed county policy and “ordered county jails to comply with federal immigration detention requests.” *Id.*¹ As

¹ See also Patricia Mazzei, *S. Fla. Ranks No. 5 in Undocumented Migrants*, Miami Herald (Feb. 10, 2017) p. 7A:

President Donald Trump ... sign[ed] an executive order last month to cut federal funding for cities and counties considered “sanctuaries” for the undocumented. To avoid the label, Miami-Dade County Mayor Carlos Gimenez quickly agreed to hold inmates in local jails for federal immigration agents even if the feds refuse to reimburse the county for the expense – a ... policy reversal.

a result Petitioner, and thousands like him, will be held in county facilities until such time – if any – as ICE comes calling for them.² Neither the state nor the county makes any claim on Petitioner. But Miami-Dade correctional facilities and Miami-Dade correctional personnel have been conscripted to lock him up for and on behalf of the federal government, and to do so at county expense.

II. Analysis

The presidential order that gave birth to this conflict has sparked the popular use of the term “sanctuary city” to refer to any community that refuses, as Miami-Dade County did till January 26 of this year, to permit its corrections officers and its corrections facilities to be press-ganged into the service of ICE. “Sanctuary city” has a Biblical sound to it,³ and thus lends

Mayor Gimenez’s decision was approved by the County Commission on February 17 of this year. *See* Patricia Mazzei & Douglas Hanks, *Fearing Trump, Commission Drops Miami-Dade’s ‘Sanctuary Protections*, Miami Herald (Feb. 17, 2017), <http://www.miamiherald.com/news/local/community/miami-dade/article133413384.html>.

² It is difficult to know exactly how long Petitioner, or indeed any detainee, will be held for pick-up by ICE. Anecdotal evidence suggests that two to five days is not uncommon.

³ Actually there are no “sanctuary cities” in the Hebrew Bible. There are *arey hamiklat*, cities of refuge, of asylum. These cities exist for the narrow purpose of providing a mechanism for the adjudication of claims of involuntary manslaughter. *See* Joshua 20:1-6:

And the Lord spoke unto Joshua, saying: Speak to the children of Israel, saying: Assign you the cities of refuge, whereof I spoke unto you by the hand of Moses; that the manslayer that killeth any person through error and unawares may flee thither; and they shall be unto you for a refuge from the avenger of blood. And he shall flee unto one of those cities, and shall stand at the entrance of the gate of the city, and declare his cause in the ears of the elders of that city; and they shall take him into the city unto them, and give him a place, that he may dwell among them. And if the avenger of blood pursue after him, then they shall not deliver up the manslayer into his hand; because he smote his neighbor unawares, and hated

rhetorical force to arguments intended to condemn the county's former policy.⁴ But Miami is not and never was a "sanctuary city," and the issue raised by the petition at bar has nothing to do with affording "sanctuary" to those unlawfully in this country. It has everything to do with the separation of powers between the state and federal governments as reflected in the Tenth Amendment to, and in the very structure of, the United States Constitution.

The Constitution protects individual rights and liberties from the encroachment of governmental power by separating that power along both a horizontal axis – the division of executive, legislative, and judicial functions; and a vertical one – the division of federal and state functions. As to the vertical axis, the Tenth Amendment provides, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." What is sometimes called the "anti-commandeering" principle of the Tenth Amendment is an expression of that reservation of powers.

That principle received its most authoritative exegesis in *Printz v. United States*, 521 U.S. 898 (1997) (Scalia, J.), in which the Court considered "whether certain interim provisions of the

him not beforetime. And he shall dwell in that city, until he stand before the congregation for judgment, until the death of the high priest that shall be in those days; then may the manslayer return, and come unto his own city, and unto his own house, unto the city from which he fled.

See also Deut. 4:41-42.

Sanctuary – safety from punishment, prosecution, vengeance – could be had only by clutching the horns of the altar. 1 Kings 1:50-51. *But see* 1 Kings 2:28-34, in which King Solomon commands Benaiah to assassinate Joab while Joab is clutching the horns of the altar.

⁴ Those seeking additional rhetorical firepower are directed to William Shakespeare, King Richard III, Act III sc. 1: "God in heaven forbid/We should infringe the holy privilege/Of blessed sanctuary! Not for all this land/Would I be guilty of so deep a sin."

Brady Handgun Violence Prevention Act ... commanding state and local law enforcement officers to conduct background checks on prospective handgun purchasers and to perform certain related tasks violate[d] the Constitution.” *Printz*, 521 U.S. at 902. The federal statute in question “direct[ed] state law enforcement officers to participate ... in the administration of a federally enacted regulatory scheme.” *Id.* at 904. *Printz*, a county sheriff in Montana, “object[ed] to being pressed into federal service, and contend[ed] that congressional action compelling state officers to execute federal laws is unconstitutional.” *Id.* at 905. The Supreme Court embraced Sheriff *Printz*’s position in uncompromising language:

We held in *New York [v. United States]*, 505 U.S. 144 (1992) that Congress cannot compel the States to enact or enforce a federal regulatory program. Today we hold that Congress cannot circumvent that prohibition by conscripting the States’ officers directly. The Federal Government may neither issue directives requiring the States to address particular problems, nor command the States’ officers, or those of their political subdivisions, to administer or enforce a federal regulatory program. It matters not whether policymaking is involved, and no case-by-case weighing of the burdens or benefits is necessary; such commands are fundamentally incompatible with our constitutional system of dual sovereignty.

Printz, 521 U.S. at 935.

The case at bar is actually easier than *Printz*. *Printz* involved an area of law as to which the state and federal governments share regulatory responsibility, viz., the traffic in firearms. What was constitutionally offensive in *Printz* was not that local sheriffs were called upon to perform background checks on would-be gun owners – something that local police departments are often called upon to do as a matter of local law – but that sheriffs were compelled to do so by, and as agents for, the federal government.

Here, however, we deal with an area of the law – the regulation of immigration and deportation – reserved exclusively to the federal government. *See* U.S. Const. Art. I § 8, clause 4. The Department does not, and as a matter of constitutional law cannot, act in this federal bailiwick. According to its “mission statement,” *see* <http://www.miamidade.gov/corrections/about-corrections.asp>, the Department, “serves our community by providing safe, secure and humane detention of individuals in our custody *while preparing them for a successful return to the community.*” (Emphasis added.) This is wholly unrelated, arguably antithetical, to the mission of ICE, *see* <https://www.ice.gov/overview>, which is “to protect America from the cross-border crime and illegal immigration that threaten national security and public safety.” Yet by operation of the recent change in county policy, and the presidential order upon which it is based, county correctional officers and county correctional facilities are made appendages of ICE, obliged to imprison and maintain Petitioner for ICE – Petitioner and others, perhaps many others, similarly circumstanced. If the use made of local governmental resources in *Printz* was constitutionally proscribed, the use made of local governmental resources here is surely constitutionally proscribed.

Printz all but acknowledges as much. In his opinion for the Court, Justice Scalia recounts that:

On September 23, 1789 – the day before its proposal of the Bill of Rights, *see* 1 Annals of Congress 912-913 – the First Congress enacted a law aimed at obtaining state assistance of the most rudimentary and necessary sort for the enforcement of the new Government’s laws: the holding of federal prisoners in state jails at federal expense. Significantly, the law issued not a command to the States’ executive, but a recommendation to their legislatures. Congress “recommended to the legislatures of the several States to pass laws, making it expressly the duty of the keepers of their

gaols, to receive and safe keep therein all prisoners committed under the authority of the United States,” and offered to pay 50 cents per month for each prisoner. Act of Sept. 23, 1789, 1 Stat. 96. Moreover, when Georgia refused to comply with the request, *see* L. White, *The Federalists* 402 (1948), Congress’s only reaction was a law authorizing the marshal in any State that failed to comply with the Recommendation of September 23, 1789, to rent a temporary jail until provision for a permanent one could be made, *see* Resolution of March 3, 1791, 1 Stat. 225.

Printz, 521 U.S. at 910.

Apparently it was clear to the members of the first Congress that the federal government is without power to compel state authorities to house and maintain federal prisoners – even if the federal government offers to pay a fair price for that housing and maintenance. Petitioner Lacroix was a county prisoner, but at present the county has neither a reason nor a basis in law to keep him its prisoner. A federal agency wants Lacroix to be a federal prisoner, but demands that the county do the imprisoning on the federal government’s behalf. That is a demand that the federal government is constitutionally prohibited from enforcing, and it is a demand with which the local government is constitutionally prohibited from complying. “It might well be deemed an unconstitutional exercise ... to insist that the states are bound to provide means to carry into effect the duties of the national government, nowhere delegated or intrusted [*sic*] to them by the Constitution.” *Prigg v. Pennsylvania*, 41 U.S. 539, 541 (1842) (Story, J.).

This reservation of powers *to* the states is not intended merely as a benefit *for* the states; the intended beneficiaries are, as the language of the Tenth Amendment makes clear, “the people,” whose liberties are best protected when “ambition [*is*] made to counteract ambition.” Federalist 51 at 349 (James Madison) (Clinton Rossiter ed., 1961). States cannot cede their reserved powers to the federal government – no, not even if they wish to do so. They must retain

and exercise those fundamental governmental powers that enable them to act as a counterweight to the exercise of federal governmental powers. “Neither consent nor submission by the States can enlarge the powers of Congress; none can exist except those which are granted. ... The sovereignty of the State essential to its proper functioning under the Federal Constitution cannot be surrendered.” *Ashton v. Cameron County Water Improvement District*, 298 U.S. 513, 531 (1936) (citing *United States v. Butler*, 297 U.S. 1 (1936)).

No doubt the limitations imposed by the Tenth Amendment, like so many limitations imposed by the Constitution, are a source of frustration to those who dream of wielding power in unprecedented ways or to unprecedented degrees. But America was not made for those who dream of power. America was made for those with the power to dream.

The presidential edict at issue here seeks to bring about the conscription of the Department, and employs powerful financial pressure to do so. Mayor “Gimenez defended his order as needed to protect the county’s more than \$350 million in annual federal aid – plus billions the mayor wants to expand Metrorail. ‘I think that money is in jeopardy,’ he said.” Douglas Hanks, *ACLU: Mayor Was ‘Duped’ on Law for Detentions*, Miami Herald (Feb. 7, 2017) p. 3A. The federal government’s spending power is vested, however, in Congress, *see* U.S. Const. Art. I § 8, clause 1, not in the president or the executive branch. And even Congress cannot use the spending power to bring about otherwise-unconstitutional outcomes. In *New York v. United States*, 505 U.S. 144 (1992), an important “anti-commandeering” decision that was heavily relied upon by the Supreme Court in *Printz*, the Court noted that, “under Congress’ spending power, ‘Congress may attach conditions on the receipt of federal funds.’” *New York v. United States*, 505 U.S. at 167 (quoting *South Dakota v. Dole*, 483 U.S. 203, 206 (1987)). But

“[s]uch conditions must ... bear some relationship to the purpose of the federal spending ... otherwise, of course, the spending power could render academic the Constitution’s other grants and limits of federal authority.” *New York v. United States*, 505 U.S. at 167. The Tenth Amendment, with its “anti-commandeering” principle, is among “the Constitution’s other ... limits of federal authority” – among those limits that Congress cannot end-run or frustrate by means of the powerful spending power. The law could scarcely be otherwise. The federal government has not sought and will not seek to circumvent the “anti-commandeering principle” by means other than the spending power. It will not use main force to press-gang into federal service the Department’s personnel and the facilities they operate. But coercion achieved by financial starvation is no less effective than coercion achieved at sword’s point. The former may take a little longer than the latter; but it may be more painful, too.

The present petition for writ of *habeas corpus* is, on its face, a simple matter to adjudicate. There are no criminal charges pending against Petitioner anywhere in Florida. There is no criminal sentence imposed on Petitioner anywhere in Florida. The Department has no desire to hold Petitioner in its custody, and Petitioner has no desire to be held in the custody of the Department. To the extent that the Department continues to hold Petitioner, it is because the Department has been rendered the cat’s paw of ICE, and ICE wishes Petitioner held. Thus the issue posed by the present motion is easily framed: If ICE’s conscription of the Department’s facilities and manpower is unconstitutional, the writ must issue and Petitioner must go free. If ICE’s conscription of the Department’s facilities and manpower is constitutional, the writ must be denied and Petitioner must remain in the actual custody of the Department – and the constructive custody of ICE – until such time as ICE sees fit to dispose of him.

