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January 24, 2025


Melissa Cordeiro
Town Clerk
Bristol Town Hall
10 Court Street
Bristol, RI 02809

2025 JAN 27 AM 11:19
TOWN CLERK'S OFFICE
BRISTOL, RHODE ISLAND

Dear Ms. Cordeiro:

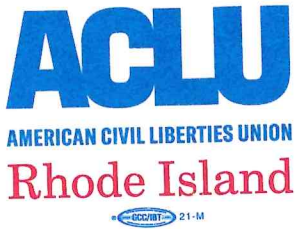
Enclosed please find a packet of information relating to an immigration model ordinance that you should have also received via email today. We're asking that this information be distributed to all of the members of the town council for review and possible action. Any questions or concerns relating to this information please feel free to send them to immigrants@riaclu.org and we'll be more than happy to assist you further. Thank you in advance for your attention to this very important issue.

Sincerely,



Megan Khatchadourian
Assistant to the Director

Enclosures



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Dear Members of the Bristol Town Council:

Once again, the issue of immigration has taken center stage in the first days of the Trump Administration, just as it did eight years ago during his first term as President. Once again, our organization has seen an outpouring of concern from individuals about the planned federal efforts to encourage, if not compel, local jurisdictions to directly support federal immigration enforcement – against documented and undocumented immigrants alike, and even against U.S. citizens. In response, we are writing to urge you to take steps to mitigate the harm these xenophobic, and often unconstitutional, threats could have on members of your community.

In 2017, the ACLU of RI, with assistance from our National office, drafted a comprehensive ordinance that we urged municipalities to adopt to protect their residents from some of the more extreme efforts of the first Trump Administration. We are doing so again.

It is important to emphasize that local officials have no obligation under federal law to participate in the enforcement of federal immigration laws. Indeed, on at least one matter that the President has promoted – local enforcement of Immigration and Customs Enforcement (ICE) detainers⁶ – your municipality faces a clear prospect of legal liability in accepting his invitation.

In order to preserve the constitutional rights of all Rhode Islanders, our model ordinance includes such provisions as requiring judicial warrants before honoring ICE detainers; assisting victims of crime who may be eligible for special immigration status; rejecting participation in a program, known as 287(g), that essentially deputizes local police to serve as immigration agents; and avoiding other forms of engagement in federal immigration enforcement that can adversely affect public safety and undermine good police-community relations. Importantly, this model ordinance in no way bars your police officers from continuing to cooperate with ICE in enforcing immigration law *when backed by judicial authority or otherwise properly mandated by federal law*.

There are several reasons that an increasing number of states and localities across the nation have opted to leave the immigration enforcement business to the federal government, and to focus their resources on protecting the community from the negative impact that overzealous federal enforcement can have.

Perhaps most important of all, ordinances like this one promote public safety by maintaining and encouraging positive police-community relations. Residents of your municipality serve as witnesses, report crime, and otherwise assist law enforcement. The foundation for this cooperation can often be destroyed when local law enforcement officers are viewed as an extension of the immigration police. Survivors of domestic violence refrain from reporting

⁶ An "ICE detainer" is a written request that local law enforcement detain an individual for an additional 48 hours after he/she would otherwise be released. They have been used to provide ICE additional time to examine an individual's immigration status, decide whether to take the individual into custody, and/or facilitate transfer into federal custody. These detainers are typically issued without a judicial warrant supported by probable cause. As a consequence, once the traditional basis for criminal detention has lapsed, continued detention of an individual violates the Fourth Amendment's bar on unlawful seizures.

offenses; individuals with key information about other crimes fail to contact the police.⁷ These outcomes are not limited to the undocumented population, since many of them have U.S. citizen spouses and children who may also think twice about cooperating with police. And because citizens and immigrants with legal status often fall victim to mistakes by ICE, their views toward local officials can sour as well.

Local enforcement of immigration law can also lead to legal exposure, as it has in our state. In Rhode Island, we successfully sued on behalf of a Providence resident who was illegally held at the ACI by DOC officials as the result of an unlawful ICE detainer.⁸ She was harassed and subjected to a humiliating strip-search while being detained overnight. To add insult to injury, she was a United States citizen, a victim of the type of civil detainer errors that are not infrequent in light of the minimal standards used by ICE bureaucrats in requesting detainer “holds.”⁹ Given the Trump Administration’s pledge to expand ICE personnel for more immigration enforcement, these types of mistakes are sure to increase.

