



Legislation Text

File #: O-251-20, **Version:** 1

Council Members Komives, Gadus and Melden

Enacting a new Toledo Municipal Code Chapter 116 Inclusive Community.

SUMMARY & BACKGROUND:

The purpose of this ordinance is to establish our city as an inclusive community, to declare that all are welcome here, and to increase public confidence in the City's government. In order to keep residents safe, the city must limit its interactions with federal immigration officers. If our local police work on behalf of federal officers, their job becomes more costly, draining the city's limited resources. This would also impair community relations with the local police.

It is not within the purview nor mandate of the City to enforce federal immigration law or seek the detention, transfer, or deportation of Toledo residents for civil immigration purposes, nor should the City's resources be expended toward that end. The City will equally enforce the law and serve the public without consideration of immigration status, citizenship, national origin, race, or ethnicity.

This Council finds that an atmosphere of trust and cooperation between City departments, officers, employees, and agents and all residents, regardless of federal immigration status, is essential to advancing the City's mission, vision, and guiding principles, including community safety, support for youth and education, economic development, and financial stability. The City has a strong commitment to social justice and inclusion and one of the City's most important objectives is to enhance the quality of life of all of its residents, including immigrants.

Further, the City acknowledges that immigrants have off-set our declining population, increased our labor market, and are twice as likely to start their own businesses. The immigrant population in Toledo has about \$242 million in spending power and pays \$31 million in state and local taxes. More than half our immigrant population is eligible to naturalize. It is essential that the City of Toledo promulgate policies that protect all community members who reside within its limits.

NOW THEREFORE, Be it ordained by the Council of the City of Toledo:

SECTION 1. That Toledo Municipal Code Chapter 116 is hereby enacted as follows:

116.01 Definitions

- (a) "Federal immigration authorities" shall mean any officer, employee or person otherwise paid by or acting as an agent of United States Immigration and Customs Enforcement, Customs and Border Protection, Marshal's Office, or any division thereof or any other officer, employee or person otherwise paid by or acting as an agent of the United States Department of Homeland Security who is charged with enforcement of the civil provisions of the Immigration and Nationality Act.

- (b) "Administrative warrant" means a warrant, notice to appear, removal order, warrant of deportation, or

other federal immigration authorities custody document (I-200, I-203, I-205 or another listed in the National Crime Information Database (NCIC)) issued by federal immigration authorities, not a judicial officer, and not based on a finding of probable cause for an alleged criminal law violation.

- (c) “Agency” means every City department, agency, division, commission, council, committee, board, other body, or person established by authority of an ordinance, executive order, or City Council order, including but not limited to the Department of Police.
- (d) “Agent” means any person employed by or acting on behalf of an agency.
- (e) “Citizenship or immigration status” means all matters regarding questions of citizenship of the United States or any other country, and the authority to reside in or otherwise be present in the United States.
- (f) “Coercion” means the use of improper or unlawful force or threats, express or implied, to compel a person to act against their will. As defined herein, “coercion” includes compelling a person to make statements.
- (g) "Judicial warrant" shall mean a warrant based on probable cause and issued by a judge appointed pursuant to article III of the United States constitution or a federal magistrate judge appointed pursuant to 28 U.S.C. § 631, that authorizes federal immigration authorities to take into custody the person who is the subject of such warrant.
- (h) “Verbal abuse” means the use of oral or written remarks that are overtly insulting, mocking or belittling, directed at a person based upon the actual or perceived race, immigration status, color, ancestry, or national origin.
- (i) “287g” means ICE’s partnership initiative program that allows state or local law enforcement agencies to enter into a joint agreement in which the local or state agency is delegated authority for immigration enforcement within their jurisdictions.

116.02 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 employees or officers of city agencies or departments.

- (a) Where presentation of an Ohio driver’s license or identification card is accepted as adequate evidence of identity, presentation of a photo identity document issued by the person’s nation of origin, such as a driver's license, passport, or matricula consular (consulate-issued document), shall be accepted and shall not subject the person to a higher

level of scrutiny or different treatment than if the person had provided an Ohio driver's license or identification card except that this section shall not apply to the completion of the federally mandated I-9 forms.

- (b) Inquiries about immigration status. Officers and employees of the city 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 to provide a public benefit.

116.03 Privacy of information. No agent or agency shall disclose information regarding 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 unless required to do so by legal process or such disclosure has been authorized in writing by the individual to whom such information pertains, or if such individual is a minor or is otherwise not legally competent, by such individual's parent or guardian.

