

Ordinance No. _____

AN ORDINANCE ADDING ARTICLE LXV OF THE SAN DIEGO COUNTY CODE OF ADMINISTRATIVE ORDINANCES RELATING TO LAW ENFORCEMENT ACCESS TO COUNTY FACILITIES

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The Board of Supervisors finds and determines that the County is committed to ensuring the civil rights of all County residents. The purpose of this ordinance is to establish protections to ensure that County facilities and contracts are not utilized in a manner that facilitates discrimination, unlawful detention, or the criminalization of individuals based on protected characteristics, including immigration status, disability status, gender identity or expression, reproductive or gender-affirming healthcare history, or political or religious beliefs.

Section 2. Article LXV of the San Diego County Code of Administrative Ordinances is hereby added as follows:

ARTICLE LXV DUE PROCESS AND SAFETY IN COUNTY FACILITIES

SEC. 965 Purpose and Intent

It is the intent of this Division to demonstrate the County's commitment, through its actions and training of County employees and contractors, to ensure that County facilities, programs, and partnerships are not used to facilitate discrimination of any kind, violations of Constitutional rights, or unauthorized enforcement against vulnerable communities. It is further the intent to provide clear direction to County employees and contractors to comply with state and local protections safeguarding the rights of all individuals regardless of immigration status, gender identity or expression, reproductive healthcare history, disability status, or political or religious beliefs that recognize the fundamental rights to bodily autonomy, self-determination, privacy, freedom of expression, and equal treatment under the law.

SEC. 966 Definitions

For the purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

County means the County of San Diego.

County agreement means a contract for services, public works contract, a lease of County property, or a grant advertised and awarded by the County after the effective date of this Article to any person that is not an agency.

County facility means County property where the County exercises daily control over access to the real property, including offices, maintenance areas, operation yards, employee

workplaces, restricted zones, construction sites, and administrative facilities. Daily control over access refers to facilities where access is limited by County to authorized individuals or based on scheduled hours, including buildings and outdoor facilities protected by fencing.

County property means real property that the County owns in fee or that is leased and occupied by the County.

Federal law enforcement agency personnel means any employee, contractor, or agent of a department or agency of the United States government who is engaged in law enforcement activity.

Gender affirming health care has the same meaning as in California Welfare and Institutions Code section 16010.2(b)(3)(A), as may be amended.

Gender affirming mental health care has the same meaning as in California Welfare and Institutions Code section 16010.2(b)(3)(B), as may be amended.

Law enforcement activity means any action conducted by government personnel or any individual acting under color of law for the purpose of enforcing criminal, civil, immigration, or regulatory laws, including federal laws and laws of other states. This includes surveillance, investigation, detention, questioning, arrest, execution of warrants, collection or sharing of personal data, or facilitation of legal process such as subpoenas or transfer requests.

Non-public area means any space on real property that is not generally accessible to the public.

Out-of-state law enforcement personnel means any law enforcement agent, officer, employee, attorney, investigator, or contractor acting under the authority of another state or its subdivisions who is engaged in law enforcement activity.

Private party acting under color of law enforcement authority means any individual or group not employed by a government agency who:

- (a) Claims, implies, or presents themselves as having legal authority to conduct law enforcement activity;
- (b) Is contracted, deputized, or otherwise authorized by a federal agency or out-of-state jurisdiction to engage in law enforcement activity within California; or
- (c) Engages in surveillance, detention, questioning, or information gathering in a manner that imitates or substitutes for official law enforcement activity.

Protected personal activity means actions that an individual has the right to undertake free from undue governmental interference, discrimination, or criminalization under either federal or state law, including:

- (a) Reproductive healthcare services;
- (b) Gender affirming healthcare;
- (c) Gender affirming mental health care;
- (d) Exercising First Amendment rights, including expressing political or religious opinions;

Protected personal characteristics means an individual's actual or perceived attributes that are safeguarded from discrimination under state law, including:

- (e) Immigration or citizenship status;
- (f) Disability status;
- (g) Gender identity, gender expression, or transgender status;
- (h) Sexual orientation;
- (i) Race, ethnicity, national origin, or language; or
- (j) Marital or familial status;

Reproductive healthcare services has the same meaning as in California Civil Code section 1798.300(e), as may be amended.

