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FILED
MADERA SUPERIOR COURT
JUL 17 2017
BONNIE THOMAS CLERK
DEPUTY

Attorneys for Petitioner

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF MADERA

American Civil Liberties Union of Northern
California,

Petitioner/Plaintiff,

v.

Madera County Board of Supervisors,

Respondent/Defendant.

Case No. **MCV075558**

**VERIFIED PETITION FOR WRIT OF
MANDATE AND COMPLAINT FOR
INJUNCTIVE AND DECLARATORY
RELIEF FOR VIOLATIONS OF THE
RALPH M. BROWN ACT; EXHIBITS 1
THROUGH 17**

California Government Code § 54950 et seq.

Judge:

Department:

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INTRODUCTION

1. The ACLU of Northern California brings this suit to enforce the Ralph M. Brown Act, which requires agencies like Respondent Madera County Board of Supervisors (“Board”) to provide notice of matters they will consider and to conduct their deliberations in public. The Board violated both of these requirements when it adopted significant changes to the way the County’s jail works with federal immigration authorities, in a closed, non-public session, without putting the matter on the agenda or even disclosing what it was discussing.

2. On March 7, 2017 the Board met in a closed session for the stated purpose of evaluating the performance of Madera County Chief of Corrections Manuel Perez under the “personnel matter” exception to the open-meetings requirements of the Brown Act. A subsequent press release by Madera County District Attorney David Linn, news accounts, and public records indicate, however, that during the closed session the Board took action well outside the scope of the “personnel matter” exception of the Brown Act’s open meeting requirement and instead adopted a substantive and substantial change to Madera County jail policies.

3. Specifically, in this closed session the Board directed Chief Perez to begin responding to notification requests issued by U.S. Immigration and Customs Enforcement (“ICE”), which are requests by ICE to be notified of the release date and time of persons in Madera County jail custody, and to schedule times for ICE to pick up people of interest. Under state law, this decision required the opportunity for public input and could only be made in a public meeting, following posted notice to the public of the proposed action.

4. On June 2, 2017, Petitioner sent a timely request to the Board to cure or correct the unlawful action taken in closed session. The request identified the proposed action that was not publically noticed and explained the basis for Petitioner’s belief that an improper action had been taken in closed session in violation of the Brown Act. Petitioner also requested documents under the California Public Records Act (“PRA”) pertaining to the March 7 Board meeting, Madera County jail policies and procedures, and communications between Madera County officials and ICE, in order to corroborate whether in fact a new policy on ICE notifications had

1 been adopted at or after the meeting. The Board has been producing responsive documents on a
2 rolling basis since June 21, 2017.

3 5. Respondent replied to Petitioner's request to cure or correct on June 30, 2017
4 stating that Petitioner's request was "improper, and the Board is not required to comply with
5 [the] request and is unable to comply even if willing to do so."

6 6. Petitioner therefore brings this suit for mandamus, injunctive, and declaratory
7 relief, asking the Court to issue a declaration that Respondent violated the Brown Act, declare
8 null and void actions taken by Respondent behind closed session, and order Respondent to
9 comply with the open meeting and notice requirements of the Brown Act.

10 JURISDICTION AND VENUE

11 7. This Court has jurisdiction under Article VI, section 10, of the California
12 Constitution and California Code of Civil Procedure sections 410.10 and 1085(a).

13 8. Venue in this Court is proper because the action arose in this County and
14 Respondent is situated in this County. Cal. Civ. Proc. Code §§ 393, 394.

15 PARTIES

16 9. Petitioner ACLU-NC is a nonprofit, nonpartisan organization with the mission of
17 protecting civil liberties from government incursions, safeguarding basic constitutional rights,
18 and advocating for open government. ACLU-NC is incorporated in California and is a member
19 of the public within the meaning of California Government Code section 6252(b). ACLU-NC
20 staff and members frequently participate in discussions before county boards of supervisors and
21 city councils regarding local law enforcement policies and practices including local
22 government participation in federal immigration enforcement.

23 10. Respondent Madera County Board of Supervisors is the elected, five-member
24 governing body of Madera County, California. The Board's offices are located in the Madera
25 County Government Center, 200 West 4th Street, Madera, California. The County is a "local
26 agency" within the meaning of the California Government Code section 54951. The Board is a
27 "legislative body" under California Government Code section 54952.

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1 **THE RALPH M. BROWN ACT**

2 11. The purpose of the Brown Act is to “aid in the conduct of the people’s business.”
3 Cal. Gov’t Code §§ 54950 *et seq.*¹ “It is the intent of the law that [legislative body] actions be
4 taken openly and that their deliberations be conducted openly.” *Id.*

5 12. The Act requires every legislative body to post an agenda 72 hours before a
6 regular meeting. § 54954.2(a)(1). This agenda must contain a brief general description of each
7 item of business to be discussed at the meeting, including items to be discussed in closed
8 session. *Id.*

9 13. The Act prohibits the legislative body from discussing or acting on items not on
10 the posted agenda, except under certain enumerated conditions. §§ 54954.2(a)(3), 54954.2(b).
11 One such condition—the one that the Board purported to rely upon here—applies when
12 immediate action is necessary to address newly arisen issues: “Upon a determination by a two-
13 thirds vote of the members of the legislative body present at the meeting, or, if less than two-
14 thirds of the members are present, a unanimous vote of those members present, that there is a
15 need to take immediate action and that the need for action came to the attention of the local
16 agency subsequent to the agenda being posted.” § 54954.2(b)(2). The legislative body must
17 “publically identify” the new item of business before taking such action. § 54954.2(b).

18 14. The Act additionally requires that “[a]ll meetings of the legislative body of a
19 local agency shall be open and public, and all persons shall be permitted to attend any meeting
20 of the legislative body of a local agency, except as otherwise provided in this chapter.”
21 § 54953(a).

22 15. Although the Act creates limited exceptions to this presumption of open session
23 meetings, these must be “narrowly construed.” Cal. Const., art. I, § 3(b)(2); *see also, e.g.,*
24 *Trancas Property Owners Assn. v. City of Malibu*, 138 Cal. App. 4th 172, 184–87 (2006).

25 16. One of those exceptions is for “personnel matters.” § 54957. A legislative body
26 can hold a closed session during a regular or special meeting “to consider the appointment,
27 ///

28 ¹ Unless otherwise specified, all future statutory references in this Petition are to the California Government Code.

1 employment, evaluation of performance, discipline, or dismissal of a public employee or to
2 hear complaints or charges brought against the employee by another person or employee unless
3 the employee requests a public session.” *Id.* Policy decisions do not fall under the personnel
4 matter exception.

5 17. When a legislative body meets in closed session, it can only consider those
6 matters described in its statement, at an open meeting, of the item or items to be discussed in
7 closed session. *Id.*; *Shapiro v. San Diego City Council*, 96 Cal. App. 4th 904, 916 (2002).

8 18. Any interested person may commence an action by writ of mandate or injunction
9 for the purpose of obtaining a judicial determination that an action taken by a legislative body
10 in violation of the Brown Act’s requirements is null and void. § 54960.1. Before pursuing
11 judicial determination, it must first demand the legislative body to cure or correct its mistake.
12 *Id.* A “written demand shall be made within 90 days from the date the action was taken” or
13 within 30 days if the “action was taken in an open session” but in violation of posting
14 requirements. *Id.* Any interested party may also commence an action by mandamus, injunction,
15 or declaratory relief “for the purpose of stopping or preventing violations or threatened
16 violations” or to “determine the applicability of [the Brown Act] to past actions of the
17 legislative body.” § 54960(a).

18 **FACTS**

19 19. On February 24, 2017, D.A. Linn conducted an “ICE Summit” with two ICE
20 officials to discuss Madera County Jail’s existing policy and practices regarding responding to
21 ICE requests. According to a letter from D.A. Linn later to the Board, “a meeting with ICE was
22 necessary due to the fact that [ICE] ha[s] contacted [the D.A.’s] office numerous times
23 complaining that the Madera County Jail ‘refused to cooperate with them as required by law’
24 and was releasing dangerous felons into the local communities.” A true and correct copy of this
25 letter, dated March 1, 2017, is attached hereto as Exhibit 1. D.A. Linn stated in a press release
26 dated March 30, 2017 that, prior to the summit, he had discussions with ICE agents, local
27 police chiefs, Madera County Sheriff Jay Varney, Chief Perez, Madera County Counsel, and

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1 Supervisor Max Rodriguez, Chairman of the Board. A true and correct copy of the March 30
2 press release is attached hereto as Exhibit 2.

3 20. On February 26, 2017, Chief Perez also met with ICE officials. The next day,
4 Moises Becerra, ICE Assistant Field Office Director in Fresno, emailed Chief Perez and other
5 jail staff to ask a series of questions about the jail's release practices, including when ICE could
6 start coordinating pick-up of people of interest. A true and correct copy of the February 27,
7 2017 email is attached hereto as Exhibit 3. In response to ICE's email, Michael Gonzalez,
8 Assistant Director of Madera County Jail, confirmed that the jail was "mov[ing] forward with
9 implementing protocols that will met [sic] MCDC operational needs and adherence to both
10 state and federal laws." Exh. 3.

11 21. On March 1, 2017, D.A. Linn sent a letter to the Board to express concern over
12 Madera's existing practice of not notifying ICE in advance of the pending release of certain
13 individuals from the Madera County Jail; he attached a list of foreign nationals released
14 without first giving notice to ICE. Exh. 1. D.A. Linn also expressed his "belief that Chief Perez
15 is attempting to stall rather than enforce the immigration law." *Id.* In the letter, D.A. Linn made
16 the following request to the Board: "I hereby REQUEST a meeting in closed session, (potential
17 litigation), with the entire Board of Supervisors and Sheriff Varney in attendance at the earliest
18 possible opportunity. If you do not grant my request, I will bring the matter to Public Session."
19 *Id.* (emphasis in original).

20 22. On March 3, 2017, Sergeant Harmail S. Khela with Madera County Jail notified
21 staff via email about the implementation of a "temporary ICE notification weekend procedure"
22 for intake officers and watch commanders. A true and correct copy of this email is attached
23 hereto as Exhibit 4.

24 23. The Board met during a regular meeting on March 7, 2017. At the start of the
25 meeting, Deputy County Counsel for Madera County, Scott Cross, referenced D.A. Linn's
26 March 1, 2017 letter as a basis for his request to add an additional item to the agenda so he
27 could advise the Board in closed session on the matter. The Board invoked the "personnel
28 exception" to the Brown Act., § 54957, and added item 2(f) to the closed session agenda based

1 on a unanimous vote. A true and correct copy of the March 7 Board minutes is attached hereto
2 as Exhibit 5. The item, "Public Employee Performance Evaluation, pursuant to Government
3 Code Section 54957, Title Position: Corrections Director," was discussed in closed session. At
4 the end of the closed session, the Board publically stated that no action had been taken during
5 the closed session and thus, it had nothing to report.

6 24. But the next day, Madera County Jail staff provided members of the Fresno ICE
7 office via email with a list of "Madera [Department of Corrections] direct contact information
8 for ICE notifications" to facilitate notification requests. A true and correct copy of this email is
9 attached hereto as Exhibit 6.

10 25. On March 10, 2017 County Counsel Cross sent a formal letter and an email to
11 ICE officials on behalf of the Board and Chief Perez. In the email to ICE, Deputy County
12 Counsel Cross stated that the intent of the letter was to "confirm the County's commitment to
13 assist and cooperate with ICE in [its] efforts to enforce federal immigration law." A true and
14 correct copy of this email is attached hereto as Exhibit 7. The formal letter attached to the email
15 also specified that the Department of Corrections was "developing internal policies and
16 protocols regarding the dissemination of inmate release date information to ICE, as well as the
17 orderly and secure processing of inmate releases to ICE." A true and correct copy of this letter
18 is attached hereto as Exhibit 8. The letter also indicated anticipated changes to the protocols by
19 describing them as "improved internal policies and protocols." Exh. 8.

20 26. On March 20, Jaime Rios, who is employed by ICE, contacted Madera County
21 Jail Sgt. Khela via email to request an update and date on when ICE could begin picking up
22 people of interest from the jail. A true and correct copy of this email is attached hereto as
23 Exhibit 9. The same day, Madera County Jail staff confirmed via email that ICE "could contact
24 records department to schedule pickups." A true and correct copy of the jail's return email is
25 attached hereto as Exhibit 10. The next day, the jail staff confirmed that they would also begin
26 producing a list of foreign born inmates via email to ICE. A true and correct copy of the jail's
27 March 21 email is attached hereto as Exhibit 11.

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1 27. On March 20, 2017, the Department of Homeland Security published a report
2 with a list of jurisdictions that rejected immigration detainer requests from ICE. The list
3 covered periods from January 28, 2017 to February 3, 2017 and included Madera County as a
4 jurisdiction. The reports have since been discontinued.

5 28. On March 30, 2017 D.A. Linn issued a press release titled “Recently Released
6 ICE Reports Do Not Reflect the Current Status of Madera County.” Exh. 2. D.A. Linn’s press
7 release explained that “[a]t the Board meeting which occurred on March 7, 2017, the Board of
8 Supervisors unanimously instructed Chief Perez, Director of the Madera County Department of
9 Corrections, to fully comply with all ICE requests, and also directed the Madera County
10 Counsel’s Office to expedite their action, to ensure that Madera County is in full compliance
11 with the federal government.” *Id.* Such instruction and direction ultimately reflects a new ICE
12 notification policy for the County.

