

Summary of Draft Denver Public Safety Enforcement Priorities Proposal July 2017

Statement of Purpose

- When immigrants fear city involvement in immigration enforcement they are less likely to trust police or fire officials, to report emergencies, or to testify or appear at court. Our entire community is safest when everyone trusts and utilizes law enforcement agencies.
- While many of Denver's practices appropriately limit the city's role in immigration enforcement, which is a federal responsibility, some of our practices are not in writing, others are in internal policies that could be changed without public notice, and there are a few notable gaps.
- An Ordinance will ensure city employees and the community understand the City's prioritization of local trust in public safety, the rules that we will follow, and to clarify that while we comply with federal law, we do not assist with civil federal immigration enforcement beyond what the law requires.

Summary of Ordinance Provisions

1) Memorialize *existing* City policy by prohibiting the detention of individuals beyond their sentence.

The City ceased honoring detainers pursuant to court decisions in 2013, but that change has not yet been incorporated into city code.

- a. Already prohibited by 4th Amendment of Constitution.
- b. Unless there is a judicial warrant.

2) Memorialize *predominant* City practices by prohibiting the request or recording of data on immigration status.

This information is rarely required by law and most departments report that they do not ask for or collect it. However, there have been cases documented of probation officers recording immigration status in reports where it is not legally required. Formalizing the policy of not collecting information clarifies the policy for all city employees, minimizes the risk of inadvertent collection, as well as the risk of having to provide information beyond the scope of our City duties once it is collected.

- a. Except where already required by state or federal law.

Summary of Ordinance Provisions (continued)

3) Prohibit the sharing of information for purposes of immigration enforcement.

While most departments report that they do not share information, there is no prohibition, and the jail is currently providing voluntary notice to immigration enforcement about hundreds of individuals, including low-level traffic offenders.

- a. Except where already required by the state or federal law.
- b. Except where an individual, within the prior seven years, has been released from incarceration on a conviction of a violent felony;
- c. Convicted of an offense of which an element was active participation in a criminal street gang;
- d. Engaged in or suspected of terrorism or espionage certified via a written statement by the Federal Bureau of Investigation or the Homeland Security Investigations Division of the United States Department of Homeland Security.
- e. Unless there is a judicial warrant

4) Memorialize *predominant* practices by prohibiting use of city resources or city cooperation with civil immigration enforcement, including prohibiting providing access to private areas or facilities.

While most departments report that they do not cooperate or assist with civil immigration enforcement, in the past the jail has provided immigration agents access to secure jail areas and inmates absent a judicial warrant. This ordinance would prohibit police from engaging in immigration enforcement, on their own or with federal officials, and would restrict access to private areas or inmates absent a warrant or an explicit exception for serious criminals.

- a. Unless there is a judicial warrant.
- b. Except where already required by federal law.
- c. Does not limit law enforcement from coordinating on criminal enforcement actions (i.e. drug busts) or from responding to a scene where doing so is necessary to protect public safety or to enforce state or city criminal laws.
- d. Upon advice of the city attorney, a municipal ordinance cannot regulate the behavior of federal law enforcement agencies when they are carrying out their duties in spaces that are otherwise open to the public. However, the City should continue to loudly advocate and lobby to end enforcement actions in all sensitive locations such as in or near the entrances to courthouses, hospitals, and schools.