

ARTICLE VIII. - PUBLIC SAFETY ENFORCEMENT PRIORITIES ACT

Footnotes:

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Editor's note— Ord. No. 940-17, § 1, adopted August 28, 2017, shall be effective as of October 13, 2017, except for the requirements related to reporting of notification requests set forth in subsection 28-253(f) which shall be effective October 1, 2017.

Sec. 28-250. - Use of city funds and resources limited; exceptions.

- (a) Except as specifically authorized in this article VIII, no department, agency, board, commission, officer or employee of the city, including without limitation, county court administrative and clerical employees, probation, pre-trial services and community corrections, shall use any city funds or resources to assist in the enforcement of federal immigration laws. The prohibition set forth in this section shall include but not be limited to:
- (1) Assisting or cooperating in one's official capacity with any investigation, detention, or arrest procedures relating to alleged violations of the civil provisions of federal immigration laws.
 - (2) Requesting information about the national origin, immigration or citizenship status of any individual or engaging in activities designed to ascertain such information, except to the extent required by any federal, state or city law or regulation, or any international treaty to which the United States is a party.
 - (3) Including on the application for any city services or benefits any question regarding national origin, immigration or citizenship status of the applicant, or conditioning the provision of city services or benefits upon the national origin, immigration or citizenship status of any individual, except to the extent required by any federal, state or city law or regulation.
 - (4) Disseminating information about the national origin, immigration or citizenship status of any individual except to the extent required by any federal, state or city law or regulation, including by way of example 8 U.S.C. §1373 and 8 U.S.C. §1644, or any international treaty to which the United States is a party.
 - (5) Initiating any law enforcement contact solely for purposes of determining the person's national origin, immigration or citizenship status, or arresting or detaining any individual solely on the basis of the individual's immigration or citizenship status.
- (b) Nothing in subsection (a) of this section shall preclude any city officer or employee from cooperating or assisting federal immigration enforcement authorities in the execution of a warrant issued by a federal judge or magistrate or honoring any writ issued by any state or federal judge concerning the transfer of a prisoner to or from federal custody. The time and resources expended by any city law enforcement officer investigating and determining whether an immigration-related warrant listed in any crime information database is judicial or administrative in nature shall not be considered a violation of subsection (a) of this section.
- (c) City law enforcement officers may respond to calls for assistance from federal immigration enforcement authorities to the extent necessary to keep the peace, protect public safety, or enforce any applicable state and city criminal laws beyond the scope of effectuating an immigration arrest. Nothing in subsection (a) of this section shall preclude city law enforcement officers from participating in coordinated law enforcement actions with federal law enforcement agencies, as long as the primary purpose of the coordinated action is the enforcement of city, state or federal criminal laws.
- (d) Nothing in subsection (a) of this section or in section 28-251 shall restrict the authority of the city to enter into agreements concerning the transport of persons who are already in federal custody through Denver International Airport, to the extent such agreements are deemed necessary to ensure that city officials are made aware whenever federal prisoners are being transported through the airport by federal immigration authorities, and to make space available to federal immigration officials for the safe and secure transport of such prisoners within the airport.

(Ord. No. 940-17, § 1, 8-28-17)

Sec. 28-251. - City contracts related to enforcement of federal immigration laws prohibited.

The city shall not enter into any contractual agreement that would commit or require any city officer or employee to directly or indirectly assist in the enforcement of federal immigration laws, including by example any agreement authorized by 8 U.S.C. §1357(g) (commonly known as "287(g) Agreements") or any intergovernmental services agreement entered into with the U.S. Department of Homeland Security under the

authority of 8 U.S.C. § 1103(a)(1)(B). The city shall not enter into any contractual agreement requiring the collection or dissemination of individually identifiable information about the national origin, immigration or citizenship status of any person, over and above the extent to which the city is required to collect or disseminate such information in accordance with any federal, state or city law or regulation.

(Ord. No. 940-17, § 1, 8-28-17)

Sec. 28-252. - Limitations on access to secure areas of city and county jails and related facilities.

- (a) Unless federal immigration authorities present a warrant issued by a federal judge or magistrate, federal immigration authorities shall not be granted access or allowed to use the secure areas of any city or county jail or other city-owned law enforcement facility for the purpose of conducting investigative interviews or any other purpose related to the enforcement of federal immigration laws. For purposes of this section the term "secure area" means any area of the facility that is not generally open and accessible to the general public, but instead requires special permission for admittance by a city officer or employee on an individual basis.
- (b) Nothing in subsection (a) of this section or in section 28-250 shall prevent city law enforcement officials from coordinating telephone or video interviews between federal immigration authorities and individuals incarcerated in any city or county jail to the same extent as telephone or video contact with such individuals is allowed by the general public; provided, however, that no such interview shall be allowed until the individual has been advised of certain legal rights in writing in the individual's language of choice, including but not limited to:
 - (1) The interview is being sought by federal immigration authorities;
 - (2) The individual has the right to decline the interview and remain silent;
 - (3) The individual has the right to speak to an attorney before submitting to the interview; and
 - (4) Anything the individual says may be used against him or her in subsequent proceedings, including in a federal immigration court.

