

The MA TRUST Act

Why do we need bill H.1228/S.1258?



The MA Trust Act (Sen. Eldridge and Rep. Carvalho) would ensure a clear line between the roles of federal immigration enforcement and local public safety officials in Massachusetts. Federal programs, like the failed Secure Communities deportation program (known as S-Comm, and recently re-branded as “PEP”), have blurred the line between local law enforcement and the broken immigration system. This has contributed to a crisis of trust between immigrant communities and the local police.

The MA Trust Act would help rebuild that trust by ending voluntary local collaboration with controversial and damaging federal deportation programs, protecting our state and localities against liability for violating residents’ constitutional rights.

Why do we need the MA Trust Act?

In May 2012, the federal government forced MA to participate in a deportation dragnet program named “Secure Communities” (referred to as S-Comm), which automatically transfers information gathered by local police at the point of arrest to aid ICE in identifying people to deport. Under the program, ICE then asked local police to detain certain individuals for extra time, regularly without a judicial warrant, using “ICE detainer requests.” ICE often also sought other methods of using local resources, utilizing local facilities and databases, or directly soliciting information from local police to ensure the transfer of people from local custody to ICE for deportation.

Despite S-Comm’s stated goals of targeting individuals who have committed serious offenses, ICE’s deportation dragnet has an abysmal record. In 2013, less than 30% of those deported under S-Comm had ever been convicted of a serious crime. **68% of those deported in MA under S-Comm had NO criminal convictions whatsoever or were accused of only minor offenses.** Even today, after years of community advocacy, about half of those deported from Massachusetts under S-Comm have never been convicted of a crime.¹ Over 1,600 people have been deported from Massachusetts under S-Comm.

ICE’s track-record shows that its dragnet program was designed to deport anyone who comes into contact with the police—average men and women, workers, parents, and family who have made MA their home.

The impact on immigrant communities and community trust in the police has been dire: families and workers are unjustly taken from their homes, victims and witnesses to crime are afraid to talk to the police, and due process for those “suspected” of being undocumented becomes optional.

In November 2014, after years of public criticism, the Obama administration announced “the end” of S-Comm, yet the reality is that S-Comm was merely re-branded. In the words of DHS Secretary Jeh Johnson, “we’re ending it, we’re rebranding it.” In fact, the new program, called Priority Enforcement Program (now referred to as “PEP” or “PEP-COMM”), maintains the same information-sharing, doubles down on police-ICE involvement, and leaves the door open for the use of warrantless ICE detainers.

¹ Source: http://www.ice.gov/doclib/foia/sc-stats/nationwide_interop_stats-fy2013-to-date.pdf

PEP-COMM undermines public safety: The vast majority of individuals deported by ICE's deportation dragnet in MA have been hard-working immigrants who contribute to our economy, labor force, and society. Even crime victims and domestic violence survivors have been swept up, **sending the message that it is unsafe to report abuse. When a simple arrest can put a person on an unstoppable track to deportation, communities come to fear local police, don't report crimes, and don't cooperate to solve crimes.**

ICE Detainers undermine Constitutional Rights: When MA law enforcement agencies detain people solely on the basis of an ICE detainer, it undermines due process and may violate the U.S. Constitution. In fact, people held on detainers around the country are suing the local agencies that hold them—and winning large judgments. This is because ICE regularly issues detainers without the legally-necessary probable cause, sometimes even for U.S. citizens and people who are not legally deportable at all. When local agencies hold a person on an unconstitutional detainer, they themselves can be liable. Detainers also regularly prevent people from being released on bail, limit their access to treatment programs, and result in longer jail time, even if all the charges are dropped! Massachusetts should not carry out warrantless detentions on behalf of ICE.

Waste of local & state resources: Generally, ICE does not reimburse local law enforcement agencies for any costs or liabilities associated with collaborating with immigration enforcement. Counties in other states, including Illinois², Washington³ and Maryland⁴ have estimated these costs to be in the millions of dollars. Our taxpayer dollars would be better served if spent locally, not a broken and draconian deportation machine.

What would the MA Trust Act do?

The Trust Act would not stop the basic element of the PEP-COMM dragnet from functioning in the Commonwealth—the federal government has obligated states to share the information gathered at the point of arrest. However, states and localities do have the authority to protect basic principles of due process, public safety, and family unity, and to reassert that the role of local law enforcement is public safety, not federal immigration enforcement. Nearly 300 localities and three states, have done so, enacting their own Trust Act laws, orders, and ordinances. *Specifically, the bill provides that MA will -*

- *Refuse to carry out warrantless detentions on behalf of federal immigration enforcement, prohibiting the honoring of “ICE detainers” or “ICE administrative warrants.” Police compliance with criminal warrants issued by judicial officers would not be impacted by the Trust Act.*
- *Prohibit the use of MA facilities and resources for ICE interviews, and prohibit the provision of information to ICE about people in local custody.*
- *Develop trust between communities across Massachusetts and local and state police, increasing all residents' willingness to interact with police and thereby increasing public safety.*

For more information, visit www.matrustact.org or contact masstrustact@gmail.com

² Source: <http://icirr.org/sites/default/files/ImmigrationEnforcementTheDangerousRealityBehindSecure%20Communities.pdf>

³ Source: http://faculty.washington.edu/kbeckett/wordpress/wp-content/uploads/2013/03/Immigration-Detainer-Requests-in-King-County-Washington_Final-Report.pdf

⁴ Source: <http://www.scribd.com/doc/186280993/ACLU-Maryland-Report-How-Immigration-Detainers-In-Maryland-Undermine-Public-Safety-Through-Unnecessary-Enforcement.pdf>