

A
RESOLUTION
OF THE CITY COUNCIL
CONCERNING THE COOPERATION OF CHERRY HILLS VILLAGE
PEACE OFFICERS WITH STATE AND FEDERAL OFFICIALS WITH
REGARDS TO THE ENFORCEMENT OF STATE AND FEDERAL LAWS
REGARDING IMMIGRATION AND DECLARING COMPLIANCE WITH
SECTION 29-29-101, ET SEQ. COLORADO REVISED STATUTES

WHEREAS, the City Council ("Council") of the City of Cherry Hills Village ("City") is authorized to enact and enforce policies, ordinances and regulations for protection of the public health, safety and welfare; and

WHEREAS, the Council is aware of the passage of Colorado Senate Bill 06-090, which enacted Section 29-29-101, *et seq.*, C.R.S.; and

WHEREAS, the Council has not acted to adopt any policy or ordinance, nor has there been any policy or ordinance adopted through an initiative, referendum, or other process, that limits or prohibits a peace officer, local official, or local government employee from communicating or cooperating with federal officials with regard to the immigration status of any person; and

WHEREAS, the Council desires to memorialize its compliance with C.R.S. § 29-29-101, *et seq.*

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE THAT:

Section 1. The above and foregoing recitals are incorporated herein by reference and are adopted as findings and determinations of the Council.

Section 2. The Council hereby gives notice to all peace officers employed by the City of: (i) their duty to cooperate with state and federal officials with regard to the enforcement of state and federal laws regarding immigration, all as set forth in C.R.S. § 29-29-103(2)(a); and (ii) the City of Cherry Hills Village Policy Regarding Colorado Senate Bill 06-090's Reporting Requirements that is attached to this Resolution.

Section 3. The Council hereby directs the City Manager to cause a report of the number of reports made to the United States Immigration and Customs Enforcement Office pursuant to C.R.S. § 29-29-103(2)(a) to be provided to the Legislative Council of the Colorado General Assembly annually on or before March 1 of each year and commencing on or before March 1, 2007. In addition, The Council hereby directs the City Manager to cause a copy of this Resolution, and the City policy statement attached hereto, to be delivered to the Colorado General Assembly promptly after its adoption.

Section 4. In compliance with C.R.S. § 29-29-103(2)(b), the Council hereby informs the Colorado General Assembly that it has provided the notice set forth in Section 2 above and that it shall annually, on or before March 1 of each year, provide to the Legislative Council of the Colorado General Assembly a report of the number of reports made to the United States Immigration and Customs Enforcement Office pursuant to C.R.S. § 29-29-103(2)(a).

This Resolution shall be effective immediately.

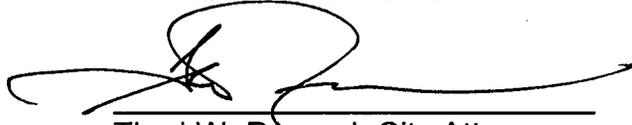
Introduced, passed and adopted at the
regular meeting of City Council this 5th day
of September, 2006, by a vote of 6 yes and 0 no.


Michael J. Wozniak, Mayor

ATTEST:

APPROVED AS TO FORM:


Jennifer Pettinger, CMC, City Clerk


Thad W. Renaud, City Attorney

(SEAL)

**City of Cherry Hills Village Policy
Regarding
Colorado Senate Bill 06-090's
Reporting Requirements**

The Colorado General Assembly has passed, and Governor Owens has signed into law, Senate Bill 06-090, enacting Section 29-29-101, et seq., Colorado Revised Statutes. The law requires that peace officers within Colorado cooperate with state and federal officials with regard to the enforcement of state and federal laws concerning immigration, and that peace officers, under certain circumstances, make reports to the United States Immigration and Customs Enforcement Office.

A provision of the new law requires that a peace officer who has probable cause to believe that an arrestee for a criminal offense is not legally present in the United States report such arrestee to the United States Immigration & Customs Enforcement Office ("ICE") if the arrestee is not held at a detention facility. If the arrestee is held at a detention facility, and the county sheriff reasonably believes that the arrestee is not legally in the United States, the sheriff is to report such arrestee to ICE.

The reporting requirement does not apply to arrestees who are arrested for an act of domestic violence until such time as the arrestee is convicted of a domestic violence offense. No reports should be made to ICE upon the arrest of an individual for an act of domestic violence.

In order to meet the provisions of this new law, the Cherry Hills Village Police Department has established the following procedures for peace officers to adhere to:

- The Arapahoe County Sheriff has the ICE reporting responsibility for arrestees that are brought to jail on criminal violations. No reports should be made to ICE upon the arrest of an individual if the individual is to be held at a detention center as a result of the arrest.
- When an arrestee is "cited and released" for criminal offense or misdemeanor traffic violation (DWAI, DUI, DUID, DUS, etc.), and the arresting officer has probable cause to believe that the arrestee is not legally present in the United States, that information is to be reported by the arresting officer to ICE. In order to meet this requirement, the arresting officer will do a NCIC Query (IA Query) on the arrestee. An IA Query is a check of ICE Records for Alien Status. These inquiries are handled via the radio or NCIC/CCIC terminal and the "hard copy" that is sent back from ICE will be attached to the police officers crime report on the arrestee.
- The terms "probable cause" and "reasonable grounds" are substantially equivalent in meaning. Probable cause exists where the facts and circumstances within the officers' knowledge, and of which they had reasonably trustworthy information, are sufficient in themselves to warrant a person of reasonable caution in the belief that an offense has been or is being committed. In dealing with probable cause, one deals with probabilities and the considerations are not technical ones; they are the factual and practical considerations of everyday life on which reasonable and prudent people, not legal technicians, act. Probable cause for believing an individual is not lawfully present in the United States shall be based upon reasonableness, totality of circumstances and officer experience. Officers shall not determine that probable cause exists to believe that the arrestee is not legally present in the United States based solely upon appearances, gender, surnames, place of birth and language skills, but rather shall adopt a higher standard (threshold), which may include some of the above but must also incorporate a lack of identification, behavioral indicators (lying, evasiveness, unusual nervousness, attempts at flight, etc.), or an admission the individual is in the United States illegally.
- The hard copy of the ICE inquiry return shall be maintained by the department and an annual report shall be submitted, on or before March 1 of each year, to the Legislative Council of the General Assembly on the numbers of reports made to ICE during the previous one year period.
- Arrests for domestic violence are excluded from this reporting requirement - only upon conviction will these individuals be reported to ICE by the police department. No reports should be made to ICE upon the arrest of an individual for an act of domestic violence.