13 29. The press release also suggested that the Board had entered into a new formal
14 agreement with ICE. The press release stated that “[a]s of March 23, 2017, all documentation,
15 agreements, and operating procedures [have] been signed [with ICE].” *Id.*

16 30. D.A. Linn also made a number of public statements to media outlets about the
17 new agreement with ICE. In an interview with Valley Public Radio on April 11, 2017, D.A.
18 Linn stated that “[a]ll ICE requires of us, and what we agreed to do, was to accept their
19 telephone calls when those calls came in—and this is at the jail, and at my office—and then act
20 accordingly.” Kerry Klein, *Will A New Deal Prevent Immigration Raids in Madera County?*
21 (April 11, 2017), available at [http://kvpr.org/post/will-new-deal-prevent-immigration-raids-](http://kvpr.org/post/will-new-deal-prevent-immigration-raids-madera-county#stream/0)
22 [madera-county#stream/0](http://kvpr.org/post/will-new-deal-prevent-immigration-raids-madera-county#stream/0).

23 31. The County’s ICE Hold Notification policy was revised on April 7, 2017 to state
24 that “jail staff will provide the individual a notification informing him/her that immigration and
25 customs enforcement (ICE) has requested his/her release date and that MCDC will comply
26 with their request.” A true and correct copy of the 2017 policy is attached hereto as Exhibit 12.
27 The previous version of the policy had been revised on October 8, 2015 and did not include a

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1 policy on ICE notifications. A true and correct copy of the 2015 policy is attached hereto as
2 Exhibit 13.

3 32. On June 2, 2017, fewer than 90 days after the March 7, 2017 meeting, Petitioner
4 ACLU-NC sent a letter (“Demand Letter” and “PRA Request”) to the Board requesting that it
5 cure or correct the improper action taken during the March 7 closed session meeting, and that it
6 provide documents relating to the meeting and the closed session, pursuant to the California
7 Public Records Act (“PRA”), California Government Code §§ 6250 *et seq.* A true and correct
8 copy of this letter is attached hereto as Exhibit 14.

9 33. On June 12, 2017, Deputy County Counsel Cross sent ACLU-NC a letter
10 confirming receipt of the PRA Request and stating that requested public records existed. A true
11 and correct copy of this letter is attached hereto as Exhibit 15. The County stated that it would
12 notify ACLU-NC in writing no later than June 30, 2017, with the estimated pages and costs of
13 copying the responsive records. Exh. 15. On June 21, Deputy County Counsel Cross began
14 producing documents on a rolling basis. The County has produced some but not all of the
15 documented requests. The PRA Request remains pending.

16 34. On June 30, 2017, Deputy County Counsel Cross sent an email to Petitioner and
17 produced additional documents, including emails between Madera County Jail staff and ICE.

18 35. Also on June 30, 2017, on behalf of the Board, Deputy County Counsel Cross
19 responded in a formal letter to ACLU-NC’s Demand Letter to cure or correct the improper
20 action taken during the March 7 meeting. Cross stated that ACLU-NC’s “demand to cure or
21 correct is not authorized, and the Board cannot and will not attempt to take any action to
22 address [the] improper demand.” A true and correct copy of this letter is attached hereto as
23 Exhibit 16.

24 **MANDAMUS AND INJUNCTIVE AND DECLARATORY RELIEF ALLEGATIONS**

25 36. Respondent has a clear, present, and ministerial duty to conduct the business of
26 Madera County in conformity with the Brown Act.

27 37. Petitioner ACLU-NC has a beneficial interest in Respondent’s compliance with
28 the Brown Act and with the relief sought in this Petition. ACLU-NC opposes local law

1 enforcement participation in federal civil immigration enforcement and, provided notice of any
2 proposal for the Madera County Board of Supervisors to direct the Madera County Jail to
3 respond to ICE notification requests, ACLU-NC would and will present public comment in
4 opposition to that proposal.

5 38. There is no adequate remedy at law for Respondent's failure to comply with the
6 Brown Act. Petitioner is suffering an immediate and irreparable harm as a result of
7 Respondent's conduct that will continue absent injunctive relief.

8 39. A controversy exists between the parties that warrants declaratory relief from
9 the court: Petitioner contends Respondent's conduct violated the open meeting requirements of
10 the Brown Act and Respondent contends the opposite.

11 **CAUSE OF ACTION**

12 **(Violation of the Ralph M. Brown Act)**

13 40. Petitioner incorporates by reference the allegations of the above paragraphs as
14 though fully set forth herein.

15 41. The Board's March 7 closed session consideration of and action regarding the
16 Department of Corrections' policies with respect to participating in federal immigration
17 enforcement, including its action requiring or approving policies to respond to ICE notification
18 requests, violated several provisions of the Brown Act.

19 42. The Board's discussion in a closed session of matters that were not exempt from
20 the open meeting requirement violated § 54953.

21 43. The Board's action on a matter that was not adequately described in a written
22 and publicly posted agenda 72 hours prior to the meeting violated § 54954.2.

23 44. The Board's failure to adequately and accurately describe the matter it
24 considered in closed session and its discussion of items not covered in the agenda violated
25 §§ 54954.5 and 54957.7.

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PRAYER FOR RELIEF


Wherefore, Plaintiff respectfully requests that the Court:

- A. Issue a declaration that Respondent violated the Brown Act by failing to comply with its notice and open meeting requirements during its March 7, 2017 meeting.
- B. Issue a writ of mandate and injunctive relief declaring null and void all actions taken by Respondent at the closed session held during its March 7, 2017 meeting under Item 2(f), as set forth in Exhibit 5. § 54960.1.
- C. Issue a writ of mandate and injunction prohibiting Respondent from violating the Brown Act in the future.
- D. Order Respondent to pay Petitioner’s attorneys’ fees and costs under Code of Civil Procedure section 1021.5, Government Code section 54960.5, and any other applicable statutes.
- E. Grant Petitioner such further relief as the Court deems just and proper.

Dated: July 17, 2017

AMERICAN CIVIL LIBERTIES UNION OF
NORTHERN CALIFORNIA, INC.

By:

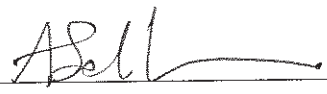

Angelica H. Salceda
Attorney for Petitioner

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VERIFICATION

I, Abdi Soltani, am Executive Director of the American Civil Liberties Union of Northern California. I have read the foregoing Verified Petition for Writ of Mandate and Complaint for Injunctive and Declaratory Relief in the matter of *American Civil Liberties Union of Northern California v. Madera County Board of Supervisors* and am informed, and do believe, that the matters herein are true. On that ground, I allege that the matters stated herein are true. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: 7/14/17

By: 

Abdi Soltani
Executive Director
American Civil Liberties Union of Northern
California

Exhibit 1

DAVID A. LINN
DISTRICT ATTORNEY
ANGELA J. HILL
ASSISTANT DISTRICT ATTORNEY



209 W. Yosemite Avenue
Madera, California 93637

Telephone: (559)675-7726
Facsimile: (559)673-0430

OFFICE OF THE
DISTRICT ATTORNEY

March 1, 2017

Eric Fleming, CAO
Max Rodriguez, Chairman BOS
200 W. 4th Street
Madera, CA 93637

Gentlemen:

Last Friday, at my office I conducted, what we had labeled an "ICE Summit", with two members of Immigration and Customs Enforcement (ICE) of the Department of Homeland Security, including a Deputy Field Officer Director and an Assistant Field Officer Director from the San Francisco Field Office.

The purpose of the meeting was to discuss with ICE local issues concerning:

- 1.) The cooperation with ICE on processing illegal immigrants who have committed serious felonies and are currently inmates in the Madera County Jail;
- 2.) To address community concerns involving "ICE Sweeps" effecting local residential areas, schools and agricultural operations; and
- 3.) Madera County Law Enforcement's focus on felonies/criminal aliens.

I believed that a meeting with ICE was necessary due to the fact that they have contacted my office numerous times complaining that the Madera County Jail "refused to cooperate with them as required by law" and was releasing dangerous felons into the local communities.

In order to facilitate this meeting, I had discussions with ICE agents, local police chiefs, Sheriff Varney, Chief Perez of the Madera County Jail and Madera County Counsel's Office. Everyone appeared at the meeting, or at least sent a Senior Department Representative, with the glaring exceptions of Madera County Counsel and Madera County Department of Corrections.

I spent a great deal of time in preparing for this meeting, including having extended discussions with numerous community members to obtain their views concerning ICE deportations.

Ten days ago, I spoke with an attorney at the County Counsel office by the name of Michael R. Linden concerning my proposed meeting and his lack of understanding of immigration law. I even emailed to Mr. Linden the applicable Federal Code sections, so that he could familiarize himself with them.

Both Mr. Linden and Chief Perez indicated they would be attending the "ICE Summit", with me, Sheriff Varney and the Madera and Chowchilla Police Chiefs', and ICE agents.

I became aware, last Friday that Mr. Linden and Chief Perez were attempting to conduct their own meeting with ICE, which occurred Thursday afternoon.

This secret County Counsel and Chief Perez meeting with ICE was never disclosed to either me or any of the other law enforcement officials.

It is therefore my belief that Chief Perez is attempting to stall rather than enforce the immigration law, and it is also my opinion that Mr. Linden is attempting to cover his own back side for not giving correct counsel to Chief Perez. I absolutely believe that it is Chief Perez's desire, without any concern for the safety of the citizens of Madera County, to continue to release dangerous felons back into our communities without following procedure.

This is not only my belief, but the unanimous belief of the ICE Field Office Directors and everyone else who attended our meeting

Friday morning, less than 2½ hours prior to the scheduled 'ICE Summit', I received an email from Mr. Linden stating they had met with the ICE agents and that he would not be available for our meeting, in that he was taking a Deposition in another case. He also stated Chief Perez was not available to attend our meeting. Needless to say, neither of them attended the Summit Meeting, wasting both my time and Sheriff Varney's time along with the time of both Madera Police Department and Chowchilla Police Department, not to mention the time of our fellow law enforcement officers at ICE.

I attach for your review, a list of dangerous felons who have been released from Madera County Jail without giving notification to ICE. As you can see, many of these felons had previously served time for very serious felonies, including firearm charges, narcotics, possession for sale of narcotic substances, robbery, sexual battery, sex with minors, assault with deadly weapon, corporal injury, battery, criminal threats, public fighting and other egregious offenses. This list is merely a sample and does not include all one hundred instances where illegal alien felons were released into the local community.

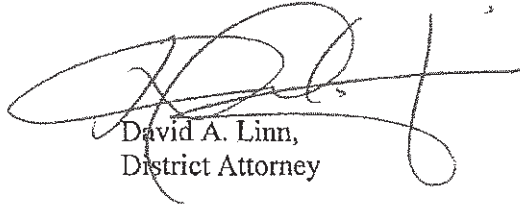
In short gentlemen, I was sworn into office to uphold the laws of the State of California and the United States of America. I believe that members of the Board of Supervisors also took that oath. Sheriff Varney and I both desire to live up to our sworn oaths.

Letter RE: Ice Summit
March 1, 2017
Page 3 of 3

Due to the lack of cooperation by Chief Perez of the Madera County Jail and Madera County Counsel Office, I have instructed my staff to research potential charges of malfeasance that may be filed against both, along with Grand Jury action for indictment. If Madera County loses federal funding because it is a sanctuary county, the citizens and tax payers will lose \$46,000,000.00 in federal funds.

I hereby REQUEST a meeting in closed session, (potential litigation), with the entire Board of Supervisors and Sheriff Varney in attendance at the earliest possible opportunity. If you do not grant my request, I will bring the matter to Public Session.

Very truly yours,



David A. Linn,
District Attorney

DAL/sm
Encls.
cc: B Frazier
cc: D Rogers
cc: R. Poythress
cc: T. Wheeler
cc: Sheriff Varney
cc: MPD
cc: CPD
cc: Chief Perez
cc: County Counsel

43 year old Mexican National - JID: 1500002997

- 08/13/2015- Encountered at Madera County Jail (MCJ) for felon in possession of firearm and detainer placed by Secure Communities.
- 11/09/2015- Subject released from MCJ without notification to ICE.

Criminal History

- 12/13/1996- Convicted of forgery- Sentenced to 60 days jail.
- 06/12/1997- Convicted of possession narcotic controlled substance- Sentenced to 6 months jail.
- 05/12/2015- Convicted of possession narcotic controlled substance- Sentenced to 6 months jail.
- 07/12/2015- Convicted for felon in possession of firearm- Sentenced to 180 days jail.
- 09/28/2015- Convicted for felon in possession of firearm- Sentenced to 180 days jail.

Immigration History

- 12/10/1998- Removed to Mexico

End result: Subject at large.

63 year old Mexican National - JID: 1500003172

- 08/24/2015- Encountered at MCJ for felon in possession of firearm and detainer placed by Secure Communities.
- 08/25/2015- Subject released from MCJ without notification to ICE.

Criminal History

- 11/17/1983- Convicted of possession of narcotic controlled substance for sale- 3 years prison.
- 01/27/1984- Convicted of possession of narcotic controlled substance for sale- Sentenced to 1 year jail.
- 08/25/2015- Convicted for felon in possession of firearm- Sentenced to 2 days jail.

Immigration History

- 08/26/1998- Removed to Mexico
- 03/07/2005- Removed to Mexico

End result: Subject at large.

45 year old Mexican National - JID: 1600004027

- 10/10/2016- Encountered at MCJ for cultivation of marijuana and detainer placed by Secure Communities.
- 10/21/2016- Subject released from MCJ without notification to ICE.

Criminal History

- 09/15/1992- Convicted of possession of narcotic controlled substance for sale- Sentenced to 2 years prison.
- 05/22/2003- Convicted of felon in possession of firearm- Sentenced to 180 days jail.

