



TO: Andy Labarre,
Chair of the Board

FROM: Conan Smith
Commissioner

DATE: April 19, 2017

SUBJECT: County Immigration Policies

BOARD ACTION REQUESTED

The Board of Commissioners is requested to adopt a series of resolutions and policies to communicate to the public our commitment to Washtenaw's immigrant community, including

- Expressing public support for and solidarity with Washtenaw's immigrant community;
- Urging Congress to reform national immigration policies by restricting deportation proceedings to individuals charged with aggravated felonies and creating a clear path to citizenship for immigrants currently living in America;
- Calling on community leaders to oppose presidential Executive Orders effecting travel bans and to support Congressional action on immigration reform;
- Joining Welcoming America, a national coalition of nonprofits and governments interested in making their communities more welcoming to immigrants and refugees;
- Adopting a non-solicitation policy for county departments restricting them from asking about a person's citizenship or immigration status unless required to do so by other laws or programs; and
- Appropriating funds for one year to support and enhance County and community efforts to ensure that our immigrant population continues to receive supportive services.

BACKGROUND

Washtenaw County is home to 43,838 foreign-born residents according to the Census Bureau. Of them, 41% are U.S. citizens; the balance (some 25,800 people) are either legal residents or undocumented immigrants. This latter group is the most vulnerable under current approaches by U.S. Immigration and Customs Enforcement (ICE).

Enforcement actions targeting convicted criminals are also sweeping up undocumented residents and legal residents with minor offenses on their records. In other cases, legal

immigrants performing routine check-ins with ICE (as was the recent case with Ann Arbor resident Yousef Ajin) are leading to detention and deportation hearings unexpectedly. Official data on the number of actions or the rate of detention is not yet available, although information has been requested by Congresswoman Debbie Dingell.

Perhaps most severe as it relates directly to Washtenaw County government is the intimidation effect these policies and actions have on the immigrant community. For fear of initiating a deportation action, many immigrants are avoiding routine interactions with government agencies. This includes contacting law enforcement when a crime is being committed either against them or in their neighborhoods and declining to access human and social services, such as health care and housing supports.

Of institutional concern, President Donald Trump has indicated that he may seek to withhold federal funding from local governments that promote themselves as “sanctuary cities” which refuse to participate in ICE actions or enforce federal immigration policies. Washtenaw County receives \$18M in federal program funds each year (and an additional \$60-70M in Medicaid funding), most of which serve vulnerable populations. The County has to weigh the risk of loss of any of these funds against the benefit of confronting federal policies directly and explicitly.

Washtenaw has a long tradition of supporting our immigrant population. For example, the Office of the Sheriff does not participate in ICE actions; the Office of the Clerk manages a County ID program to support immigrants; many participants in the Washtenaw Health Plan are immigrants. However, our framework for responsive action to recent changes in approach at the federal level is not strong or clear.

The following resolutions and policies seek to communicate and codify what is already a strong culture within the County of engaging our immigrant community in a safe and secure manner. They include a statement encouraging the federal government to change course on its approach to immigrants, authorization to join the Welcoming America coalition, a resolution adopting a policy clarifying how the County engages with residents around their immigration status, and a resolution appropriating \$150,000 for programmatic supports for the immigrant community.

IMPACT ON HUMAN RESOURCES

These actions would temporarily expand staffing in the Office of Community and Economic Development for the Welcoming America program.

IMPACT ON BUDGET

These actions would appropriate \$150,200 from the General Fund Fund Balance for one-time, non-structural expenditures.

IMPACT ON INDIRECT COSTS

Staffing the Welcoming America program will incur indirect costs, including CAP expenses, which are accounted for in the appropriation.

IMPACT ON COUNTY DEPARTMENTS OR OUTSIDE AGENCIES

This action would require all County departments to report annually on their policies requiring the reporting of immigration status by residents seeking services.

CONFORMITY TO COUNTY POLICIES

To be determined.

