

Chapter 2.129 Welcoming Community Ordinance

2.129.010 PURPOSE

The purpose of this Ordinance is to establish the City of Cambridge as a Welcoming Community, to declare that all are welcome here, and to increase public confidence in the City of Cambridge's government by establishing standards associated with the City's voluntary involvement in federal immigration enforcement.

2.129.20 PREAMBLE

It is not within the purview nor mandate of the City of Cambridge to enforce federal immigration law or seek the detention, transfer or deportation of Cambridge residents for civil immigration purposes, nor should the City's resources be expended toward that end.

The City of Cambridge will equally enforce the law and serve the public without consideration of immigration status, citizenship, national origin, race, or ethnicity.

2.129.030 DEFINITIONS

ICE. The federal agency known as the U.S. Immigration and Customs Enforcement, and any other federal agency charged with the enforcement of immigration laws, including but not limited to the Department of Homeland Security.

Immigration detainers and ICE detainers. Requests made by federal immigration officials, including but not limited to those authorized under Section 287.7 of Title 8 of the Code of Federal Regulations, to local Law Enforcement or Courts to voluntarily maintain custody of an individual once that individual is released from local custody, and/or to notify a federal agency before the pending release of an individual.

ICE administrative warrant. A warrant, notice to appear, removal order, warrant of deportation, or other ICE custody document (I-200, I-203, I-205 or another listed in the National Crime Information Database (NCIC)) issued by a federal immigration official, not a judicial officer, and not based on a finding of probable cause for an alleged criminal law violation.

2.129.040 REQUIREMENTS

- a) **Equal treatment.** The City will treat all persons equally, enforce laws, and serve the public without consideration of immigration status. Citizenship, immigration status, national origin, race, and ethnicity shall have no bearing on an individual's treatment by City employees or officials.
- b) **Inquiries about immigration status.** City employees and officials may not inquire about the immigration status of any victim, suspect, arrestee, 911 caller,

or other member of the public with whom they have contact, except as required by federal or state law.

- c) Role of Police Department in immigration enforcement.** The Cambridge Police Department will not initiate investigations or take law enforcement action on the sole basis of actual or perceived immigration status, including the initiation of a stop, an apprehension or arrest. The Cambridge Police Department shall not take part in or assist with federal immigration enforcement operations, except as permitted with Subjection (j) below. This section shall not limit the Cambridge Police Department's ability to actively assist in Federal human trafficking operations.
- d) ICE detainers and administrative warrants.** Consistent with state law, no officer or employee of the Cambridge Police Department may arrest or detain an individual solely on the basis of an ICE detainer or ICE administrative warrant. This includes extending the length of detention by any amount of time once an individual is or would otherwise be released from local custody, or before being transferred to court or admitted to bail.
- e) Federal requests for information.** No officer or employee of the Cambridge Police Department shall provide an officer or employee of ICE with the following information relating to a person in the custody of the Police Department: information about an individual's incarceration status, length of detention, home address, work address, personal information other than citizenship or immigration status, hearing information, or pending release, except information that is available through the Massachusetts Public Records Laws, G.L. c. 66, section 10 and G.L. c. 4, section 7 (twenty-sixth). Nothing in this section shall prohibit or restrain an officer or employee of the Cambridge Police Department from sending to, or receiving from, any local, state, or federal agency, information regarding citizenship or immigration status, consistent with 8 U.S.C. §1373.
- f) Encountering persons driving without a license.** When taking action against a person who is found to be driving without a valid driver's license, officers of the Cambridge Police Department shall, whenever possible in the officer's discretion and if there are no other violations causing the person to be arrested, issue a summons to court instead of taking the person into custody. In such circumstances, the law enforcement officer taking action shall endeavor to provide the driver a reasonable opportunity to arrange for a properly licensed operator to drive the vehicle before seeking to impound the vehicle, unless the violation is one subject to a statutory or regulatory requirement of vehicle impoundment.
- g) Notice to individuals subject to ICE interventions.** If the Cambridge Police Department receives an immigration detainer or ICE administrative warrant for a person in its custody, the Police Department shall provide the person with a

copy of such detainer request or administrative warrant, and any other documentation it possesses pertaining to the person's immigration case.

- h) ICE access to facilities.** Except in response to a judicial warrant or other court order, ICE agents shall not be allowed access to individuals in Cambridge Police Department custody either in person or via telephone or videoconference.
- i) Programs that protect removal.** In furtherance of the US Victims of Trafficking and Violence Prevention Act, as well as the Violence Against Women Act ("VAWA"), the Cambridge Police Department shall consider and sign a U or T Visa request, or other protections conferred by VAWA if an individual (i) is the victim of a qualifying crime, and (ii) has been, is being, or will likely be helpful in the investigation/prosecution of that crime, or is the victim of domestic violence and removal will place them in immediate danger.
- j) Raids and other immigration enforcement actions.** No officer or employee of the Cambridge Police Department may participate in an operation led by a federal agency to detain persons for deportation purposes, except in response to a request to assist with support services deemed necessary to ensure officer safety or to prevent a breach of the peace during a federal operation, such as requests to establish traffic perimeters, control traffic or provide police escort.
- a) Deputizing of local officials.** No officer or employee of the Cambridge Police Department shall perform the functions of an immigration officer, whether pursuant to 8 U.S.C. §1357(g) or any other law, regulation, or policy, whether formal or informal, except as required by federal or state law or regulations.
- k) School records and enrollment.** No employee of the Cambridge School Department shall require a student or parent to provide information regarding their immigration or citizenship status to establish the student's residency in the district for enrollment purposes. If such information becomes known to an employee of the Cambridge School Department, such information shall not be kept or distributed, except as required by federal or state law or regulations, and shall have no bearing on the student's ability to register for school or the school's treatment of that student. Information collected regarding place of birth for the purpose of providing appropriate services to any student shall be used only for that purpose and not distributed further, except as required by federal or state law or regulations.

2.129.050 COMPLAINTS

Allegations of violations of this Ordinance may be filed with the City Manager's Office, who shall investigate the complaint and take appropriate disciplinary action. In the case of a complaint against an officer or employee of the Cambridge Police Department, allegations of violations of this Ordinance shall also be filed with the Department's

Professional Standards Unit. In the case of a complaint against an employee of the Cambridge School Department, allegations of violations of this Ordinance shall also be filed with the Superintendent of Schools.

2.129.060 REPORTING

Beginning on the date of passage of this ordinance and every six months thereafter, the Cambridge Police Commissioner shall submit a report, with the information detailed below, to the City Clerk, with a copy to the City Manager, and the City Clerk shall include the report on the agenda of the next-occurring meeting of the Public Safety Committee of the City.

The report shall contain:

- (a) A statistical breakdown of the total number of ICE detainers requests and administrative warrants lodged with Cambridge Police Department;
- (b) The total number of individuals detained as a result of an ICE detainer or administrative warrant, if any;
- (c) The total number of individuals transferred to ICE custody, if any;
- (d) The total reimbursements received from the federal government pursuant to any granted ICE detainer or administrative warrant, organized by case; and

- (e) The total number of investigations where the Cambridge Police Department cooperated with or provided information to ICE unless any part of such information cannot be publicly disclosed.

2.129.070 COMPLIANCE WITH FEDERAL LAW

Nothing in this ordinance shall be construed to violate any valid federal law, or to prohibit any City agency or department from providing another law enforcement agency citizenship or information status, consistent with 8 U.S.C. § 1373.