SEC. 967 Access to County Facilities

Federal law enforcement agency personnel, out-of-state law enforcement personnel, and private parties acting under the color of law enforcement authority shall not be given access to any non-public area of a County facility for the purpose of carrying out law enforcement activities where the alleged criminal activity is a protected personal characteristic or protected personal activity unless access is required by law or by a judicially issued warrant or court order.

This section does not prohibit access to County facilities by federal law enforcement agency personnel or out-of-state law enforcement personnel in the following circumstances:

- (a) In response to an imminent threat to life or public safety pursuant to a narrowly tailored policy adopted by the Chief Administrative Officer; or
- (b) As part of an inspection under regulatory authority;

The Chief Administrative Officer shall report access to non-public areas of a County facility by any federal law enforcement agency personnel, out-of-state law enforcement personnel, and private parties acting under the color of law enforcement authority for the purpose of carrying out law enforcement activities where the alleged criminal activity is a protected personal characteristic or protected personal activity to the Board of Supervisors in writing within three business days of the access.

SEC. 968 Contractor and Vendor Compliance

- (a) Required Policy Adherence

All County agreements advertised and executed on or after the effective date of this Division shall include language requiring the following:

- (1) Compliance with all applicable State laws relating to cooperation with law enforcement;

- (2) Maintaining any information relating to a protected personal characteristic or protected personal activity received or obtained as part of its performance of the County agreement confidential, and prohibiting the sharing or transmitting of such information to any third party unless required to do so under federal, State or local law, or to perform the County agreement;
- (3) The provisions of subsections (1) and (2) to be included in any subcontracts entered into related to the performance of the County agreement;
- (4) For agreements to operate County facilities, display of public-facing signage required by section 969, where applicable;
- (5) For agreements to provide services to County residents or handle personal information of County residents, notice to the County within five business days of any request from federal law enforcement personnel, out-of-state law enforcement personnel, or a private party acting under the color of law enforcement authority for assistance with any law enforcement activity where the alleged criminal activity is a protected personal characteristic or protected personal activity.

(b) Exceptions

Exceptions to these requirements may be granted by approval of the Board of Supervisors, by the Director of Purchasing and Contracting or Director of General Services based on a finding of necessity, or where compliance is expressly preempted by federal, State or local law.

SEC. 969 Notice Requirements

(a) Signage

The following requirements shall apply to any County facility providing services to the public which contains non-public areas:

(1) The Chief Administrative Officer shall post signage at the public entrances to County facilities stating that access to non-public areas by Federal law enforcement agency personnel, out-of-state law enforcement personnel, and private parties acting under the color of law enforcement authority for the purpose of carrying out law enforcement activities where the alleged criminal activity is a protected personal characteristic or protected personal activity is prohibited without a judicial warrant or court order.

(2) For all agreements to operate County facilities executed on or after the effective date of this Division, the Chief Administrative Officer shall require the party to the agreement to post signage at the public entrances of County facilities.

(b) Language and Format

Each department will ensure that required signage is posted containing the following language:

“NOTICE: This facility is protected by the San Diego Due Process and Safety Ordinance. Non-public areas may not be accessed by federal agents, out-of-state law enforcement, or private enforcement actors unless they present a judicially issued warrant or court order. You have the constitutional right to decline to speak with any such individuals without legal representation.”

The Chief Administrative Officer shall direct the appropriate size and font of signage and identify languages for translation. Spanish translation shall be included on each sign, with other languages accessible via prominently displayed QR code on each sign.

SEC. 970 Required Federal Services

The requirements of this ordinance do not apply to services required to be provided by a federal agency at a County facility, such as Customs and baggage inspection at County airports.

Section 3. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the Daily Transcript, a newspaper of general circulation published in the County of San Diego.

APPROVED AS TO FORM AND LEGALITY

David J. Smith, Acting County Counsel

BY: Mark Day, Supervising Deputy County Counsel