

**POLICY RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY  
OF SANTA CLARA ADDING BOARD POLICY 3.54 RELATING TO  
CIVIL IMMIGRATION DETAINER REQUESTS**

**WHEREAS**, the Board of Supervisors wishes to give direction and set policy for such matters for which the responsibility of decisions is placed on it by virtue of State codes, County Charter or specific ordinances and resolutions or relates to its broad policy-making authority to matters regarding Santa Clara County; and

**WHEREAS**, the Board of Supervisors wishes to clearly state and compile policies and to provide for distribution of these policies to affected decision-makers; and

**WHEREAS**, the Policy Manual is not set by ordinance, is not legally binding, and can be changed by adoption of a resolution approved by a majority of the Board of Supervisors and is intended to give guidance to staff and future members of the Board of Supervisors;

//

//

//

//

//

//

//

//

//

//

//

//

//

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Supervisors of the County of Santa Clara, State of California, that the Board of Supervisors' Policy Manual is hereby amended by adoption of this resolution to add Section 3.54, Civil Immigration Detainer Requests, attached hereto as Exhibit "A" and incorporated herein, and the Clerk of the Board is directed to incorporate the policy into the manual so that it is available to all County staff.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Santa Clara, State of California, on \_\_\_\_\_, 2011, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
DAVE CORTESE, President  
Board of Supervisors

ATTEST:

\_\_\_\_\_  
MARIA MARINOS  
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:

  
\_\_\_\_\_  
JUNIPER DOWNS  
Lead Deputy County Counsel

Exhibit to this Resolution:

A – Board Policy 3.54 for Civil Immigration Detainer Requests

446351

**Exhibit A –  
(Proposed Amendment to Detainer Task Force Recommendation)**

**3.54 Civil Immigration Detainer Requests**

It is the policy of Santa Clara County (County) to honor civil detainer requests from the United States Immigration and Customs Enforcement (ICE) by holding adult inmates for an additional 24-hour period after they would otherwise be released in accordance with the following policy, so long as there is a prior written agreement with the federal government by which all costs incurred by the County in complying with the ICE detainer shall be reimbursed:

1. Upon written request by an Immigration Customs and Enforcement (ICE) agent to detain a County inmate for suspected violations of federal civil immigration law, the County will exercise its discretion to honor the request if one or more of the following apply:
  - a. The individual is convicted of a serious or violent felony offense for which he or she is currently in custody.
    - i. For purposes of the policy, a serious felony is any felony listed in subdivision (c) of Section 1192.7 of the Penal Code and a violent felony is any felony listed in subdivision (c) of Section 667.5 of the Penal Code.
  - b. The individual has been convicted of a serious or violent felony within 10 years of the request, or was released after having served a sentence for a serious or violent felony within 5 years of the request, whichever is later.
    - i. If the individual has been convicted of a homicide crime, an immigration detainer request will be honored regardless of when the conviction occurred.
    - ii. This subsection also applies if the Santa Clara County Department of Corrections has been informed by a law enforcement agency, either directly or through a criminal justice database, that the individual has been convicted of a serious or violent offense which, if committed in this state, would have been punishable as a serious or violent felony.
2. In the case of individuals younger than 18 years of age, the County shall not apply a detainer hold.

3. Except as otherwise required by this policy or unless ICE agents have a criminal warrant, or County officials have a legitimate law enforcement purpose that is not related to the enforcement of immigration laws, ICE agents shall not be given access to individuals or be allowed to use County facilities for investigative interviews or other purposes, and County personnel shall not expend County time or resources responding to ICE inquiries or communicating with ICE regarding individuals' incarceration status or release dates.