

**MUNICIPAL IMMIGRANT PROTECTION ORDINANCE FOR THE TOWN OF
SOUTH KINGSTOWN**

PREAMBLE

WHEREAS, The Town of South Kingstown is dedicated to providing all of its residents fair and equal access to services, opportunities and protections; and

WHEREAS, The Town of South Kingstown respects, upholds, and values equal protection and equal treatment for all of our residents, regardless of immigration status; and

WHEREAS, Fostering a relationship of trust, respect, and open communication between municipal employees and municipal residents is essential to South Kingstown's core mission; and

WHEREAS, Public safety in South Kingstown is best promoted when victims and witnesses of crime feel safe in cooperating with law enforcement officials; and

WHEREAS, the Town is appreciative of and commends the Police Department for its commitment to and history of implementing nondiscriminatory policies in the treatment of all individuals regardless of their immigration status; and

WHEREAS, 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,

IT IS HEREBY ENACTED AS FOLLOWS;

1. Definitions.

(a) "CBP" means United States Customs and Border Protection.

(b) "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.

(c) "ICE" means United States Immigration and Customs Enforcement.

(d) "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.

(e) "SKPD" means the South Kingstown Police Department

(f) The "Town" means the Town of South Kingstown

2. Limitation on activities solely for the purpose of enforcing federal immigration laws.

(a) The SKPD shall not stop, question, interrogate, investigate, or arrest an individual based solely on actual or suspected immigration or citizenship status.

(b) The SKPD 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.

(c) Neither the Town, nor the SKPD 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 regulation, or policy, except to the extent required by Federal or State law.

3. Qualifications for honoring ICE or CBP detainer requests.

(a) Except as provided in subsection (b), the SKPD 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.

(b) Notwithstanding subsection (a), the SKPD 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).

4. Qualifications for honoring ICE or CBP requests for certain non-public, sensitive information.

(a) Except as provided in subsection (b), the SKPD 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 as permitted by law, only if the request is accompanied by a judicial warrant or a court order enforcing a subpoena.

Notwithstanding subsection (a), nothing in this ordinance limits the Town or SKPD from:

(1) 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

(2) disclosing information about an individual's juvenile arrests, delinquency or youthful offender adjudications, where disclosure of such information about the individual is otherwise authorized by state law or required by court order.

(c) The SKPD shall limit the information collected from individuals concerning immigration or citizenship status to that necessary to perform the SKPD's agency duties.

5. Due process for persons about whom federal immigration enforcement requests have been made.

(a) The SKPD shall not delay bail and/or release from custody upon posting of bail solely because of an individual's immigration or citizenship status unless there is a judicial warrant outstanding.

b) Upon receipt of an ICE or CBP detainer, transfer, notification, interview or interrogation request, the SKPD shall provide a copy of that request to the individual named therein.

(c) Individuals in the custody of the SKPD 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.

6. 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.

South Kingstown 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.

7. Limitation on the collection of immigration-related information; provision of nondiscriminatory access to benefits and services.

(a) South Kingstown personnel shall not inquire about or request proof of immigration status or citizenship when providing services or benefits, except where the receipt of such services or benefits is contingent by law upon verification of one's immigration or citizenship status or where inquiries are otherwise lawfully required by federal, state, or local laws.

8. Protecting the Rights of Students.

In order to protect the rights of students, the school district is requested to adopt a policy establishing procedures for handling interactions with immigration officials seeking information about, or requesting to talk with any student about, their immigration status; providing for cooperating with such requests only to the extent required by law; and barring the collection and disclosure of students' citizenship status except to the extent required by federal law.

9. 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 SKPD or South Kingstown 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.

10. 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.