

**TO: HONORABLE CITY COUNCIL**

**ATTN: POLICY AND SERVICES COMMITTEE**

**FROM: CITY MANAGER DEPARTMENT: COMMUNITY SERVICES**

**DATE: NOVEMBER 14, 2007 CMR: 415:07**

**SUBJECT: RECOMMENDATION FROM THE HUMAN RELATIONS COMMISSION TO ADOPT A RESOLUTION ENCOURAGING THE U.S. DEPARTMENT OF HOMELAND SECURITY IMMIGRATION AND CUSTOMS ENFORCEMENT AGENCY UNDER “OPERATION RETURN TO SENDER” TO ENFORCE THE U.S. IMMIGRATION AND CUSTOMS LAWS IN A MANNER THAT COMPLIES WITH ALL APPLICABLE LAWS, RULES AND REGULATIONS, INCLUDING THE CONSTITUTIONAL PROTECTION AGAINST UNREASONABLE SEARCHES AND SEIZURES**

**RECOMMENDATION**

Staff is forwarding the City of Palo Alto’s Human Relations Commission’s (HRC) request that the City Council direct the Policy and Services Committee to review the HRC’s recommendation that Council approve the adoption of a resolution encouraging the U.S. Immigration and Custom Enforcement Agency, under “Operation Return to Sender,” to enforce the immigration and customs laws in a manner that complies with all applicable laws, rules and regulations and the constitutional protection against unreasonable searches and seizures and is in accordance with principles of fair play and substantial justice.

**BACKGROUND**

During the April 12, 2007 HRC meeting, the commissioners discussed the raids, arrests, detentions and deportations that have occurred in the community under “Operation Return to Sender.” Federal Immigration and Custom Enforcement agents are identifying themselves as police and entering homes and businesses without warrants. The attached resolution demands that the Immigration and Custom Enforcement agents identify themselves as “federal agents” when carrying out “Operation Return to Sender.” The HRC believes that “Operation Return to Sender” conflicts with the City of Palo Alto’s Anti-Discrimination Ordinance and the City’s Anti-Discrimination Policy, Palo Alto Municipal Code Section 9.73.010, Statements of Policy:

- a) Human Rights. It is the policy of the City of Palo Alto to affirm, support and protect the human rights of every person within its jurisdiction. These rights include, but are not limited to, equal economic, political, and educational opportunity; equal accommodations

in all business establishments in the City; and equal service and protection by all public agencies of the City.

- b) Freedom from Arbitrary Discrimination. It is the policy of the City of Palo Alto to protect and safeguard the right and opportunity of every person to be free from arbitrary discrimination on the basis of their race, skin color, gender, age, religion, disability, national origin, ancestry, sexual orientation, housing status, marital status, familial status, weight or height.

The City of Palo Alto's Anti-Discrimination Ordinance bans discrimination against people on the basis of their national origin. The HRC believes that the City Council should go on record adopting a resolution encouraging the U.S. Immigration and Custom Enforcement Agency under "Operation Return to Sender" to enforce the immigration and customs laws in a manner that complies with all applicable laws, rules and regulations and the constitutional protection against unreasonable searches and seizures and in accordance with the principles of fair play and substantial justice and communicate the Council's concerns, in writing, with a copy of the adopted resolution to the congressional delegation.

### **RESPONSES TO THE POLICY AND SERVICES COMMITTEE QUESTIONS**

On September 11, 2007, the Policy and Services Committee reviewed a draft resolution from the City Attorney and asked that it be revised to include more specificity by identifying sources and dates of the local incidents that are contained in the resolution. The Policy and Services Committee asked staff to address the following questions:

1. Has the Palo Alto Police Department taken a position on the Immigration and Customs Enforcement Agency's (ICE) Return to Sender Program?

Staff Response: Yes, the department has a policy not to conduct or participate in sweeps completed by ICE. The Palo Alto Police Department will only participate in traffic control, but not in the ICE sweeps themselves. The Palo Alto Police Department specifically prohibits officers from participating in any federal operations as part of an ICE detention team unless approved by a Watch Commander.

2. Has the Palo Alto Police Department received any recorded complaints?

Staff Response: No.

3. Does the Palo Alto Police Department know of any interrogations or detentions of people residing here or passing through Palo Alto under the Return to Sender Program?

Staff Response: The only one involved a family about six months ago. It received considerable publicity when the family was deported. The Police Department was not informed by ICE nor did any members of the Department participate in the event.

4. Has the Palo Alto Police Department communicated either to the HRC or the public its role with the regard to the activities of the ICE?

Staff Response: No.

5. What does our Police Department know about ICE activities? Is ICE informing the Palo Alto Police Department about its activities?

Staff Response: The Palo Alto Police Department occasionally will receive information about ICE activities.

The Policy and Services Committee asked staff to agendize the resolution for a future meeting when the revisions to the resolution were completed and its questions were addressed. Additionally, the Committee asked that the Human Relations Commission review and approve the resolution prepared by the City Attorney's Office. This occurred at a special HRC meeting on Wednesday, October 24, 2007.

**RESOURCE IMPACT**

The impact to City Staff will be drafting a letter with a copy of the resolution to the City's congressional delegation. This does not represent a significant impact on staff time.

**ATTACHMENTS**

Attachment A: City Attorney's Resolution regarding the U.S. Immigration and Custom Enforcement Agency's "Operation Return to Sender" program.

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