There can be no suggestion that Petitioner lacks standing to seek *habeas corpus* on these facts, or to seek it based upon an allegation of violation of the Tenth Amendment. A prisoner who asserts his unlawful confinement by state or local authority has asserted everything necessary to entitle him to be heard by a Florida court on his petition for writ of *habeas corpus*. Apart from that, all courts are in agreement that Tenth Amendment claims can be brought by individual claimants. *Bond v. United States*, 564 U.S. 211, 220 (2011) (“The individual, in a proper case, can assert injury from governmental action taken in excess of the authority that federalism defines [pursuant to the Tenth Amendment]. Her rights in this regard do not belong to a state.”). *See also Dillard v. Baldwin County Commissioners*, 225 F.3d 1271 (11th Cir. 2000). In *Dillard*, the court rejected any suggestion that private parties lack standing to assert Tenth Amendment challenges. *Dillard*, 225 F.3d at 1276. Nor is it the case that “standing to assert Tenth Amendment claims ... [is] contingent on ... [the] assert[ion of] some other constitutional or statutory claim. ... [T]o establish standing to bring a Tenth Amendment claim, just as for any other claim, [a litigant] must show that [he] suffered an injury in fact caused by the challenged action.” *Id.* at 1276-77. The injury of which Petitioner complains is his continued incarceration by the Department in the complete absence of any Florida charge pending against him, or of any Florida sentence imposed upon him. That injury, he alleges, is the product of the federal government’s having coerced the Department to do its bidding, in violation of the Tenth Amendment.⁵

⁵ Thus even if Petitioner *were* obliged to show an additional constitutional or statutory deprivation as a condition of his asserting his Tenth Amendment claim, *but cf. Dillard, supra*, he could easily do so. His *habeas* claim subsumes allegations of violation of his rights under both Florida and federal law to be free from unreasonable search and seizure, to be subjected to no cruel and unusual punishments, to be free from deprivation of liberty without due process of law,

Respondent, in the very scholarly pleading filed on his behalf, places principal reliance upon *Ricketts v. Palm Beach County Sheriff*, 985 So. 2d 591 (Fla. 4th DCA 2008). *See also Joseph v. Bradshaw*, 4 So. 3d 777 (Fla. 1st DCA 2009); *but cf. Florida Immigrant Coalition v. Mendez*, 2010 WL 4384220, esp. at * n.11 (S.D.Fla. 2010). The facts in *Ricketts* are superficially similar to those in the case at bar. *Ricketts* was arrested by local authorities and a reasonable bond was set. *Ricketts*, 985 So.2d at 591. When he attempted to post that bond, however, he was told that it would not be accepted because of the pendency of an immigration hold. *Id.* He sought relief by petition for writ of *habeas corpus* in state circuit court. *Id.* at 592.

Ricketts made no Tenth Amendment claim. He simply asserted that he was “being illegally detained without any showing of probable cause or judicial oversight,” *id.*, a claim probably intended to invoke the Fourth Amendment and Article I § 12 of the Florida constitution. In effect, he sought an adjudication in state court of the merits of a federal detainer. The Fourth District quite properly held that *Ricketts* could not “secure *habeas corpus* relief from the state court on the legality of his federal detainer. The constitutionality of his detention pursuant to [the federal detainer] ... is a question ... for the federal courts.” *Id.* at 592-93.

That “a state court cannot adjudicate the validity of [a] federal detainer, as the area of immigration and naturalization is within the exclusive jurisdiction of the federal government” – the holding for which Respondent cites *Ricketts*, *see* Response at 1 (quoting *Ricketts*, 985 So.2d at 591) – is indisputably true. Indeed Petitioner Lacroix appears not to dispute it. Whether any detainer filed by ICE as to Mr. Lacroix is legally sufficient and legally efficacious is a question that could be raised only in federal court. Lacroix does not raise it here.

and the like.

Rather, Petitioner argues that the Department, in holding him, acts as no more than handmaiden to the federal government; that the reduction by the federal government of the Department to its mere handmaiden is in utter violation of the “anti-commandeering” principle of the Tenth Amendment; and that Petitioner and all others similarly situated are, by operation of the Tenth Amendment, entitled to relief. *Dicta* in *Ricketts* supports these propositions. The sheriff of Palm Beach County, respondent in *Ricketts*, “will not be holding [Ricketts] pursuant to state authority but pursuant to federal authority.” *Id.* at 593. Ricketts “would no longer be a state prisoner but a federal detainee,” although in the physical custody of the county. *Id.* at 592. The petition at bar calls, not for the adjudication of the merits of a given ICE hold served on Respondent – something a state judge would be wholly unable to provide – but for the vindication of rights promised by the Tenth Amendment “to [all] the people” – something any American judge, state or federal, is oath-bound to provide.

Undoubtedly the regulation of immigration and deportation is a prodigious task. Understandably eager to marshal all possible resources for that task, ICE in particular and the executive branch of the federal government in general grasp for assistance wherever and however it is to be found. The infrastructure and human resources of the Miami-Dade Department of Corrections – and, for that matter, those of every local corrections department from coast to coast; which, if nationalized, would constitute a mighty host at ICE’s command – would be of invaluable aid in the performance of ICE’s regulatory mission.

But the price to be paid for that aid was determined, long ago, to be much too high. The price would be the subjugation of state and local governments, the reduction of those governments to mere satrapies of a central government of unlimited and illimitable power. The

price would be the abandonment of the fundamental constitutional principle that, “The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or *to the people*.” (Emphasis added.)

The “people” to whom the Tenth Amendment refers include the native-born as well as the naturalized citizen; the native English speaker as well as the speaker for whom English is a second, or third, language; the scion of old Yankee stock as well as the newcomer who took the oath of citizenship yesterday. Miami is not, and has never been, a sanctuary city. But America is, and has always been, a sanctuary country. As I have written elsewhere, “America, perhaps more than any other nation, was made great not by its leaders but by its people: by the refugees who were called to begin life anew; by the pioneers who were called to build a nation; by ‘the homeless, tempest-tossed’ who were called by the light that shone from the ‘lamp beside the golden door’.” *State v. Robaina*, 20 Fla. L. Weekly Supp. 406a (Fla. 11th Cir. Ct. 2013) (quoting Emma Lazarus, “The New Colossus”).⁶

⁶ The Statue of Liberty Enlightening the World was dedicated on October 28, 1886. In the torch 300 feet aloft the statue's sculptor, Frederic Bartholdi, pulled the rope that removed the French tricolor from Liberty's face and President Grover Cleveland accepted the statue on behalf of the United States. The torch was lighted that night.

Three years earlier, to assist a campaign to raise funds to complete the construction of the statue's pedestal, Emma Lazarus wrote the sonnet, “The New Colossus.” It is inscribed on a bronze tablet in the pedestal:

Not like the brazen giant of Greek fame,
With conquering limbs astride from land to land;
Here at our sea-washed, sunset gates shall stand
A mighty woman with a torch, whose flame
Is the imprisoned lightening, and her name
Mother of Exiles. From her beacon hand
Glows world-wide welcome; her mild eyes command
The air-bridged harbor that twin cities frame.

Of course we must protect our country from the problems associated with unregulated immigration. We must protect our country from a great many things; but from nothing so much as from the loss of our historic rights and liberties.

The petition for writ of *habeas corpus* is GRANTED. Respondent's motion to dismiss is respectfully DENIED.

SO ORDERED, in chambers in Miami, Miami-Dade County, Florida, this ____ day of March, 2017.

Hon. Milton Hirsch
Judge, 11th Judicial Circuit

cc: all counsel of record

"Keep, ancient lands, your storied pomp!" cries she
With silent lips, "Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tossed to me,
I lift my lamp beside the golden door!"

EXHIBIT H

Edwin M. Lee
Mayor



Micki Callahan
Human Resources Director

MEMORANDUM

Date: Jan. 19, 2017
To: All City and County of San Francisco Employees
From: Micki Callahan
Human Resources Director
Subject: Reminder about Sanctuary City Obligations

This memo is being issued to remind City and County of San Francisco (City) departments and employees of their duties under the San Francisco Charter and Administrative Code. All people seeking or receiving City services must be treated with equal dignity, respect for human rights, and due process under the law, regardless of immigration status. This includes informing them of their rights and access to services, as well as giving out general and/or translated information on services and programs that is timely, accurate and complete.

Departments must ensure that their rules, regulations, and protocols adhere to San Francisco's sanctuary city laws, codified at Chapters 12H and 12I of the Administrative Code. Although federal law states that a "local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual" (8 U.S.C. § 1373), Chapters 12H and 12I impose other types of restrictions, which are consistent with federal law and are summarized below.

Department employees acting in their official capacities may not use City funds or resources to:

- a) Assist or cooperate with any investigation, detention, or arrest procedures, public or clandestine, conducted by federal immigration authorities (ICE) and relating to alleged violations of the civil provisions of federal immigration law.
- b) Request or give out information regarding the release status or personal information of any individual, except as permitted under Administrative Code Section 12I.3.
- c) Condition the receipt of City services or benefits on immigration status, except as required by federal or state statute or regulation, public assistance criteria, or court decision.
- d) Include any question regarding immigration status (other than those required by federal or state statute, regulation, or court decision) on any application, questionnaire, or interview form used in relation to benefits, services, or opportunities provided by the City.
- e) Detain an individual on the basis of a civil immigration detainer after that individual becomes eligible for release from custody. (See Administrative Code § 12I.3(a).)
- f) Respond to a federal immigration officer's request for notification of an individual's release, unless the individual meets specified criteria listed in Administrative Code section 12I.3(c).

It's important to make sure all City employees are aware of these rules. Departments may include education on the City's sanctuary city laws in regular employee trainings and orientations based on templates that will be established by the Office of Civic Engagement and Immigrant Affairs (OCEIA).

Departments are reminded to include education on Administrative Code Chapters 12H and 12I in regular community outreach.

This memorandum is provided as a general summary of the City's sanctuary city laws and is not a substitute for legal advice. State and federal law may impose additional obligations. If you have any questions about how to apply the City's sanctuary city laws to a particular situation, please contact your manager or the Deputy City Attorney assigned to your department.

EXHIBIT I



City and County of San Francisco

Edwin M. Lee, Mayor

San Francisco Department of Public Health

Barbara A. Garcia, MPA
Director of Health

San Francisco Department of Public Health

*Policy & Procedure Detail**

Policy & Procedure Title: DPH Privacy Policy	
Category: Privacy	
Effective Date: Adopted 3/2003, Revised 4/2006	Last Reissue/Revision Date: 9/23/2013
DPH Unit of Origin: SF DPH Privacy Office	
Policy Contact - Employee Name and Title; and/or DPH Division: Alice Gleghorn, Ph.D., SFDPH Privacy Officer	
Contact Phone Number(s): 415-255-3722	
Distribution: DPH-wide X	If not DPH-wide, other distribution:

*All sections in table required.

1. Purpose of Policy

The purpose of this policy is to provide guidance to providers and other San Francisco Department of Public Health ("DPH") employees by setting forth the basic requirements for protecting the confidentiality of medical information as required by the Privacy Rule.

2. Policy

STATEMENT OF POLICY

It is the policy of the San Francisco Department of Public Health ("DPH") to comply with the Privacy Rule set forth in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Each division and unit shall ensure that its policies and procedures are consistent with this department-wide policy and procedure.

SCOPE

This policy pertains to all individuals in the DPH who may access, use, or disclose protected health information, regardless of DPH division or unit. The policy is administered by the DPH Compliance Office through the activities of the DPH Privacy Officer. It is intended to serve as a foundation for privacy practices of the DPH. Divisions or units may impose privacy safeguards in addition to those required by this policy and procedure.

The mission of the San Francisco Department of Public Health is to protect and promote the health of all San Franciscans.

We shall ~ Assess and research the health of the community ~ Develop and enforce health policy ~ Prevent disease and injury ~
~ Educate the public and train health care providers ~ Provide quality, comprehensive, culturally-proficient health services ~ Ensure equal access to all ~

3. Definitions

BACKGROUND

The federal *Health Insurance Portability and Accountability Act of 1996* (HIPAA) established through its Administrative Simplification regulations to ensure privacy for individuals receiving health care services in the United States. The Privacy Rule, as it may also be called, establishes a national standard for the minimum level of protection for medical information. The intent of the statute and the regulatory rule is to expand consumer control over their medical information.

The Privacy Rule introduces the term "Protected Health Information," or "PHI." PHI covers information relating to an individual's health, the care received, and/or payment for services, including demographic data. It includes all information in any media related to the individual's health care that can be individually identified as belonging to a particular person.