- 06/11/2003- Convicted of possession for sale narcotic controlled substance- Sentenced to 2 years prison.
- 10/21/2016- Convicted of obstruction of officer- Sentenced to 12 days jail.
- 10/21/2016- Convicted of cultivation of marijuana- Sentenced to 12 days jail.

Immigration History

- 04/12/2004- Removed to Mexico
- 04/24/2004- Removed to Mexico

End result: Subject at large

40 year old Mexican National - JID: 1600004150

- 10/19/2016- Encountered at MCJ for probation violation and detainer placed by Secure Communities.
- 11/15/2016- Subject released from MCJ without notification to ICE.

Criminal History

- 12/31/2013- Convicted of selling marijuana/hash- Sentenced to 49 days jail.
- 07/22/2016- Convicted of felon in possession of firearm- Sentenced to 16 months prison.
- 11/15/2016- Convicted for probation violation- Released on own recognizance.

Immigration History

- 02/15/2014- Removed to Mexico

End result: Subject at large

42 year old Mexican National - JID: 1600000072

- 01/06/2016- Encountered at MCJ for shoplifting and detainer placed by Secure Communities.
- 01/12/2016- Subject released from MCJ without notification to ICE.

Criminal History

- 10/25/1995- Convicted of possession narcotic controlled substance- Sentenced to 185 days jail.
- 11/08/1995- Convicted of possession narcotic controlled substance - Sentenced to 120 days jail.
- 08/15/2014- Convicted of second degree robbery- Sentenced to 2 years prison.
- 01/12/2016- Convicted of shoplifting- Sentenced to 7 days jail.

Immigration History

- 12/07/1995- Removed to Mexico
- 09/21/2016- Removed to Mexico

End result: Subject released by MCJ and apprehended by ICE on 9/21/2016.

47 year old Mexican National - JID: 1600001435

- 04/24/2016- Encountered at MCJ for driving under the influence of alcohol and detainer placed by Secure Communities.
- 04/25/2016- Subject released from MCJ without notification to ICE.

Criminal History

- 09/16/1998- Convicted of sex with a minor- Sentenced to 2 years prison.
- 06/03/2004- Convicted for obstruction of an officer- 24 days jail.
- 10/30/2014- Convicted of corporal injury to a spouse- Sentenced to 180 days jail.
- 04/24/2016- Arrested for driving under the influence of alcohol- Cited and released.

Immigration History

- 09/23/1999- Removed to Mexico
- 01/11/2001- Removed to Mexico
- 08/12/2004- Removed to Mexico

End result: Subject at large.

37 year old Mexican National - JID: 1600001798

- 05/19/2016- Encountered at MCJ for inflicting harm on an elder and detainer placed by Secure Communities.
- 11/17/2016- Subject released from MCJ without notification to ICE.

Criminal History

- 02/07/2000- Convicted of assault with a deadly weapon- Sentenced to 12 months jail.
- 11/17/2016- convicted for inflicting harm on an elder- 365 days jail.

Immigration History

- 04/08/2009- Removed to Mexico

End result: Subject at large.

32 year old Mexican National - JID: 1600003101

- 08/13/2016- Encountered at MCJ for corporal injury and detainer placed by Secure Communities.
- 08/15/2016- Subject released from MCJ without notification to ICE.

Criminal History

- 10/20/2003- Convicted of driving under the influence of alcohol- Sentenced to 45 days jail.
- 05/11/2007- Convicted of obstruction of an officer- Sentenced to 30 days jail.
- 06/26/2006- Convicted of driving under the influence of alcohol- Sentenced to 2 years prison.
- 11/14/2008- Convicted of driving under the influence of alcohol- Sentenced to 28 months prison.
- 04/13/2012- Convicted of corporal injury- Sentenced to 60 days jail.

- 08/13/2016- Arrested for corporal injury- Cited and released.

Immigration History

- 07/02/2007- Removed to Mexico
- 11/21/2008- Removed to Mexico
- 03/13/2009- Removed to Mexico
- 02/14/2011- Removed to Mexico
- 09/04/2013- Removed to Mexico

End result: Subject at large.

32 year old Mexican National - JID: 1600003316

- 08/27/2016- Encountered at MCJ for battery and detainer placed by Secure Communities.
- 08/29/2016- Subject released from MCJ without notification to ICE.

Criminal History

- 06/17/2011- Convicted of obtaining credit card fraudulent- Sentenced to 365 days jail.
- 08/27/2016- Arrested for battery- Cited and released.

Immigration History

- 04/06/2012- Removed to Mexico
- 07/20/2012- Removed to Mexico
- 05/29/2013- Removed to Mexico
- 06/04/2013- Removed to Mexico
- 06/14/2013- Removed to Mexico
- 06/21/2013- Removed to Mexico

End result: Subject at large.

34 year old Mexican National - JID: 1600002232

- 06/16/2016- Encountered at MCJ for possession controlled substance and detainer placed by Secure Communities.
- 06/28/2016- Subject released from MCJ without notification to ICE.

Criminal History

- 09/14/2006- Convicted of battery- Sentenced to 214 days jail.
- 01/22/2016- Convicted for threaten crime to terrorize- 214 days jail.
- 06/22/2016- Convicted for possession controlled substance- 30 days jail.

Immigration History

- 04/17/2007- Removed to Mexico

End result: Subject at large.

32 year old Mexican National - JID: 1600004275

- 10/28/2016- Encountered at MCJ for driving without a license and detainer placed by Secure Communities.
- 11/01/2016- Subject released from MCJ without notification to ICE.

Criminal History

- 08/27/2007- Convicted of driving under the influence of alcohol- Sentenced to 90 days jail.
- 04/03/2013- Convicted of driving under the influence of alcohol- 1 year jail.
- 10/28/2016- Arrested for driving without a license- Cited and released.

Immigration History

- 11/14/2007- Removed to Mexico
- 08/09/2013- Removed to Mexico
- 10/21/2013- Removed to Mexico
- 02/10/2017- Removed to Mexico

End result: Subject released from MCJ and apprehended by ICE on 02/10/2017.

36 year old Mexican National - JID: 1600004437

- 11/11/2016- Encountered at MCJ for Driving under the influence and detainer placed by Secure Communities.
- 11/12/2016- Subject released from MCJ without notification to ICE.

Criminal History

- 05/19/2006- Taking of a vehicle- Sentenced to 180 days jail.
- 07/21/2011- Convicted of fighting in public place- 55 days jail.
- 11/11/2016- Arrested for driving under the influence of drugs- Cited and released.
- 01/10/2017- Convicted of possession controlled substance paraphernalia- 4 days jail.

Immigration History

- 07/11/2006- Removed to Mexico
- 06/12/2007- Removed to Mexico
- 09/12/2011- Removed to Mexico

End result: Subject re-offended and at large.

Exhibit 2



OFFICE OF THE DISTRICT ATTORNEY COUNTY OF MADERA

209 W. Yosemite Avenue/Madera, California 93637
(559)675-7726 / FAX (559)673-0430

David A. Linn, District Attorney

**FOR IMMEDIATE RELEASE
THURSDAY, MARCH 30, 2017**

**Contact: David Linn
District Attorney
(559) 675-7726**

RECENTLY RELEASED ICE REPORTS DO NOT REFLECT THE CURRENT STATUS OF MADERA COUNTY

MADERA, CA – Madera County District Attorney, David A. Linn, stated today that the enforcement and removal operations weekly reports which were released last week do not currently reflect the status of Madera County's compliance with federal law. D.A. Linn stated, "As of today, we are definitely not a sanctuary county, in that we are in compliance with ICE requests."

On February 24, 2017, the Madera County District Attorney's Office conducted an "ICE Summit" with two members of Immigration and Customs Enforcement (ICE) of the Department of Homeland Security, including a Deputy Field Office Director, and an Assistant Field Office Director, from the San Francisco field office of the Department of Homeland Security.

The purpose of the meeting was to discuss with ICE local issues concerning the cooperation on processing illegal immigrants who have committed serious felonies and are currently inmates in the Madera County Jail; addressing community concerns involving "ICE Sweeps" effecting local residential areas, schools and agricultural operations; and Madera County Law Enforcement's focus on felonies and criminal aliens. D.A. Linn stated, "I believed that a meeting with ICE was necessary due to the fact that they have contacted my office complaining that the Madera County Jail "refused to cooperate with them as required by law" and was releasing dangerous felons into the local communities. To facilitate this meeting, I had discussions with ICE agents, local police chiefs, Madera County Sheriff Varney, Chief Perez of the Madera County Jail, and the Madera County Counsel. I spent a great deal of time in preparing for this meeting, including having extended discussions with Max Rodriguez, Chairman of the Madera County Board of Supervisors, and numerous community members, to obtain their views concerning ICE deportations."

On March 1, 2017, D.A. Linn wrote a lengthy letter to the Madera County Board of Supervisors, and Chief Administrative Officer, Eric Flemming. Attached to his letter was a list of dangerous felons who had been released from Madera County Jail, without the jail giving proper notification to ICE. Many of the felons had previously served time for serious felonies, including, firearm charges, narcotics, possession for sale of narcotic substances, robbery, sexual battery, sex with minors, assault with deadly weapon, corporal injury, battery, criminal threats, public fighting and other egregious offenses. In the letter, D.A. Linn stated, "I was sworn into office to uphold the laws of the

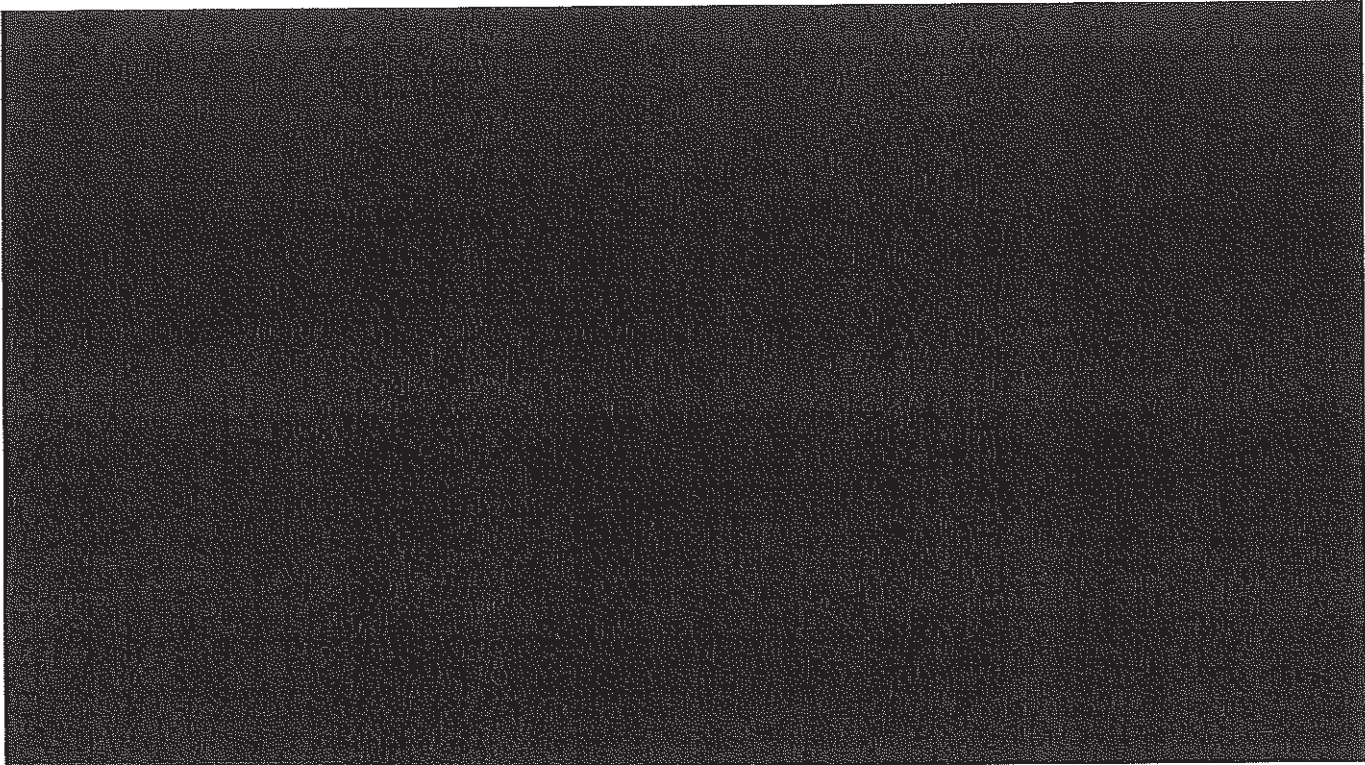
State of California and the United States of America. I believe that members of the Board of Supervisors also took that oath. Sheriff Varney and I both desire to live up to our sworn oaths.”

At a meeting with the Board of Supervisors, D.A. Linn and Sheriff Varney presented an additional 85 names of individuals who they believe had been released from Madera County Jail without proper coordination between the jail and the Department of Homeland Security. At that Board meeting, D.A. Linn pointed out to the Supervisors that if Madera County fails to cooperate with Homeland Security and becomes a sanctuary county, the citizens and tax payers could lose at least \$46 million in federal funds. At the Board meeting which occurred on March 7, 2017, the Board of Supervisors unanimously instructed Chief Perez, Director of the Madera County Department of Corrections, to fully comply with all ICE requests, and also directed the Madera County Counsel’s Office to expedite their action, to ensure that Madera County is in full compliance with the federal government.

As of March 23, 2017, all documentation, agreements, and operating procedures had been signed, and the Assistant Field Office Director from ICE informed D.A. Linn that Madera was in full compliance. As was agreed between ICE and the Madera D.A., any variance from agreed procedures would be reported immediately to the Madera County District Attorney, who will be available to receive these reports on a 24 hours a day, 7 days a week basis.

