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11 ATTORNEYS FOR PLAINTIFF COUNTY OF SANTA CLARA

12
13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16 COUNTY OF SANTA CLARA,

17 Plaintiff,

18 v.

19 DONALD J. TRUMP, President of the
20 United States of America, ELAINE DUKE,
21 in her official capacity as Acting Secretary
22 of the United States Department of
23 Homeland Security, JEFFERSON B.
24 SESSIONS, in his official capacity as
25 Attorney General of the United States,
26 JOHN MICHAEL "MICK" MULVANEY,
27 in his official capacity as Director of the
28 Office of Management and Budget, and
DOES 1-50,

Defendants.

Case No. 17-cv-00574-WHO

**DECLARATION OF UNDERSHERIFF
CARL NEUSEL IN SUPPORT OF
PLAINTIFF COUNTY OF SANTA
CLARA'S MOTION FOR SUMMARY
JUDGMENT**

Date: October 4, 2017
Time: 2:00 pm
Dept: Courtroom 2, 17th Floor
Judge: Hon. William Orrick

Date Filed: February 3, 2017

Trial Date: April 23, 2018

1 I, CARL NEUSEL, declare and state as follows:

2 1. I am the Undersheriff of Santa Clara County (“the County”) and Interim Chief of
3 Correction. I have served in law enforcement roles in the County for over nineteen years.

4 2. I submit this Declaration in support of the County of Santa Clara’s Motion for
5 Summary Judgment. I have personal knowledge of the facts stated herein and, if called as a
6 witness, I could testify to them competently under oath.

7 3. The Sheriff’s Office is responsible for enforcing criminal laws in the
8 unincorporated regions of Santa Clara County; serving as the municipal police department in
9 three cities within the County; offering contractual law enforcement services to several cities and
10 other local agencies; and, in conjunction with the Department of Correction (“DOC”), operating
11 the County jail. The County jail system is the fifth largest in California and among the 20 largest
12 nationally, with approximately 48,000 annual bookings and an average daily jail population of
13 over 3,500 inmates. Some of these inmates are in pretrial custody, while others are serving
14 sentences in local custody after conviction. On average, County inmates stay in jail for 205 days.

15 4. Prior to October 2011, the DOC and Sheriff’s Office regularly responded to
16 Immigration and Customs Enforcement (“ICE”) civil immigration detainer requests and other
17 inquiries from federal immigration officials. During that time, and solely because of ICE civil
18 detainees, the County jail housed an average of 135 additional inmates each day, at a daily cost of
19 approximately \$159 per person. These additional inmates strained jail resources and facilities.
20 Currently, the daily cost to house an inmate is \$203 per person.

21 5. In 2010, the County Board of Supervisors (“the Board”) convened a Task Force
22 involving all of the County’s criminal justice agencies, including the Sheriff’s Office, to review
23 the County’s history of compliance with ICE civil detainer requests and the impact of that
24 compliance on public safety. The Task Force determined, and the Sheriff’s Office agreed, that
25 the County’s practice of honoring all ICE civil detainer requests did not best serve the County’s
26 goal of ensuring the safety of all its residents.

27 6. After considering the Task Force’s recommendations, the Board adopted a Civil
28 Detainer Policy in October 2011. Under this policy, the County honors ICE civil detainer

1 requests only for adults convicted of serious or violent felonies as defined under California law,
2 and only if ICE agrees to reimburse the full costs to the County of honoring the requests, which
3 ICE has never done. From November 2011 to the present, the County has received more than
4 6,000 civil detainer and notification requests. In recent months, ICE has significantly increased
5 the number of civil detainer and notification requests sent to the County—from 49 requests in
6 January 2017 to 108 in July 2017—already surpassing the total number of detainer and
7 notification requests received by the County in all of 2016. In accordance with the County’s
8 policy, we have honored none of these requests.

9 7. The County’s Civil Detainer Policy also limits access to the County’s jail system.
10 In line with the County’s Policy, the Sheriff’s Office and DOC do not allow ICE agents to access
11 County detention facilities or resources to be used to communicate with ICE about individual
12 incarceration status or release dates for federal civil immigration enforcement purposes – unless
13 ICE agents have a criminal warrant or County officials have a legitimate law enforcement
14 purpose unrelated to federal immigration law enforcement. We have implemented these
15 restrictions based upon our assessment of how to best serve the interests of County residents and
16 because the federal government is responsible for civil immigration law enforcement..

17 8. I am also aware that a 2010 Board resolution states that County employees should
18 not question, investigate, or arrest members of the public solely because of their immigration
19 status or an actual or suspected violation of immigration law. The Sheriff agreed with this
20 resolution, which aligned with the Sheriff’s Office’s longstanding practices.

21 9. The County’s decision to limit its involvement in federal immigration enforcement
22 was made based on our collective experience and judgment about the best method of protecting
23 public safety. When our local law enforcement officers are perceived by the community as an
24 arm of ICE, it is much more difficult for officers to ensure the safety of County residents.
25 Community trust and engagement are the bedrock of the Sheriff’s Office’s public safety work.
26 We rely on individuals in the community to report crimes, serve as witnesses, aid in apprehending
27 those with arrest warrants, and assist in investigations and prosecutions. But when local law
28 enforcement officials enforce federal immigration laws, or even are viewed by our residents as

1 participants in that enforcement because of federal efforts to compel cooperation, community
2 relations are damaged and lines of communication are severed, making the community less safe
3 overall.

4 10. Compelling the Sheriff's Office and DOC to comply with ICE civil detainer and
5 other immigration requests also would strain the County's resources for running its jail. ICE civil
6 detainer requests ask the County to maintain custody of an individual for an additional 48 hours
7 beyond his or her release date, which could be a pretrial release date or a scheduled date for
8 release after serving a sentence. A 48-hour hold alone puts pressure on County jail capacity and
9 programming. But the strain on County resources often is even more significant: when pretrial
10 inmates are held on an ICE civil detainer, they are highly unlikely to be offered a bail bond to
11 obtain pretrial release from jail. Consequently, if the Sheriff's Office and DOC honored all ICE
12 civil detainer requests, many inmates who otherwise could bail out would stay in custody during
13 the adjudication of their cases.

14 11. Any significant addition to the jail population would appreciably increase the
15 burden on the County jail's staffing resources and aging jail facilities. Like other inmates, all ICE
16 detainees would need health care, programs, transportation, security, housing, and food. The cost
17 of providing these services is significant and has grown substantially in recent years. Moreover,
18 the Sheriff's Office and DOC, like many law enforcement agencies throughout the region and
19 State, are experiencing a staffing shortage in custody operations, which has put additional strain
20 on the jail system's ability to accept more inmates. Moreover, the County's jail is physically
21 limited in the number of additional inmates it can accept. These space constraints have been
22 compounded by the County's need to shut down parts of the jail system to make significant
23 improvements and repairs to the aging infrastructure, including a months-long process to upgrade
24 certain facilities under the Americans with Disabilities Act.

25 I declare under penalty of perjury under the laws of the United States that the foregoing is
26 true and correct and that this Declaration was executed on August 24, 2017 in San Jose,
27 California.

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