

ORDINANCE

Sub-A

Creating Section 2-333 - "Community Policing and Immigration"

Sponsored by Councilperson Jessica Vega

BE IT ORDAINED that the City of Central Falls amends Chapter 22, "Law Enforcement," Article II "Police Division," Division 1 "Generally," by adding Sec. 22-30. - Community Policing and Immigration of the Revised Ordinances, City of Central Falls, Rhode Island, as follows:

SECTION ONE: Chapter 22, "Law Enforcement," Article II "Police Division," Division 1 "Generally," is hereby amended by adding Sec. 22-30. - Community Policing and Immigration as follows:

Sec. 22-30. – Community Policing and Immigration

(a) Legislative Findings. The city finds, as a matter of public policy, the following: the city is dedicated to providing all of its residents fair and equal access to services, opportunities and protections; and the city respects, upholds, and values equal protection and equal treatment for all of our residents, regardless of immigration status; and fostering a relationship of trust, respect, and open communication between police officers and city residents is essential to the public safety of our residents; and public safety in the city is further promoted when victims and witnesses of crime feel safe in cooperating with law enforcement officials; and 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.

(b) Limitation on activities solely for the purpose of enforcing federal immigration laws.

(1) Members of the police division shall not stop, question, interrogate, investigate, or arrest an individual based solely on any of the following:

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

(B) 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.

(2) Members of the police division 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.

(3) Neither the city nor the city's departments 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.

(c) Conditions for honoring ICE or CBP detainer requests.

(1) The city and its departments 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.

(2) Notwithstanding subsection (1), the city and its departments 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) The city and its departments 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.

(4) Nothing in this ordinance limits the city and its departments from 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 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.

(d) The city and its departments shall limit the information collected from individuals concerning immigration or citizenship status to that necessary to perform the duties of the police division. The city and its departments 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.

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

The city and its departments 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.

(f) Due process for persons about whom federal immigration enforcement requests have been made.

(1) The city and/or the police division shall not delay bail and/or release from custody upon posting of bail solely because of an individual's immigration or citizenship status, a civil immigration warrant, or 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.

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

(3) Individuals in the custody of the city and/or the police division 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.

(g) 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. The city and its departments 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.

(h) Protecting Immigrant Victims of Crime

(1) 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 (2), provide to the individual a signed certification Form I-914B or Form I-918B.

(2) 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 members of the police division.

(3) If the police division determines that an individual does not meet the requirements for the issuance of a certification under this section, the division 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 (1) 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 (2) has been satisfied or not properly rebutted.

(i) 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.

(j) 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 city and/or its departments 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.

(k) Definitions.

"CBP" means United States Customs and Border Protection.

"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.

“ICE” means United States Immigration and Customs Enforcement.

“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.

(1) 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.

SECTION TWO: This ordinance shall take effect upon passage.

Introduction: October 16, 2019

First Reading/ First Passage: November 13, 2019