

May 9, 2017

The Hon. Peter Kilmartin
Attorney General
150 South Main Street
Providence, RI 02903

(by fax and mail)

Re: Presidential Executive Orders on Immigration

Dear Attorney General Kilmartin:

As organizations that represent, assist or otherwise regularly interact with members of the immigrant community in Rhode Island, we have been deeply distressed by the Executive Orders that were issued by President Donald Trump addressing the issue of immigration. We were therefore pleased to see your office sign on to “friend of the court” briefs prepared by other state Attorneys-General, contesting the constitutionality of the President’s “Muslim ban.” We appreciate your recognition of the dangerous and unconstitutional nature of those bans, even though Rhode Island’s major airport was largely insulated from their impact since T.F. Green has very little international travel.

However, the Muslim ban represents only one part of a much larger attack on immigrants contained in those Executive Orders, other aspects of which have much more direct relevance to Rhode Islanders. The same is true with ICE’s stepped-up enforcement actions, which have included making arrests in and around courthouses where immigrants are making use of the judicial process. As you did with the Muslim ban, we are writing to ask you to take a stand on these issues as well in order to protect immigrants who are peacefully residing in our communities.

President Trump’s Executive Order on “Enhancing Public Safety in the Interior of the United States” has at least two problematic provisions. One reinstates the “Secure Communities” program, and seeks to reinvigorate a related program known as 287(g). Put simply, these programs allow state and municipal law enforcement agencies to proactively collaborate with Immigration and Customs Enforcement (ICE) and essentially serve as local immigration officers. For a brief period of time during the Carcieri administration, the R.I. State Police participated in the 287(g) program, until Governor Lincoln Chafee rescinded the collaboration. In addition, in 2011, despite concerns that were raised by many local groups, you signed an agreement with the Department of Homeland Security to participate in the Secure Communities program. In the current climate of legitimate fear that pervades immigrant communities, we believe that it is critical for you to send the message that such local collaboration is no longer appropriate or productive.

There is no question that the State’s participation in programs like these contributes to a loss of trust between law enforcement and the immigrant community. That is why many law enforcement agencies across the country have refused to participate in these programs. Recently, in fact, more than sixty local law enforcement officials from across the country – including Providence’s Commissioner of Public Safety – signed a public letter stating that the President’s

executive order would “harm locally based, community-oriented policing.”¹ The simple fact of the matter is that victims and witnesses of crime, and other individuals looking for police assistance, will be reluctant to come forward if they believe that their encounter with the police could lead to ICE involvement.

There is already evidence that ICE’s own activities are affecting immigrants’ willingness to cooperate with police. The February arrest by ICE agents of a domestic violence victim after coming to court to obtain a restraining order against her abusive ex-boyfriend² exemplifies the dangers of police collaboration with ICE. According to Los Angeles Police Department Chief Charlie Beck, reports of sexual assault and domestic violence made by Latinas have plummeted in 2017 amid concerns that immigrants could risk deportation by interacting with police or testifying in court.³ The Chief further commented that reports of sexual assault have dropped 25 percent, while reports of domestic violence have fallen by 10 percent. Corresponding decreases were not observed in crime reporting by other ethnic groups.

Similarly, Denver city attorney Kristin Bronson reported that four assault victims recently dropped their cases for fear that ICE agents would locate them at the courthouse and then detain and deport them.⁴ It is reasonable to assume that this fear of engaging with the criminal justice system is 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.

Another provision of the Executive Order states that “Sanctuary Jurisdictions” will not receive federal grants “except as deemed necessary for law enforcement purposes by the Attorney General or Secretary.” The Order does not define the key term “sanctuary jurisdiction,” which has no legal meaning, but it is seen by many as an attempt to intimidate states and municipalities into cooperating with ICE on certain dubious matters, and particularly the enforcement of ICE civil detainees.

Of course, there is good reason for Rhode Island to reject this federal pressure tactic. As you are well aware, the federal courts here (and elsewhere) have found that government participation in the enforcement of such detainees is unconstitutional.⁵ Just as noteworthy, many legal scholars have compellingly argued that any attempt by the federal government to strip funds from local government for refusing to enforce federal immigration laws is itself unconstitutional under the Tenth Amendment.

While courthouse ICE arrests, to our knowledge, have not yet taken place in Rhode Island, one recently did occur in Maine.⁶ That disturbing incident prompted your counterpart there, Attorney General Janet Mills, to write a letter to the Department of Homeland Security, strongly urging

¹ <https://www.documentcloud.org/documents/3476455-LEITF-HSGAC-Letter-022717.html>

² <http://www.elpasotimes.com/story/news/2017/02/15/ice-detains-domestic-violence-victim-court/97965624/>

³ <http://www.latimes.com/local/lanow/la-me-ln-immigrant-crime-reporting-drops-20170321-story.html>

⁴ <http://www.npr.org/2017/03/21/520841332/fear-of-deportation-spurs-4-women-to-drop-domestic-abuse-cases-in-denver>

⁵ *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).

⁶ <http://mainepublic.org/post/somali-man-arrested-federal-immigration-agents-maine-courthouse#stream/0>

that ICE stop arresting individuals at or near courthouses. Maryland's Attorney General⁷ and a dozen city and county attorneys in California⁸ have done the same. While we recognize that your office cannot control what ICE agents do, you can certainly send a strong message to victims and witnesses of crime that the State will have no part in voluntarily collaborating with ICE agents beyond what the law requires by adding your name to the list of prosecuting officials making this urgent request to DHS.

In sum, we urge you to help reassure Rhode Island's immigrant community by publicly repudiating the two aspects of President Trump's executive orders cited above, and by calling on the Department of Homeland Security to halt ICE enforcement activities in and around courthouses.

It is well and good to question the constitutionality of Orders governing who can enter our country, but it means little if those immigrants who are already here must, along with their loved ones, live in a constant state of fear about the intentions of men and women in police uniform.

We appreciate your attention to this important matter and look forward to hearing back from you. Thank you for your time.

Sincerely,

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⁷ http://www.marylandattorneygeneral.gov/News%20Documents/Homeland%20Security_Ltr_030117.pdf

⁸ <http://freepdfhosting.com/b3da7bbbf5.pdf>

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