The basic tenet of the Privacy Rule is that providers may use and disclose PHI without the individual's authorization only for treatment, payment, and health care operations, as well as certain public interest related purposes such as public health reporting. Other uses and disclosures of PHI generally require the written authorization of the individual.

The Privacy Rule also introduces the concept of "minimum necessary." This requirement mandates that when using or disclosing PHI, or when requesting PHI from external providers or entities, providers will make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose. The Privacy Rule does recognize that providers may need to use all of an individual's health information in the provision of patient care and/or public health purposes. However, access to PHI by the workforce must be limited based on job scope and the need for the information.

The Privacy Rule also includes a set of rights for consumers of health care services. These include the right to obtain a written notice explaining how DPH will use and disclose their information, to access their health information (including requesting copies, requesting amendments, and receiving an accounting of specified disclosures), to request that certain information be restricted from use or disclosure for purposes of treatment, payment and health care operations (this request need not be granted if it is unreasonable or overly burdensome), to request that information be communicated in particular ways to ensure confidentiality, and to refuse to authorize the release of information for most purposes not related to treatment, payment or health care operations.

This policy provides an overview of the requirements of the Privacy Rule. There are more detailed policies on certain issues discussed herein such as authorization for the use and disclosure of PHI, notice of DPH privacy practices, and patient rights. There is also a separate policy addressing the requirements the Privacy Rule places on research.

Another section of HIPAA contains a proposed "Security Rule." This proposed Security Rule focuses on ensuring that electronic health information that pertains to an individual remains secure. DPH has developed and updated other policies to address security issues. These policies address, among other issues, the maintenance and/or exchange of medical information via e-mail, fax, hand-held devices, and non-DPH personal computers and networks.

COMPARISON WITH EXISTING STATE LAWS

California also has a privacy statute known as the *California Confidentiality of Medical Information Act*. Further, other federal and state statutes provide additional protection for certain medical, mental health, and substance abuse information. DPH must comply with both the federal Privacy Rule and existing state laws. In situations where laws conflict or overlap, DPH must comply with the law that provides the patient with the greater protection or that restricts DPH procedures more. Determining which law applies can be complex; any questions should be referred to the DPH Privacy Officer.

4. Procedures

I. Use and Disclosure of PHI for Treatment, Payment, and Health Care Operations

- A. DPH providers, DPH staff, and DPH contract providers may use PHI for treatment, payment and health care operations. Use of information applies to internal sharing or utilization of PHI. Disclosure applies to the release of PHI to non-DPH providers or entities and is restricted as discussed in this policy.
- B. Treatment, payment and health care operations are defined as follows:
 - 1. **Treatment** means providing, coordinating, or managing a patient's care, including patient education and training, consultations between providers and referrals.
 - 2. **Payment** means activities related to being paid for services rendered. These activities include eligibility determinations, billing, claims management, utilization review, and debt collection.
 - 3. **Health care operations** means a broad range of activities such as quality assessment, student training, contracting for health care services, medical review, legal services, auditing functions, business planning and development, licensing and accreditation, business management, and general administrative activities.
- C. Divisions and units within DPH may identify higher standards regarding when an individual's signed release or other safeguards for the disclosure of PHI are required. Proposed higher standards must be reviewed and approved by the DPH Compliance Office.

II. Minimum Necessary Uses and Disclosures

- A. When using or disclosing PHI, or when requesting PHI from a non-DPH provider or entity, DPH providers and staff shall make reasonable efforts to limit the PHI requested, used, or disclosed to the minimum necessary to accomplish the patient's care.
- B. DPH shall identify those in its workforce who need access to PHI and limit access based on job scope and the need for the information.
- C. The *minimum necessary* requirement does not apply to the following:
 - 1. Disclosures to, or requests by, a DPH health care provider for treatment purposes;
 - 2. Uses or disclosures made to the individual treated, as permitted or required by law;
 - 3. Uses or disclosures made pursuant to the individual's authorization;
 - 4. Disclosures made to the Secretary of DHHS pursuant to an investigation or compliance review; and

5. Other uses or disclosures that are required by law, made pursuant to a subpoena or court order, or for workers' compensation purposes.

III. Special Requirements for Mental Health and Developmental Disability Information, Substance Abuse Information, Sexually Transmitted Disease Information, and Health Information of Minors

A. Mental Health Information

1. Although the federal privacy rule largely does not make a distinction between medical and mental health information, California state law does provide special protections for mental health information. Mental health information may be shared among DPH providers and contractors for the purposes of treatment. All other uses and disclosures require the specific authorization of the patient to disclose mental health information.
2. Mental health information includes process notes¹, medication prescription and monitoring, counseling session start and stop times, modalities/frequencies of treatment, results of clinical tests, or summaries of diagnosis, functional status, treatment plans, symptoms, prognosis, or progress recorded by mental health professionals.
3. Generally, disclosures of mental health information require the specific authorization from the patient for release. The state law that addresses the confidentiality of mental health information is the California Welfare and Institutions Code Section 5328 et seq., known as the Lanterman-Petris-Short Act ("LPS Act"). Questions regarding the use or disclosure of mental health information should be referred to the DPH Privacy Officer.

B. Substance Abuse Information

1. Although the federal Privacy Rule does not make a distinction between medical and substance abuse information, other federal statutes and California state laws do provide statutory restrictions for the release of information developed or obtained in the course of providing substance abuse treatment in federally funded substance abuse programs. Substance abuse information obtained in the course of general medical treatment is not subject to these provisions. Therefore, substance abuse information may be shared among DPH providers and to its contracted providers without authorization of the patient for patient care purposes. For example, substance abuse information may be shared from the General Medical Clinic to Castro-Mission Health Center or to a substance abuse program. However, the contracted substance abuse treatment program must obtain the patient's authorization to share information back to the General Medical Clinic or Castro-Mission Health Center. All other uses and disclosures require specific substance abuse authorization from the patient.
2. Information pertaining to substance abuse patients is subject to special protection under federal statute 42 U.S.C. Section 290dd-2 and under federal regulations found in the "Confidentiality of Alcohol and Drug Abuse Patient Records," 42 C.F.R. part 2. Additionally, California Health and Safety Code Section 11977 provides special protections to information of certain drug abuse programs. The LPS Act may also apply if the patient receives services such as involuntary evaluation and treatment because the patient is gravely disabled or dangerous to self or others as a result of abuse of alcohol, narcotics, or other dangerous drugs.

¹ DPH policy prohibits the use of psychotherapy notes.

3. These federal and state statutes require written authorization for disclosure of substance abuse information in certain circumstances and other special protections for substance abuse information. In these situations, the state law must be followed. Questions regarding the use or disclosure of substance abuse information should be referred to the DPH Privacy Officer.

C. HIV Test Results

Per state law HIV test results can not be disclosed without specific, written authorization from the patient except for purposes of diagnosis, care, or treatment of the patient by DPH providers.

D. Minors

Use and disclosure of protected health information associated with the care of minors should be administered using the same principles as consent for treatment. If the minor can consent for services per federal or state statute or DPH policy, then the minor controls his or her privacy rights.

Generally, a parent or assigned guardian controls a minor's privacy rights. However, there are a number of exceptions that apply in which a minor holds the right to consent and therefore controls all consequent privacy rights. These exceptions include the following:

1. Emancipated minors are those 14 years of age and older who have been emancipated by court order, are serving in the active U.S. military, or are married or have been married.
2. Self-sufficient minors are those youth 15 years of age or older living on their own, and managing their own financial affairs.
3. Minors 12 years of age or older receiving certain "sensitive services" regarding reproductive health, mental health, substance abuse, pregnancy, reportable diseases, rape, or sexual assault.
4. Minors 12 years of age or older who per DPH minor consent policy request and consent to a medical or behavioral health assessment without parental consent (see DPH policy and procedure "Consent for Dependent Minors"

<http://www.sfdph.org/dph/files/HIPAAdocs/PrivacyPolicies/MinorsConsentPol120622005.pdf>).

Please note that the attending professional should clearly document that the above criteria have been met if services are provided pursuant to these provisions of the law or DPH policy. See Community Behavioral Health Services policy and procedure "Consent for Voluntary Health Services: Minors" and DPH policy and procedure "Consent for Dependent Minors, Ages 12-17: Urgent, Primary Care and Behavioral Health Services."

IV. Disclosures to Family, Other Relatives, Close Personal Friends, and Personal Representatives

- A. DPH providers may disclose PHI to an individual's family members or other relatives, close personal friends, or any other person identified by the individual:
 1. upon the individual's oral agreement;
 2. if there is no objection when the individual is provided with an opportunity to object.

Note that minor consent rules apply if treatment is provided as described in section III D above. If oral agreement is obtained or no objection is raised, this must be recorded in the patient's medical record.

- B. Such disclosures shall be limited to information directly relevant to that person's involvement with the individual's care or payment for that care.
- C. If the individual is not present (e.g., the provider is in an outpatient setting) or is incapacitated, the provider may disclose information to family members, relatives, or close personal friends if the provider believes and can substantiate disclosure is in the best interest of the individual
- D. Generally, no information may be disclosed to a family member, relative, or close personal friend regarding mental health, substance abuse, or sexually transmitted disease, or HIV/AIDS services, or a developmental disability without the individual's specific authorization. This applies also to minors consenting to treatment under minor consent rules discussed in section III D above.
- E. DPH providers shall disclose information to an individual's personal representative (i.e. those granted legal authority to make health care decisions on behalf of another) in the same manner as they would for the individual.

V. Permitted Disclosures for Public Interest Related Purposes (See separate DPH Policy "HIPAA Compliance: Authorization for Use and Disclosure of Protected Health Information".)

- A. DPH providers and staff may disclose PHI without authorization for a variety of public interest-related purposes, including the following public health activities that involve safety or communicable disease:
 - 1. Reporting disease, injury, and vital events (e.g., birth or death);
 - 2. Conducting public health surveillance, investigations, and interventions;
 - 3. To report victims of abuse, neglect, or domestic violence to a public health or other government authority legally authorized to receive such reports;
 - 4. Judicial and administrative proceedings;
 - 5. Law enforcement purposes;
 - 6. Organ and tissue donations;
 - 7. National security and intelligence activities;
 - 8. Workers' compensation; and
 - 9. Requests related to decedents.
- B. Limitations regarding minimum necessary use, mental health and substance abuse information may apply to these public-interest related disclosures.

VI. De-Identified Information (See separate DPH policy "HIPAA Compliance: Privacy and the Conduct of Research")

- A. De-identified information may be used or disclosed as long as no means of re-identification is disclosed.
- B. In order to meet the definition of "de-identified" under the federal HIPAA Privacy Rule, all of the following specified identifiers must be removed: names, geographic designations smaller than a state (except for the initial three digits of zip codes if the first three digits cover an area having more than 20,000 people), dates (other than years), ages over 89 (although all persons over 89 may be aggregated into a single category), telephone and fax numbers, e-mail addresses, social security numbers, medical record numbers, health plan beneficiary

numbers, account numbers, certificate and license numbers, vehicle identification numbers, device identifiers and serial numbers, URLs and IP addresses, biometric identifiers, identifiable photographs, and any other unique identifiers.

- C. DPH providers and staff may disclose PHI to a business associate for the purpose of de-identifying such information. Business associate relationship exists when an individual or non-DPH entity, acting on behalf of the DPH, assists in the performance of a function or activity involving the use or disclosure of PHI. In order to have access to PHI, however, the business associate must have been formally recognized by DPH administration as such.
- D. If all of the required identifiers are not removed, information can still be treated as de-identified if a qualified statistician determines that the risk of re-identification is very small. This analysis must be documented.

VII. Authorization for Use and Disclosure (See separate DPH Policy "HIPAA Compliance: Authorization for Use and Disclosure of Protected Health Information.")