The President has also threatened to strip federal funds from so-called “sanctuary jurisdictions” that decline to direct their personnel and resources toward federal immigration priorities. However, prior court decisions indicate that the Administration will encounter substantial constitutional hurdles if it attempts to follow through on that pledge. In fact, in a lawsuit brought in 2019 by the cities of Providence and Central Falls, a federal appeals court barred the federal government from requiring them to collaborate with ICE.¹⁰

The model ordinance and a one-page summary of its contents are enclosed. The ACLU remains a resource for any additional information you may need on immigration-related matters. Please feel free to either call or send an email to immigrants@riaclu.org with any questions. We are prepared to take action to assist your immigrant-supportive policies and practices, as needed.

In closing, we hope you find this model ordinance useful and will take favorable action upon it. We also encourage your police department to adopt substantive policies in accordance with the provisions in the model ordinance. By assuring your residents in this way that you are a welcoming community, you will be upholding some of this country’s greatest values. To those municipalities that have already adopted protections for the immigrant community, we applaud your actions and urge you to determine if there is more you can do.

Thank you in advance for your consideration.

Sincerely,



Steven Brown
Executive Director

cc: Steven Contente, Town Administrator
Kevin Lynch, Chief of Police

Enclosures

⁷ Shortly after the first Trump Presidency began pushing this call for local collaboration, reports across the country quickly confirmed its deleterious impact. See, e.g., “L.A. police see drop in Latino reports of crime amid deportation fears,” Steve Gorman, Reuters, March 21, 2017. <http://www.reuters.com/article/us-california-immigration-idUSKBN16T070>

⁸ *Morales v. Chadbourne*, 996 F.Supp.2d 19 (D.R.I. 2014); 793 F.3d 208 (1st Cir. 2015); 2017 WL 354292 (D.R.I. 2017).

⁹ In discovery conducted during the *Morales* case, the former field director of ICE’s regional office acknowledged that an ICE agent does not have to make a determination that a person is in the country illegally before issuing a detainer.

¹⁰ *City of Providence v. Barr*, 954 F.3d 23 (1st Cir. 2020).

MUNICIPAL IMMIGRANT PROTECTION ORDINANCE
FOR RHODE ISLAND CITIES AND TOWNS

PREAMBLE

WHEREAS, [Municipality] is dedicated to providing all of its residents fair and equal access to services, opportunities and protections; and

WHEREAS, [Municipality] respects, upholds, and values equal protection and equal treatment for all of our residents, regardless of immigration status; and

WHEREAS, Fostering a relationship of trust, respect, and open communication between municipal employees and municipal residents is essential to [Municipality's] core mission; and

WHEREAS, Public safety in [Municipality] is best promoted when victims and witnesses of crime feel safe in cooperating with law enforcement officials; and

WHEREAS, The purpose of this Ordinance is to foster respect and trust between law enforcement and residents, to protect limited resources, to encourage cooperation between residents and city officials, especially law enforcement, and to ensure community security and due process for all,

IT IS HEREBY ENACTED AS FOLLOWS:

1. Limitation on activities solely for the purpose of enforcing federal immigration laws.

(a) [The LEA] shall not stop, question, interrogate, investigate, or arrest an individual based solely on any of the following:

(1) Actual or suspected immigration or citizenship status; or

(2) A civil immigration warrant, administrative warrant, or an immigration detainer in the individual's name, including those identified in the National Crime Information Center (NCIC) database.

(b) [The LEA] shall not inquire about the immigration status of an individual, including a crime victim, a witness, or a person who calls or approaches the police seeking assistance, unless necessary to investigate criminal activity that is unrelated to the enforcement of civil immigration law.

(c) Neither [the municipality] nor [the LEA] shall enter into any agreements to enforce, or otherwise voluntarily engage in the enforcement of, federal immigration law or to perform federal immigration functions pursuant to 8 U.S.C. § 1357g or any other federal law, regulation, or policy.

2. Conditions for honoring ICE or CBP detainer requests.

(a) Except as provided in subsection (b), [the LEA] may respond affirmatively to a civil immigration detainer from ICE or CBP to detain or transfer an individual

for immigration enforcement or investigation purposes for up to 48 hours only if the request is supported by a judicial warrant.

(b) Notwithstanding subsection (a), [the LEA] may detain a person for up to 48 hours on a civil immigration detainer in the absence of a judicial warrant if there are exigent circumstances preventing ICE or CBP from obtaining a warrant and there is probable cause to believe that the individual has or is engaged in terrorist activity as defined in 8 U.S.C. §1182(A)(3)(B).

3. Limitations on honoring ICE or CBP requests for certain non-public, sensitive information.

(a) Except as provided in subsection (b), [the LEA] may respond affirmatively to an ICE or CBP request for non-public information about an individual, including but not limited to non-public information about an individual's release, home address, or work address, only if the request is accompanied by a judicial warrant or a court order enforcing a subpoena.

(b) Notwithstanding subsection (a), nothing in this ordinance limits [the municipality or LEA] from:

(1) disclosing information about an individual's criminal arrests or convictions, where disclosure of such information about the individual is otherwise authorized by state law or required by court order; or

(2) disclosing information about an individual's juvenile arrests or

delinquency or youthful offender adjudications, where disclosure of such information about the individual is otherwise authorized by state law or required by court order.