D.A. Linn stated that he believed this cooperation with Homeland Security insures that violent criminals who have been sentenced and released by the Madera County Jail to be returned to their country of origin will prevent further involvement of the members of Immigration and Customs Enforcement in Madera County for such things as neighborhood sweeps, effecting local residential areas, schools, and agricultural operations.

Exhibit 3



From: Michael Gonzalez [mailto:mgonzalez@co.madera.ca.gov]
Sent: Monday, February 27, 2017 8:10 AM
To: 'Becerra, Moises' <Moises.Becerra@ice.dhs.gov>; Manuel Perez <maperez@co.madera.ca.gov>; Jefisher@madera.ca.gov
Cc: Manuel Perez <maperez@co.madera.ca.gov>; Michael R. Linden <mlinden@lozanosmith.com>
Subject: RE: Meeting with ICE

Mr. Becerra,
Madera County Dept. Of Corrections intentions is to be a supportive partner with all Law Enforcement agencies. As we discussed we will continue to move forward with implementing of protocols that will met MCDC operational needs and adherence to both state and federal laws regarding this matter. I would ask that you stay in contact with Lt. John Fisher / Lt. Chris Rodriguez as they will be you POC. We are looking forward as well, with continuing all working partnerships that best serve the public.

Lt. Fisher / Lt. Rodriguez,
Reference the questions listed below in the email received by Mr. Becerra and respond accordingly to ensure consistency in application of set protocols.

Thank you.

Michael Gonzalez Assistant Director

Madera County Department of Corrections

📍 | 14191 Road 28 Madera, CA 93638

✉ | mgonzalez@co.madera.ca.gov

📞 | 559.675.7951 ext. 3261



From: Becerra, Moises [<mailto:Moises.Becerra@ice.dhs.gov>]
Sent: Monday, February 27, 2017 6:09 AM
To: Michael Gonzalez; Manuel Perez; jefisher@madera.ca.gov
Subject: Meeting with ICE

Good morning,

It was a pleasure meeting with all of you yesterday and I look forward to working with you in the near future to ensure public safety threats are not released to the community. I have attached a roster of pertinent numbers for ICE here in Fresno. My duty officer is on duty 24/7 and available to respond. I respectfully request your assistance with answering the below questions:

What are your typical release times for scheduled sentenced inmates?
If a detainee is bonding out, how much time do we have to respond prior to release?
Are there any special procedures when arriving to pick-up detainees?
What are the procedures to coordinate pick-up times and to lodge ICE notification forms for sentenced detainees?
When can we start coordinating pick-ups?

We greatly appreciate the opportunity to discuss ways to cooperate and please call my cell for any concerns.

Respectfully,

Moises Becerra
Assistant Field Office Director
Immigration and Customs Enforcement
Enforcement and Removal Operations, Fresno, CA
Cell: (415) 760-0420

CONFIDENTIALITY NOTICE: This document may contain confidential and sensitive U.S. Government information, and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient. Please notify the sender if this email has been misdirected and immediately destroy all originals and copies of the original. Any disclosure of this document must be approved by the Department of Homeland Security, U.S. Immigration and Customs Enforcement.

Exhibit 4



From: Harmall S. Khela

Sent: Friday, March 03, 2017 5:13 PM

To: Benjamin Mendoza; Valerie Clark; Ryan Hall; Mason Garrett; Will Townsend; Dillon McKay; Jayson Quick; Aaron Lawrence; James Followill; Rodney Mendoza; Alvaro Rossette; Fred Maciel; Todd Humbert; Lisa Morales; Robert Moore; Vernon Lesage

Cc: Manuel Perez; Michael Gonzalez; John E. Fisher; Chris L. Rodriguez

Subject: FW: ICE Notification Received During the Weekend

Attached is a temporary ICE Notification 'weekend procedure' for our intake officers and the Watch Commanders. You will be notified of any changes to these procedures as we revise them.

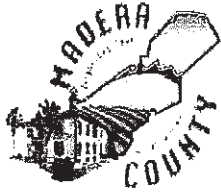
Please note that you must comply with this procedures for any requests received during the weekend and after hours (when Records Clerks are absent).

*****copies of this packet and blank forms are being placed in Intake*****

If you require additional clarification do not hesitate to contact me at 559-284-9124.

Sgt. H. Khela

Exhibit 5



BOARD OF SUPERVISORS COUNTY OF MADERA

MADERA COUNTY GOVERNMENT CENTER
200 WEST 4TH STREET
(559) 675-7700 / FAX (559) 673-3302 / TDD (559) 675-8970
Agendas available: www.madera-county.com/supervisors

MEMBERS OF THE BOARD
BRETT FRAZIER
DAVID ROGERS
ROBERT L. POYTHRESS
MAX RODRIGUEZ
TOM WHEELER

Rhonda Cargill, Chief Clerk of the Board

MINUTES

for Regular Meeting of the Madera County Board of Supervisors
Tuesday, March 7, 2017

9:00 A.M.

CALL TO ORDER

Attendee Name	Title	Status	Arrived
Brett Frazier	Supervisor	Present	8:46 AM
David Rogers	Supervisor	Present	8:46 AM
Robert L. Poythress	Supervisor	Present	8:46 AM
Max Rodriguez	Chairman	Present	8:46 AM
Tom Wheeler	Chair Pro Tem	Present	8:46 AM

- ADDITIONS TO THE AGENDA:** Items identified after preparation of the Agenda for which there is a need to take immediate action. Two-thirds vote required for consideration. (Government Code Section 54954.2(b)(2)) Items identified after the preparation of the agenda for which there is a need to take immediate action. Two-thirds vote required for consideration. (Government Code Section 54954.2(b)(2)).

ADD ITEM 2f TO CLOSED SESSION WHICH WAS IDENTIFIED AFTER THE PREPARATION OF THE AGENDA: Public Employee Performance Evaluation, pursuant to Government Code Section 54957, Title of Position: Corrections Director

RESULT:	APPROVE [UNANIMOUS]
MOVER:	Tom Wheeler, Chair Pro Tem
SECONDER:	David Rogers, Supervisor
AYES:	Frazier, Rogers, Poythress, Rodriguez, Wheeler



THE FOLLOWING ITEMS WILL BE DISCUSSED ON A NONAPPOINTMENT BASIS, NOT NECESSARILY IN THE ORDER LISTED

2. CLOSED SESSION:

2.a. 2616: Request for Closed Session:

Conference with **Labor Negotiators**, pursuant to Government Code Section 54957.6, **County Negotiators: Adrienne Calip and Ken Caves**, Employee Organization: **All Units**

RESULT: DISCUSSED; NO ACTION TAKEN

2.b. 2651: Request for Closed Session:

Public Employee Appointment, pursuant to Government Code Section 54957, **Title of Position: Director, Department of Social Services**

RESOLUTION NO. 2017-032
ON A MOTION BY SUPERVISOR ROGERS, SECONDED BY SUPERVISOR WHEELER, IT IS FURTHER ORDERED TO ADOPT RESOLUTION NO. 2017-033. BOTH RESOLUTION NO. 2017-032 AND RESOLUTION 2017-033 WERE APPROVED PENDING THE ACCEPTANCE OF THE APPOINTEE, HUBERT WALSH.

RESULT: ADOPTED [UNANIMOUS]
MOVER: Brett Frazier, Supervisor
SECONDER: David Rogers, Supervisor
AYES: Frazier, Rogers, Poythress, Rodriguez, Wheeler

2.c. 2641: Request for Closed Session:

Real Property Negotiator, pursuant to Government Code Section 54956.8, **Agency Negotiator Eric Fleming, County Administrative Officer; Price, Terms, and conditions of sale, exchange, or lease; Owner: County of Madera; Assessor's Parcel Number 010-133-001; 210 W. Yosemite Avenue, Madera, CA**

RESULT: DISCUSSED; NO ACTION TAKEN

2.d. 2646: Request for Closed Session:

Conference with Legal Counsel - **Existing Litigation**, pursuant to Government Code Section 54956.9(d)(1); **CA Department of Transportation v. Madera County, et al., Madera County Superior Court Case No. MCV062237**, existing settlement agreement implementation.

RESULT: DISCUSSED; NO ACTION TAKEN

- 2.e. 2652: **Request for Closed Session:**
Conference with Legal Counsel - **Anticipated Litigation**, pursuant to
Government Code Section 54956.9 (d)(2), **Significant Exposure to
Litigation (ONE CASE)**

RESULT: DISCUSSED; NO ACTION TAKEN

- 2.f. 2661: **Request for Closed Session:**
Public Employee Performance Evaluations, pursuant to Government Code
Section 54957, **Title of Position: Department of Corrections Director**

RESULT: DISCUSSED; NO ACTION TAKEN

- 2.g. **Report by County Counsel on Closed Session items.**

10:00 A.M.

3. INVOCATION AND PLEDGE OF ALLEGIANCE

INVOCATION GIVEN BY PASTOR FRED THURMAN WITH NEW LIFE ASSEMBLY
CHURCH. PLEDGE OF ALLEGIANCE LED BY SUPERVISOR DAVID ROGERS.

OPEN AND CLOSE MEETING IN MEMORY OF

- 4. PUBLIC COMMENT:** The first 15 minutes of each regular session is set aside for members of the public to comment on any item within the jurisdiction of the Board, but not appearing on the agenda. Items presented under public comment may not be discussed or acted upon by the Board at this time. For items appearing on the agenda, the public is invited to comment at the time the item is called for consideration by the Board. Any person addressing the Board under public comment will be limited to a 3 minute presentation to ensure that all interested parties have an opportunity to speak. Any handouts to the Board must be submitted to the Chief Clerk of the Board for distribution to the Supervisors. Anyone addressing the Board is asked to print their name clearly on the "Speaker" sheet at the podium. Also, all persons addressing the Board may state their name and county of residence for the record.

NORMAN ALLINDER SHARED THAT PUBLIC WORKS STAFF RECEIVED AN AWARD FROM PARKWOOD/PARKSDALE AS RECOGNITION OF THEIR WORK ON THE INFRASTRUCTURE STUDY FOR THEIR COMMUNITIES. STEPHANIE MCNEILL, AG COMMISSIONER INTRODUCED BILL GRIFFIN AS THE NEWEST MEMBER ON THE MANAGEMENT TEAM. DENIS KOCH, DIRECTOR, BEHAVIORAL HEALTH, INTRODUCED JULIE MORGAN, RECENTLY HIRED ASSISTANT DIRECTOR FOR BEHAVIORAL HEALTH. SUPERVISOR WHEELER SHARED TWO LETTERS COMMENDING THE PUBLIC WORKS STAFF AND PROVIDED AN UPDATE ON THE RAINFALL IN NORTH FORK AREA; SUPERVISOR POYTHRESS CONGRATULATED THE MADERA HIGH SCHOOL GIRLS BASKETBALL TEAM FOR WINNING THE CENTRAL SECTION DIVISION III CHAMPIONSHIP. SUPERVISOR FRAZIER RECOGNIZED DAN RILEY OF RILEY'S BREW PUB IN CLOVIS FOR RECEIVING THE FRESNO SECTION CALIFORNIA RESTAURANT ASSOCIATION BEST NEWCOMER AWARD. MR. RILEY IS FROM MADERA. SUPERVISORS

ROGERS ENCOURAGED EVERYONE TO BE VOTE TODAY. THE CLERK OF THE BOARD ANNOUNCED THAT YOU MAY NOW FILE YOUR FORM 700 ONLINE. IF THERE ARE ANY QUESTIONS, CONTACT THE CLERK OF THE BOARD'S OFFICE.

ALL MATTERS LISTED UNDER CONSENT CALENDAR ARE CONSIDERED TO BE ROUTINE AND WILL BE ENACTED BY ONE MOTION

5. CONSENT CALENDAR

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Tom Wheeler, Chair Pro Tem
SECONDER:	Brett Frazier, Supervisor
AYES:	Frazier, Rogers, Poythress, Rodriguez, Wheeler

A. APPROVAL OF MINUTES

1. Consideration of approval of the Regular Meeting Minutes for February 21, 2017.

B. 2611: AGRICULTURAL COMMISSIONER/WEIGHTS AND MEASURES

Consideration of approval of Receipt of Unanticipated Revenue No. 16-186, in the amount of \$6,000.00 for additional funding provided by California Agricultural Commissioners and Sealers Association for Fiscal Year 2016-201. **4 Votes Required**

RECEIPT OF UNANTICIPATED REVENUE NO. 16-186

C. 2595: ASSESSOR'S DEPARTMENT

Consideration of approval of Receipt of Unanticipated Revenue No. 16-189, in the amount of \$250,000.00, derived from State Grant to Assessor's Office - Professional and Specialized Services and Equip<FA Limit, for Fiscal Year 2016-2017. **4 Votes Required.**

RECEIPT OF UNANTICIPATED REVENUE NO. 16-189

D. 2627: BEHAVIORAL HEALTH SERVICES

Consideration of approval to appoint Rick Farinelli as a District 1 representative to the Madera County Behavioral Health Board, for a term of March 15, 2017 through March 15, 2020.

E. 2634: COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT/PLANNING DIVISION

Consideration of approval of Letter of Authorization for submittal of a regional application on behalf of the County of Madera and other participating jurisdictions within the County of Madera, to the State of California Department of Resources Recycling and Recovery (CalRecycle) for the Local Government Waste Tire Amnesty Grant, for Fiscal Year 2017-2018.

