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May 1, 2009

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Mayor Gavin Newsom  
City Hall, Room 200  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102

**Re: SF Juvenile Probation Policy re Immigration & Customs Enforcement**

Dear Mayor Newsom,

On behalf of the East Bay La Raza Lawyers Association ("EBRLA"), I urge you to revise San Francisco's policy requiring the Juvenile Probation Department to report to the US Immigration & Customs Enforcement ("ICE") youth whom it suspects of committing a felony and who lack proof of their immigration status at the booking stage.

EBLRLA, the specialty bar association of Latina/o lawyers, law students and other legal workers who live, work or study in Alameda and Contra Costa counties, includes members who reside in San Francisco. As legal professionals whose parents or grandparents immigrated to the United States from México or other Latin American countries (or who are ourselves immigrants), we are committed to promoting individual due process and equality under the law for all social groups, including our immigrant communities.

We find San Francisco's policy lamentably complicit in the scapegoating of immigrants, as emblemized by the Bush Administration's draconian "Endgame Office of Detention and Removal Strategic Plan" and urge you to adopt the proposal issued by the San Francisco Immigrant Rights Defense Committee ("SFIRDC") to refer to ICE youth suspected of being undocumented *only after* a juvenile court has found that the youth committed a felony and after the youth has been given an opportunity to be screened by immigration attorneys to determine if the youth qualifies for immigration relief, e.g., a trafficking visa, asylum, special juvenile immigration status, etc.

This proposed change respects the human and constitutional rights of all persons to the due process of the law and guards against the equal rights violations endemic to a policy where probation officers refer criminally charged youths to ICE *before* the district attorney even files charges and *before* a youth has the chance to appear in juvenile court. This proposed change is particularly needed because once referred to ICE, youth lack the right to be appointed pro bono counsel and often are transferred to and detained in remote areas without access to competent free or low cost immigration legal services. *We therefore urge you to make this change immediately, as ICE has reported that approximately 117 youth have been referred under SF's new policy thus far without adequate due process protections.*

As mayor of San Francisco, your moral courage has been recognized in championing equal rights to marriage, and the California Supreme Court has vindicated your judgment once (and we hope will soon do so again). You therefore have the unique opportunity to exhibit a similar courage by repudiating complicity with nativist sentiments and by revising the Juvenile Probation Department's 2008 policy change.

Such moral courage is especially needed now, in a time marked by nativist sentiments and politics that are redolent of 1954's federal-state "Operation Wetback," which deported over 3.7 million people, sometimes using cattle train cars bound for Mexico, while providing fewer than 64,000 people with formal deportation proceedings, or the so-called "repatriation" campaigns of the 1930s, where public officials summarily deemed people "Mexican" and on that basis deported over 400,000 of them without formal proceedings—sometimes even without regard for their US citizenship—thereby violating numerous constitutionally guaranteed rights such as due process, equal protection, and the right to be free from cruel and unusual punishment.<sup>1</sup>

While we have yet to learn about people being herded onto cattle cars bound for México, to those of us who know the history of Mexican deportation and other similarly chilling instances of nativism, racism and other political persecution in the US, e.g., the internment of Japanese Americans due to alleged military necessity, it is intolerable to have federal agents raid our communities, demanding to "see our papers," whether in workplaces like the local Balazo tacquerias; near schools as has occurred in Redwood City, Oakland or Berkeley; or in one's own home as has occurred repeatedly throughout the San Francisco Bay Area.

You already have shown your commitment to human rights with your leadership on the issue of gay marriage. We urge you to continue on that path and, as a true leader of California in the 21st century, adopt the SFIRDC's proposed policy. By doing so, you would responsibly address a complex and difficult situation by promoting the safety of all under a rule of law that respects the human and constitutional rights of all persons to due process and equal protection without cruel or unusual punishment—instead of appearing complicit with abusive federal agencies and nativist fear mongerers.

Indeed, you should join with the Obama Administration, which has begun turning away from the Bush policy of massive detention and deportation. It is imperative for local and state leaders like you to stand against the scapegoating of immigrants, especially our youths, and to exhibit the moral leadership that has been so lacking in our federal government.

We look forward to hearing that you have adopted the SFIRDC's proposal!

Respectfully submitted,



Marc-Tizoc González, Esq.  
President, East Bay La Raza Lawyers Association  
c/s

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<sup>1</sup> See, e.g., Gilbert Paul Carrasco, *Latinos in the United States: Invitation & Exile*, in JUAN F. PEREA (ED.), *IMMIGRANTS OUT!: THE NEW NATIVISM AND THE ANTI-IMMIGRANT IMPULSE IN THE UNITED STATES* 190-204 (1995).

5/01/09

Cc: San Francisco Board of Supervisors  
Alameda County Bar Association  
Asian American Bar Association of the Greater Bay Area  
Asian Law Caucus  
Bar Association of San Francisco  
Bay Area Immigrant Rights Coalition  
California Latino Legislative Caucus  
California Rural Legal Assistance  
Centro Legal de la Raza  
Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity  
Congressional Hispanic Caucus  
Dean Kevin R. Johnson, UC Davis School of Law (King Hall)  
Fred T. Korematsu Center for Law and Equality  
Hispanic National Bar Association  
Hon. Cruz Reynoso, Professor Emeritus, UC Davis School of Law  
La Raza Lawyers Association of California  
La Raza Centro Legal  
Latino Issues Forum  
Mariano Florentino Cuellar, Professor, Stanford Law School  
Mexican American Legal Defense and Education Fund  
Mexican American Political Association  
Minority Bar Coalition  
National Association of Latino Elected & Appointed Officials  
National Council of La Raza  
National Network for Immigration & Refugee Rights  
New American Media  
San Francisco Immigrant Rights Defense Committee  
Thelton E. Henderson Center for Social Justice