- A. DPH shall obtain an individual's authorization prior to the use or disclosure of PHI for reasons other than DPH treatment, payment or health care operations, or for purposes required by law.
- B. Common situations in which an individual's written authorization is required include disclosures to a life insurance company or an employer.
- C. Because it is focused on a particular use or disclosure, an authorization must be specific with regard to the information to be disclosed, who may disclose it, and who may receive it. It must also be time limited.
- D. Individuals may revoke their authorizations at any time if they do so in writing.
- E. DPH shall document and retain all authorizations for a minimum of seven years.
- F. Individuals have a right to a copy of authorizations signed at the request of DPH or one of its providers.
- G. DPH shall not deny treatment based on the refusal of an individual to authorize the use or disclosure of his/her PHI.
- H. Oral authorizations are permissible in the following circumstances:
 - 1. For an inpatient facility directory;
 - 2. For disclosure of information to family members, relatives, and close personal friends;
 - 3. To notify a family member, personal representative, or other person responsible for the care of an individual about the individual's location, general condition or death (if the patient has the capacity to make decisions, DPH shall obtain the individual's authorization or provide the individual with an opportunity to object); and
 - 4. To assist in disaster relief efforts.
- I. Clients may participate in program testimonials and promotions. The primary clinician (i.e. physician, nurse, therapist or counselor) should be contacted and give their approval prior to approaching a client to seek the client's participation. A client agreeing to give a program testimonial or become involved in a promotion must sign an *Authorization for Use and Disclosure of PHI* form prior to their participation in this activity.

VIII. Notice of Privacy Practices (See separate DPH policy "DPH Notice of HIPAA Privacy Practices")

- A. DPH shall describe, in plain language and in translation as required by the threshold languages list of the state of California, its privacy practices, including an individual's rights related to his or her PHI.
- B. This "Notice of Privacy Practices" shall be posted in prominent places in DPH care facilities and on the DPH web site.
- C. DPH will provide the notice to each of its patients (or their agents) upon their first encounter for health care services.
- D. DPH shall make a good faith effort to obtain a written acknowledgement from each individual who receives health care services that he/she received a copy of the Notice of Privacy Practices.
- E. Jail Health Services is exempted by the Privacy Rule from requirements to provide the "Notice of Privacy Practices."

IX. Patient Rights Regarding PHI (See DPH policy "HIPAA Compliance: Patient/Client/Resident Rights Regarding Protected Health Information.")

- A. DPH shall provide patients with certain rights pertaining to their PHI. These rights are as follows:
 - 1. The right to obtain a written notice explaining how DPH will use and disclose their information;
 - 2. The right to access their medical information (this includes seeing their records, requesting copies [paper, or , if available, electronic], requesting amendments to their records, authorizing sharing of health information, and getting an accounting of specified disclosures);
 - 3. The right to request that certain information be restricted from use or disclosure for purposes of treatment, payment, and health care operations (DPH may not grant this request if it is deemed unreasonable or overly burdensome);
 - 4. The right to request that information be communicated in particular ways to ensure confidentiality; and
 - 5. The right to refuse to authorize the release of PHI for purposes not related to treatment, payment, or health care operations or those required by law.
 - 6. The right to be notified of a breach.

X. Administrative and Operational Measures (See DPH policy "HIPAA Compliance: Administrative Requirements.")

- A. DPH shall implement administrative and operational measures to ensure compliance with the Privacy Rule as follows:
 - 1. Develop policies, procedures and systems to protect patient privacy;
 - 2. Train staff on these procedures;
 - 3. Appoint a Privacy Officer to make sure privacy procedures are developed, adopted, and followed;

4. Secure records that contain PHI and implement reasonable safeguards to limit access to PHI to those DPH employees whose jobs require such access.
5. Account for specified disclosures of PHI;
6. Establish a complaint mechanism for privacy concerns; and
7. Establish and enforce a system of sanctions for employees who violate privacy policies and procedures.

XI. Enforcement (See DPH policy "HIPAA Compliance: Administrative Requirements.")

- A. Each DPH employee is responsible for understanding and complying with this policy and the Privacy Rule. It is the responsibility of DPH managers and supervisors that appropriate privacy training is provided to all employees on an ongoing basis and that employees reporting to them are complying with DPH privacy policies.
- B. Any DPH employee who knows of, suspects, or has a question regarding a possible violation of the Privacy Rule may contact the DPH Privacy Officer. No employee shall be retaliated against for reporting a possible violation. If the employee wishes to remain anonymous, that employee may call the DPH Compliance Hotline at 415-642-5790 (CHN) or 415-252-3078 (PHP and Central Admin).
- C. DPH employees who violate the Privacy Rule shall be disciplined through the civil service process and in accordance with the applicable Memorandum of Understanding. Discipline may involve actions up to and including termination of employment.
- D. The federal Office for Civil Rights ("OCR") of the Department of Health and Human Services will enforce the Privacy Rule on behalf of the federal government. DPH employees, patients, and clients may file a complaint with the OCR and are not required to use the DPH complaint process.
- E. There are both civil monetary penalties and criminal sanctions for violations of the Privacy Rule.
- F. If a DPH provider or other employee is found to have violated any of the privacy standards, he/she may be penalized up to \$100 for each violation. If a DPH provider or other employee is found to have repeatedly violated the exact same requirement or prohibition, the government cannot impose a fine of more than \$25,000 in a single year. Additional fines may be imposed pursuant to state law.
- G. Criminal sanctions, including larger fines and imprisonment, may be imposed for knowingly disclosing or obtaining PHI in violation of the Privacy Rule.

5. References/Attachments

1. DPH Policy "HIPAA Compliance: Authorization for Use and Disclosure of Protected Health Information" – *see attached*.
2. DPH policy "HIPAA Compliance: Privacy and the Conduct of Research"
3. DPH policy "DPH Notice of HIPAA Privacy Practices"
4. DPH policy "HIPAA Compliance: Patient/Client/Resident Rights Regarding Protected Health Information"
5. DPH policy "HIPAA Compliance: Administrative Requirements" – *see attached*.



City and County of San Francisco

Edwin M. Lee, Mayor

San Francisco Department of Public Health

Barbara A. Garcia, MPA
Director of Health

DPH PRIVACY POLICY: ATTACHMENT 1

San Francisco Department of Public Health

*Policy & Procedure Detail**

Policy & Procedure Title: Authorization for Use and Disclosure of Protected Health Information	
Category: Privacy	
Effective Date: 4/2003, Revised 2/24/2010	Last Reissue/Revision Date: 9/23/2013
DPH Unit of Origin: SFDPH Privacy Office	
Policy Contact - Employee Name and Title; and/or DPH Division: Alice Gleghorn, Ph.D., SFDPH Privacy Officer	
Contact Phone Number(s): 415-255-3722	
Distribution: DPH-wide X	If not DPH-wide, other distribution:

All sections in table required.*1. Purpose of Policy**

To comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule, as well as relevant state and federal laws controlling the release of PHI, by establishing a process to obtain proper authorization for the use or disclosure of protected health information (PHI) when necessary and appropriate.

2. Policy

It is the policy of the San Francisco Department of Public Health (DPH) to comply with the HIPAA and all other applicable state and federal confidentiality laws by obtaining authorization before using or disclosing PHI, unless the use or disclosure is specifically permitted or required by law.

SCOPE

This policy pertains to all individuals who may access, use, or disclose DPH PHI. DPH divisions or units may enforce stricter authorization requirements for the use or disclosure of PHI than those set forth in this policy.

3. Definitions

- A. **Protected Health Information (PHI):** Individually identifiable health information maintained or transmitted in any medium.

The mission of the San Francisco Department of Public Health is to protect and promote the health of all San Franciscans.

We shall ~ Assess and research the health of the community ~ Develop and enforce health policy ~ Prevent disease and injury ~
~ Educate the public and train health care providers ~ Provide quality, comprehensive, culturally-proficient health services ~ Ensure equal access to all ~

- B. **Use:** The sharing, employment, application, utilization, examination, or analysis of protected health information within DPH, its affiliates, or its contract providers.
- C. **Disclosure:** To release, transfer, provide access to, or divulge in any other manner protected health information.
- D. **Authorization:** The formal consent document releasing PHI from the records of an entity covered by the privacy provisions of HIPAA.

4. Procedures

I. MINIMUM NECESSARY RULE

- A. **General Rule:** When disclosing PHI, or when requesting PHI from another covered entity, providers must make reasonable efforts to limit PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request.
- B. **Exceptions**
 - 1. Disclosures for, or uses related to, treatment (see Attachment A – DPH Privacy Policy Matrix – Sharing Protected Health Information for Treatment Purposes);
 - 2. Disclosures to the patient or patient representative pursuant to patient access rights;
 - 3. Uses or disclosures made pursuant to a valid HIPAA authorization which describes the PHI to be disclosed;
 - 4. Disclosures made to the Secretary of the United States Department of Health and Human Services pursuant to an investigation or compliance review; and
 - 5. Other uses or disclosures that are required by law and that commonly prescribe what information must be disclosed (e.g., pursuant to a subpoena or court order, reporting child abuse or any other use or disclosure of PHI that is required by law).

II. ADMINISTRATION OF AUTHORIZATIONS

- A. **An authorization is required in the following situations** (see Attachment A – DPH Privacy Policy Matrix – Sharing Protected Health Information for Treatment Purposes):
 - 1. Per the HIPAA Privacy Rule for use of PHI by DPH, its providers, its affiliates and its contract providers for purposes not related to treatment, payment, or health care operations.
 - 2. Per 42 CFR Part 2, for the disclosure of information pertaining to an individual's treatment in a substance abuse program, except in a medical emergency.
 - 3. Per CCSF Local Share Mandate established with the California Office of AIDS, for the disclosure of information pertaining to an individual's treatment in a CCSF HIV Health Service program outside that network of providers.

B. Valid Authorization Forms

1. When authorization is required, all DPH divisions/units and providers shall obtain patient/client/resident authorization using the standard DPH Authorization to Release Protected Health Information form.
2. Due to strict HIPAA requirements for an authorization form to be valid (see Attachment B); any DPH provider that plans to develop a different authorization form must have that form approved by a DPH Privacy Officer.
3. Authorizations for use or disclosure of PHI received from other persons, providers, or agencies requesting information from DPH must contain all of the HIPAA-required elements. Inadequate authorizations should be returned to the sender.
4. All researchers who request permission to conduct a study with human subjects in the DPH must include with the request a DPH standard authorization for the use of the PHI generated from the study. This standard authorization must contain all elements required by HIPAA. Refer to DPH Privacy Policy "Conduct of Research" for more information.

C. Invalid Authorizations

An authorization is not valid if:

1. The expiration date has passed or the expiration event is known by DPH to have occurred;
2. The authorization has not been filled out completely;
3. The authorization is known by DPH to have been revoked;
4. Material information in the authorization is known by the DPH to be false;
5. The authorization was improperly combined with another document; or
6. The authorization is not in 14-point font type.

D. Documenting Authorizations

1. All authorizations for use and disclosure of DPH PHI should be filed in the correspondence section of the medical record of the individual concerned.
2. A copy of the completed authorization form should be offered to the patient/resident/client.

E. Compound Authorizations

1. General Rule: DPH authorizations may not be combined with any other document to create a "compound authorization."
2. Exception: An authorization for the disclosure of DPH PHI generated by research may be combined with the required informed consent for participation in the research.

F. Making Treatment, Payment, Enrollment, or Eligibility Conditional Upon an Authorization

1. General Rule

- a. DPH shall not make treatment, payment, enrollment in a health plan or eligibility for benefits conditional upon the patient, resident or client's execution of an authorization.
- 2. Exceptions
 - a. For treatment as part of research in which the individual will participate as a human subject.
 - b. When the purpose is to create DPH PHI to disclose to a third party (e.g., pre-enrollment physicals).
 - c. When the program is designed for a specific population whose participation is conditional upon authorization (e.g., Behavioral Health Court).
 - d. A DPH-sponsored or DPH-affiliated health plan may make enrollment or eligibility for benefits conditional upon authorization, provided that the authorization (i) is obtained prior to enrollment and (ii) relates specifically to the individual or to underwriting or risk-rating determinations.

III. ORAL AGREEMENTS

DPH may rely upon an individual's oral approval to disclose, restrict or prohibit the use of PHI under the following circumstances:

- A. For an inpatient or resident facility directory;
- B. For involvement in the individual's care by next-of-kin, family members, domestic partners, and/or close personal friends; and
- C. To notify a family member, personal representative or other person responsible for the care of the individual about the individual's location, general condition, or death.

V. MINORS

Parent or Legal Guardian must authorize uses or disclosures of a Minor's PHI, unless Minor is:

- A. Emancipated (Married, Active Military Service, By Court Order); or
- B. Self-Sufficient (age 15 or older, living separate and apart from parents, managing own finances) if relative to General Medical and Dental Care; or
- C. By law, is allowed to give own consent to "Sensitive Services." Criteria for that includes:
 - 1. Any-Age Minor: Care related to the prevention or treatment of pregnancy, sexual assault or rape,
 - 2. Minor age 12 and older: Outpatient mental health (if "at risk" criteria are met), outpatient drug and alcohol, treatment of infectious, contagious or communicable reportable disease or sexually transmitted disease, HIV testing and treatment.