F. 2620: COUNTY ADMINISTRATION DEPARTMENT/GENERAL SERVICES DIVISION AND DEPARTMENT OF SOCIAL SERVICES

Consideration of approval to amend Madera County Contract No. 8853A-C-2014 with Properties, LLC, for Real Property located at 700 E Yosemite Avenue, Madera, CA, for the Department of Social Services for a term expiring February 28, 2018.

MCC NO. 8853B-C-2017, PROPERTIES, LLC.

G. 2632: COUNTY ADMINISTRATION DEPARTMENT/GENERAL SERVICES DIVISION AND PROBATION DEPARTMENT

Consideration of approval of an Agreement with Central California Communications, in the amount of \$49,823.49, for the procurement, programming, and installation of an expanded phone and voice mail system at the Madera County Boot Camp facility, and Road 28 Campus.

MCC NO. 10838-C-2017, CENTRAL CAL COMMUNICATIONS.

H. 2636: COUNTY ADMINISTRATION DEPARTMENT/GENERAL SERVICES DIVISION

Madera County Morgue Project.

1. Consideration of approval of an Amendment to Madera County Contract No.10675-C-2016 with Simile Construction Service, Inc., extending the contract term to March 31, 2017.
2. Consideration of approval of an Amendment to Madera County Contract No. 10573-C-2016 with Morteck Manufacturing Company, Inc., extending the contract term to March 31, 2017.
3. Consideration of approval of an Amendment to Madera County Contract No.10676-C-2016 with Red Wave Comm., Inc., extending the contract term to March 31, 2017.

MCC NO. 10675A-C-2017, SIMILE CONSTRUCTION SERVICE, INC.

MCC NO. 10573A-C-2017, MORTECH MANUFACTURING COMPANY, INC.

MCC NO. 10676A-C-2017, RED WAVE COMM., INC.

I. 2633: COUNTY ADMINISTRATION DEPARTMENT/GENERAL SERVICES DIVISION

Sheriff Parking Lot Expansion Project.

1. Consideration of approval of an Amendment to Madera County Contract No. 10767-C-2016 with Pierce Construction, extending the contract term to June 30, 2017.
2. Consideration of approval of an Amendment to Madera County Contract No. 10768-C-2016 with Torres Fence Co., Inc., extending the contract term to June 30, 2017.

3. Consideration of approval of an Amendment to Madera County Contract No. 10770-C-20016 with Tim R. Trull Electric, Inc., extending the contract term to June 30, 2017.
4. Consideration of approval of an Amendment to Madera County Contract No. 10769-C-2016 with Red Wave Comm., Inc., extending the contract term to June 30, 2017.

MCC NO. 10767A-C-2017, PIERCE CONSTRUCTION
 MCC NO. 10768A-C-2017, TORRES FENCE CO., INC.
 MCC NO. 10770A-C-2017, TIM R. TRULL ELECTRIC, INC.
 MCC NO. 10769A-C-2017, RED WAVE COMM., INC.

J. 2624: COUNTY ADMINISTRATION DEPARTMENT/HUMAN RESOURCES/OPERATIONS DIVISION

Consideration of approval to adopt the Sideletter of Agreement with the Correctional Officer Bargaining Unit, Reporting of Longevity Pay and Special Compensation.

K. 2643: COUNTY ADMINISTRATION DEPARTMENT/HUMAN RESOURCES/OPERATIONS DIVISION

Consideration and approval of a Resolution extending supplement to military pay and benefits for County employees involuntarily called into active duty as a result of Military Operations.

RESOLUTION NO. 2017-030

L. 2644: OFFICE OF EDUCATION, MADERA COUNTY

Consideration of approval of the Certification Statement regarding Composition of Local Planning Council (LPC) Membership.

M. 2612: PUBLIC HEALTH DEPARTMENT

Intergovernmental Transfer Agreements Budget Adjustments.

1. Consideration of approval of Receipt of Unanticipated Revenue No. 16-187, in the amount of \$2,082,938.74, derived from State and Federal Medi-Cal revenue for Fiscal Year 2016-2017 with appropriations as listed.
4 Votes Required
2. Consideration of approval to allocate an additional Administrative Analyst position to Public Health Department as part of the expansion of health care services using Intergovernmental Transfer revenue.

RECEIPT OF UNANTICIPATED REVENUE NO. 16-187

N. 2626: PUBLIC HEALTH DEPARTMENT

Zika Preparedness and Response Grant

1. Consideration of entering into an Agreement with the California Department of Public Health (CDPH) Emergency Preparedness Office for a maximum grant of \$40,000 for the Zika Preparedness and Response Grant for Fiscal Years 2016-2018.

2. Consideration of authorizing the Public Health Director to sign the Grant Agreement, Non-supplantation Certification, Certification of Lobbying (Exhibit F), and any subsequent documents or amendments required for acceptance of funding or execution of this agreement and report any amendments to the Clerk of the Board's office.

MCC NO. 10839-C-2017, CALIFORNIA DEPARTMENT OF PUBLIC HEALTH (CDPH) EMERGENCY PREPAREDNESS OFFICE

O. 2597: BOARD OF DIRECTORS SPECIAL DISTRICTS/MAINTENANCE DISTRICT NO. 10A, MADERA RANCHOS/PUBLIC WORKS DEPARTMENT/ADMINISTRATION DIVISION

Signing Authority for Maintenance District No. 10A, Madera Ranchos

1. Consideration of approval to rescind Resolution No. 2016-300 passed on November 1, 2016.
2. Consideration of approval of a Resolution for Signing Authority for Maintenance District No. 10A, Madera Ranchos.

RESOLUTION NO. 2017-031

P. 2623: BOARD OF DIRECTORS SPECIAL DISTRICTS/MAINTENANCE DISTRICT NO. 36, EASTIN ARCOLA/PUBLIC WORKS DEPARTMENT/MUNICIPAL SERVICE DIVISION

Replacement of well pump and pipe.

1. Consideration of entering into an agreement with Madera Pumps Inc., in the amount of \$58,469.00 for the replacement of a well pump and pipe within Maintenance District No. 36, Eastin Arcola.
2. Consideration of approval to authorize the Director of Public Works to approve additional work as needed up to 10% of the contract amount.

MCC NO. 10840-C-2017, MADERA PUMPS, INC.

Q. 2648: BOARD OF DIRECTORS SPECIAL DISTRICTS/MAINTENANCE DISTRICT NO. 22A, OAKHURST/PUBLIC WORKS DEPARTMENT/CAPITAL IMPROVEMENT PROJECTS DIVISION

Engineering Services for Maintenance District No. 22A

1. Consideration of entering into an agreement with Wood Rodgers, Inc. in the amount of \$16,260.00 for Engineering Consulting Services to perform an evaluation & plan of action of existing effluent line located in Maintenance District 22A in Madera County and authorize the Chairman to execute the Agreement.
2. Consideration of approval to authorize the Public Works Director or designee to issue the notice to proceed.

3. Consideration of approval to authorize the Auditor-Controller to issue payments for contingencies up to 10% of the contract award amount per established county policy.
4. Consideration of approval to authorize the Public Works Director to solely issue and approve contract change orders in accordance with public contract code, not to exceed authorized contingencies.

MCC NO. 10841-C-2017, WOOD RODGERS, INC.

10:00 A.M. HEARINGS

6. PUBLIC HEARINGS:

NONE

7. REGULAR SESSION:

7.a. 2603: SHERIFF-CORONER'S DEPARTMENT

Discussion and consideration of entering into an Agreement with CTI Towers Assets II, LLC, in the amount of \$9,600.00 per year, for Antenna Site License.

MCC NO. 10842-C-2017, CTI TOWERS ASSETS II, LLC.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	David Rogers, Supervisor
SECONDER:	Brett Frazier, Supervisor
AYES:	Frazier, Rogers, Poythress, Rodriguez, Wheeler

7.b. 2639: BEHAVIORAL HEALTH SERVICES

Discussion and consideration of approval to hire Julie Morgan as the Assistant Director at "D" step with 10 years longevity of salary range 369, DL10 (\$9,633.30), effective March 1, 2017.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Brett Frazier, Supervisor
SECONDER:	David Rogers, Supervisor
AYES:	Frazier, Rogers, Poythress, Rodriguez, Wheeler

7.c. 2629: ECONOMIC DEVELOPMENT COMMISSION, MADERA COUNTY

Discussion and consideration of approval of the Madera County Economic Development Commission (MCEDC) Fiscal Year 2017/2018 Basic Service Level Budget as submitted.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Brett Frazier, Supervisor
SECONDER:	Tom Wheeler, Chair Pro Tem
AYES:	Frazier, Rogers, Poythress, Rodriguez, Wheeler

8. PENDING LEGISLATION - Discuss, Support or Oppose Legislation Presented by Supervisors and/or Staff

JOEL BUGAY, DEPARTMENT OF ADMINISTRATION, PRESENTED A LETTER TO THE ASSEMBLY BUDGET SUBCOMMITTEE #1, STRONGLY OPPOSING THE HALTING OF THE COORDINATED CARE INITIATIVE (CCI), THE ELIMINATION OF THE COUNTY IN HOME SUPPORT SERVICES (IHSS) MAINTENANCE OF EFFORT (MOE) COST SHARING STRUCTURE, THE DISSOLUTION OF THE STATEWIDE IHSS AUTHORITY AND THE SHIFT OF COLLECTIVE BARGAINING FOR IHSS WORKERS FROM THE STATEWIDE IHSS AUTHORITY TO COUNTIES. IT WAS THE CONSENSUS OF THE BOARD TO SEND THE LETTER UNDER THE CHAIRMAN'S SIGNATURE.

BRITTANY DYER, DISTRICT 5 CHIEF OF STAFF, PRESENTED A LETTER TO THE SENATE NATURAL RESOURCES AND WATER COMMITTEE STRONGLY OPPOSING SB 249 (ALLEN. THE LEGISLATION WOULD EFFECTIVELY ELIMINATE THE CALIFORNIA OFF-HIGHWAY MOTOR VEHICLE PROGRAM (OHV) BY ALLOWING FUNDS COLLECTED FROM GASOLINE TAXES AND OTHER FEES IMPOSED ON OHV RECREATIONISTS TO BE USED FOR NON-OHV PURPOSES. IT WAS THE CONSENSUS OF THE BOARD TO SEND THE LETTER UNDER THE CHAIRMAN'S SIGNATURE.

9. SUPERVISORS AND STAFF REPORTS

SUPERVISOR ROGERS ATTENDED THE NACO LEGISLATIVE CONFERENCE IN WASHINGTON, DC. SUPERVISOR POYTHRESS, ALONG WITH SUPERVISOR FRAZIER, ATTENDED THE VALLEY VOICE REGIONAL POLICY COUNCIL IN SACRAMENTO AS PART OF THEIR LOBBYING EFFORTS. SUPERVISOR WHEELER ATTENDED THE WATER SUMMIT HOSTED BY THE SIERRA NEVADA CONSERVATION DISTRICT IN SACRAMENTO. SUPERVISOR WHEELER IS A REPRESENTATIVE FOR MADERA COUNTY ON THE CONSERVATION BOARD (MADERA, FRESNO, TULARE AND KERN COUNTIES) WHO HELD THEIR QUARTERLY MEETING AS WELL. SUPERVISOR FRAZIER ALSO REPORTED ON THE TRIP TO SACRAMENTO FOR THE VALLEY VOICE REGIONAL COUNCIL AND ANNOUNCED THERE IS A SAN JOAQUIN POLICY COUNCIL MEETING IN FRESNO ON MARCH 8,9,10. FOR FURTHER INFORMATION, CONTACT DISTRICT 1 OFFICE. SUPERVISOR RODRIGUEZ ATTENDED AND REPORTED ON THE HIGH SPEED RAIL AUTHORITY COMMITTEE COALITION MEETING IN LOS ANGELES.

CLOSED SESSION: CONTINUE FROM 9:00 A.M. SESSION

10. ADJOURNMENT

ADJOURN TO MARCH 21, 2017

ATTEST:

Rhonda M. Cargill, Chief Clerk of the Board

Max Rodriguez, Chairman



**BOARD OF SUPERVISORS
COUNTY OF MADERA**

MADERA COUNTY GOVERNMENT CENTER
200 WEST 4TH STREET / MADERA, CALIFORNIA 93637
(559) 675-7700 / FAX (559) 673-3302 / TDD (559) 675-8970
Agendas available: www.madera-county.com

2.f

Members of the Board
Brett Frazier, District 1
David Rogers, District 2
Robert L. Poythress, District 3
Max Rodriguez, District 4
Tom Wheeler, District 5

AGENDA ITEM SUBMITTAL

March 7, 2017
Chairman Max Rodriguez

DEPARTMENT Clerk of the Board Department		DEPARTMENT CONTACT Yvette Gomez		AGENDA ITEM 2.f Closed Session:			
SUBJECT: Closed Session: Performance Evaluations - DOC Director		REQUIRED VOTE:	DOC. ID NUMBER 2661	DATE REC'D 2/21/2017			
<i>For Clerk of the Board's Office Use Only</i>							
BOARD'S ACTION:							
<table border="1" style="width: 100%;"> <tr> <td>RESULT:</td> <td>DISCUSSED; NO ACTION TAKEN</td> </tr> </table>						RESULT:	DISCUSSED; NO ACTION TAKEN
RESULT:	DISCUSSED; NO ACTION TAKEN						
Is this item Budgeted? Will this item require additional personnel? Previous Relevant Board Actions: Other Supporting Documents:			DOCUMENT NO(S).				

