

EXECUTIVE ORDER NO. 2-15

**POLICY REGARDING U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT AGENCY DETAINER AND
NOTIFICATION REQUESTS IN INSTANCES OF TERRORISM OR VIOLENCE**

WHEREAS, immigrants make significant contributions to every facet of The City of Philadelphia's economic, educational and cultural life;

WHEREAS, the purpose of notification and detainer requests by the U.S. Immigration and Customs Enforcement Agency (ICE) under its "Secure Communities" program was to enhance ICE's ability to track and apprehend dangerous criminals who are in the country illegally;

WHEREAS, the Secure Communities program shifted the burden of federal civil immigration enforcement onto local law enforcement, including shifting costs for detention of individuals in local custody who would otherwise be released;

WHEREAS, a growing number of jurisdictions, including New York City, Cook County, Illinois, Newark and the State of California, have adopted policies seeking to balance the benefits to public safety of providing assistance to ICE with support for the immigrant community when an individual in detention does not pose a serious risk to public safety;

WHEREAS, The Department of Homeland Security has discontinued the Secure Communities Program;

WHEREAS, The Department of Homeland Security has taken community input and recognizes limited resources should be applied in a targeted way to achieve increased public safety for all; and

WHEREAS, under the leadership of President Barack Obama and Department of Homeland Security Secretary Jeh C. Johnson, the Department (DHS) has created a cooperative notice-focused program, known as the Priority Enforcement Program (PEP);

NOW, THEREFORE, I, Michael A. Nutter, Mayor of the City of Philadelphia, by the powers vested in me by the Philadelphia Home Rule Charter, do hereby **ORDER** as follows:

SECTION 1. No person in the custody of the City who otherwise would be released from custody shall be detained pursuant to an ICE civil immigration detainer request pursuant to 8 C.F.R. § 287.7 unless such person is being released from detention resulting

from conviction for a first or second degree felony involving violence and the detainer is supported by a judicial warrant.

SECTION 2. Upon request of ICE with respect to a particular person in the custody of the City, the City shall provide notice to ICE of that person's impending release from custody only when that person meets at least one of the conditions set forth in subsections (a) through (e):

- (a) Is an individual determined to fall within Priority 1, as defined by the November 20, 2014, Memorandum of Secretary Johnson, U.S. Department of Homeland Security, regarding *Policies for the Apprehension, Detention and Removal of Undocumented Immigrants*, and presents a serious risk to public safety, as follows:
 - (1) Individuals identified by ICE as having engaged in or being suspected of terrorism or espionage, or who otherwise pose a danger to national security;
 - (2) Individuals being released from detention resulting from conviction of an offense for which an element was active participation in a criminal street gang, as defined in 18 U.S.C. § 521(a), or individuals, not younger than 16 years of age, being released after conviction of an offense that furthers the illegal activity of such a gang; or
 - (3) Individuals being released from detention resulting from conviction of an offense that is classified under Pennsylvania law as a first degree felony involving violence; or a felony involving unlawful possession of a firearm; or drug trafficking; examples of such offenses include: Murder (First Degree); Rape; Robbery (Felony 1); Aggravated Assault (Felony 1); Burglary (Felony 1); Unlawful Possession of a Firearm (Felony 3); and Possession with the Intent to Distribute Controlled Substances (Schedule I – IV).
- (b) Is an individual being released from detention resulting from conviction of an offense involving (1) domestic violence; (2) sexual assault; or (3) abuse or assault of a child.
- (c) Is an individual being released from detention resulting from conviction of an offense involving human trafficking.
- (d) Is an individual being released from detention resulting from conviction of any other offense that the Managing Director or his or her designee determines, by Directive, warrants notification due to the potential impact on public safety of the release of an individual convicted of such an offense.

- (e) Is an individual who has been convicted of an offense set forth in subsections (a) through (d) within the ten years immediately preceding the scheduled date of release.

SECTION 3. Provision of notification of release to ICE pursuant to this Order does not authorize the Police Commissioner, the Prisons Commissioner or any other City official to detain an individual beyond the time he or she is scheduled for release from City custody other than as provided in Section 1.

SECTION 4. The Police Commissioner, the Prisons Commissioner and all other relevant officials of the City are hereby directed to take appropriate action to implement this order.

SECTION 5. An Immigration Policing Community Advisory Board, appointed by the Mayor, is hereby created in the Office of the Mayor.

- (a) Composition of the Advisory Board. The Board shall consist of 15 community leaders, advocates for the immigrant community, City officials, business and clergy leaders and others with experience with respect to immigration and community-relations issues.
- (b) Purpose of the Advisory Board. The Board shall be constituted for the purposes of:
 - (1) providing input and advocacy regarding communications with DHS and ICE officials with respect to City concerns pertaining to the relationship of the federal government with the immigrant community;
 - (2) serving as a liaison to provide information to the immigrant community; and
 - (3) promoting dialogue between federal immigration enforcement officials and community leaders and residents in Philadelphia.


SECTION 6. This Order shall be effective upon receipt of written assurances from the Department of Homeland Security, which upon receipt shall be affixed and made part of this Order, that it has or will:

- (a) Establish a telephone hotline for the reporting of complaints, abuse or other concerns regarding DHS and ICE activities regarding immigrants in Philadelphia;
- (b) Identify an individual from within the Philadelphia ICE Office to serve as a community liaison who would be a point of contact for ICE regarding community concerns;

- (c) Cooperate with the activities of the Immigration Policing Community Advisory Board;
- (d) Provide the City with information for 2015, and annually thereafter, regarding the number of arrests and removals by ICE, determinations of priority designation and bases pursuant to which individuals came into ICE custody in the Philadelphia area; and
- (e) Provide the City with monthly statistical information concerning the numbers and bases of Requests for Notification filed with the City with respect to specific individuals (as referenced in Section 2).

SECTION 7. Executive Order No. 1-14 (“Policy Regarding U.S. Immigration and Customs Enforcement Agency Detainer requests”) is hereby rescinded upon the effective date of this Order.

12/22/15
Date


Michael A. Nutter, Mayor