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Hayes, Kathy

From: Eric V. Kirk <ericvkirk@gmail.com>
Sent: Monday, August 14, 2017 11:49 AM
To: Bohn, Rex; Fennell, Estelle; Bass, Virginia; Wilson, Mike; Sundberg, Ryan
Cc: Hayes, Kathy; renee saucedo; Rory Eschenbach
Subject: Diversity Statement and Sanctuary Ordinance

To the Board of Supervisors:

I have reviewed the proposed statement in favor of diversity and I appreciate the spirit behind it and the willingness of each of you to listen to some of the most vulnerable in our community who cannot vote. And although I have not yet met him personally, I am also grateful for the commitment and sincerity of Sheriff William Honsal with regard to the issues facing the large local immigrant communities.

Unfortunately I am not able to attend your meeting of August 15, 2017 and I do not have the time at the present to fully elaborate on what I believe to be at stake for the County, but I wanted to share a few thoughts with you before you pass the resolution. The following thoughts are my own and I do not speak for any other individuals or organizations though I am working with them.

I do not object to anything in the statement and I do not oppose its adoption by the Board of Supervisors. My hope is that it is a beginning rather than an end to the discussion.

I am concerned about the portion of the statement and some of the discussion regarding the encouragement of undocumented residents to work towards legalization of their residence. I am not sure that I could recommend that as an attorney right now due to the political climate and recent ICE actions. Very recently a young man cooperated with ICE authorities to process his transition to legal residence, and he was excited to report to agents that he had received a soccer scholarship at a university. Instead of recognizing his productiveness as a citizen, the agents took it as a pretext to deport him, and for good measure his brother. During this last winter ICE agents waited outside of a church in New York where some immigrants came in order to keep warm as they could not afford the heating cost for their own homes. They were ambushed upon leaving the church, and those who were undocumented were processed for deportation. The same New York Times article quoted one of the agents as saying that the change in administration has "made this job fun again." In several states ICE agents, or local officers in compliance with voluntary cooperation agreements with ICE, have arrested suspected undocumented persons in front of crying children, one incident taking place near the school where the child was to be dropped off. And at least one allegedly abusive boyfriend of an undocumented woman has made use of the climate by notifying ICE officials of a court date in which she was to appear in order to obtain a restraining order against the boyfriend. She was arrested at the court house.

For decades now Congress has deliberated over immigration reform to address the millions - 13 million by some estimates - of undocumented residents. We can discuss whether it was "unethical" for them to come to the US for a better life for their families, but I can tell you that if I was in such a situation and concluded that even illegal immigration was best for my country I would follow exactly the same course of action. We can discuss the international politics and the history of neo-colonialism which has aggravated if not generated some

of the problems in other countries which have driven people to this country. We can discuss the need to enforce even those laws with which we disagree. There is much to be discussed.

But there is also a phrase which has been used often in other local politics contexts. Local activists and leaders have spoken about the difference between government policies and "the realities on the ground." We cannot deport 13 million people. We can only terrorize them and drive them further underground. We can break up families, bring children to tears, and strut as we tell major papers how much "fun" it is to cause pain. Or we can remain on the sidelines as we watch our neighbors, co-workers, and business people rounded up and hope future generations don't judge us harshly - that there won't be historical debates about whether our silence is excusable because of our historical context. Many other communities have taken the right stands, and they are facing retribution from federal power as the result.

Right now, Congress is cowed with regard to immigration reform, because thanks in large part to a man who has (or has had) great influence in the current White House administration, former House Representative Eric Cantor was "primaried" for his support of immigration reform. The basis? That such reform would lead to more voters supporting the opposition party. That is why we don't have reform, and why we do not have legal amnesty for those who would apply for legal residence. Without amnesty, I can not as an attorney recommend that undocumented people take such a course. Under the previous Administration, "Dreamers," those who were brought into the country by their parents at a young age, were encouraged to come out of the shadows and avail themselves of a process which was promised, but has not come to fruition. Many of them do not identify with their countries of origin - some do not even speak the language. They are Americans, though the law does not currently respect them as such.

The statement as proposed is fine. It is not enough. It is not enough to support the policy of a well-intentioned Sheriff. The County needs a Sanctuary resolution which is not contingent upon the good will of the office holder, but rather a policy which actually backs him up and removes the political pressure from him to cooperate with ICE. I am not calling for a policy of civil disobedience. Obviously the County and the Sheriff must comply with all federal and state laws and no ordinance should place any official in the position of having to choose which law to follow. But we need a sanctuary ordinance which states as policy that until national policy takes a different direction, we cannot as a community in good conscience *voluntarily* cooperate. That kind of cooperation must be earned by the federal government. And to the degree that local agencies are required to comply with the federal government either through statutes or court orders, we should set protocols for the appropriate conduct in carrying out such duties.

In conjunction with other activists from whom you will hear on this issue, I have been involved in the drafting of such an ordinance. It is a work in progress. Personally, I hope the Board will work with us toward the passage of an ordinance which meets the needs and desires of the County. We do have the option of a ballot initiative, but there is no allowance for give and take in that process. Whatever we put forward become law word for word. I would much rather be a part of a process in which input from the communities and agencies involved is solicited and considered. I am leaving the leadership on the process to other activists, but it is the intention of the coalition to present the draft after tomorrow's meeting.

Again, thank you for the work you have put into the issue and your consideration.