RECOMMENDED ACTIONS:

Public Employee **Performance Evaluations**, pursuant to Government Code Section 54957, **Title of Position: Department of Corrections Director**

DISCUSSION / BACKUP / FISCAL IMPACT:

Exhibit 6

From: Chris L. Rodriguez [mailto:clrodriguez@co.madera.ca.gov]
Sent: Wednesday, March 08, 2017 2:34 PM
To: Becerra, Moises
Cc: Harmail S. Khela
Subject: RE: Meeting with ICE

Madera DOC direct contact information for ICE notifications

Records Supervisor is Sgt. Harmail Khela (day to day)
559-675-7951 ext:3217 harmail.khela@madera-county.com

Administrative Lt. Christopher Rodriguez
559-395-5836 clrodriguez@madera-county.com

Lt. Christopher Rodriguez Administration



Madera County Department of Corrections
a | 14191 Road 28 Madera, CA 93638
e | clrodriguez@madera-county.com
p | 559.675.7955

From: Becerra, Moises [mailto:Moises.Becerra@ice.dhs.gov]
Sent: Monday, February 27, 2017 1:52 PM
To: Chris L. Rodriguez
Subject: FW: Meeting with ICE

Mr. Rodriguez,

Attached are the two ICE forms you may see when there is a detainee ICE is interested in. I have attached the contact sheet for our duty officer who can respond and supervisor contact info for any issues.

Thank you,

Moises Becerra
Assistant Field Office Director
Immigration and Customs Enforcement
Enforcement and Removal Operations, Fresno, CA
Office: (559) 265-6950

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Exhibit 7

Scott G. Cross

From: Scott G. Cross
Sent: Friday, March 10, 2017 2:05 PM
To: 'moises.becerra@ice.dhs.gov'
Cc: 'David Linn'; 'Manuel Perez'; 'Jay Varney'
Subject: Madera County interaction with ICE
Attachments: March 10, 2017 County Counsel Letter to Moises Becerra at ICE (00494107x....pdf)

Mr. Becerra,

Please see the attached letter on behalf of the County of Madera Board of Supervisors and Department of Corrections (DOC). In addition to recent emails between you and DOC staff regarding this matter, this letter is intended to confirm the County's commitment to assist and cooperate with ICE in your efforts to enforce federal immigration laws, consistent with both federal and state law.

Thank you.

Scott

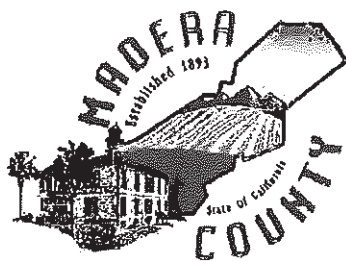
Scott G. Cross
Attorney at Law
T: 559.431.5600 |
F: 559.261.9366
7404 North Spalding Avenue
Fresno, CA 93720-3370
lozanosmith.com



[Email](#) | [Attorney Bio](#) | [Vcard](#)

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Exhibit 8



OFFICE OF COUNTY COUNSEL

559-675-7717

200 West 4th Street
Madera, CA 93637

Board of Supervisors

BRETT FRAZIER
District 1

DAVID ROGERS
District 2

ROBERT POYTHRESS
District 3

MAX RODRIGUEZ
District 4

TOM WHEELER
District 5

March 10, 2017

Via E-Mail Only: Moises.Becerra@ice.dhs.gov

Moises Becerra, Assistant Field Office Director
Immigration and Customs Enforcement
Enforcement and Removal Operations, Fresno, CA

Re: Madera County Department of Corrections/Immigration and Customs Enforcement –
Interactions and Cooperation

Dear Mr. Becerra:

The Madera County Board of Supervisors and the Department of Corrections ("DOC") is committed to assisting the Immigration and Customs Enforcement agency ("ICE") with its efforts to enforce federal immigration laws, consistent with both federal and state law. While DOC cannot detain an inmate beyond his or her release date, absent a showing of probable cause, DOC is developing internal policies and protocols regarding the dissemination of inmate release date information to ICE, as well as the orderly and secure processing of inmate releases to ICE.

DOC recently provided you with multiple points of contact with DOC, and it is imperative that ICE communicate any request to DOC in a diligent manner, so that DOC can make the required notifications to inmates in a diligent manner. This is especially important in light of recently-enacted state law that requires disclosures to inmates with respect to certain ICE activities. The improved internal policies and protocols, and the multiple DOC officials available for ICE to contact, should help improve communication between DOC and ICE regarding requested inmate release information, and coordination of ICE pick-ups. The County of Madera remains willing to cooperate with ICE to help make our community safer.

Please continue making contact with the DOC staff as indicated. Thank you for your efforts on behalf of ICE.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott G. Cross".

Scott G. Cross
Acting County Counsel

cc: Board of Supervisors
David Linn, District Attorney
Jay Varney, Sheriff
Manual Perez, DOC Chief
Eric Fleming, CAO

J:\wdocs\01246\024\1.TRI\00494079.DOCX



Exhibit 9

Harmail S. Khela

From: Rios, Jaime [Jaime.Rios@ice.dhs.gov]
Sent: Monday, March 20, 2017 8:44 AM
To: Harmail S. Khela
Subject: FW: Meeting with ICE

From: Rios, Jaime
Sent: Monday, March 20, 2017 8:42:26 AM
To: harmail.khela
Cc: Boone, Malcolm R; Bayardo, Joanna
Subject: FW: Meeting with ICE

Sgt. Khela,

Any updates/dates on when we can commence the pickups from your facility?

I tried calling you directly but your phone system didn't allow me to enter your extension.

Please advise.

Jaime Rios
SDDO/FRE
559-351-1082 cell

From: Becerra, Moises
Sent: Monday, March 20, 2017 7:55:35 AM
To: Rios, Jaime
Subject: FW: Meeting with ICE

Jaime,

Can you reach out to Sgt. Khela to see if we are go for pick-ups and scheduling. Also if they have an SOP developed with POCs for issues.

Thanks,

Moises Becerra
Assistant Field Office Director
Immigration and Customs Enforcement
Enforcement and Removal Operations, Fresno, CA
Office: (559) 265-6950

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Exhibit 10

Harmail S. Khela

From: Rios, Jaime [Jaime.Rios@ice.dhs.gov]
Sent: Tuesday, March 21, 2017 8:18 AM
To: Harmail S. Khela
Cc: Boone, Malcolm R
Subject: RE: Meeting with ICE

Sgt. Khela,

My supervisor would like an update on getting the list of the foreign-born inmates. Lt. Chris Rodriguez stated that your legal counsel was going to be consulted. Any updates?

Thank you in advance.

Jaime Rios

From: Harmail S. Khela [mailto:Harmail.Khela@co.madera.ca.gov]
Sent: Monday, March 20, 2017 12:48 PM
To: Rios, Jaime
Cc: Boone, Malcolm R; Bayardo, Joanna
Subject: RE: Meeting with ICE

Good afternoon

As we discussed in the meeting, yes, you may contact records department to schedule the pickups. Also, the email addresses are different and missing the @ co is because those email addresses were part of the old email system but they are correct. When we got the new system the new employees received the @co email addresses.

Thank you.

From: Rios, Jaime [mailto:Jaime.Rios@ice.dhs.gov]
Sent: Monday, March 20, 2017 9:21 AM
To: Harmail S. Khela
Cc: Boone, Malcolm R; Bayardo, Joanna
Subject: FW: Meeting with ICE

Sgt. Khela,

Any updates/dates on when we can commence the pickups from your facility?

I tried calling you directly but your phone system didn't allow me to enter your extension. Also, the email contact information provided below by Chris Rodriguez are incorrect. They are missing the CO after the @ symbol.

You also just provided a contact information document and noticed several email contacts that are also missing the co after the @ symbol. Can you verify the emails?

Please advise.

Exhibit 11

Office: (559) 265-6950

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From: Chris L. Rodriguez [<mailto:clrodriguez@co.madera.ca.gov>]
Sent: Tuesday, March 21, 2017 11:30 AM
To: Becerra, Moises
Cc: Rios, Jaime; Boone, Malcolm R; Bayardo, Joanna; Jacques, April; Harmail S. Khela; Manuel Perez; Michael Gonzalez; John E. Fisher
Subject: RE: Meeting with ICE

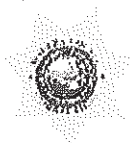
Moises,

Madera County Department of Corrections will provide ICE with a foreign born list Monday-Friday. Who would you like us to send this emailed list too?

Be advised the foreign born list is generated by a booking question regarding citizenship. If the response is anything other than the US, they will be on the foreign born list.

We are currently in the process of changing our Jail Management Systems. We expect the new system to be up and running sometime in April. So the list will be different once we go live with the new system.

Lt. Christopher Rodriguez Administration



Madera County Department of Corrections
| 14191 Road 28 Madera, CA 93638
| clrodriguez@madera-county.com
| 559.675.7955

From: Becerra, Moises [<mailto:Moises.Becerra@ice.dhs.gov>]
Sent: Monday, March 20, 2017 9:13 AM
To: Harmail S. Khela; Chris L. Rodriguez
Cc: Rios, Jaime; Boone, Malcolm R; Bayardo, Joanna; Jacques, April
Subject: RE: Meeting with ICE

Thank you. I included our management staff in Fresno.

Moises Becerra
Assistant Field Office Director
Immigration and Customs Enforcement
Enforcement and Removal Operations, Fresno, CA
Office: (559) 265-6950

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Exhibit 12

MADERA COUNTY DEPARTMENT OF CORRECTIONS
IMMIGRATION STATUS
ICE HOLD NOTIFICATION (TRUST ACT)
DPPM 03-09

EFFECTIVE: 01-12-2017

REVIEWED: 02-09-2017

REVISED: 04-07-2017

SUBJECT	ICE HOLD NOTIFICATION (TRUTH ACT)
POLICY	THE MADERA COUNTY DEPARTMENT OF CORRECTIONS WILL EQUALLY ENFORCE LAWS AND SERVE THE PUBLIC WITHOUT CONSIDERATION OF IMMIGRATION STATUS. EXCEPT AS SPECIFICALLY OUTLINED IN THIS POLICY, THE IMMIGRATION STATUS OF A PERSON, AND THE LACK OF IMMIGRATION DOCUMENTATION, SHALL HAVE NO BEARING ON THE MANNER IN WHICH STAFF EXECUTE THEIR DUTIES. THE PURPOSE OF THIS PROCEDURE IS TO PROVIDE PERSONNEL WITH THE LEGAL REQUIREMENTS PURSUANT TO ARTICLE 30 OF THE VIENNA CONVENTION ON CONSULAR RELATIONS, WHICH SETS FORTH CERTAIN RIGHTS OF FOREIGN NATIONALS FROM MEMBER COUNTRIES WHEN ARRESTED, DETAINED OR IMPRISONED BY LAW ENFORCEMENT OFFICIALS IN THE COUNTRY AND COMPLY WITH THE AB4 CALIFORNIA TRUST ACT (GOVERNMENT CODE §7282, ET. SEQ.).
REFERENCE	TRUST ACT [AB4]; AB 2792 & 128552 (D) H&S; CONSULAR NOTIFICATION AND ACCESS REFERENCE 4 TH EDITION; CONSULAR NOTIFICATION AND ACCESS REFERENCE CARD.
DEFINITIONS	<p><u>CONSULAR OFFICERS</u> – IS A CITIZEN OF A FOREIGN COUNTRY EMPLOYED BY A FOREIGN GOVERNMENT AND AUTHORIZED TO PROVIDE ASSISTANCE ON BEHALF OF THAT GOVERNMENT TO THAT GOVERNMENT’S CITIZENS IN A FOREIGN COUNTRY.</p> <p><u>FOREIGN NATIONAL</u> – ANYONE WHO IS NOT A CITIZEN OF THE UNITED STATES. A PERSON WITH DUAL-CITIZENSHIP, U.S. AND FOREIGN, IS NOT A FOREIGN NATIONAL.</p> <p><u>ICE INTERVIEW REQUEST ADMONISHMENT</u> – A WRITTEN CONSENT FORM GIVEN TO A DETAINEE PRIOR TO AN ICE INTERVIEW THAT WOULD EXPLAIN, AMONG OTHER THINGS, THE PURPOSE OF THE INTERVIEW, THAT IS VOLUNTARY; AND THE INDIVIDUAL MAY DECLINE TO BE INTERVIEWED.</p>
GENERAL PURPOSE	TO ESTABLISH POLICY FOR NOTIFYING ARRESTEES OF ICE HOLDS AND ANY NOTIFICATIONS SENT TO IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE).
	<p>I. AB 2792-TRUTH ACT PROVIDES THAT ANY INDIVIDUAL HELD IN CUSTODY IN THE MADERA COUNTY DEPARTMENT OF CORRECTIONS (MCDOC) MUST BE PROVIDED A WRITTEN CONSENT FORM BY THE STAFF OF THE RESPECTIVE FACILITY PRIOR TO ANY INTERVIEW REGARDING CIVIL IMMIGRATION VIOLATIONS WITH AN IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) AGENT.</p> <p>A. THE NOTIFICATION MUST STATE THAT THE INTERVIEW IS VOLUNTARY AND HE/SHE MAY DECLINE THE INTERVIEW OR CHOOSE TO HAVE AN ATTORNEY PRESENT DURING THE</p>

MADERA COUNTY DEPARTMENT OF CORRECTIONS
IMMIGRATION STATUS
ICE HOLD NOTIFICATION (TRUST ACT)
DPPM 03-09

EFFECTIVE: 01-12-2017

REVIEWED: 02-09-2017

REVISED: 04-07-2017

INTERVIEW.