VI. DECEASED CLIENTS/PATIENT

For deceased clients/patients, the patient representative (next of kin or executor of estate) has the rights that the patient would have had relative to access and release of the record.

VI. EMPLOYMENT DETERMINATIONS

Authorization is required for DPH to use or disclose an individual's PHI for employment determinations. For example, DPH must have the individual's authorization to disclose the results of a pre-employment physical to an individual's employer.

VII. VERIFICATION PROCEDURES

Prior to making any disclosures permitted by HIPAA, staff shall verify the identity of the person requesting DPH PHI and the authority of any such person to have access to DPH PHI.

VIII. MEDIA AND OTHER INQUIRIES

- A. All media inquiries should be referred immediately to a DPH Privacy Officer and/or the DPH Public Information Officer prior to release of information.
- B. No information may be disclosed if the patient has requested that information be withheld. Otherwise, the condition of an inpatient, outpatient, or emergency patient to the media may be disclosed **only** if the inquiry specifically contains the patient's name. (See exclusion in F and G below.)
- C. A DPH patient's condition may be described only in general terms that do not communicate specific medical information about the individual (e.g., undetermined, good, fair, serious, critical, or deceased).
- D. Care should be taken to first notify the DPH patient's next of kin before the fact of death is made public. No additional information about a patient's death, including the cause, date, or time of death, may be made without written authorization from a legal representative of the deceased patient, even if this information has been disclosed to the Medical Examiner or the Death Registrar.
- E. Information concerning a DPH patient's location in the hospital may be made to facilitate visits by family or friends or for delivery of gifts or flowers if the inquiry includes the patient's name and there is no instruction from the patient to withhold such information. This information should not be routinely disclosed to the media.
- F. As standard practice, DPH does not release information to the media about identifiable DPH clients engaged in behavioral health services (including those served in outreach, mental health, substance abuse, HIV, or supportive housing programs). This policy applies to current, previous, and deceased clients.
- G. Per DPH policy, brochures, or publications developed by DPH-funded programs are not to include identifiable clients in photos or personal stories that disclose their current or past mental health issues or substance use, or engagement in behavioral health services unless the client has specifically requested to participate in testimonials, promotions, and other materials, and has signed an authorization allowing this use. Programs should consult with the primary clinician before approaching a client about potential participation in this type of activity. A client agreeing to give a program testimonial or become involved in a

promotion must sign an Authorization for Use and Disclosure of PHI form prior to their participation in this activity.

IX. PERMISSIBLE DISCLOSURES WITHOUT AUTHORIZATION FOR PUBLIC POLICY PURPOSES

An authorization is not required in the following situations:

- A. For disclosures required by state or federal law.
- B. For DPH public health activities specifically permitted or required by law, such as preventing and controlling disease, injury, or disability; providing information to the Food and Drug Administration regarding adverse drug events, tracking health-related products, enabling product recalls, or conducting post-marketing product surveillance.
- C. For a work-related injury or illness when the release is to the responsible employer (the individual must be informed of the disclosure); that is, the employer has sent the patient, is paying for the care under workers comp, etc.
- D. For reporting victims of abuse or neglect as specifically required under the law.
- E. For reporting to a health oversight agency regarding activities authorized by law, including civil, administrative or criminal investigations, proceedings, actions, or inspections; audits, licensure surveys or investigations, or disciplinary actions.
- F. For responding to an order of a court or administrative tribunal issuing a subpoena, discovery request, or other lawful process.
- G. For providing the San Francisco Medical Examiner or a funeral director with information needed to carry out his or her duties as authorized by law.
- H. For facilitating organ, eye, or tissue donation, and transplantation.
- I. For preventing or lessening a serious and imminent threat to the health or safety of a person or the public when the individual to whom the disclosure is made is capable of preventing or lessening the threat.
- J. To warn reasonably identifiable victim(s) and notify law enforcement when a client communicates a serious threat of violence against a reasonably identifiable victim or victims (Tarasoff Duty to Warn).
- K. For informing the Department of Veterans Affairs as authorized by law of information needed for determination of eligibility or entitlement to benefits for an individual following discharge from military service.
- L. For disclosing information as authorized by law to provide benefits for work-related injuries and illnesses.

X. PERMISSIBLE DISCLOSURES WITHOUT AUTHORIZATION FOR CARE COORDINATION PURPOSES NOT OTHERWISE COVERED.

- A. As of January 1, 2009, if a minor is a dependent or ward of Juvenile Court, a general health care provider (Civil Code 56.103) or mental health care provider (W&I Code 5328.04) may disclose protected health information to a County social worker, probation officer or other adult who has care and custody of a minor in order to coordinate health care services and treatment (e.g., information about appointments, treatment plans, follow-up care, etc.).

XI. PERMISSIBLE DISCLOSURES OF GENERAL HEALTH INFORMATION WITHOUT AUTHORIZATION FOR LAW ENFORCEMENT PURPOSES

An authorization is not required in the following situations:

- A. When the disclosure of PHI is made in response to a law enforcement official's request for such information for the purpose of IDENTIFYING or LOCATING a suspect, fugitive, material witness, or missing person and the PHI is limited to:
- (a) Name and address
 - (b) Date and place of birth
 - (c) Social Security number
 - (d) ABO blood type and Rh factor
 - (e) Type of injury
 - (f) Date and time of treatment
 - (g) Date and time of death, if applicable
 - (h) Description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair, scars, and tattoos
- B. PHI related to an individual's DNA, DNA analysis, dental records, or typing, sampling, or analysis of body fluids or tissues MAY NOT be disclosed, excluding ABO blood type and Rh factor.
- C. When the disclosure of PHI is made in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime, provided that:
- 1. The law enforcement official represents that immediate law enforcement activity that depends on the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure, and
 - 2. The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred and such information is not intended to be used against the victim.
- D. When the disclosure is made to a law enforcement official about a decedent suspected to have died as the result of criminal conduct, excluding Mental Health clients (unless in a state hospital).

- E. When the disclosure is made to a law enforcement official about an individual, the PHI of whom constitutes evidence of criminal conduct that occurred on the premises of DPH.
- F. When the disclosure is made to a law enforcement authority to identify or apprehend an individual because of a statement made by the individual admitting participation in a violent crime that caused serious harm to a victim, excluding mental health information.
- G. When the disclosure is made to a law enforcement authority where it appears from all circumstances that the individual has escaped from a correctional institution or from lawful custody.
- H. When the disclosure is made to a correctional institution or law enforcement official having lawful custody of an inmate or other individual for:
 - (a) The provision of healthcare to such individual (disclosures may include mental health or HIV information as well);
 - (b) The health and safety of such individual or other inmates;
 - (c) The health and safety of the officers or employees or of others at the correctional institution;
 - (d) The health and safety of individuals and officers responsible for the transport or transfer of inmates from one correctional or health care setting to another;
 - (e) Law enforcement on the premises of the correctional institution; or
 - (f) The administration and maintenance of the safety, security, and good order of the correctional institution.

5. References/Attachments

1. **Attachment A:** City and County of San Francisco Department of Public Health DPH Privacy Policy Matrix – Sharing Protected Health Information for: Treatment Purposes
2. **Attachment B:** Required Elements of an Authorization to Release Protected Health Information Form

Attachment A

City and County of San Francisco Department of Public Health
DPH Privacy Policy Matrix – Sharing Protected Health Information for:

TREATMENT PURPOSES

When allowed by law (see below), Protected Health Information (PHI) may be shared for treatment purposes across disciplines and programs on a “need-to-know” basis and for the purposes of improving health outcomes. PHI includes case management/coordination communication, medication prescription and monitoring, counseling session start and stop times, the modalities and frequencies of treatment, results of clinical tests, and any summary of the following items: diagnosis, functional status, treatment plan, symptoms, prognosis, and progress to date.

Description of PHI	Who may disclose it?	Who may receive it?
General Health (includes knowledge of Mental Health, Substance Use/Abuse, HIV/AIDS, STD conditions)	General Health Provider	Patient's providers and providers' staff for the purpose of treatment, diagnosis, or referral <i>[Reference: Civil Code 56.10(a); HIPAA Treatment Exception]</i>
Mental Health (includes knowledge of General Health, Substance Use/Abuse, HIV/AIDS, STD conditions)	Mental Health Provider	Any healthcare provider (any discipline) "who has medical or psychological responsibility for the patient" <i>[Reference: W&I Code 5328(a); HIPAA Treatment Exception]</i>
Drug/Alcohol Treatment Program (includes knowledge of General Health, Mental Health, HIV/AIDS, STD Conditions)	Drug/Alcohol Treatment Program Provider	<u>Only</u> another member of the client's treatment team <u>WITHIN</u> the specific drug/alcohol treatment program Exception: a medical emergency <i>[Reference: 42 CFR Part 2, section 2.12 (c)(3)]</i>
HIV/AIDS CCSF Health Service Provider Network (includes knowledge of General Health, Mental Health, Substance Use/Abuse, STD conditions)	HIV/AIDS CCSF Health Service Provider	<u>Only</u> another HIV Health Service provider who registers client in ARIES database. <i>[Reference: CCSF Local Share Mandate established with the California Office of AIDS]</i>

Revised 01-05-10 and 12-19-13

Treatment Providers

Individual practitioners and program staff in agencies that furnish health services in the normal course of their business are considered treatment or healthcare providers.

HIPAA defines treatment as "the provision, coordination, or management of health care and related services by one or more health care providers, including the coordination or management of health care by a health care provider with a third party; consultation between health care providers relating to a patient; or the referral of a patient for health care from one health care provider to another." References: Civil Code 56.10(c)(1), H&S Code 123010, and HIPAA (45 CFR sec.164.506, 45 CFR 164.501 45, CFR 164.506).

For purposes of care coordination and treatment, healthcare providers may be inside or outside the DPH Safety Net, but they and/or their agencies must be bound by state and federal confidentiality laws and/or DPH MOUs to be considered a "treatment provider" as noted in the above matrix.

The DPH Safety Net includes civil service, contract, and affiliate programs (such as those of UCSF and the SF Community Clinic Consortium).

The following are some examples of other treatment providers whose clients' PHI may be shared for treatment and coordination purposes without an authorization:

1. Individual practitioners and treatment providers of private sector hospitals and clinics who are bound by state and federal confidentiality laws.
2. Providers who sell or dispense drugs, devices, equipment, or other items in accordance with a prescription.
3. (via MOU) Paramedics of the San Francisco Fire Department EMS
4. (via MOU) Case managers in the Human Services Agency Homeless Programs:
 - a. HSA Behavioral Health Roving Team
 - b. Housing Access Team
5. (via MOU) Case managers in the Department of Aging and Adult Services Case Management Programs:
 - a. Bernal Heights Neighborhood Center's
 - b. Neighborhood Elders Support Team (NEST) Case Management Program
 - c. Active Senior Case Management Program
 - d. Episcopal Community Services' Canon Kip Senior Center Case Management Program
 - e. Curry Senior Center Case Management Program
 - f. DAAS Adult Protect Services (APS) Case Management Program
 - g. Family Service Agency Seniors Case Management Program
 - h. IHSS (In Home Supportive Services) Consortium Case Management Program
 - i. Institute on Aging
 - j. MSSP (Multipurpose Senior Services) Case Management Program
 - k. Linkages Case Management Program
 - l. District Wide Social Services/District 5 Case Management Programs serving Mission, Noe Valley, Bernal Heights, Buena Vista, and Eureka Valley
 - m. Neighborhood Resource Centers Case Management Programs serving Richmond District, Western Addition and the Mission
 - n. Meals on Wheels Case Management Program
 - o. San Francisco Senior Centers Case Management Programs
 - p. Self-Help for the Elderly Case Management Program
 - q. On Lok 30th Street Senior Services Case Management Program
6. (via MOU) Care Coordinators of the San Francisco Health Plan

Questions about who is and who is not a health service provider should be directed to your Privacy Officer.
[revised mxm 031313]

Title of Policy: Authorization for Use and Disclosure of PHI, Attachment B

Date: 3/1/14

Attachment B:**REQUIRED ELEMENTS OF AN AUTHORIZATION TO RELEASE PROTECTED HEALTH INFORMATION FORM**

Authorization forms may not be combined with any other document (e.g., consent for treatment forms) to create a "compound authorization." The authorization form must be on 8 ½ x 11-inch paper and the font size must be at least 14 points.

