MEYER
LAW OFFICE

May 11, 2017

SENT VIA EMAIL:

Members of Denver City Council:

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Dear Members of Denver City Council:

The Meyer Law Office, PC specializes in immigration law, removal defense, criminal defense, and the immigration consequences of contact with the criminal justice system. Our practice advocates for the statutory and constitutional rights of immigrants before various immigration agencies and municipal, state, and federal courts. Our firm currently represents around 500 noncitizen clients, most of whom live or work here in the City of Denver. The Meyer Law Office represents both individuals charged with crimes, as well as immigrant victims of crimes, in their immigration and criminal matters.

I am writing regarding the proposed Sentencing Reform ordinance currently being proposed by the City of Denver. Following an initial community forum organized in February 2017 to address concerns around the City's ongoing entanglement and collaboration with immigration officials in light of the Trump administration, our firm participated in several stakeholder meetings with City officials. When the City shared its initial sentencing reform proposal to immigration stakeholders, we expressed several concerns with the proposal. We share two of those concerns with you here: 1) continued 365-day maximum sentence within the proposal; and 2) the potential for first-time offenders to be classified as Class 1 Offenders.

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Concerns with the Proposal's 365-Day Maximum Potential Sentence for Class 1 Offenses

First, we express our firm's concern that the City continues to contemplate a sentencing reform proposal, the first in over twenty years, that includes a maximum potential sentence of 365 days.

Currently, federal immigration law can trigger deportability under the "crime involving moral turpitude" ground for a minor offense that carries a ***potential*** sentence of 365 days (one year) in jail. See 8 U.S.C. § 1227(a)(2)(A)(i)(I). As such, in the criminal defense context, if a maximum potential sentence of 365 days continues to exist within the municipal code, many defendants charged with Class 1 offense elements would not be able to accept plea dispositions to resolve their cases.

In addition, in situations where even a *suspended* sentence of 365 days is imposed in a municipal offense, it may trigger the "aggravated felony" ground of deportability, which often mandates deportation and strips many long term lawful permanent residents of the ability to seek discretionary relief from the immigration court system. See e.g., 8 U.S.C. § 1101(a)(43) (G) (classifying a "theft offense" with a sentence of one year or more as an aggravated felony for immigration purposes).

Eliminating the 365-day maximum potential sentence, and instead providing a maximum sentence for 364-day offenses would ***improve court efficiency*** by encouraging plea negotiations and resolution of minor offenses that would otherwise carry devastating immigration consequences. In turn, this would reduce court backlogs and avoid the time and expense of unnecessary jury trials or extended court proceedings. It would not impact immigration enforcement or the possible deportation of persons unlawfully in the country.

Denver has the opportunity to update its laws to align with the sentencing practices of other municipalities in the state, and across the country. Modifying the maximum potential sentence by one day, from 365-days to 364-days eliminates unintended immigration consequences of minor offenses for immigrants in the City of Denver.

Concerns Regarding the Potential for First-Time Offenders to be Classified as Class 1 Offenders

We appreciate the City's move to shift several offenses to new Class 2 or Class 3 sentencing classifications under the current sentencing reform proposal, but remain concerned that many first-time offenders will be classified as Class 1 Offenders, and as such, countless immigrants, even those who are lawfully present, may be deportable for a first-time offense.

Under the current sentencing reform proposal, even a first-time offense could be sentenced as a Class 1 offense. This raises particular concerns for first-time domestic violence offenders being charged with the "Assault with serious bodily harm" offense under 14-71(a)(3), thereby implicating mandatory immigration consequences that not even an immigration judge could exercise discretion to excuse.

The Meyer Law Office represents both individuals charged with crimes, as well as immigrant victims of crimes. As such, our firm is concerned that the sentencing reform as currently

contemplated causes harm both for immigrant defendants via devastating and disproportionate immigration consequences, as well as for immigrant victims of domestic violence. Automatic deportation of the abuser, or even the potential for deportation, is not always the desired outcome for immigrant victims, particularly in first time and low level domestic violence incidents. Moreover, the continued entanglement of immigration consequences can complicate the dynamics of mixed status families and lead to increased hardship for the victim and the children. Because these automatic immigration consequences can attach to even a first-time offense, there is a potential for the underreporting of domestic violence. Separating the City of Denver's sentencing policies completely from mandatory immigration consequences would allow victims of domestic violence to feel safe and come forward to report abuse and hold their abusers accountable, without fear of automatic deportation.

In conclusion, the Meyer Law Office asks that the City of Denver adopt a 364-day maximum potential sentence for Class 1 offenses as part of the proposed sentencing reform policy.

Respectfully,

Julie Gonzales
Policy Director
Meyer Law Office, PC