ATTACHMENTS

1. A Resolution Asserting Washtenaw County's Support for Our Immigrant Community ([link](#))
2. A Resolution Affirming Washtenaw County as a Welcoming County that Respects the Innate Dignity of All People ([link](#))
3. A Policy Regarding the Solicitation of Immigration Status by Public Servants ([link](#))
4. A Resolution Appropriating Funding from the General Fund Fund Balance for Implementation of Washtenaw County's Immigration Policies. ([link](#))

DRAFT

A Resolution Asserting Washtenaw County's Support for Our Immigrant Community

WASHTENAW COUNTY BOARD OF COMMISSIONERS

April 19, 2017

WHEREAS, President Donald Trump has proposed and begun to enact intensified policies, procedures and practices to detain and deport individuals in the United States without adequate legal documentation regardless of their tenure in our country, the nature or seriousness of any crimes they have been accused of, or the rationale for leaving their home country behind; and

WHEREAS, these actions frequently target or affect individuals who do not have a personal history of serious offenses – those commonly categorized as aggravated felonies – and they therefore serve mainly to cause instability within communities and families and incur unnecessary expenses for people and governments alike; and

WHEREAS, immigrant families contribute significantly to the social fabric of our community and provide diversity and dynamism to our local, state and national economies; and

WHEREAS, Washtenaw County is home to some 43,000 foreign-born residents, some of whom lack formal up-to-date residency or citizenship documentation; and

WHEREAS, current federal policy does not provide sufficient access to legal residency or citizenship as evidenced by the approximately 14 million undocumented workers and residents currently in the United States who have built lives and raised families here; and

WHEREAS, the United States system for detention and deportation includes serious shortcomings with regards to due process that many consider human rights violations, including lack of access to counsel and inhumane detention; and

NOW BE IT RESOLVED that Washtenaw County denounces expanded immigration actions by the federal government that destabilize our communities by creating an atmosphere of fear and isolation for our residents from other countries and their families regardless of their immigration status; and

BE IT FURTHER RESOLVED, Washtenaw applauds the clear stand that our fellow public officials and agencies have taken in support of Washtenaw's immigrant community, particularly the efforts of local law enforcement to promote an atmosphere of security and stability; and

BE IT FURTHER RESOLVED, that the Washtenaw Board of Commissioners urges Congress to adopt immigration reform legislation that restricts deportation actions to individuals charged with aggravated felonies, creates clear and reasonable immigration sanctions short of deportation for non-citizens convicted of crimes, expands opportunities for legal immigration and creates a path to citizenship for those seeking permanent status as members of our great nation.

BE IT FURTHER RESOLVED, that Washtenaw County calls on its business leaders here and throughout Michigan to express strong support for Congressional action on immigration reform that acknowledges the powerful contribution immigrants make to our local and national economy; and

BE IT FURTHER RESOLVED, that the Board of Commissioners directs the County Administrator to send copies of this resolution to the President of the United States, Michigan's members of Congress, Washtenaw's state Legislative delegation, the local units of government in Washtenaw County, and the National Association of Counties.

**A Resolution Affirming Washtenaw County as a
Welcoming County that Respects the Innate Dignity of All People**

WASHTENAW COUNTY BOARD OF COMMISSIONERS

April 19, 2017

WHEREAS, Welcoming America was launched in 2009 as a national, grassroots-driven, collaborative that works to promote mutual respect and cooperation between foreign-born and native-born Americans; and

WHEREAS, Welcoming America municipal engagement initiatives support and recognize the economic and social benefits of becoming welcoming communities and fostering a welcoming culture; and

WHEREAS, Rather than just a problem needing to be solved, immigration is a force that can be leveraged for positive change and development; and

WHEREAS, There are over 43,000 foreign born residents in Washtenaw County, representing more than twelve percent of the County's population, and where Statewide the rate is 6%; and

WHEREAS, Participants in the Welcoming America initiative receive support in connecting community leaders, government officials and nonprofit sectors to create a more inclusive and accepting environment for immigrants through system and culture change; and

WHEREAS, 13 Michigan municipalities have becoming Welcoming Communities including Battle Creek, Detroit, Lansing, Sterling Heights, Clinton Township, Macomb and Kalamazoo County.

