



Office of the Mayor

CONSENT CALENDAR

May 22, 2007

To: Members of the City Council
From: Mayor Tom Bates
Subject: Reaffirm Berkeley as a City of Refuge

RECOMMENDATION

Adopt a Resolution reaffirming Berkeley as a City of Refuge and request the City Manager to ensure copies of this resolution are distributed to all city departments.

BACKGROUND

The Berkeley Council declared Berkeley to be a City of Refuge in 1971 (Resolution No 44,784-N.S.) and reaffirmed that decision in 1986 relating to Central American refugees (Resolution No. 52-596N.S.). The recent deployment of the United States Department of Homeland Security 'Operation Return to Sender', which is enforced by U.S. Immigration and Customs Enforcement (ICE) officers, demonstrates that violations of immigrants' civil rights in this country are relevant today as they were 20 years ago.

According to community and media sources, such as the Contra Costa Times and the San Francisco Chronicle there have been over 100 detentions in Contra Costa alone, and thousands of people have been detained in the Bay Area since the beginning of Operation Return to Sender as part of over 18,000 arrests nationwide; In Northern California nearly one-third of the people detained (approximately 800) have been deported from Bay Area cities like Redwood City, Richmond, San Rafael, Concord, San Mateo and San Francisco and may likely occur within Berkeley. It has also been reported that immigrant parents who are victims of ICE raids are being separated from their young children, or equally abhorrent, children are being incarcerated along with their parents.

Communities around the Bay Area have organized responses to the ICE raids, including passage of city and county resolutions condemning the raids and calling for no cooperation between ICE officials and local police officers - these cities include: Richmond, San Francisco, San Jose and East Palo Alto.

During some of these raids, witnesses have reported that federal agents have identified themselves as local police, have forcibly entered people's homes without warrants, and have used intimidation and harassment and in a few cases, federal agents were seen in close proximity to schools. The recent deportation of a Berkeley family with three children enrolled in the Berkeley Unified School District has lead to an increased climate of fear and intimidation among Latino families and students.

With the passage of this resolution, the Council shall affirm that the City of Berkeley is a City of Refuge and that the following restrictions on the use of City funds and resources be applied:

1. No department, agency, commission, officer or employee of the City of Berkeley shall use any City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information status of individuals in the city of Berkeley unless such assistance is required by federal or state statute, regulation or court decision.
2. The prohibition set forth shall include but not be limited to:
 - a) Assisting or cooperating, in one's official capacity, with any Department of Homeland Security (DHS) investigation, detention, or arrest procedures, public or clandestine, relating to alleged violations of the civil provisions of federal immigration law, except as required by federal or state statute, regulation or court decision.
 - b) Requesting information about, or disseminating information regarding, the immigration status of any individual, or conditioning the provision of services or benefits by the City of Berkeley upon immigration status, except as required by federal or state statute, regulation, City of Berkeley public assistance criteria or court decision.
 - c) Including on any application, questionnaire or interview form used in relation to benefits, services or opportunities provided by the City of Berkeley any question regarding immigration status, except as required by federal or state statute, regulation or court decision.

FISCAL IMPACTS OF RECOMMENDATION

None.

CONTACT PERSON

Tom Bates, Mayor, 981-7100

Attachment

1: Resolution

RESOLUTION NO. XX,XXX N.S.

REAFFIRMING BERKELEY AS A CITY OF REFUGE

WHEREAS, The Berkeley Council has found that peace is inseparable from justice, and the residents of Berkeley have welcomed to our city those who have been forced into exile and those who have come fleeing torture and death (BMC 3.68.010 E,L), and

WHEREAS, The Berkeley Council declared Berkeley to be a City of Refuge in 1971 (Resolution No 44,784-N.S.) and reaffirmed that decision in 1986 relating to Central American refugees (Resolution No. 52-596N.S.), and

WHEREAS, The recent deployment of the United States Department of Homeland Security ‘Operation Return to Sender’, which is enforced by U.S. Immigration and Customs Enforcement (ICE) officers, demonstrate that violations of immigrants’ civil rights in this country are relevant today as they were 20 years ago, and

WHEREAS, According to community and media sources, such as the Contra Costa Times and the San Francisco Chronicle there have been over 100 detentions in Contra Costa alone, and thousands of people have been detained in the Bay Area since the beginning of Operation Return to Sender as part of over 18,000 arrests nationwide; In Northern California nearly one-third of the people detained (approximately 800) have been deported from Bay Area cities like Redwood City, Richmond, San Rafael, Concord, San Mateo and San Francisco and may likely occur within Berkeley, and

WHEREAS, Immigrant parents who are victims of ICE raids are being separated from their young children, or equally abhorrent, children are being incarcerated along with their parents, and

WHEREAS, Communities around the Bay Area have organized responses to the ICE raids, including passage of city and county resolutions condemning the raids and calling for no cooperation between ICE officials and local police officers; These cities include: Richmond, San Francisco, San Jose and East Palo Alto, and

WHEREAS, During some of these raids, witnesses have reported that federal agents have identified themselves as local police, have forcibly entered people's homes without warrants, and have used intimidation and harassment and in a few cases, federal agents were seen in close proximity to schools; and,

WHEREAS, The deportation of family enrolled in the Berkeley Unified School District has occurred and is leading to an increased climate of fear and intimidation among Latino families and students; and

WHEREAS, for decades the Berkeley community through many public organized events has demonstrated their opposition to our Federal Government’s arming and support of oppressive

governments throughout Central and South America who impoverish their citizens and violate their human rights, and

WHEREAS, the spirit and intent of Berkeley's refuge Resolutions would be violated if City funds, facilities or staff were utilized to assist the Federal government's inhumane immigration policies and practices,

THEREFORE BE IT RESOLVED, the Council shall affirm that the City of Berkeley is a City of Refuge and that the following restrictions on the use of City funds and resources be applied:

1. No department, agency, commission, officer or employee of the City of Berkeley shall use any City funds or resources to assist in the enforcement of Federal immigration law or to gather or disseminate information status of individuals in the city of Berkeley unless such assistance is required by federal or state statute, regulation or court decision.
2. The prohibition set forth shall include but not be limited to:
 - a. Assisting or cooperating, in one's official capacity, with any Department of Homeland Security (DHS) investigation, detention, or arrest procedures, public or clandestine, relating to alleged violations of the civil provisions of federal immigration law, except as required by federal or state statute, regulation or court decision.
 - b. Requesting information about, or disseminating information regarding, the immigration status of any individual, or conditioning the provision of services or benefits by the City of Berkeley upon immigration status, except as required by federal or state statute, regulation, City of Berkeley public assistance criteria or court decision.
 - c. Including on any application, questionnaire or interview form used in relation to benefits, services or opportunities provided by the City of Berkeley any question regarding immigration status, except as required by federal or state statute, regulation or court decision.

BE IT FURTHER RESOLVED that the Council shall instruct the City Clerk to transmit copies of this resolution including any future amendments thereto that shall be made, to every department, agency and commission and employee of the City of Berkeley.