(c) [The LEA] shall limit the information collected from individuals concerning immigration or citizenship status to that necessary to perform [the LEA's] agency duties.

4. Limitations on ICE or CBP access to individuals in custody for immigration enforcement questioning purposes.

[The LEA] shall not provide ICE or CBP with access to an individual in their custody or the use of agency facilities to question or interview such individual if ICE or CBP's sole purpose is enforcement of federal civil immigration law, unless such enforcement is pursuant to a federal judicial order.

5. Due process for persons about whom federal immigration enforcement requests have been made.

(a) [The LEA] shall not delay bail and/or release from custody upon posting of bail solely because of

- (1) an individual's immigration or citizenship status,
- (2) a civil immigration warrant, or
- (3) an ICE detainer request or any other ICE or CBP request for the purposes

of immigration enforcement, or for notification about, transfer of, detention of, or interview or interrogation of that individual.

(b) Upon receipt of an ICE or CBP detainer, transfer, notification, interview or interrogation request, [the LEA] shall provide a copy of that request to the individual named therein and inform the individual whether [the LEA] will comply with the request before communicating its response to the requesting agency.

(c) Individuals in the custody of [the LEA] shall be subject to the same booking, processing, release, and transfer procedures, policies, and practices of that agency, regardless of actual or suspected citizenship or immigration status.

6. Ban on use of resources to facilitate a federal registry based on race, gender, sexual orientation, gender identity or expression, religion, ethnicity, or national origin.

[Municipality] shall not use agency or department monies, facilities, property, equipment, or personnel to investigate, enforce, or assist in the establishment, maintenance or enforcement of any federal program requiring registration of individuals on the basis of race, gender, sexual orientation, gender identity or expression, religion, ethnicity, or national origin.

7. Limitation on the collection of immigration-related information; provision of nondiscriminatory access to benefits and services.

(a) [Municipality] personnel shall not inquire about or request proof of immigration status or citizenship when providing services or benefits, except where the receipt of such services or benefits is contingent by law upon verification of one's immigration or citizenship status or where inquiries are otherwise lawfully required by federal, state, or local laws.

(b) [Municipality and LEA] shall have a formal Language Assistance Policy for individuals with Limited English Proficiency and provide interpretation or translation services at no cost consistent with that policy.

8. Limits on Political Surveillance

[LEA] shall not collect or maintain information about the political, religious or social views, associations or activities of any individual, group, association, corporation, business or partnership or other entity unless such information directly relates to an investigation of criminal activities, and there are reasonable grounds to suspect that the particular subject of the information, whether an individual or other entity, is involved in criminal conduct.

9. Protecting Immigrant Victims of Crime

(a) On request from an individual whom a law enforcement officer or agent thereof reasonably believes is a victim who is or has been subjected to a qualifying criminal activity for a nonimmigrant T or U visa under 8 U.S.C. §1101(a)(15)(T) or 8 U.S.C. §1101(a)(15)(U), or for continued presence under 22 U.S.C. §7105(c)(3), the law enforcement officer, as soon as practicable after receiving the request, shall, subject to the presumption in subsection (b), provide to the individual a signed certification Form I-914B or Form I-918B.

(b) There shall be a rebuttable presumption that a victim is helpful, has been helpful, or is likely to be helpful to the detection, investigation, or prosecution of qualifying criminal activity if the victim has not unreasonably refused or failed to assist with the investigation as requested by [LEA].

(c) The [LEA] shall process the appropriate form under this section within 45 days of the request, unless the noncitizen is in removal proceedings, in which case the certification shall be processed within fourteen (14) days of the request.

(d) If [LEA] determines that an individual does not meet the requirements for the issuance of a certification under this section, the [LEA] shall inform the individual in writing of the specific reasons. The written denial shall also advise the individual that he or she may make another request under subsection (a) of this section by submitting additional evidence that he or she has been subjected to a qualifying criminal activity and/or that the presumption established by subsection (b) has

been satisfied or not properly rebutted. The denial shall also include a list of organizations that provide services to immigrants whom the individual may contact for additional assistance.

(e) [LEA] shall provide an annual report to the [Municipal Council] of how many requests were made to the [LEA] under subsection (a) and how many were denied.

10. Protecting the Rights of Students

In order to protect the rights of students, the school district shall, within 120 days of enactment of this ordinance, adopt a policy¹ establishing procedures for handling interactions with immigration officials seeking information about, or requesting to talk with any student about, their immigration status; providing for cooperating with such requests only to the extent required by law; and barring the collection and disclosure of students' citizenship status except to the extent required by federal law.