(Ord. No. 940-17, § 1, 8-28-17)

Sec. 28-253. - Civil immigration detainers and requests for voluntary notification.

- (a) *Purpose.* The purpose of this section is to address requests for non-mandatory civil immigration detainers, voluntary notification for release of individuals from custody, transmission of personal information, and other civil immigration documents based solely on alleged violations of the civil provisions of federal immigration laws. Nothing in this section shall be construed to apply to the authority of city law enforcement officers to investigate or enforce any criminal law.
- (b) *Definitions.*
 - (1) "Eligible for release from custody" means that the individual may be released from custody because one (1) of the following conditions has occurred:
 - a. All criminal charges against the individual have been dropped or dismissed.
 - b. The individual has been acquitted of all criminal charges filed against him or her.
 - c. The individual has served all the time required for his or her sentence.
 - d. The individual has posted a bond or has been released on his or her own recognizance.
 - e. The individual has been referred to pre-trial division services.
 - f. The individual is otherwise eligible for release under state or city law.
 - (2) "Civil immigration detainer" means a non-mandatory request issued by federal immigration enforcement authorities under Section 287.7 of Title 8 of the Code of Federal Regulations, to city law enforcement officers to maintain custody of an individual for a period not to exceed forty-eight (48) hours, including by way of example any such request appearing on an I-247A form or any similar form promulgated by federal immigration enforcement authorities.
 - (3) "Notification request" means a non-mandatory written request issued by federal immigration enforcement authorities to a city law enforcement officer asking for notification to the federal immigration enforcement authorities of an individual's release from city custody prior to such release, including by way of example any such request appearing on an I-247A form or any similar form promulgated by federal immigration enforcement authorities.
 - (4) "Personal information" means any confidential, identifying information about an individual, including but not limited to home or work contact information, and family or emergency contact information; but not including any information about the national origin, immigration or citizenship status of the individual if known to a city law enforcement officer.

- (c) *Detainers and other civil enforcement actions.* A city law enforcement officer shall not detain an individual solely on the basis of a civil immigration detainer. City law enforcement officers shall not arrest or detain an individual, or provide any individual's personal information to federal immigration enforcement authorities on the basis of an administrative warrant regardless of whether or not the administrative warrant is accompanied by a final order of removal or deportation, any prior deportation order, or any other civil immigration document based solely on alleged violations of the civil provisions of federal immigration laws. Nothing in subsection (c) of this section shall preclude any city officer or employee from cooperating or assisting federal immigration enforcement authorities in the execution of a warrant issued by a federal judge or magistrate.
- (d) *Notification requests.* Notwithstanding the restrictions set forth in section 28-250, the sheriff department may respond to a notification request and provide such notifications to the extent the department is reasonably capable of doing so. In no event shall a notification request be deemed to create any obligation on the part of the department to detain the inmate who is the subject of the notification request beyond the date and time the inmate is eligible for release from custody, unless the request is accompanied by a warrant issued by a federal judge or magistrate. Upon receipt of any notification request, the sheriff department shall as promptly as practicable advise the inmate who is the subject of the notification request that federal immigration enforcement authorities have requested information concerning the date and time when the inmate will be released. The advisement to the inmate shall be given in writing in the inmate's language of choice, shall be accompanied by a copy of the notification request, and shall also advise the inmate that he or she enjoys certain legal rights if contacted by federal immigration enforcement authorities while in custody or after having been released from custody, including but not limited to:
- (1) The individual has the right to refuse to speak to federal immigration enforcement authorities and remain silent;
 - (2) The individual has the right to speak to an attorney before speaking to federal immigration enforcement authorities; and
 - (3) Anything the individual says may be used against him or her in subsequent proceedings, including in a federal immigration court.
- If the sheriff department does give notice of an inmate's release to federal immigration authorities pursuant to a notification request, the written advisement of rights to the inmate shall be provided to the inmate again when the inmate is released.
- (e) *Records related to notification requests.* In accordance with the city's record retention policy, the sheriff department shall maintain a record of all notification requests received by the department, which shall include the following information for each individual notification request:
- (1) Date and time the notification request was received.
 - (2) Whether the department responded to the notification request, and if so, the date and time upon which the response was given.
 - (3) The charges for which the inmate who was the subject of the notification request was being held by the city prior to being released from custody.
 - (4) Whether the inmate who was the subject of the notification request was detained or arrested by federal immigration authorities after being released from city custody, if such information is made known to the department.
- (f) *Reporting of notification request records.* The sheriff department shall prepare a report concerning notification requests and distribute the report quarterly to both the city council and the mayor beginning on October 1, 2017. The report shall contain a year-to-date summary of the total number of notifications received by the department, along with the information for each notification request set forth in subsection (e) of this section.