116.04 Role of police in immigration enforcement. The Police Department will not initiate investigations or take law enforcement action on the sole basis of actual or perceived immigration status, including without limitation the initiation of a stop, an apprehension, or arrest. The Police Department shall not take part in or assist with federal immigration enforcement operations.

116.05 Civil Immigration Enforcement Actions - Federal Responsibility.

No City of Toledo agency or agent shall:

- (a) participate in an operation led by a federal agency for the purpose of detaining or transferring persons for detention or deportation purposes
- (b) arrest, detain or continue to detain a person solely on the belief that the person is not present legally in the United States, or that the person has committed a civil immigration violation;
- (c) arrest, detain, or continue to detain a person based on an administrative warrant entered into the Federal Bureau of Investigation's National Crime Information Center database, or successor or similar database maintained by the United States, when the administrative warrant is based solely on a violation of a civil immigration law; or
- (d) detain, or continue to detain, a person based upon an immigration detainer, when such immigration detainer is based solely on a violation of a civil immigration law.

116.06 Unless an agency or agent is acting pursuant to a legitimate law enforcement purpose that is unrelated to the enforcement of a civil immigration law, no City of Toledo agency or agent shall:

- (a) permit federal immigration authorities access to a person being detained by, or in the custody of, the agency or agent;
- (b) Permit federal immigration authorities access to agency facilities, records, or databases for investigative interviews or other investigative purpose; or
- (c) while on duty, expend their time responding to federal immigration authorities inquiries or communicating with federal immigration authorities regarding a person's incarceration status, release date, home address, or work address.

An agency or agent is authorized to communicate with federal immigration authorities in order to determine whether any matter involves enforcement based solely on a violation of a civil immigration law.

- 116.06 U Visa Certification. In furtherance of the federal Victims of Trafficking and Violence Prevention Act, the Police Department shall consider and sign a U Visa certification request if an individual (i.) is the victim of a qualifying crime, and has been, is being, or will likely be helpful in the investigation or prosecution of that crime.
- 116.07 Deputizing of local officials. No officer or employee of the City shall perform the functions of an immigration officer, whether pursuant to 8 U.S.C. section 1357(g) or any other law, regulation, or policy, whether formal or informal.
- 116.08 School records and enrollment. No employee of the Toledo Public Schools 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 Public Schools, such information shall not be kept or distributed, 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 (if any) for the purpose of providing English Language Learners with appropriate services shall be used only for that purpose and not distributed further.
- 116.09 No later than September 1, 2020, and no later than September 1 of each year thereafter, the Toledo Police Department shall post a report on the Department website that includes the following information for the preceding twelve-month period ending June 30:
- (a) the number of civil immigration detainees received from federal immigration authorities;
 - (b) the number of persons held pursuant to civil immigration detainees beyond the time when such person would otherwise be released from the department's custody;
 - (c) the number of persons transferred to the custody of federal immigration authorities pursuant to civil immigration detainees;
 - (d) the number of persons for whom civil immigration detainees were not honored pursuant to this chapter; and
 - (e) the number of requests from federal immigration authorities for such person's incarceration status, release dates, court appearance dates, or any other information related to such person in the department's custody, and the number of responses honoring such requests by the department, disaggregated by:
 - i. the number of responses to federal immigration authorities concerning a person with no convictions for a felony under Ohio law, disaggregated by the number of such responses that included incarceration status, release dates, court appearance dates, or other types of information, and whether the department facilitated the transfer of such persons to the custody of federal immigration authorities;

- ii. the number of responses to federal immigration authorities where the person had at least one conviction for a violent or serious crime, disaggregated by the number of such responses that included incarceration status, release dates, court appearance dates, or other types of information, and whether the department facilitated the transfer of such persons to the custody of federal immigration authorities; and
- iii. the number of responses to federal immigration authorities concerning a person with no convictions for a violent or serious crime who was identified as a possible match in the terrorist screening database, disaggregated by the number of such responses that included incarceration status, release dates, court appearance dates, or other types of information, and whether the department facilitated the transfer of such persons to the custody of federal immigration authorities.

116.10 Complaints. Allegations of violations of this Chapter may be filed by any method provided for filing of complaints, including without limitation with the Department of Human Resources, or, in the case of a complaint against an officer or employee of the Police Department, the Department's Internal Affairs office, who shall investigate the complaint and take appropriate disciplinary action.

SECTION 2. Severability. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this Ordinance and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

SECTION 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were passed in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this ordinance shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____ : yeas _____, nays _____.

Attest: _____
Clerk of Council

President of Council

Approved: _____

Mayor

I hereby certify that the above is a true and correct copy of an Ordinance passed by Council
_____.

Attest: _____
Clerk of Council