- B. THIS FORM MUST BE AVAILABLE IN MULTIPLE LANGUAGES (ENGLISH, SPANISH, CHINESE, HMONG, AND PUNJABI), AND THE CONSENT FORM SHALL BE MADE AVAILABLE IN ANY ADDITIONAL LANGUAGES THAT MEET THE COUNTY THRESHOLD, AS DEFINED IN SUBDIVISION (d) OF SECTION 128552 OF THE HEALTH AND SAFETY CODE, IF CERTIFIED TRANSLATIONS IN THOSE LANGUAGES ARE MADE AVAILABLE TO LOCAL LAW ENFORCEMENT AGENCIES AT NO COST.
 - C. THE CONSENT FORM WILL BE GIVEN TO THE INDIVIDUAL BY JAIL STAFF ONCE THE ICE AGENT SCHEDULES AN INTERVIEW.
 - D. A COPY OF THE ICE HOLD NOTIFICATION SHALL BE GIVEN TO THE INMATE AT THE TIME THE ICE HOLD IS RECEIVED/PLACED.
 - E. THE JAIL STAFF WILL PROVIDE THE INDIVIDUAL A NOTIFICATION INFORMING HIM/HER THAT IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) HAS REQUESTED HIS/HER RELEASE DATE AND THAT MCDOC WILL COMPLY WITH THEIR REQUEST.
- II. ALL RECORDS RELATING TO ICE HOLDS ON ALL INDIVIDUALS HELD IN THE MCDOC SHALL BE MADE AVAILABLE FOR CALIFORNIA PUBLIC RECORDS ACT REQUESTS, INCLUDING ALL COMMUNICATION WITH IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE).
- A. THIS INFORMATION SHALL INCLUDE, BUT NOT LIMITED TO;
 - 1) THE DATA MAINTAINED BY THE JAIL FACILITY REGARDING THE NUMBER AND DEMOGRAPHIC CHARACTERISTICS OF THE INDIVIDUALS WHO HAD AN ICE HOLD PLACED AND IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) WAS PROVIDED ACCESS TO THESE RECORDS (PERSONAL IDENTIFYING INFORMATION MAY BE EXCLUDED).
 - 2) THE DATE IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) HAS BEEN PROVIDED ACCESS TO THE INDIVIDUAL'S RECORD TO INCLUDE RESPONSES TO ALL REQUESTS.
 - 3) THE DATE ICE WAS NOTIFIED THE INDIVIDUAL IS READY FOR RELEASE AND THE MANNER IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) WAS NOTIFIED OF THIS INFORMATION (ALL OF OUR NOTIFICATIONS CONSIST OF CALLING/FAXING ALL

MADERA COUNTY DEPARTMENT OF CORRECTIONS
IMMIGRATION STATUS
ICE HOLD NOTIFICATION (TRUST ACT)
DPPM 03-09

EFFECTIVE: 01-12-2017

REVIEWED: 02-09-2017

REVISED: 04-07-2017

INFORMATION REGARDING HOLDS BEING PLACED
AND READY FOR RELEASE TO IMMIGRATION AND
CUSTOMS ENFORCEMENT (ICE).

III. AT THE TIME AN ICE HOLD IS PLACED ON AN INDIVIDUAL, THAT INDIVIDUAL WILL RECEIVE A COPY OF THE IMMIGRATION DETAINER-NOTICE OF ACTION, AS WELL THE IMMIGRATION AND CUSTOMS ENFORCEMENT REQUEST FORM (TRUTH ACT-FORM 1). THIS FORM WILL BE COMPLETED BY THE BOOKING OFFICER AT THE TIME OF PLACING THE ICE HOLD, AS FOLLOWS:

- 1) MARK "NOTIFY ICE OF YOUR RELEASE DATE".
- 2) CONTACT INFORMATION WILL BE THE MCDOC RECORDS SERGEANT OR THE ON-DUTY WATCH COMMANDER.
- 3) SIGN THE FORM AND LIST YOUR TITLE.
- 4) WRITE THE NAME OF THE INMATE AND CRIMINAL HISTORY NUMBER.
- 5) IF THE INDIVIDUAL IS IN BOOKING, THE BOOKING OFFICER WILL SERVE THE NOTICE AND SIGN IT. IF THE INDIVIDUAL IS HOUSED IN A UNIT, THE FORM WILL BE GIVEN TO THE MODULE OFFICER TO SERVE AND HE/SHE WILL SIGN IT.
- 6) ONCE THE INDIVIDUAL HAS COMPLETED THIS FORM, A COPY WILL BE MADE. THE COPY WILL BE GIVEN TO THE INMATE AND THE ORIGINAL WILL BE DISTRIBUTED ACCORDINGLY.

IV. IN THE EVENT AN IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) AGENT CALLS TO SET UP AN INTERVIEW WITH AN INDIVIDUAL IN PERSON OR BY PHONE, THE INDIVIDUAL WILL BE PROVIDED IN ADVANCE THE WRITTEN CONSENT FORM FOR IMMIGRATION AND CUSTOMS ENFORCEMENT TO INTERVIEW (TRUTH ACT-FORM 2). THE INDIVIDUAL HAS THE RIGHT TO AGREE OR REFUSE THE INTERVIEW WITH AN ICE AGENT OR MAY CHOOSE TO DO SO WITH HIS/HER ATTORNEY PRESENT AND INDICATE WHETHER OR NOT THEY WANT DOC TO CONTACT THEIR COUNTRY'S CONSULAR OFFICIALS. THE FORM WILL BE COMPLETED AS FOLLOWS:

- 1) THE INDIVIDUAL WILL WRITE HIS/HER NAME, CRIMINAL HISTORY NUMBER, SIGN THE FORM AND MARK ONE OF THE THREE BOXES.
- 2) THE BOTTOM OF THE FORM WILL THEN BE SIGNED AND DATED BY MCDOC STAFF.
- 3) IN THE EVENT THE INMATE DOES NOT WANT TO SPEAK TO AN ICE AGENT OR WANTS HIS/HER ATTORNEY PRESENT, YOU WILL THEN CALL THE ICE AGENT BACK AND LET HIM

MADERA COUNTY DEPARTMENT OF CORRECTIONS
IMMIGRATION STATUS
ICE HOLD NOTIFICATION (TRUST ACT)
DPPM 03-09

EFFECTIVE: 01-12-2017

REVIEWED: 02-09-2017

REVISED: 04-07-2017

KNOW. IN THE EVENT THE INMATE AGREES TO SPEAK WITH AN ICE AGENT, THEN CALL THE ICE AGENT BACK AND LET HIM KNOW.

- 4) ONCE THE INDIVIDUAL HAS COMPLETED THE FORM, A COPY WILL BE MADE. THE COPY WILL BE GIVEN TO THE INMATE AND THE ORIGINAL WILL BE DISTRIBUTED ACCORDINGLY.

GENERAL
PURPOSE

ALL FOREIGN NATIONALS ARE ENTITLED TO CONSULAR NOTIFICATION AND ACCESS, REGARDLESS OF THEIR VISA OR IMMIGRATION STATUS IN THE UNITED STATES.

- I. ALL FOREIGN NATIONALS WHEN ARRESTED OR DETAINED MUST BE ADVISED OF THE RIGHT TO HAVE THEIR CONSULAR OFFICIALS NOTIFIED. THIS NOTIFICATION IS TO BE DONE BY THE ARRESTING OFFICER PRIOR TO BOOKING. IN SOME CASES, CONSULAR OFFICIALS MUST BE NOTIFIED OF THE ARREST OR DETENTION OF A FOREIGN NATIONAL, REGARDLESS OF THE NATIONAL'S WISHES. IF THIS IS DEEMED NECESSARY THE NOTIFICATIONS WILL BE COMPLETED BY JAIL STAFF.
- II. THE LIST OF MANDATORY NOTIFICATION COUNTRIES AND JURISDICTIONS IS LISTED IN THE CONSULAR NOTIFICATION AND ACCESS BINDER IN INTAKE.
- III. SUGGESTED STATEMENTS TO ARRESTED OR DETAINED FOREIGN NATIONALS ARE IN THE CONSULAR NOTIFICATION AND ACCESS BINDER. TRANSLATIONS OF THE STATEMENT INTO FOREIGN LANGUAGES ARE ALSO AVAILABLE IN THE BOOKLET.
- IV. THE MADERA COUNTY DEPARTMENT OF CORRECTIONS WILL HONOR FEDERAL ARREST WARRANTS OR COURT ORDERS SIGNED BY A MAGISTRATE OR JUDGE. ADMINISTRATIVE DETAINERS FROM ICE WILL NOT BE ACCEPTED.

PROCEDURE

CONSULAR NOTIFICATION AND ACCESS

- I. CORRECTIONAL STAFF WILL DETERMINE THE FOREIGN NATIONAL'S COUNTRY. IN THE ABSENCE OF OTHER INFORMATION, ASSUME THIS IS THE COUNTRY ON THE PASSPORT OR OTHER TRAVEL DOCUMENTS CARRIED BY THE ARRESTEE. (THE CONSULAR NOTIFICATION AND ACCESS REFERENCE CARD SHALL BE AVAILABLE IN THE INTAKE AREA FOR REFERENCE).
- II. IF THE FOREIGN NATIONAL'S COUNTRY IS NOT ON THE MANDATORY NOTIFICATION LIST, CORRECTIONAL STAFF SHALL:
 - A. OFFER WITHOUT DELAY, TO NOTIFY THE FOREIGN NATIONAL'S CONSULAR OFFICIALS OF THE

MADERA COUNTY DEPARTMENT OF CORRECTIONS
IMMIGRATION STATUS
ICE HOLD NOTIFICATION (TRUST ACT)
DPPM 03-09

EFFECTIVE: 01-12-2017

REVIEWED: 02-09-2017

REVISED: 04-07-2017

ARREST/DETENTION.

- B. IF THE FOREIGN NATIONAL ASKS THAT CONSULAR NOTIFICATION BE GIVEN, NOTIFY THE NEAREST CONSULAR OFFICIALS OF THE FOREIGN NATIONAL'S COUNTRY WITHOUT DELAY.
- III. IF THE FOREIGN NATIONAL'S COUNTRY IS ON THE LIST OF MANDATORY NOTIFICATIONS, CORRECTIONAL STAFF SHALL:
 - A. NOTIFY THAT COUNTRY'S NEAREST CONSULAR OFFICIALS, WITHOUT DELAY, OF THE ARREST/DETENTION.
 - B. TELL THE FOREIGN NATIONAL YOU ARE MAKING THIS NOTIFICATION.
- IV. NOTIFICATIONS MADE IN PROCEDURE 2 AND 3 SHALL BE DONE BY FAX. FAX NUMBERS TO FOREIGN EMBASSIES AND CONSULATES IN THE UNITED STATES ARE LISTED IN THE CONSULAR NOTIFICATION AND ACCESS BINDER. WHEN NOTIFICATION IS MADE, THE FAX WILL BE PLACED IN THE FOREIGN NATIONAL'S BOOKING FILE.

GENERAL
INFORMATION

POLICY UPDATE

- 1. THIS POLICY AND PROCEDURE SHALL BE REVIEWED ANNUALLY AND UPDATED AS NEEDED.

APPROVED: _____


M. PEREZ, DIRECTOR

DATE: 4-6-17

Exhibit 13

MADERA COUNTY DEPARTMENT OF CORRECTIONS
IMMIGRATION STATUS
DPPM 03-09

EFFECTIVE: 01-01-2014

REVIEWED: 01-01-2014
08-10-2015

REVISED: 09-10-2014
10-08-2015

SUBJECT	<u>IMMIGRATION STATUS</u>
POLICY	MADERA COUNTY DEPARTMENT OF CORRECTIONS REGULARLY RECEIVES IMMIGRATION DETAINER REQUESTS (DHS FORM-I-247) FROM THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE), A DETAINER SERVES TO ADVISE THAT ICE SEEKS CUSTODY OF AN INDIVIDUAL PRESENTLY IN THE CUSTODY OF MADERA COUNTY DEPARTMENT OF CORRECTIONS FOR THE PURPOSE OF DEPORTATION.
REFERENCE	TRUST ACT [AB4], GC 7282, GC 7282.5. <i>Miranda-Olivarez v. Clackamas County</i>
PENOLOGICAL INTRST	IT IS IN THE PENOLOGICAL INTEREST OF MADERA COUNTY DEPARTMENT OF CORRECTIONS TO HONOR ONLY ICE DETAINER REQUESTS THAT ARE ACCOMPANIED BY A JUDICIAL DETERMINATION OF PROBABLE CAUSE SATISFYING THE REQUIREMENTS OF THE FOURTH AMBNDMENT OF THE UNITED STATES CONSTITUTION AND TO RELEASE THOSE INDIVIDUALS THAT ARE OTHERWISE ELIGIBLE FOR RELEASE.
DEFINITIONS	<u>TRUST ACT [AB4]</u> : THE TRUST ACT [AB4] PROVIDES THAT A PERSON MAY NOT BE HBLD IN CUSTODY SOLELY ON THE BASIS OF AN IMMIGRATION DETAINER IF HE OR SHE IS OTHERWISE ELIGIBLE TO BE RELEASED FROM CUSTODY, <i>UNLESS, AT THE TIME THE INDIVIDUAL BECOMES ELIGIBLE FOR RELEASE FROM CUSTODY, CERTAIN CONDITIONS ARE MET.</i> THESE CERTAIN CONDITIONS ARE SET FORTH IN THIS DOCUMENT.
GENERAL PURPOSE	IN ACCORDANDE WITH THE TRUST ACT [AB4] AND PURSUANT TO GC SECTION 7282(B), " <i>ELIGIBLE FOR RELEASE FROM CUSTODY</i> " MEANS THAT THE INDIVIDUAL MAY BE RELEASED FROM CUSTODY BECAUSE ONE OF THE FOLLOWING CONDITIONS HAS OCCURRED: <ol style="list-style-type: none">1. ALL CRIMINAL CHARGES AGAINST THE INDIVIDUAL HAVE BEEN DROPPED OR DISMISSED2. THE INDIVIDUAL HAS BEEN ACQUITTED OF ALL CRIMINAL CHARGES FILED AGAINST HIM OR HER3. THE INDIVIDUAL HAS SERVED ALL THE TIME REQUIRED FOR HIS OR HER SENTENCE4. THE INDIVIDUAL HAS POSTED A BOND.