HIPAA, state law, and DPH policy require that each patient's authorization include certain core elements as follows:

1. Patient/Client's name and date of birth
 2. Name of the disclosing entity/facility
 3. Name and address of the facility/individual to receive the protected health information
 4. Description of the information to be disclosed
 5. Description of the purpose of the disclosure
 6. Expiration date or the condition upon which authorization is terminated
 7. The patient or client's initials next to the types of PHI being released in a "protected classes" section for release of:
 - a. mental health information,
 - b. substance abuse information,
 - c. HIV/AIDS information,
 - d. developmental disabilities,
 - e. sexually transmitted disease information.
 8. Completed statements where client/patient acknowledges the following:
 - a. I understand that authorizing the disclosure of this health information is voluntary. I may refuse to sign this authorization.
 - b. I understand that I may not be denied treatment, payment, enrollment in a health plan or eligibility for benefits if I refuse to sign.
 - c. I understand that I have a right to receive a copy of this authorization.
 - d. I understand that my authorization to use or disclose protected health information expires on _____ or until _____ condition is met.
 - e. I understand that I may cancel my authorization at any earlier time by writing a note of cancellation and giving it to _____. I also understand that when I give or cancel my authorization, it is effective from that date forward, and not retroactively.
 - f. I understand that information disclosed as a result of this authorization could be re-disclosed by the recipient. Such re-disclosure is in some cases not protected by California law and may no longer be protected by federal confidentiality law.
 9. Signatures and Dates
 - a. Patient/Client
 - b. Parent/Guardian/Conservator if patient/client is unable to sign
 - c. Witness, if patient/client is unable to sign
-



City and County of San Francisco

Edwin M. Lee, Mayor

San Francisco Department of Public Health

Barbara A. Garcia, MPA
Director of Health

DPH PRIVACY POLICY: ATTACHMENT 5

TITLE: DPH Policy HIPAA Compliance: Administrative Requirements

PURPOSE

It is the policy of the San Francisco Department of Public Health (DPH) to adopt administrative policies and implement procedures that fulfill the administrative requirements set forth in the Health Insurance Portability and Accountability Act of 1996 (HIPAA).

The purpose of this administrative policy is to provide DPH with general administrative policies and procedures that, in accordance with the HIPAA Privacy Rule, help secure the privacy of health information and protect the privacy rights of individuals who have entrusted their protected health information (PHI) to the DPH.

SCOPE

This policy covers all DPH divisions and units and applies to all personnel working at DPH Facilities.

BACKGROUND

HIPAA requires DPH to adopt and implement administrative policies and procedures designed to secure the privacy of health information and protect the privacy rights of individuals who have entrusted their PHI to DPH.

PROCEDURE

I. PERSONNEL ASSIGNMENTS

- A. DPH shall designate a Privacy Officer responsible for developing and implementing policies and procedures regarding HIPAA.
- B. DPH shall designate a Privacy Officer responsible for receiving complaints from individuals who believe that DPH has violated federal or state laws governing PHI.
- C. This administrative policy documents the DPH designated personnel.

II. TRAINING

A. Responsibility

1. Department of Public Health

- a. It is the responsibility of the San Francisco Department of Public Health, through the Privacy Officer, to provide privacy training to all DPH personnel who produce, transcribe, store, transmit or otherwise have access to PHI.

The training shall consist of but not be limited to:

- (a) basic health privacy awareness training at new workforce member orientation;
- (b) on-line specialized health privacy training where accessible;
- (c) in-service specialized health privacy training where on-line training is unavailable;

The mission of the San Francisco Department of Public Health is to protect and promote the health of all San Franciscans.

We shall ~ Assess and research the health of the community ~ Develop and enforce health policy ~ Prevent disease and injury ~
~ Educate the public and train health care providers ~ Provide quality, comprehensive, culturally-proficient health services ~ Ensure equal access to all ~

(d) printed, electronic and in service consulting resources made available through the Compliance Office of the DPH.

2. Department Managers and Supervisors

- a. Department managers and supervisors are responsible for verifying that personnel who report to them have obtained health information privacy training sufficient to perform their duties in compliance with state and federal health privacy regulations, DPH health information privacy policy and health information privacy procedures.
- b. Department managers and supervisors are responsible for providing and/or requesting specialized health information privacy training for personnel who report to them.
- c. Department managers and supervisors are responsible for identifying and notifying the DPH Privacy Officer of any unmet health information privacy requirements within their departments.

3. DPH personnel

- a. DPH personnel are responsible for obtaining basic health information privacy training at new workforce member orientation and any specialized health information privacy training brought to their attention by their managers or supervisors;
- b. DPH personnel are responsible for notifying their managers or supervisors of any unmet specialized health information privacy training needs that come to their attention.

B. Training Documentation

1. DPH is responsible for documenting that personnel have completed privacy training.

III. COMPLAINTS TO DPH

A. Policy

1. DPH shall establish and maintain a process for individuals to register complaints regarding its privacy policies and procedures and/or its compliance with those policies and procedures. Individuals may call the DPH Privacy Officer, write the DPH Privacy Officer, or anonymously leave a message on the DPH Compliance Hotline at 415-642-5790 (CHN) or 415-252-3078 (PHP).
2. DPH shall document all complaints received regarding management of PHI and document the disposition of those complaints. Documentation shall be retained by DPH as required by law.
3. DPH shall not intimidate, threaten, coerce, discriminate against, or take other retaliatory action against any individual who files a complaint with DPH or with the Department of Health and Human Services.

B. Complaint Process.

1. *Communicating Process to Individuals.* DPH's Notice of Privacy Practices shall direct individuals to submit a complaint regarding management of PHI to the DPH Privacy Officer. The Notice shall also indicate that a complaint can be made directly to the Secretary of Health and Human Services (HHS).
2. The DPH Privacy Officer shall receive and review all complaints to DPH regarding the management of an individual's protected health information. Within ten (10) working days, the Privacy Officer shall notify the individual in writing of the disposition of the complaint.
3. *Disposition of Complaint.*

a. No Action Taken. If the review determines that the complaint is without merit, no action will be taken. This disposition shall be noted on the complaint form and the client so informed.

b. Further Investigation Required. If the Privacy Officer determines that a breach of policy or procedure has occurred or that the complaint identifies a potential for process improvement, the individual shall be notified that further review of the complaint is required and a final disposition will be delivered at a later date. The Privacy Officer shall refer the complaint to the appropriate department for follow-up (e.g. human resources for investigation of the breach and possible sanctions; or quality improvement for review and possible modification to a process). When the investigation has been completed and the matter resolved, the Privacy Officer shall notify the individual. If a breach of policy or procedure has resulted in an unauthorized use or disclosure of PHI, the Privacy Officer shall immediately implement steps to mitigate any potential harm to the individual.

4. All complaints to DPH regarding DPH management of PHI and documentation of the disposition of those complaints shall be filed in the office of the DPH Privacy Officer in a manner conducive to retrieval for review and/or audit. The documentation shall be retained for a period of six years from the date of the complaint.

IV. POLICIES AND PROCEDURES

A. DPH shall develop, implement and enforce policies and procedures consistent with the Health Insurance Portability and Accountability Act of 1996.

B. When necessary, DPH will revise these policies and procedures and update its training program to reflect these revisions.

C. DPH shall document all procedures consistent with state and federal requirements.

V. ADMINISTRATIVE SAFEGUARDS TO PROTECT PHI

A. The DPH Privacy Officer shall work collaboratively with the Chair of the DPH Data Governance Committee to insure that proper safeguards are in place to insure the use, access and disclosure of PHI is consistent with HIPAA, Federal, State, and local regulations

B. These safeguards shall include (but are not limited to) effective review and audit protocols to monitor individual, use, access and disclosure of PHI maintained in any form across DPH.

C. The Privacy Officer shall be responsible for recommending statistically valid sampling techniques and procedures to the Data Governance Committee to routinely test for inappropriate use, access or disclosure of PHI.

D. The DPH Privacy Officer shall report monthly to the Data Governance Committee on the results of the application of these sampling techniques and procedures.

Date Adopted: 04/2003

EXHIBIT J

COMMUNITY POLICING AND PROBLEM SOLVING



DM – 2
(01/07)

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Introduction

Community Policing and Problem Solving is the cornerstone of the operational philosophy of the San Francisco Police Department. This manual establishes the key elements of Community Policing and Problem Solving.

Community Policing is a philosophy, a management tool, and an organizational strategy, which promotes a cooperative partnership between police officers and members of the communities they serve. The common goal is to resolve problems and improve the overall sense of safety and security. The Police Department recognizes the partnership with the community and embraces the sharing of ideas, programs, and participation, which are a product of working together to achieve a common goal.

Community Policing is an interactive process between police officers and the citizens who work and live in the neighborhoods patrolled. It is results oriented rather than incident driven, providing a strategy to buttress a community's ability to produce and maintain attractive and safe neighborhoods.

Police officers, in addition to their law enforcement role, become managers of their beats/sectors and are encouraged to engage in responsible and creative ways to bring about problem resolution.

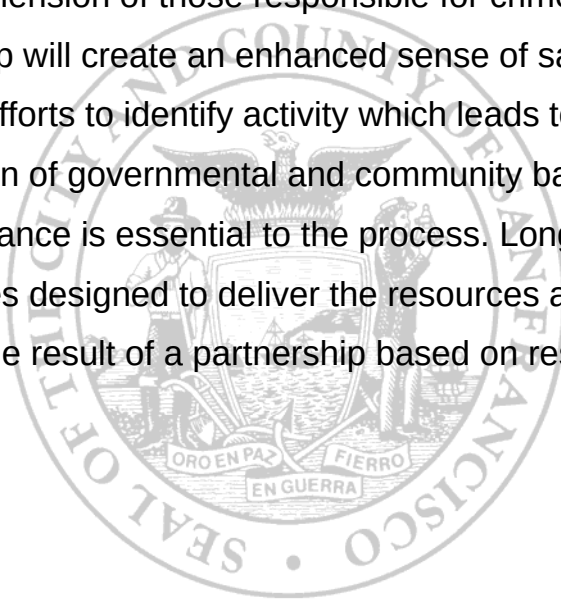
Community Policing is both a philosophy and an organizational strategy that allows the police and the community to work closely together in new ways to solve the problems of crime, fear of crime, physical and social disorder, and neighborhood decay. Community Policing and Problem Solving give reality to the historic tradition that the police are the public and the public are the police.

Mission

The mission of the San Francisco Police Department is to protect life and property, work closely with the community by forming partnerships to prevent crime, reduce the fear of crime, apprehend those who commit crimes, and provide a safe environment. This is accomplished by being attentive to the needs of the residents, merchants, and visitors of the City, and by working collaboratively to solve neighborhood problems.

Vision

The San Francisco Police Department envisions working in conjunction with members of all communities to reduce the incidence of crime through prevention, education, and apprehension of those responsible for crimes. The police / community partnership will create an enhanced sense of safety and security through cooperative efforts to identify activity which leads to crime. The prompt and timely coordination of governmental and community based services to sustain order maintenance is essential to the process. Long term planning and district based initiatives designed to deliver the resources and services to communities will be the result of a partnership based on respect, commitment, and trust.



Community Policing Values

1. Maintain a respectful and courteous partnership, where the police and communities share ideas, share differences, and find a common ground to achieve what needs to be done.
2. Continuous, open and honest communication must be maintained between the police and the community. Listening without judgment, assessment without bias, and response with compassion, must occur to keep the lines of communication open.
3. Strong leadership must be demonstrated by the Police Department, by civic leaders, and by community representatives. Leaders who are fair minded, empathetic, understanding, and determined, will have the greatest success.
4. Leaders of the Police Department, civic leaders and community representatives must not seek their own personal agenda; they must work on what is best for the community as a whole.
5. Respect for self and others must be encouraged and practiced, while maintaining a high level of responsibility and accountability for all officers and community members alike.
6. Long term results are the goal. Short term needs may be necessary to reach long term sustainable results, not quick fixes or “band aid” solutions. Quick fixes and “band aid” solutions always require more attention and more resources at a later time.
7. Police officers and community members must be equipped with all resources necessary to accomplish their objectives . Adequate time, personnel (both police and community), equipment, and training are necessary for all involved.
8. Information from all available sources must be shared and evaluated. The use of crime data, citizen observations, and analysis of events all contribute to the prevention of crimes, apprehension of criminals and education of police officers and community alike.