WHEREAS, By City Council resolution approved in June of 2016, The City of Ann Arbor became the newest Welcoming Community in Michigan; and

WHEREAS, the Washtenaw County Board of Commissioners seeks to proactively communicate its support and welcome to its immigrant community;

NOW THEREFORE BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby affirms its desire to participate in the Welcoming America Initiative and directs the Administrator or his delegates to complete the application process including a \$200 membership fee.

**A Resolution Adopting a Policy Governing
the Solicitation of Immigration Status by Public Servants**

WASHTENAW COUNTY BOARD OF COMMISSIONERS

April 19, 2017

WHEREAS, Washtenaw County seeks to maintain a strong partnership with its immigrant community to preserve public safety and public health; and

WHEREAS, consistent and secure interactions between immigrants and county officials are essential to community security and stability; and

WHEREAS, uncertainty with regards to how county officials will react to a resident's immigration status has contributed to a decrease in immigrants accessing County services and engaging with County law enforcement officers; and

WHEREAS, it is the determination of the Washtenaw County Board of Commissioners that knowing a person's immigration status is immaterial to most County services; and

WHEREAS, the Board of Commissioner desires to have and communicate a clear and consistent policy regarding the solicitation of immigration status by its officials, employees and partners; and

WHEREAS, the Washtenaw County Sheriff's Office governs County law enforcement policy and has cooperated in the development of this policy;

NOW BE IT RESOLVED that the Washtenaw County Board of Commissioners hereby adopts the attached policy governing the Solicitation of Immigration Status by Public Servants; and

BE IT FURTHER RESOLVED that the County Administrator communicates this policy to all County elected officials and department heads.

Board of Commissioners - Rules & Regulations Washtenaw County Policy

Title: Solicitation of Immigration Status by Public Servants

Enabling Resolution:

Supersedes:

Effective Date: 04/20/2017

I. Application

- a. In order to permit members of immigrant communities to access services that are provided by Washtenaw County government to which they are entitled; and to ensure that county public servants take such action as necessary to secure the equal protection of civil rights and are acting consistent with federal law regarding local governments cooperating with federal immigration authorities, Washtenaw County provides this policy as an effective way to guide county public servants in adhering to rights under the United States Constitution, including due process and equal protection, and under federal law, while protecting the safety and health of all members of the Washtenaw community.

II. General Policies

- a. The Washtenaw County Commission hereby finds and declares that prejudice, intolerance, bigotry, discrimination, and the disorder occasioned thereby, threaten the civil rights and privileges of the people of the county and menace their institutions. It is the policy of Washtenaw County to respect the rights of, and provide equal services to, all persons regardless of appearance, ethnicity, immigration status, manner of dress, national origin, physical characteristics, race, religious beliefs, sexual orientation, or gender identity or expression; to ensure the enforcement of rights under the United States Constitution, including due process and equal protection; to promote community safety; to encourage victims of crime and witnesses to cooperate with law enforcement authority without regard to immigration status; to prevent bias-based policing; and to promote acceptance.
- b. The provisions of this policy shall be construed liberally for the accomplishment of the purposes thereof. Nothing contained in this policy shall be deemed to supercede, compete or conflict with any of the provisions of the civil rights law or any other law of this state or this country relating to discrimination because of race, color, religious beliefs, national origin, marital status, disability, public benefit status, sex, sexual orientation, or gender identity or expression.

III. Definitions

- a. The following words and phrases, when used in Articles I, II, III, IV, V, and VI of this Chapter, shall have the meanings respectively ascribed to them by this section:
- b. *County law enforcement officer* means any individual employed by Washtenaw County who is responsible for the prevention, investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws, including an employee engaged in this activity who is transferred to a supervisory or administrative position; or serving as a probation or pretrial services officer.
- c. *Person* means one (1) or more individuals, partnerships, associations, departments, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, labor unions, political subdivisions, educational institutions, or any other legal or commercial entity.
- d. *Public benefit status* means the status of being a recipient of governmental benefits, including social security, unemployment compensation, public assistance, general assistance, food stamps, medicaid, medicare, veteran's benefits or other governmental subsidy or grant. A prohibition against discrimination on the basis of public benefit status shall not be construed to restrict or in any way affect actions based on amount of income, negative credit history; or in the case of sales of real property, the amount of liabilities of a person.