11. Collection of aggregate data regarding ICE and CBP requests

(a) [The LEA] shall record, solely to create the reports described in subsection (b) below, the following for each immigration detainer, notification, transfer, interview, or interrogation request received from ICE or CBP:

¹ In the alternative, if the Council does not have power over the school district, the first sentence can begin: "In order to protect the rights of students, the school district is requested to adopt..."

(1) The subject individual's race, gender, and place of birth;

(2) Date and time that the individual was taken into [LEA] custody, the location where the individual was held, and the arrest charges;

(3) Date and time of [the LEA's] receipt of the request;

(4) The requesting agency;

(5) Immigration or criminal history indicated on the request form, if any;

(6) Whether the request was accompanied by any documentation regarding immigration status or proceedings, e.g., a judicial warrant;

(7) Whether a copy of the request was provided to the individual and, if yes, the date and time of notification;

(8) Whether the individual consented to the request;

(9) Whether the individual requested to confer with counsel regarding the request;

(10) [The LEA's] response to the request, including a decision not to fulfill the request;

(11) If applicable, the date and time that ICE or CBP took custody of, or was otherwise given access to, the individual; and

(12) The date and time of the individual's release from [the LEA's] custody.

(b) [The LEA] shall provide semi-annual reports to the [Municipal Council]

regarding the information collected in subsection (a) above in an aggregated form that is stripped of all personal identifiers. The reports shall be a public record.

12. Enforcement.

An aggrieved individual or an organization that is chartered for the purpose of combating discrimination, promoting the rights of immigrants, or safeguarding civil rights shall be entitled to seek and obtain injunctive and declaratory relief, damages and attorneys' fees for any violation of this ordinance.

13. Affirmation of Compliance with Federal Law.

Pursuant to 8 U.S.C. §1373 or 8 U.S.C. §1644, nothing in this ordinance is intended, or shall be construed, to prohibit or restrict in any way the [LEA] or [Municipality] from maintaining, exchanging, sending, or receiving information regarding the citizenship or immigration status, lawful or unlawful, of any individual with any federal, State or local government entity.

14. Definitions.

(a) "CBP" means United States Customs and Border Protection.

(b) "Civil immigration detainer" or "civil immigration warrant" means a detainer issued pursuant to 8 C.F.R. § 287.7 or any similar request from ICE or CPB for

detention of a person suspected of violating federal immigration law.

(c) "ICE" means United States Immigration and Customs Enforcement.

(d) "Judicial warrant" means a warrant based on probable cause and issued by an Article III federal judge or a federal magistrate judge that authorizes federal immigration authorities to take into custody the person who is the subject of the warrant. A judicial warrant does not include a civil immigration warrant, administrative warrant, or other document signed only by ICE or CBP officials.

15. Severability.

If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

1/23/2025

2025 SUMMARY OF MODEL IMMIGRATION PROTECTION ORDINANCE

The model ordinance consists of eleven key substantive sections, each of which can stand independently, an enforcement provision, a definitions section, and two procedural provisions.

1. LEAs cannot stop or interrogate people based solely on their suspected immigration status, and they cannot inquire about the immigration status of crime victims or witnesses unless necessary to investigate criminal activity unrelated to enforcing immigration laws.
2. Absent a judicial warrant, LEAs shall not honor U.S. Immigration and Customs Enforcement (“ICE”) or Customs and Border Protection (“CBP”) detainer requests except in limited, specified circumstances.
3. Absent a judicial warrant, LEAs generally will not honor ICE or CBP requests for certain non-public, sensitive information about an individual.
4. Absent a judicial warrant, LEAs will not provide ICE or CBP with access to individuals in their custody for questioning solely for civil immigration enforcement purposes.
5. LEAs will protect the due process rights of persons as to whom federal immigration enforcement requests have been made, including providing those persons with appropriate notice.
6. Local agency resources shall not be used to create a federal registry based on race, gender, sexual orientation, gender identity or expression, religion, ethnicity, or national origin.
7. Municipalities will limit collection of immigration-related information and ensure nondiscriminatory access to benefits and services.
8. LEAs will adopt limits in participating in the surveillance of political or religious groups in the absence of specific criminal investigatory criteria.
9. LEAs will have procedures in place to help undocumented crime victims apply for nonimmigrant visas specifically designated for such victims.
10. Municipal school districts shall adopt formal policies on dealing with immigration agency requests for information about students’ immigration status and cooperating with such requests only to the extent required by federal law.
11. LEAs will collect and report data to the public regarding detainer and notification requests from ICE or CBP in order to monitor their compliance with applicable laws.
12. Legal remedies are available for violations of the restrictions in the ordinance.
13. The ordinance shall not be construed to restrict certain information-sharing activity as designated by federal law.
14. Definitions and a routine severability clause are included.