Objectives

1. Establish a working relationship / partnership between police officers and members of all communities.

- Conduct outreach efforts through all members of the Police Department.
- Patrol officers and investigators will be available to meet with and coordinate assistance on a 24 hours a day 7 days a week basis.
- Focused efforts will be made to encourage those communities who in the past have been less actively involved with community policing efforts, i.e.: communities who mistrust, fear, or do not have confidence in police services. Members include: at risk youths, recent immigrants, crime victims, and public housing residents.
- Focus on getting officers out of the radio cars during their shifts, so they can develop a working relationship with the members of the community they serve.

2. Establish a partnership with all City Departments to address needs for City services as identified through Police Community Partnership process.

- All officers who become aware of needs, criminal or non-criminal, which should be addressed by City Departments, will make a written request through the Director of Community Policing at the Field Operations Bureau, by utilizing SFPD Form #509.
- The Director of Community Policing will act as a liaison with all department heads to facilitate the delivery of services.

3. Maintain an open and transparent partnership, by which police officers and community members share information, discuss community concerns, and identify the cause of problems that contribute to crime. This partnership must be built on mutual respect and trust.

- The community will advise the Department on concerns or perceptions they have on police protocol and procedures. The Department will educate the community on police protocol. The community needs to know why police officers handle certain situations in a particular manner.

- Officers and investigators will treat all community members with respect, regardless of the background of the community they serve.
- The Department will make the community aware of what is occurring in their geographical area by circulating the information in district station captain's newsletters, district station's e-mail, community newsletters, community newspapers, and during community meetings.
- Police officers will attend community meetings and be prepared to speak with the community they serve. This will allow the community to become more familiar with the officers serving them and allow the officers to become more familiar with the community they serve. This interaction will establish relationships / partnerships.
- Expand the accessibility of the district station captains by ensuring community members are aware of the captain's phone number, e-mail address, and monthly community forum.
- The Department, through the district station captain's newsletters and Community Policing component on the Departments Web Site, will promote Community Policing Programs and provide information to those community members interested in participating.

Examples:

- a. Youth activities.
- b. Senior services.
- c. Crime prevention / education, utilizing Safety Awareness For Everyone (SAFE).
- d. Crime awareness.
- e. Drug awareness and education.
- f. Police resources.
- g. Community courts.
- h. Employee Recognition Report on SFPD Web Site

4. Identify the causes of the problems that contribute to crime, reduce the incidence of crime, increase the sense of safety and security.

- Officers will listen to concerns of the community and take the appropriate measures to address their concerns.
- Officers will identify the problem. If the problem is of criminal nature the officers will address the problem by using the **SARA (Scanning, Analysis, Response, and Assessment)** problem solving strategy. Officers will Complete SFPD Form #509 and submit the form to their Platoon or Watch

Commander. If the problem does not require Police Department involvement, officers will complete SFPD Form #509 and submit the form to their Platoon or Watch Commander. The Platoon or Watch Commander will forward the SFPD Form #509 to the Director of Community Policing. The Director of Community Policing will forward the information to the proper governmental agency.

- Officers will keep the community informed of the progress of their problem solving strategy, by addressing the community individually and at community meetings.
- Officers will keep a record of their progress in chronological order, and submit a record of their progress to their commanding officer. If they are unsuccessful they will start over with a new **SARA** problem solving strategy. The problem must be solved, not pushed to a different location. Ignoring or displacing a problem does not solve the problem, and is not acceptable. The SFPD form #43, SARA Problem Solving Worksheet, must be completed.
- Community Policing Lieutenants and the Director of Community Policing will work closely with the Community Partnership For Safer Neighborhoods (**CPSN**), to insure that the community is connected to the proper agency that can assist them with their particular need.

5. District station Commanding Officers and the Director of Community Policing will establish a continuous working partnership with community based organizations.

- They will meet on a regular basis with neighborhood outreach workers to share information and coordinate participation in community meetings.
- The Director of Community Policing will participate with the Mayor's Office of Criminal Justice (MOCJ), and the Community Partnership For Safer Neighborhoods (**CPSN**) to identify the roles, duties, and responsibilities that each neighborhood outreach worker will have in addressing the issues raised by community members.

6. Train all managers, supervisors, inspectors, and officers in updates of community policing concepts.

- Develop a training lesson plan for training recruits at the Police Academy.
- Develop a training lesson plan for training of all non-probationary officers attending Continuous Professional Training (CPT). All training shall be continuous.
- Police officers to receive training on available governmental and private resources.

7. Measure the level of citizen satisfaction with services provided by police officers.

- Develop a standard customer service survey to be provided to members of the community who report crimes. Develop a standard for distribution by utilizing a person's e-mail to send a survey. It will be measured by electronically sending out an e-mail and receipt of the response. This response will be reviewed to improve future performance.

Patrol and Foot Beat Officers

The primary job of a police officer is to deliver service to the community he/she serves. Because police officers are in all communities all day, every day, they are often times the first to recognize or be approached with problems affecting a community. Properly identifying the problem and securing the services of the appropriate public and private agencies to provide long term resolution to the problem is a basic function of crime prevention, control and order maintenance.

A core element of community policing is the utilization of beat patrol officers who walk the neighborhoods. Unlike traditional officers who may have a lesser connection with the people within the neighborhoods they patrol, community policing beat patrol officers get out of their cars and proactively engage community members throughout the neighborhood to become familiar and personable with residents and merchants. They also develop a keen awareness of neighborhood patterns, and become deeply familiar with issues block by block.

By using the following guideline, officers will be able to address most issues, which affect communities and resolve them to the satisfaction of the community, and relieve officers of having to deal with chronic complaints and excessive calls for service.

- Identify and analyze the principal crime, and order maintenance problems within an area, and design strategies to address chronic problems by utilizing the SARA problem solving strategy, or those, which use an inordinate amount of police and or public services.
- Attempt to identify primary causes of crime and or order maintenance, i.e. graffiti, large amounts of litter, abandoned properties, etc.
- Conduct outreach either directly or through Safety Neighborhood Partnership outreach workers to residential and business communities as well as civic, social, cultural and religious groups.
- Have a working knowledge of community leaders, business and merchant associations, and citizen contacts to call upon as resources in your efforts at attaining long term solutions to community problems.
- Actively address neighborhood problems, (crime, quality of life, overall sense of safety) which are having a negative affect on a segment of the community.

- Utilize the multitude of public and private agencies in the long term resolution of the problem. Be sure to follow up with the agencies you use to assist and make sure they are doing what is expected of them.
- Communication is important. Be open and communicate freely about problems in your district, not only with other officers, but with community members and seek their input and ideas on ways to resolve the problems.
- Actively work with innovative as well as traditional means of policing to address crime and order maintenance problems in your district.

Sergeants / Field Supervisors

Sergeants / Field Supervisors shall reinforce the Department's commitment to deliver the highest level of service to the communities we serve. Recognize those officers who do a good job of delivering that service through their efforts, or by working in conjunction with other resource agencies. Express the recognition of a job well done in evaluations, commendations, award nominations, and by taking the time to personally inform the officer of your awareness of the outstanding work they are doing.

- Emphasize and encourage long term problem solving as the primary method of reducing crime, creating an enhanced sense of safety and security and order maintenance in the community.
- Emphasize and encourage innovation, creativity, as well as traditional means of policing to address community problems.
- Continuously evaluate and modify efforts, as necessary, to resolve problems and assure long term results.
- Utilize the knowledge, skills and abilities of officers and community members alike to develop strategies to address problems and identifying resources available to help the process.
- Have a working knowledge of community leaders, business and merchant associations and citizen contacts to call upon as resources in your efforts at attaining long terms solutions to community problems.
- Emphasize problem solving as a primary means of producing long term results to community problems.
- Discuss possible solutions to problems with officers and community members alike.
- Know where to find the resources necessary to assist the patrol officers in their efforts to resolve community problems. Assist the officers in obtaining the internal, as well as external resources needed.
- Ensure that officers have adequate resources to assist them in delivering service to the community in the form of long term problem resolution.

- Assist the officers by trying to find ways of freeing them from some duties so they are better able to devote the time necessary to addressing community issues.
- Provide positive and constructive feedback to officers who are working at long term problem resolution on behalf of the community.

Lieutenants

The role of the lieutenant is pivotal in that the position is one of liaison with all parties participating in the Community Policing Partnership Initiative. They must be supportive of the model, its concepts, and philosophy in order for it to succeed. The lieutenant is the manager of the officers on his/her watch and the point of contact with the community members of the police district.

- Act as the liaison for the Police Department in all matters of Community Policing Partnership.
- Attend meetings of community, neighborhood, business, and all other organizations to provide mutual communication regarding issues occurring in your respective police district.
- Review all assessments completed by members of your unit and contact the Director of Community Policing to obtain updated information on the status of submitted assessments.
- Act as liaison with outreach workers from Community Partnership for Safer Neighborhoods and other community groups to maintain a sense of issues which are of concern to the community members.
- Emphasize problem solving through “situational assessment” by all officers on your watch.
- Emphasize customer service to the officers you manage and encourage innovation and creativity on their part in their efforts towards long term problem resolution.
- Support the officers in their efforts to address community concerns by providing the time and resources necessary for positive results.
- Review, evaluate and recognize the good work done by officers of the watch.
- Maintain open and frequent communication with officers and citizens alike to remain informed and assure all are updated on current issues.
- Promote the Departments mission, values, and goals.
- Assign subordinates to the same sector or beat on a daily basis.

- Try to find “work load reduction strategies” to give your personnel more time to devote to community policing.
- Update your commanding officer regarding the process of implemented community policing programs.

Captains

The commanding officer of a police district shares in the success and failures of the officers they command. Equally sharing in those attributes are the members of the various communities located in the police district. The commanding officer is a very important part of building and strengthening the Community Policing Partnership Initiative, as they work directly with the Community Policing Lieutenants and the members of all communities in the district. Commanding officers must remain actively involved and informed as to all aspects of the Community Policing Partnership activities occurring in their districts. Those who put forth the effort and commitment will share success with the officers under their command and the community members they serve.

- Emphasize customer service approach towards the community and your employees.
- Encourage and assist the Community Policing Lieutenants with their pivotal role.
- Regularly evaluate the performance of all officers under your command as it pertains to Community Policing Partnership activities.
- Prepare a quarterly report explaining what specific actions occurred in their district.

Examples:

- a. 509 report.
 - b. Newsletters written.
 - c. Training administered to officers.
 - d. Community meetings attended.
 - e. Articles placed on the Departments Web Site.
 - f. Community events and programs that officers participated in.
- Maintain open and frequent communication with all officers and community members alike to remain informed and assure all are updated on community issues.
 - Reinforce the commitment of the Department to work with community members to; resolve issues of concern, maintain order, reduce crime, and enhance the sense of safety and security of community members.
 - Support the officers in their efforts to address community concerns by providing the time and resources necessary for positive results.

- Maintain a good working knowledge of available resources.
- De-emphasize traditional indicators of performance which stress quantity and not quality.
- Try to find “work load reduction strategies” to give your personnel more time to devote to community policing.
- Encourage and praise your subordinates’ efforts and successes.
- Seek employees’ input and provide feedback on how it was used.

Director of Community Policing

The Director of Community Policing acts as the liaison for the Police Department with the Mayor's Office of Criminal Justice, the Mayor's Office of Neighborhood Services, Safety Network, Community Partnership for Safer Neighborhoods, and various public agencies, organizations, and associations participating in the Community Partnership for Safe Neighborhoods Program.

One of the primary roles of the Director is that of a "clearinghouse" for all assessment forms submitted by the Police Department and by outreach workers of Community Partnership for Safer Neighborhoods. Working with the full commitment of the Mayor's Office, the Chief of Police, and various community participants, the Director will engage the services of those agencies necessary to address community problems. In order to bring resolution to community problems the Director:

- Will report directly to the commander of Field Operations Bureau.
- Will meet with the Chief of Police, the DC of Field Operations, and the Director of MOCJ, on a regularly scheduled, bi-weekly basis in order to update them on progress being made on community policing initiatives, to seek their input, and to report any concerns or recommendations.
- At the request of the Director, the Chief, and the Director of MOCJ will meet to discuss the progress of community policing efforts.
- Will work in partnership with the training division to assist in the development of community policing training curriculum.
- Will attend the Community Partnership for Safer Neighborhoods meetings, and assist the groups to ensure that the needs and concerns of their community are being addressed.
- Will attend community based organization meetings to ensure their needs and concerns have been addressed and keep the community updated.
- Will review and evaluate submitted assessment forms and determine which are police related issues or non-police related issues. Forward all non-police related issues to the Director of MONS for the delivery of services by the agencies deemed necessary to provide long term resolution to the specific problem.
- Will regularly review the status of the public safety and quality of life assessments. Keep an open line of communications with the district stations Community Policing

Lieutenants and Director of MONS, to assure every effort is being made to promptly and efficiently provide the services needed to resolve the problem.

