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16 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
17 **COUNTY OF SAN FRANCISCO**

18 CYNTHIA CERLETTI,

19 Plaintiff,

20 v.

21 VICKI HENNESSY, in her Official Capacity
22 as Sheriff of the City and County of San
23 Francisco.

24 Defendant.

Case No.: CGC-16-556164

Reservation No.: #02160410-16

**EXHIBIT BB IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO
DEFENDANT'S DEMURRER AND
MOTION TO STRIKE**

Hearing Date: May 15, 2017
Judge: Hon. Harold A. Kahn
Time: 9:30 a.m.
Dept: 302

Complaint Filed: December 27, 2016
Trial Date: None Set

ELECTRONICALLY
FILED
Superior Court of California,
County of San Francisco
05/04/2017
Clerk of the Court
BY: VANESSA WU
Deputy Clerk

EXHIBIT BB

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Comparison of Proposed Policies Regarding Response to ICE Voluntary Notification Requests

| Supervisor Avalos' Proposed Amendment to the Due Process for All Ordinance | Sheriff's Proposed Notification Policy Consistent with Sanctuary City Ordinance as set forth in Administrative Code Sections 12H and 12I |
|--|--|
| <p>Allows response to an ICE request for notification of the release of an individual from custody, under the same circumstances that now allow for detention, when an individual has:</p> <p>Criminal History A conviction of a violent felony within the last seven years; and A current charge of a violent felony; and A magistrate has determined there is probable cause to believe the individual is guilty of the current charge of violent felony; and If one or more of the above is present, it will trigger:</p> <p>Evidence of Mitigating Factors A review of the individual's background to consider evidence of the individual's rehabilitation and evaluate whether or not the individual poses a public safety risk. Evidence of rehabilitation or other mitigating factors include, but is not limited to: the individual's ties to the community, whether the individual is a victim of crime, the individual's contribution to the community, and the individual's participation in social service or rehabilitation programs.</p> <p>Note: "Violent Felony" as used here, also includes some crimes identified as "Serious Felonies" in the Penal Code. These include the 245 PC (assault) series, some weapons charges for weapons enhancement listed in 12022.4PC and 12022.5PC. Human Trafficking defined in 236.1 PC is also included.</p> | <p>Allows response to an ICE request for notification of the release of an individual from custody, after a review of the individual's criminal record showing one or more of the following circumstances: Note: Ajudication for crimes committed while a juvenile will not be considered.</p> <p>Criminal History A conviction of a violent felony, as defined in Penal Code Section 667.5(c), within the last seven years; or A conviction of one of a list of certain serious felonies defined in Penal Code Section 1192.7(c) within five years; or Three felony convictions arising from three separate incidents within the last five years; If one or more of the above is present, it will trigger: Evidence of Mitigating Factors A review of the individual's background to consider evidence of the individual's rehabilitation and evaluate whether or not the individual poses a public safety risk. Evidence of rehabilitation or other mitigating factors include, but is not limited to: the individual's ties to the community, whether the individual is a victim of crime, the individual's contribution to the community, and the individual's participation in social service or rehabilitation programs.</p> <p>Additional Provisions: Any individual on whom ICE has requested notification, whether or not the notification is honored, will be informed of the notification request and provided with information about social and legal services available for immigrants. The Public Defender's Office/ attorney of record will also be informed of the notification request</p> |

In constructing her policy, the Sheriff met with members of the public concerned about a blanket prohibition against law enforcement communicating with ICE; members of the immigrant rights advocacy community concerned about any communication by law enforcement with ICE; representatives of the Public Defender's Office, who provided information on civil ICE warrants that appear in the national criminal history database; representatives of the City Attorney's Office; and, representatives of the San Francisco ICE field office.

The Sheriff personally reviewed approximately 50 ICE Voluntary Requests for Notification that were sent to the San Francisco Sheriff's Department over the course of three months and found no cases where a review of criminal history triggered a review of Evidence of Mitigating Factors.