- e. *Public servant* means any elected official of Washtenaw County, any member of any County agency, board, commission, or other voting body, and any appointee, any employee, or any individual who provides services to Washtenaw County within or outside of its offices or facilities pursuant to a grant or personal services contract.

IV. Solicitation of Immigration Status

- a. No public servant shall enquire into the immigration status of any person or engage in activities designed to ascertain the immigration status of any person while acting within the scope of his or her authority, or employment, as a public servant.
- b. Notwithstanding the prohibitions set forth in subsection (a) of this section, public servants are expressly permitted to engage in the following activities, which shall not constitute a violation of this article:
 - i. Solicitation of information concerning immigration status where specifically required by any federal or state law or program as a condition of eligibility for the service sought; or
 - ii. Solicitation of information concerning immigration status for the purpose of completing I-9 Forms, and, when relevant, in making hiring and payroll withholding decisions, including, but not limited to, completing I-9 Forms, questioning a person to complete the I-9 Form, obtaining documents that support the I-9 Form, and allowing federal authorities to audit an I-9 Form in accordance with law; or
 - iii. Solicitation of information concerning immigration status for a subpoena issued in a criminal proceeding, civil litigation, or an administrative proceeding for the production of County documents or for testimony of a public servant, including where related to immigration issues or other security issues; or
 - iv. Solicitation of information concerning immigration status by law enforcement officers, as set forth in section IV of this policy.

V. Law Enforcement

- a. The governing authority for County law enforcement officers is the Washtenaw County Sheriff's Office and policies adopted thereby are incorporated into this policy by reference, the following general policies notwithstanding.
- b. A County law enforcement officer, shall not exercise differential treatment of individuals in rendering police services based on a person's appearance, ethnicity, immigration status, manner of dress, national origin, physical characteristics, race, religious beliefs, or sexual orientation, or gender identity or expression. A County law enforcement officer, shall not base reasonable suspicion for an investigative detention, probable cause for an arrest, or any other police action, on a person's appearance, ethnicity, immigration status, manner of dress, national origin, physical characteristics, race, religious beliefs, sexual orientation, or gender identity or expression. A County law enforcement officer, may take into account the reported appearance, ethnicity, immigration status, manner of dress, national origin, physical characteristics, race, religious beliefs, sexual orientation, or gender identity or expression for the purpose of identifying a described individual.
- c. Washtenaw County is not an immigration authority and as a general rule shall not dedicate time or resources to immigration enforcement. The Washtenaw County Sheriff's Office does not engage in federal immigration enforcement as a primary law enforcement activity.
 - i. The Washtenaw County Sheriff's Office support or assistance for any federal agency that articulates a need based on a legitimate public safety concern.
 - ii. The Washtenaw County Sheriff's Office attempts to be present during immigration enforcement actions by federal law enforcement agencies for the express purpose of providing support and connection to necessary social and human services, to ensure that the activities are identified as police actions, and to ensure public witnesses during the incident.
- d. County law enforcement officers shall not inquire as to the immigration status of individuals encountered in the normal course of investigative or enforcement activities.

Specifically, the Washtenaw County Sheriff's Office does not inquire about immigration status when an individual

- i. Reports a crime;
- ii. Is the victim of a crime;
- iii. Is witness to a crime;
- iv. Is pulled over for a traffic violation;
- v. Is suspected of a crime; or
- vi. Is arrested.

VI. Documentation Policies

- a. Except as otherwise required by federal or state law, no Washtenaw County department, office or agency shall retain copies of documentation establishing identity, residency, citizenship or immigration status for a period of more than three (3) business days.