- Will work closely with the various community-based organizations to ensure they are meeting specified criteria for community policing and crime prevention and verify that they are assisting in each district based strategy.
- Will act as a liaison with the commanding officers and community policing lieutenants at district stations, to provide updates on matters submitted, or to obtain additional information to facilitate the needs of cooperating agencies.
- Will meet with all forty district Community Policing Lieutenants on a regular basis to discuss the success of community policing efforts and initiatives and how they can be improved.
- Will produce a quarterly report identifying the district station, the number of assessment forms received, those in progress, and the number closed.
- Will send "Community Satisfaction Surveys" to those individuals, groups, and organizations that have requested assistance through the Community Partnership for Safe Neighborhoods Program.
- May have offices both at the Hall of Justice and City Hall, Mayor's Office of Criminal Justice.
- Will be responsible for reviewing existing departmental documentation (e.g., community policing manuals, bulletins, worksheets, resource cards, etc.) and make specific recommendations as to what changes, updating and the like are needed to make them more current, relevant, and helpful.
- Will work in partnership with the Training Division to assist the 40 assigned community policing lieutenants that are liaisons to the community and have responsibility for implementing the community policing policies, procedures, programs and training. District station captains will ensure that these lieutenants oversee the training curriculum for all police officers assigned to their command in their respective districts. They serve as the direct connection between the community and the district stations and are culturally trained and sensitive to each individual neighborhood.
- Will work in partnership with the Training Division to develop, update and review community policing training procedures for new recruits and all existing police officers through ongoing in-service training and roll call training. This will serve as a tool to inform police officers throughout the City of new community policing policies and initiatives.
- Will work with various entities, both inside and outside the Department, to increase the participation of all communities and non-profit agencies.

- Will arrange and facilitate quarterly meetings with the district station captains, the community organizers, and all 40 community policing lieutenants. These meetings will also include a member of the SFPD Command Staff (Field Operations Bureau) and the Director of the Mayor's Office of Criminal Justice. These meetings, which will rotate among the various district station community rooms, are intended to serve as a forum to discuss best practices, give district updates, share information and keep everyone engaged and create accountability.
- As a representative of the Chief of Police, and with members of the Mayor's Office of Criminal Justice, will attend weekly meetings with the African American Community Police Relations Board and its coalition and collaborative partners to provide updates. These meetings will be limited to one hour in length and be preceded by a formal written agenda delivered in advance of the meeting. The frequency of these meetings will be adjusted by mutual agreement between the Chief of Police, AACPRB, and MOCJ.
- Will participate in district station planning sessions involving the SFPD, community organizers, and the community. The goal of these planning sessions is to build a comprehensive plan which will begin with a framework of 5 issues. These issues are: beat patrol schedule and strategy; public health response in the aftermath of violent crime; neighborhood needs assessment; communication protocol; and updated training documents
- Will work with all members of all Bureaus of the Department to develop a process whereby each member, at all ranks will participate in training and orientation regarding cultural competence and community policing. Each participant will receive a certificate verifying his or her participation in the training. Culturally competent community policing strategies will be incorporated into all activities of the Police Department.

Investigations Bureau

It is important for the inspectors in the Investigations Bureau and the officers in the Field Operations Bureau to interact. Purposeful interaction will result in the attainment of a consensus regarding service delivery expectations.

Investigations shall:

- Develop a knowledge base about crime thereby becoming an expert about criminal activity within a given community.
- Act as a liaison with crime analysts regarding the existence of crime problems and the frequency of their occurrence.
- Become the neighborhood crime coordinator by tracking criminal trends, investigating and closing cases. Liaison with patrol officers and the community regarding criminal activity and intelligence.
- Assist patrol officers in conducting comprehensive initial investigations, limited follow-up investigations and case closures.
- Conduct investigations into criminal activity within an assigned community, assist and coordinate criminal investigations with other investigators.
- Structure investigative methods to be based on a team approach, consisting of the investigator, the patrol officer, the patrol supervisor and the community.
- Support and promote the concept of community policing within the Department and the community.
- Champion the Department and promote its organizational mission, values and goals.
- Support Field Operations Bureau in its efforts to building and strengthening the Community Policing Partnership Initiative.
- Develop “work-load reduction strategies” to give members more time to devote to community policing.
- Maintain a working knowledge of the community policing philosophy, goals, objectives, and programs.
- Maintain involvement as a valued part of the community policing team.

- Maintain a working knowledge of the resources available within the Department and other government agencies.
- Maintain a working knowledge of the resources available within the community.
- Locate and organize resources required to implement solutions.
- Adopt a customer service approach to performing your duties for internal and external customers.
- Work with all employees and citizens to solve community problems.
- Use the SARA problem-solving techniques to create innovative solutions.
- Share information with other members of the Department for the purpose of solving crimes.
- Monitor involvement by non-Departmental resources and follow through to ensure satisfactory results.
- If it is necessary to refer a citizen/victim, make the **first** referral the **correct** referral.
- Be willing to evaluate and improve your performance.
- Provide suggestions on ways to prevent crime by analyzing crime trends and developing a strategy to prevent future crimes of a similar nature from occurring.

Administration Bureau

Community policing is not just a “patrol” oriented philosophy. It is a fundamental change in the policing philosophy of the entire Department. In order to achieve our community policing goals, the assistance of all Department members is needed.

Crime Analysis:

- Community Policing includes crime analysis and information management to provide a vehicle through which every member of the Department can efficiently manage the SARA Model and the Community Policing approach. The Department’s Management Information Systems serves as a communications network for each officer within the Department.
- Crime analysis and information management are interactive systems that aid in integrating operational efforts with identified problems through the efficient management of information. Beat officers and investigators have the capacity within this system to become managers of the communities they serve. It becomes their responsibility to use the systems to support neighborhood needs and commitments.

Cultural Competency:

- The related and important notion of cultural competency is the subject of an additional twenty-eight hours of classroom instruction. Cultural Competency is imparted in presentations by representatives of seven distinct community groups, each of which is allotted either a two or four hour block of time. In these lectures officers are sensitized to the complex realities facing low-income communities, communities of color and other urban communities. The Department recognizes that without a deep understanding of the experiences, needs and challenges in these communities, it would be difficult to fully implement effective community policing strategies.

Training:

- The Training Division will play a major role in developing and implementing training programs which will teach officers new skills and help them perform more proficiently. The training will also require focusing on unit training as well as individual training. Unit training will be vital in assisting units in their responsibilities for addressing community problems and delivering appropriate services. In concert with unit training, individual skill training will reinforce the officer skills needed to effectively work within a unit.

- The Training Division also will provide training on community policing to the Community and will continue as demonstrated in the Citizens Police Academy.

General Responsibilities:

- Support and promote the concept of community policing within the Department and the community.
- Champion the Department and promote its organizational mission, values, and goals.
- Develop “work-load reduction strategies” to give members more time to devote to community policing.
- Maintain a working knowledge of community policing philosophy, goals, objectives, and programs.
- Maintain involvement as a valued part of the community policing team.
- Maintain a working knowledge of resources available within the Police Department, other government, and private (non-profit) agencies.
- Locate and organize resources required to implement solutions.
- Adopt a customer service approach to performing your duties for internal and external customers.
- Identify, analyze and develop strategies to address problems encountered in your working environment.
- Work with all employees and citizens to solve community problems.
- Use the SARA problem-solving techniques to create innovative solutions.
- Share information with other members of the Department.
- Monitor involvement by non-Department resources and follow through to ensure satisfactory results.
- If it is necessary to refer a citizen/victim, make the **first** referral the **correct** referral.
- Be willing to evaluate and improve your performance.

- Support the mission of Field Operations Bureau and Investigations Bureau personnel in their community policing approach to problem solving.



“DO NOT MODIFY THIS FORM”
S.F. POLICE DEPARTMENT COMMUNITY MEETING
AND ISSUE TRACKING FORM

Check one: ☐ Citizen Contact ☐ Business ☐ Community Group
 (complete box (a) & (b) only if at a business or community meeting)

Date: _____ Time: _____ hrs.

Name of Business or Community Group & Facilitator: (a)	Address of business or group: (b)	District Station:	Number of Attendees:
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Information of citizen or contact person.

Name:	Address:	Phone #	E-Mail address:
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All issues: (Make sure locations and times are listed in this area).

Is SFPD Assistance needed?

1)	☐ YES	☐ NO
2)	☐ YES	☐ NO
3)	☐ YES	☐ NO

Name(s) of Representatives Attending Meeting:

SFPD / Mayor's Office of Neighborhood Services (MONS)

Community Partnership for Safer Neighborhoods (CPSN)

Community Representative

1)	4)	1)	4)
2)	5)	2)	5)
3)	6)	3)	6)

City Agencies Attending Meeting

☐ Adult Probation Name: _____ ☐ Animal Control Name: _____ ☐ Board of Supervisors Name: _____ ☐ City Attorney Name: _____ ☐ Dept. of Building Inspection Name: _____ ☐ Dept. of Parking & Traffic Name: _____ ☐ Other: _____	☐ Dept of Public Health Name: _____ ☐ Dept. of Public Works Name: _____ ☐ District Attorney Name: _____ ☐ Fire Department Name: _____ ☐ Juvenile Probation Name: _____ ☐ Housing Authority Name: _____	☐ Mayor's Office Name: _____ ☐ Muni Railway / MTA Name: _____ ☐ MOCJ ** Name: _____ ☐ Port Commission Name: _____ ☐ Redevelopment Name: _____ ☐ School District Name: _____
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** MOCJ = Mayor's Office of Criminal Justice

Officer Completing This Form: _____

Date: _____

Community Policing Lieutenant Review: _____

Date: _____

Instructions for District Stations:

This form is for documenting police and non police related issues. Once this form is completed by the officer, submit to PC and PC to forward to Community Policing Coordinator @ FOB via e-mail or floppy disk, **(Do not fax or send paper copy)**. This is a tracking form only. It is the sole responsibility of the district station to resolve any police related issues in their district. Non police related issues will be referred to the appropriate agency.



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S.F. POLICE DEPARTMENT COMMUNITY MEETING
AND ISSUE TRACKING FORM



4)	☐ YES	☐ NO
5)	☐ YES	☐ NO
6)	☐ YES	☐ NO
7)	☐ YES	☐ NO
8)	☐ YES	☐ NO
9)	☐ YES	☐ NO
10)	☐ YES	☐ NO
11)	☐ YES	☐ NO
12)	☐ YES	☐ NO



“DO NOT MODIFY THIS FORM”
S.F. POLICE DEPARTMENT COMMUNITY MEETING
AND ISSUE TRACKING FORM

San Francisco Police Department
 SARA Problem Solving Worksheet
 Community Policing

Assigned to:

Car/Beat# _____ Officers: _____

Sergeant: _____

Problem Information

Contact Information

Location: _____

Date/Time of Problem: _____

Scan - describe problem: _____

Name: _____

Address: _____

Company/Department: _____

Phone #: Day _____ Night _____

Received by: _____

Date Received: _____

Mail ☐ Person ☐ Phone ☐

Resolution Plan

Analyze: Why does this problem exist? _____

Response: How do you propose to solve the problem? _____

Estimated Completion time. _____

Assessment: What worked and what didn't? Describe results. _____

Contact follow up made: YES ☐ NO ☐ **By whom:** _____

Additional response needed? What? _____

Allied Agencies Utilized or Referrals Made

<u>Agency</u>	<u>Contact Person</u>	<u>E-Mail Phone #</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Review Dates

Date	Date	Date	Date
_____	_____	_____	_____
Sgt.	Sgt.	Sgt.	Sgt.

Completion Certification

Capt.	_____
Lt	_____
Sgt.	_____



“DO NOT MODIFY THIS FORM”
S.F. POLICE DEPARTMENT COMMUNITY MEETING
AND ISSUE TRACKING FORM

_____ Officer _____

Chronological Report

(Mandatory to include Star # for every entry)

Star #	Date	Time	Activity