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(VIA MAIL AND EMAIL)

Dear Members of the [City/Town] Council:

Once again, the issue of immigration has taken center stage in the first days of the Trump Administration, just as it did eight years ago during his first term as President. Once again, our organization has seen an outpouring of concern from individuals about the planned federal efforts to encourage, if not compel, local jurisdictions to directly support federal immigration enforcement – against documented and undocumented immigrants alike, and even against U.S. citizens. In response, we are writing to urge you to take steps to mitigate the harm these xenophobic, and often unconstitutional, threats could have on members of your community.

In 2017, the ACLU of RI, with assistance from our National office, drafted a comprehensive ordinance that we urged municipalities to adopt to protect their residents from some of the more extreme efforts of the first Trump Administration. We are doing so again.

It is important to emphasize that local officials have no obligation under federal law to participate in the enforcement of federal immigration laws. Indeed, on at least one matter that the President has promoted – local enforcement of Immigration and Customs Enforcement (ICE) detainees¹ – your municipality faces a clear prospect of legal liability in accepting his invitation.

In order to preserve the constitutional rights of all Rhode Islanders, our model ordinance includes such provisions as requiring judicial warrants before honoring ICE detainees; assisting victims of crime who may be eligible for special immigration status; rejecting participation in a program, known as 287(g), that essentially deputizes local police to serve as immigration agents; and avoiding other forms of engagement in federal immigration enforcement that can adversely affect public safety and undermine good police-community relations. Importantly, this model ordinance in no way bars your police officers from continuing to cooperate with ICE in enforcing immigration law *when backed by judicial authority or otherwise properly mandated by federal law*.

There are several reasons that an increasing number of states and localities across the nation have opted to leave the immigration enforcement business to the federal government, and to focus their resources on protecting the community from the negative impact that overzealous federal enforcement can have.

Perhaps most important of all, ordinances like this one promote public safety by maintaining and encouraging positive police-community relations. Residents of your municipality serve as witnesses, report crime, and otherwise assist law enforcement. The foundation for this cooperation can often be destroyed when local law enforcement officers are viewed as an

¹ An "ICE detainer" is a written request that local law enforcement detain an individual for an additional 48 hours after he/she would otherwise be released. They have been used to provide ICE additional time to examine an individual's immigration status, decide whether to take the individual into custody, and/or facilitate transfer into federal custody. These detainers are typically issued without a judicial warrant supported by probable cause. As a consequence, once the traditional basis for criminal detention has lapsed, continued detention of an individual violates the Fourth Amendment's bar on unlawful seizures.

extension of the immigration police. Survivors of domestic violence refrain from reporting offenses; individuals with key information about other crimes fail to contact the police.² These outcomes are 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. And because citizens and immigrants with legal status often fall victim to mistakes by ICE, their views toward local officials can sour as well.

Local enforcement of immigration law can also lead to legal exposure, as it has in our state. In Rhode Island, we successfully sued on behalf of a Providence resident who was illegally held at the ACI by DOC officials as the result of an unlawful ICE detainer.³ She was harassed and subjected to a humiliating strip-search while being detained overnight. To add insult to injury, she was a United States citizen, a victim of the type of civil detainer errors that are not infrequent in light of the minimal standards used by ICE bureaucrats in requesting detainer “holds.”⁴ Given the Trump Administration’s pledge to expand ICE personnel for more immigration enforcement, these types of mistakes are sure to increase.

The President has also threatened to strip federal funds from so-called “sanctuary jurisdictions” that decline to direct their personnel and resources toward federal immigration priorities. However, prior court decisions indicate that the Administration will encounter substantial constitutional hurdles if it attempts to follow through on that pledge. In fact, in a lawsuit brought in 2019 by the cities of Providence and Central Falls, a federal appeals court barred the federal government from requiring them to collaborate with ICE.⁵

The model ordinance and a one-page summary of its contents are enclosed. The ACLU remains a resource for any additional information you may need on immigration-related matters. Please feel free to either call or send an email to immigrants@riaclu.org with any questions. We are prepared to take action to assist your immigrant-supportive policies and practices, as needed.

In closing, we hope you find this model ordinance useful and will take favorable action upon it. We also encourage your police department to adopt substantive policies in accordance with the provisions in the model ordinance. By assuring your residents in this way that you are a welcoming community, you will be upholding some of this country’s greatest values. To those municipalities that have already adopted protections for the immigrant community, we applaud your actions and urge you to determine if there is more you can do.

Thank you in advance for your consideration.

Sincerely,



Steven Brown
Executive Director

cc: [Mayor/Town Manager]
[Police Chief]

Enclosures

² Shortly after the first Trump Presidency began pushing this call for local collaboration, reports across the country quickly confirmed its deleterious impact. See, e.g., “L.A. police see drop in Latino reports of crime amid deportation fears,” Steve Gorman, Reuters, March 21, 2017. <http://www.reuters.com/article/us-california-immigration-idUSKBN16T070>

³ *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).

⁴ In discovery conducted during the *Morales* case, the former field director of ICE’s regional office acknowledged that an ICE agent does not have to make a determination that a person is in the country illegally before issuing a detainer.

⁵ *City of Providence v. Barr*, 954 F.3d 23 (1st Cir. 2020).