

Chapter 28 Human Rights

Article VIII Public Safety Enforcement Priorities Act

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 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, any international treaty to which the United States is a party, or as a condition of any contract entered into prior the effective date of this ordinance concerning the receipt of any federal grant or reimbursement, including by way of example the State Criminal Alien Assistance Program (SCAAP).

(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.

- (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.

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)(11)(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 about 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.

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) or 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 writing in the individual’s language of choice that:
 - (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 a federal immigration court.

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 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 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) “*Convicted*” means having been proven guilty in a criminal proceeding, unless the conviction has been expunged or vacated pursuant to applicable law.

(4) “*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.

(5) “*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) *Requests for notification.* Notwithstanding the restrictions set forth in section 18-250, city law enforcement officers may respond to a notification request and provide such notification to the extent the city officers are reasonably capable of doing so, but only when federal immigration officials present a warrant issued by a federal judge or magistrate for the arrest of the individual for whom release notification is sought, or attest in writing with documentation of any applicable convictions that the individual:

(1) has engaged in or is suspected of terrorism or espionage or otherwise poses a danger to national security, as certified via a written statement submitted to the city from the Federal Bureau of Investigation or the Homeland Security Investigations Division of the United States Department of Homeland Security;

(2) has been convicted of an offense of which an element was active participation in a criminal street gang, as defined in 18 U.S.C. § 521(a);¹ or

(3) has, within the prior seven years, been released from incarceration after having been convicted of an offense classified as a felony involving a crime of violence as defined in section 16-1-104 (8.5), C.R.S.²

Sec. 28-254. Complaints.

Any person who alleges a violation of this Article VIII by any member of the Denver Police Department or the Denver Sheriff Department may file a written complaint for investigation with the Executive Director of the Department of Safety, the Office of Independent Monitor, or both. The Executive Director and Monitor shall promptly share with one another any complaint received in one agency but not the other. Any person who alleges a violation of this Article VIII by any officer or employee of any other department or agency of the city may file a written

¹ The federal statute defines criminal street gang as follows: "an ongoing group, club, organization, or association of 5 or more persons--**(A)** that has as 1 of its primary purposes the commission of 1 or more of the criminal offenses described in subsection (c); **(B)** the members of which engage, or have engaged within the past 5 years, in a continuing series of offenses described in subsection (c); and **(C)** the activities of which affect interstate or foreign commerce." The statute goes on to define "offenses" as meaning: "**(1)** a Federal felony involving a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)) for which the maximum penalty is not less than 5 years; **(2)** a Federal felony crime of violence that has as an element the use or attempted use of physical force against the person of another; and **(3)** a conspiracy to commit an offense described in paragraph (1) or (2).

² Under Colorado statutes, "**Crime of violence**" means (I) a crime in which the defendant used, or possessed and threatened the use of, a deadly weapon during the commission or attempted commission of any crime committed against an elderly person or a person with a disability or a crime of murder, first or second degree assault, kidnapping, sexual assault, robbery, first degree arson, first or second degree burglary, escape, or criminal extortion, or during the immediate flight therefrom, or the defendant caused serious bodily injury or death to any person, other than himself or herself or another participant, during the commission or attempted commission of any such felony or during the immediate flight therefrom. (II) "**Crime of violence**" also means any unlawful sexual offense in which the defendant caused bodily injury to the victim or in which the defendant used threat, intimidation, or force against the victim. For purposes of this subparagraph (II), "unlawful sexual offense" shall have the same meaning as set forth in section 18-3-411 (1), C.R.S., and "bodily injury" shall have the same meaning as set forth in section 18-1-901 (3) (c), C.R.S.

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complaint for investigation by the head of the department or agency in question or with the director of the Office of Human Rights and Community Partnerships, or both. Any complaint not filed with the head of the department or agency in question shall be forwarded to the department or agency where the complaint originated. Any investigation or discipline resulting from a finding that an employee violated a provision of this Article XII shall be conducted within the parameters and procedures of any applicable career service, civil service, or departmental rules.. Any complaint received by any department or agency under this section shall be promptly forwarded to the city attorney, who shall maintain an archive of the number of such complaints received and the name of the department or agency within which the complaint originated for public inspection under the Colorado Open Records Act, however nothing herein renders public any record that would otherwise be protected from public disclosure under CORA.