VII. County Facilities

- a. All federal, state, county and local law enforcement officers shall identify themselves whenever conducting business on County property or at County facilities by wearing uniforms or duty jackets or by wearing their badges plainly visible on the outside of their clothing.
- b. Information pertaining to this policy shall be prominently displayed at each County facility and shall include at minimum
 - i. A statement indicating the county's general policy of nonsolicitation of immigration status, and
 - ii. An enumeration of the instances in which a person's immigration status may be requested by a public servant.

VIII. Assessment and Publication of Policies

- a. Evaluation
 - i. The Office of Community and Economic Development shall convene a stakeholder advisory group at least annually to consider issues related to Washtenaw's immigrant community and make recommendations to the Board of Commissioners for policy improvements or programmatic investments. This stakeholder group shall include members of the public and representatives of County departments, offices and agencies.
 - ii. Under the auspices of the Washtenaw County Sheriff's Office, a multi-agency Immigration Enforcement and Policy and Practice Work Group assesses and communicates to the general public the role of local law enforcement as it relates to immigration enforcement.
- b. Communications
 - i. In May of each calendar year, each County department, office or agency shall submit to the County Administrator a catalog of the specific instances in which it enquires about immigration status and the governing law or policy that requires the enquiry.
 - ii. The County Administrator shall maintain a section of the County website that communicates this policy and the compiled instances when public servants may enquire about immigration status.

A Resolution Appropriating Funding from the General Fund Fund Balance for Implementation of Washtenaw County's Immigration Policies.

WASHTENAW COUNTY BOARD OF COMMISSIONERS

April 19, 2017

WHEREAS, an increase in immigration enforcement actions has had a deleterious effect on unity within the Washtenaw county community, specifically creating environment in which the partnership between the immigrant community and County service providers such as law enforcement and public health is becoming unstable; and

WHEREAS, families facing immigration actions often suffer from secondary complications such as the loss of income from a primary earner, which can lead to housing or hunger issues; and

WHEREAS, legal pathways to residency or citizenship are often complex and difficult to navigate, especially for non-native speakers of English, and residents facing immigration actions sometimes have difficulty accessing legal services; and

WHEREAS, residency documentation remains a fundamental challenge for the immigrant community, especially for minors, and the wide use and acceptance of the Washtenaw County ID Card provides a dependable alternative to state, federal and international identity papers; and

WHEREAS, there is insufficient awareness among the immigrant community about Washtenaw County policies and practices in law enforcement and social services related to immigration status; and

WHEREAS, the Washtenaw County Board of Commissioners seeks to proactively counter the negative effects of a hostile immigration enforcement environment by ensuring that families are more stable, civil rights are protected, and all residents have equitable access to public services;

NOW BE IT RESOLVED that the Washtenaw Board of Commissioners hereby appropriates \$150,000 from the General Fund Fund Balance as follows:

\$50,000 to the Barrier Busters Emergency Unmet Needs Fund to be administered by the Office of Community and Economic Development for the exclusive purpose of providing emergency support services to low-income families impacted by immigration enforcement actions, including but limited to supports for housing, utilities, transportation, child care and food assistance.

\$60,000 to the Office of the County Administrator to create a system of legal aid supports among nonprofit and private-sector providers for individuals and families for immigration and immigration-related issues, including but not limited to child custody, power of attorney, visas, citizenship or legal resident applications, and detention and deportation actions. These funds may be used to coordinate legal services across the county or to provide direct legal support. These funds may not be used for criminal defense of any charge that precipitates or is associated with an immigration action.

\$20,000 to Synod Community Services to expand marketing of the Washtenaw County ID Card program, particularly to the business community.

\$10,000 to the Office of Community and Economic Development to staff the Welcoming America program. Before receiving funds, OCED shall develop and present a work plan to the County Administrator for the program.

\$10,000 to the Office of County Administrator to develop and implement a communications campaign in fulfillment of the County Solicitation of Immigration Status by Public Servants policy, including but not limited to publication of the County's policies related to immigration and the creation of departmental marketing materials.

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