WHEREAS, Humboldt County is home to at least 9 indigenous tribes and a diverse population of United States citizens who can trace their roots to immigrants who made their home here beginning as early as 1806, as well as a significant population of recent immigrants with varied cultures, religions, orientations, abilities and viewpoints; and

WHEREAS, the Board of Supervisors recognizes the tremendous value of a diverse population, sharing perspectives and working toward the common good; and

WHEREAS, the County respects, upholds, and values equal protection and equal treatment for all of our residents; and

WHEREAS, the County in all of its departments and agencies wishes to protect the most vulnerable among us, especially those who cannot protect themselves, i.e. children, the elderly and the infirm; and

WHEREAS, recent events have spurred a sense of uncertainty and fear among communities and families in Humboldt County, throughout our State and across the Nation; and

WHEREAS, the Humboldt County Board of Supervisors encourages all who wish to make this Country their home to take all possible steps to ensure legal immigrant standing so that they and their families may enjoy our beautiful home in peace and tranquility, without uncertainty or fear; and

WHEREAS, the Humboldt County Sheriff's Office has affirmed that enforcement of immigration laws is not the job of the Sheriff and that his office does not and will not conduct proactive or reactive immigration enforcement duties in this community; and

WHEREAS, the Sheriff's #1 priority is to investigate crime and make our community safe and the community is encouraged to continue to report crimes and to seek protection and assistance from the Sheriff's Office, regardless of their immigration status; and

WHEREAS, the Board of Supervisors acknowledges and appreciates the input of various community groups and individuals, including the work of the Humboldt County Human Rights Commission, in developing this resolution; and

WHEREAS, the Humboldt County Board of Supervisors affirms our support of the Humboldt County Sheriff's Department position on the immigration status of residents of Humboldt County and further affirms our support of a diverse and vibrant community.

NOW THEREFORE, BE IT RESOLVED, that the Board of Supervisors shall:

In compliance with all State and Federal laws, provide essential and necessary services to all County residents regardless of immigration status; Continue to support due process and respect for the rights for all residents of Humboldt County; and Continue to encourage efforts and policies that support family unity, community security, dignity and paths to U.S. citizenship.

BE IT FURTHER RESOLVED, that the Board of Supervisors encourages and supports local law enforcement agencies, including the Sheriff's Office, to not use staff resources to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, except as directed by State and Federal laws, and as stated in the Humboldt County Sheriff's Office declaration of March 14, 2017: "Enforcement of immigration laws is not the job of the Sheriff and my office does not and will not conduct proactive or reactive immigration enforcement duties in this community"; and

BE IT FURTHER RESOLVED, that the Board of Supervisors encourages and supports the Sheriff's office in accomplishing its mission which states, "We, the members of the Humboldt County Sheriff's Office, are committed to providing competent, effective and responsive public safety services to the citizens of Humboldt County and visitors to our community, recognizing our responsibility to maintain order, while affording dignity and respect to all persons and holding ourselves to the highest standards of professional and ethical conduct."

DRAFT

→ Good morning ~

I am here to bring to the attention of the Board 4 areas associated with immigration enforcement that may expose the County, or individual county employees, to the risk of potentially significant liability. I also would like to suggest possible ways to minimize or eliminate these risks.

- ✓ 1. Loss of federal funding of the Byrne/Jag grants.
- ✓ 2. Liability for violations of rights protected by law and the Constitution through collaboration with ICE. A not insignificant risk.
3. Liability arising from the Sheriff's Office Policy Manual Section 428 on Immigration Enforcement.
4. Impairment of local law enforcement's ability to fulfill its mission.

~ County has been getting around \$210K per year in Byrne/JAG, a lot for us, but a rather small amount as these grants go. JAG grants are given through the DOJ for particular categories of enforcement. Ours is for illegal marijuana eradication. The admin's policy on drugs is very firm. It would be hard to justify cutting off our grant. But even if this were done...

~ The risk of loss from having to defend against or settle litigation charging county personnel with civil rights or constitutional violations, can be significant, much greater than the amount of the JAG grant.

In recent months, the incidence of lawsuits brought by immigrants filed against cities and counties ~~ and not just large cities and counties ~~ has increased enormously. The basis of these suits is generally the allegation of collaboration with ICE & its improper detention practices.

The proliferation of these cases is a direct result of grassroots resistance activism and massive amounts of money flowing into Immigrants' Rights organizations. These groups are using litigation as a tactic of resistance.

~ The official Sheriff's Office Policy Manual Section 428 is a powder keg just waiting for a spark. Among its many flaws, it encourages officers to illegally detain people for federal crimes based on irrational suspicion and to make arrests completely unsupported by probable cause.

The Sheriff's dept may have issued other guidelines or directives, but this Manual makes the County vulnerable just by being on the books.

~ Our local law enforcement agencies are trained and skilled professional crime fighters. Their ability to complete their mission is severely compromised and handicapped by association with ICE agents who are given only about 90 days training not police

We also need to remember that in joint operations, if an ICE agent violates anyone's rights, the County will be liable for damages.

How can we minimize our risks of loss and liability?

→ First, we should distance ourselves from ICE, clearly, vocally and officially, as a matter of County Policy, ideally as an ordinance .

Second, we should replace the Official Sheriff's Office Policy 428.

Third, we should encourage the Sheriff and local police chiefs to work with their officers, to firmly and repeatedly reinforce the policy of diversity and inclusion, to dispel irrational suspicion, to recognize and internalize the fact that nearly every immigrant they will meet is peaceable and law abiding.

We should foster in all corners of our community the view of local law enforcement personnel not as just as crime fighters, but also as guardians.


~ Courtney Blake