MADERA COUNTY DEPARTMENT OF CORRECTIONS
IMMIGRATION STATUS
DPPM 03-09

EFFECTIVE: 01-01-2014

REVIEWED: 01-01-2014
08-10-2015

REVISED: 09-10-2014
10-08-2015

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5. THE INDIVIDUAL IS OTHERWISE ELIGIBLE FOR RELEASE UNDER STATE OR LOCAL LAW, OR LOCAL POLICY.

NOTE: SECTIONS OF THE CURRENT LAW (AB 4) MAY BE IN CONFLICT WITH THE COURT RULING IN MIRANDA-OLIVARES. IT IS THE POLICY OF THE MADERA COUNTY DEPARTMENT OF CORRECTIONS THAT IN LIGHT OF THE RECENT COURT RULING IN *MIRANDA-OLIVARES v. CLACKAMAS COUNTY*, THE DEPARTMENT WILL REQUIRE COMPLIANCE WITH THE RULING IN THE ABOVE MENTIONED CASE AND MANDATE THAT A PERSON IS HELD FOR THE PURPOSES OF AN ICE DETAINER ONLY AFTER SATISFYING THE REQUIREMENT THAT A JUDICIAL DETERMINATION OF PROBABLE CAUSE HAS BEEN MET.

WARRANTS: IMMIGRATION DETAINERS AND WARRANTS ARE ENTIRELY SEPARATE AND SHOULD NOT BE CONFUSED. DULY ISSUED WARRANTS WILL IN ALL CASES BE HONORED.

PROCEDURE

THE DETAINER IS A REQUEST THAT THE AGENCY ADVISE ICE PRIOR TO RELEASING THE INDIVIDUAL, IN ORDER FOR ICE TO ARRANGE TO ASSUME CUSTODY. THESE DETAINER REQUESTS WILL NOT BE HONORED UNLESS THEY ARE SUPPORTED BY A JUDICIAL PROBABLE CAUSE FINDING THEREBY SATISFYING THE REQUIREMENTS OF THE FOURTH AMENDMENT OF THE UNITED STATES CONSTITUTION.

GENERAL
INFORMATION

POLICY UPDATE

1. THIS POLICY AND PROCEDURE SHALL BE REVIEWED ANNUALLY AND UPDATED AS NEEDED.

APPROVED: _____


M. PEREZ, DIRECTOR

DATE: 10-8-15

Exhibit 14



June 2, 2017

By Email and U.S. Mail

Madera County Board of Supervisors
200 West 4th Street
Madera, CA 93637

Re: Request to Cure or Correct Action Taken During Closed Session on March 7, 2017

Dear Board of Supervisors:

I am writing on behalf of the ACLU of Northern California (“ACLU”) to request that the Madera County Board of Supervisors (“Board”) cure or correct an action taken during a closed session meeting on March 7, 2017.¹ Based on a press release by Madera County District Attorney David Linn, we believe the Board took a substantive policy action to direct the Madera County Department of Correction (“Department”) to respond to requests from U.S. Immigration and Customs Enforcement (“ICE”) behind closed doors during that meeting.² We believe this action violates the Brown Act, Government Code §§ 54950–54963, and ask the Board to promptly cure or correct the mistake within 30 days of receiving this request.³

Under state law, boards such as yours exist to “aid in the conduct of people’s business.”⁴ It is the intent of the Brown Act that board actions and deliberations be conducted openly to allow “public participation in local government decisions and to curb misuse of the democratic process by secret legislation.”⁵

¹ Madera County Board of Supervisors, Item 2F: Public Employee Performance Evaluation (March 7, 2017), available at

<http://maderacountyca.iqm2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=1143&Format=Agenda>.

² David. A. Linn, District Attorney, issued a press release on March 30, 2017 summarizing his actions and conversations to pressure the Board of Directors to take action on the ICE issue. *Recently Released Reports Do Not Reflect the Current Status of Madera County*, Office of the District Attorney County of Madera (March 30, 2017).

³ See Gov’t. Code § 54960.1 (c)(1).

⁴ See Gov’t. Code § 54950.

⁵ *Bell v. Vista Unified School Dist.*, 82 Cal.App.4th 672, 681 (2000); see also *Chaffee v. San Francisco Library Com’n*, 115 Cal.App.4th 461, 469 (2004) (“The Brown Act is intended to ensure the public’s right to attend public agency meetings to facilitate public participation in all phases of local government decisionmaking”).

It is in the public's interest to remain informed and involved in substantive policy decisions and actions, including those that result in formal agreements between Madera County and federal agencies. While Madera County can take up certain personnel matters during closed sessions, it cannot use that time to circumvent and violate open session requirements. Therefore, we ask Madera County to promptly cure or correct the mistake.

I. California Public Records Act Request

The ACLU also writes to request information pursuant to the California Public Records Act (Government Code §§ 6250 *et seq.*) regarding the agreement made between Madera County and the Department of Homeland Security Immigration and Customs Enforcement ("ICE"). Each numbered paragraph should be considered a separate request under the California Public Records Act ("PRA"). For each set of records produced, please identify the paragraph to which the records are intended to respond.⁶

Pursuant to the California Public Records Act, please provide the following:

1. All documents that relate or refer to agenda item 2F of the March 7, 2017 Board meeting, including communications between or among the Board and officials of Madera County (including but not limited to District Attorney David Linn, Madera County Sheriff Jay Varney, and Department of Corrections Chief Manuel Perez).
2. All documents that relate or refer to communications between or among the Board and officials of Madera County since January 1, 2016, regarding ICE requests and agreements, including but not limited to the March 1, 2017 letter District Attorney David Linn sent to the Madera Board of Supervisors.
3. All documents that relate or refer to communications between or among agents or officials of Madera County and/or ICE since January 1, 2016, regarding ICE and ICE's interest in Madera County jail detainees.
4. All documents that relate or refer to agreements and/or contracts currently in force or in force at any time since January 1, 2016 between Madera County and ICE. This includes formal agreements, informal agreements and understandings, and any related communications, since January 1, 2016, including but not limited to records describing the initiation of, planning of, purpose of, current operation of, and future plans for ICE with respect to the Madera County Jail.
5. All documents that relate or refer to Madera County Jail and District Attorney policies and procedures regarding immigration enforcement and treatment of individuals who are suspected or known to be non-U.S. citizens including documents that refer or relate to

⁶ As used in this request, the term "documents" includes but is not limited to physical or electronic documents such as: contracts, agreements, training manuals, guidelines, memoranda, written complaints, internal and external correspondence, directives, instructions, orders, notices, bulletins, pamphlets or brochures, handouts, curricula, data, evaluations, reports, summaries, writings, or other written or electronic records.

Exhibit 15



OFFICE OF COUNTY COUNSEL

559-675-7717

200 West 4th Street
Madera, CA 93637

Board of Supervisors

BRETT FRAZIER
District 1

DAVID ROGERS
District 2

ROBERT POYTHRESS
District 3

MAX RODRIGUEZ
District 4

TOM WHEELER
District 5

June 12, 2017

Angélica Salceda, Staff Attorney
ACLU of Northern California
P.O. Box 188
Fresno, CA 93707

Re: California Public Records Act Request – County of Madera

Dear Ms. Salceda:

The County of Madera ("County") is in receipt of your four Public Records Act requests dated June 2, 2017, sent respectively to the Madera County Board of Supervisors ("Board"), Manuel Perez, Chief of the Madera County Department of Corrections, Jay Varney, Sheriff, and David A. Linn, District Attorney. Each of your requests was received on June 2, 2017.

The County has reviewed your requests and has determined that each of the requests seeks access to disclosable public records in the possession of the County. The County is in the process of searching for and gathering records you have requested from the various sources. We anticipate that the non-exempt, disclosable records you have requested will be available for copying at the end of this month. Accordingly, the County will notify you in writing no later than Friday, June 30, 2017, with the estimated pages and costs of copying the responsive records. In the meantime, the agenda and video of the March 7, 2017, Board meeting is available at <http://maderacountyca.iqm2.com/Citizens/Calendar.aspx>.

As always, the County will appropriately respond and provide disclosable records in accordance with its obligations under the Public Records Act. Please contact me if you have any questions regarding this matter.

Sincerely,

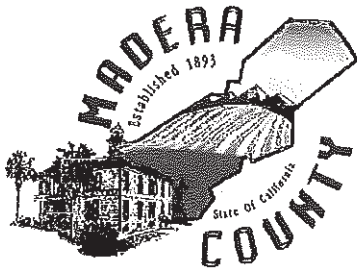
A handwritten signature in black ink, appearing to read "Scott G. Cross".

Scott G. Cross
Deputy County Counsel

cc: Rhonda Cargill, Clerk of the Board of Supervisors
Jay Varney, Sheriff, County of Madera
David A. Linn, District Attorney, County of Madera
Manuel Perez, Director, County Department of Corrections
Regina A. Garza, County Counsel
Eric Fleming, CAO

J:\wdocs\01247\013\LTR\00512012.DOCX

Exhibit 16



OFFICE OF COUNTY COUNSEL

559-675-7717

200 West 4th Street
Madera, CA 93637

Board of Supervisors

BRETT FRAZIER
District 1

DAVID ROGERS
District 2

ROBERT POYTHRESS
District 3

MAX RODRIGUEZ
District 4

TOM WHEELER
District 5

June 30, 2017

Angélica Salceda
Staff Attorney
ACLU of Northern California
P.O. Box 188
Fresno, CA 93707

Re: Request to Cure or Correct Action Taken During Closed Session on March 7, 2017

Dear Ms. Salceda:

The Madera County Board of Supervisors ("Board") has received your letter dated June 2, 2017, demanding that the Board cure or correct alleged action you contend was taken in closed session on March 7, 2017. For a variety of reasons described below, your request is improper, and the Board is not required to comply with your request and is unable to comply even if willing to do so.

First, your demand is not authorized by the Brown Act, Government Code Section 54960.1(b)¹, and is therefore improper. A demand to cure or correct under Section 54960.1(b) is authorized only to cure or correct action alleged to have been taken in violation of Sections 54953, 54954.2, 54954.5, 54954.6, 54956, or 54956.5. The Board item you identified from the March 7, 2017, Board meeting was a public employee performance evaluation item pursuant to Section 54957. Notably, Section 54957 is not one of the sections listed in Section 54960.1(b) for which the cure or correct demand is available. As a result, your demand is improper, and the Board is not required to (try to) comply.

Additionally, the demand to cure or correct must clearly describe both the challenged action and the nature of the alleged violation. (Gov. Code § 54960.1(b).) While your demand identifies the alleged action purportedly challenged, the demand fails to allege the nature of the violation. In particular, your demand fails to identify or describe a violation of any of the enumerated sections for which the cure or correct remedy is available. Therefore, your demand is legally deficient, and the Board is not required to (try to) comply.

You contend the Board "took a substantive policy action to direct the Madera County Department of Correction . . ." during the March 7th closed session. Without conceding any direction was given in closed session, the direction you allege was given is not "action" for purposes of the Brown Act. Section 54952.6 defines "action taken" for purposes of the Brown Act, and direction given to agency staff or officials is not considered to be "action taken." This

¹ All statutory references will be to the Government Code unless otherwise indicated.

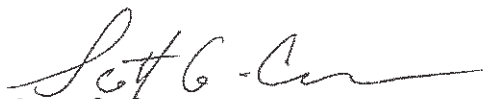
conclusion does not change simply because you describe the purported direction as "substantive policy action." Because the alleged action you are purportedly challenging is not considered "action taken" for purposes of the Brown Act, the Board is unable to cure or correct alleged action that was not taken.

Finally, as reflected in the minutes of the March 7, 2017, Board meeting, no action was taken on item 2.f. on the Board agenda. Because no action was taken, there is no action that can be cured or corrected. The minutes of the Board meeting are the official record of the meeting, not the District Attorney's March 30th press release you referenced and which is the apparent basis for your demand. The meeting minutes have already been provided to you in response to your June 2, 2017, Public Records Act ("PRA") request, and an additional copy is enclosed for your reference. Once again, because the Board did not take action on item 2.f. on the March 7th Board agenda, there is no action to be cured or corrected by the Board.

For the reasons described, your demand to cure or correct is not authorized, and the Board cannot and will not attempt to take any action to address your improper demand. Because the cure or correct demand is improper and fails to satisfy the requirements of Section 54960.1(b), you are prohibited from commencing any action pursuant to Section 54960.1(a) to challenge the action you allege the Board improperly took. In light of this prohibition, and the fact that the action you allege was taken is not subject to cure or correction, any action brought pursuant to Section 54960.1(a) would be clearly frivolous and totally lacking in merit, and the County will seek to recover court costs and reasonable attorney's fees pursuant to Section 54960.5 if such an action is commenced.

As you know, the County has begun providing records in response to your PRA request on June 2, 2017. The County will continue to provide responsive records in accordance with its obligations. In the meantime, we hope that you will not pursue any further action on the cure or correct demand.

Sincerely,



Scott G. Cross
Deputy County Counsel

SCG/sr

Encl.: March 7, 2017, Board meeting minutes

cc: Board of Supervisors
David Linn, District Attorney
Jay Varney, Sheriff
Manual Perez, Director, Dept. of Corrections
Eric Fleming, CAO
Rhonda Cargill, Chief Clerk of the Board of Supervisors