

July 10, 2015

Board President Dave Cortese
70 W. Hedding Street, 10th Floor
San José, CA 95110

Dear Board President Cortese,

I write to you and your colleagues to respectfully request that you agendize on the public calendar the County's policy relating to its unwillingness to honor ICE holds of serious or violent criminals.

A few months ago, among my very first actions as Mayor, I worked to create the City's first-ever Office of Immigrant Affairs to better respond to the needs of our underserved immigrant communities. Its mission aligned strongly with the good work that you and your colleagues had also been doing in the County.

We also stood together when I launched an effort in 2007 to publicly reaffirm San José's policy to ensure that San José police officers would not engage in enforcement of federal immigration laws. We did so because we recognized that police intervention in immigration matters would undermine the important work our police officers were doing to build trust and cooperation among our diverse residents. We agreed that our communities would be safer where residents felt no fear or hesitation—regardless of their legal status—to report their child's victimization, or to identify a nearby "drug house," or to call for an ambulance.

We disagree, however, about the County's current policy to ignore ICE hold requests for deportable individuals who have committed serious or violent felonies. Contrary to the purposes served by other immigrant-focused initiatives we've supported, any policy that hastens the release of predatory criminals makes us all less safe.

In particular, the County's policy undermines the safety of the very immigrant communities that we collectively seek to protect. Predatory felons disproportionately victimize neighborhoods where large populations of immigrants live. My law-abiding, hard-working immigrant neighbors—I live just East of Downtown, in one of several surrounding neighborhoods with many legal and undocumented immigrants-- have never told me that they fear the local jail's cooperation with ICE in cases involving violent felonies. Why should they? They don't commit those crimes.

Nor have I ever heard any of my undocumented constituents tell me that they feel any differently about violent felons than any of my other neighbors. They'd rather not have to raise their children among them. If those felons are not lawfully present in the U.S., why would we believe that the safety of our immigrant community—or the rest of our city—is better served by releasing them into the very neighborhoods where immigrants live?

When this issue came before the County board in 2011 and again in 2013, the County's top two law enforcement officials, District Attorney Jeff Rosen and Sheriff Laurie Smith, advised a more moderate course, urging that you honor ICE holds of violent and serious felons. That would be consistent with California's Trust Act, enacted in 2013. The majority of the County board failed to heed this call from its law enforcement experts. Even when Supervisor Joe Simitian suggested a sensible compromise in 2013—one that would hold the ICE detainees for no more than 24 hours where charged with a serious or violent felony-- the County board

refused to budge. The grim news from last week provides another “off-ramp” from this very dangerous expressway. I encourage the Board to seriously consider this opportunity.

In 2012, District Attorney Rosen identified three assailants—one who assaulted his ex-girlfriend, another who inflicted a 25-stitch laceration on a victim’s head, and a third who struck a *two year-old child*—all of whom were released by the County under its misguided policy, all in spite of ICE hold requests. Each of them failed to appear for their criminal proceedings, and were—at least at that time—on the lam. I do not know what has become of any of those three defendants, but we need not speculate whether a tragedy could result. Regardless of whether one can properly attribute the recent tragic slaying of Ms. Steinle to San Francisco’s analogous policy, a similar tragedy is not simply foreseeable, but inevitable.

The justification routinely proffered for the County’s policy—that the County would honor an ICE hold if only the federal government would compensate the County for the costs of that detention—does not survive scrutiny. Typically, ICE holds expire after 48 hours. *See* 8 CFR 287.7(a). Under Supervisor Simitian’s 2013 proposal for honoring a request for merely 24 hours—more than ample time for ICE to pick up an inmate from the County jail—the costs to the County would be negligible. As District Attorney Rosen has publicly asserted, it would actually *save* the County money to allow ICE to take custody over deportable felons, rather than having local taxpayers foot the bill for supervision or punishment. Most importantly, as the *Mercury News* reported in November 22, 2012, “ICE already pays the county Department of Corrections about \$1 million a year under the State Criminal Alien Assistance Program to incarcerate ‘undocumented criminal aliens.’” The mere fact that the federal government reimburses the County in the aggregate, and not per capita, amounts to a distinction without a difference; the County is not harmed financially by keeping these felons out of our community.

Further, the County’s policy provides ammunition to xenophobic extremists who have ably persuaded voters and politicians to oppose any policies supporting the integration of immigrants into our community, such as administrative relief. Particularly when a foreseeable tragedy results, the public reaction creates an audience for Donald Trump, Ted Cruz, and other salesmen of shameful anti-immigrant vitriol. This rhetoric undermines our mutual ambitions to create a community welcoming to all immigrants.

I hope that the County will view the tragedy in San Francisco as a wake-up call to craft a policy that reflects the triumph of pragmatism over the ideological extremes that too often shape the public debate around immigration. Let’s restart this conversation where we all agree: we can better serve our immigrant communities, and we can ensure that all hard-working, law-abiding immigrants—documented or undocumented—can achieve their dreams of creating a better life for their children.

That starts with keeping them safe. Don’t hesitate to call me if you’d like to work together again to do so.

Sincerely,

A handwritten signature in cursive script, appearing to read "Sam Liccardo".

Sam Liccardo
Mayor, City of San José

CC: Board of Supervisors