

## REPORT OF THE CHIEF LEGISLATIVE ANALYST

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DATE: September 4, 2013

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations Committee

FROM: Gerry F. Miller *Gerry F. Miller For*  
Chief Legislative Analyst

Council File No: 13-0002-S117  
Assignment No: 13-08-0750

SUBJECT: Resolution (Cedillo - Fuentes) to support AB 4 (Ammiano), the TRUST act

CLA RECOMMENDATION: Adopt Resolution (Cedillo - Fuentes) to include in the City's 2013 – 2014 State Legislative Program SUPPORT for AB 4 (Ammiano), The TRUST Act, which would which would prohibit law enforcement agencies from honoring "immigration hold" requests from United States Immigrations and Customs Enforcement (ICE) under the Secure Communities (S-Comm) program, under certain circumstances.

### SUMMARY

On August 20, 2013, a Resolution (Cedillo - Fuentes) was introduced to support AB 4 (Ammiano), The TRUST Act, which would prohibit law enforcement agencies from honoring "immigration hold" requests from ICE under the S-Comm program, under certain circumstances. The Resolution states that the S-Comm program requires local law enforcement to submit an individual's finger prints to ICE upon booking, in order for ICE to conduct an immigration check. The Resolution states that ICE checks these fingerprints against an outdated database, and that the program has resulted in the deportation of over 30,000 people from Los Angeles County since its inception in 2009, including primary caregivers, breadwinners, and victims of crime. The Resolution further states that S-Comm has imposed the costs associated with this program on local law enforcement agencies.

The Resolution states that law enforcement in the City of Los Angeles requires the trust and cooperation of all members of the community, and that S-Comm significantly undermines this. The Resolution, therefore, seeks an official position of the City of Los Angeles to support AB 4, which would prohibit law enforcement agencies from honoring "immigration hold" requests from ICE under the S-Comm program, under certain circumstances.

### BACKGROUND

Under the Secure Communities Program, finger prints collected as part of the normal booking process are forwarded to ICE. If ICE believes that an individual in custody is deportable, it issues an immigration detainer which requests that the person be kept in custody until ICE can send an agent to interview the person and possibly take them into federal custody. These immigration holds can be for up to 48 hours, not including weekends and holidays.

Critics of the S-Comm program and its ICE immigration hold requirement argue that the program shifts the burden of immigration enforcement on to local jurisdictions, which is costly.

Critics also argue that S-Comm is so broad that it has resulted in the deportation of individuals not guilty of any crime, including victims of domestic violence and witnesses to crime, which undermines trust for law enforcement in immigrant communities. As many undocumented immigrants fear deportation under S-Comm, they may decide not to report crimes that they witness or cooperate with law enforcement. Further, critics state that because the ICE database is not up-to-date, an estimated 3,000 U.S. Citizens have been mistakenly deported.

To address the problems created by the S-Comm program, AB 4 would prohibit local law enforcement agencies from detaining an individual on the basis of an ICE request after that individual has become eligible for release from criminal custody, unless certain conditions are met. These conditions include convictions for serious or violent crimes, if the individual is a registered sex offender, or if the person was arrested for a specified felony, among other circumstances. AB 4 ensures that undocumented immigrants who have not committed a crime are not deported, while ensuring that individuals who have committed serious or violent crime are not released before ICE has determined their immigration status.

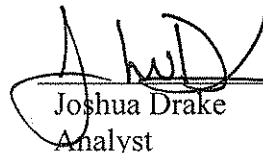
The Police Department (LAPD) has indicated that it would support this bill if amended. Currently, the crimes that would allow for an ICE immigration hold to be honored under AB 4 do not include serious misdemeanors such as drunk driving and reckless driving, among others. LAPD believes that the conditions when an ICE immigration hold request would be honored should be broadened to include these types of misdemeanors.

DEPARTMENTS NOTIFIED

Police Department

BILL STATUS

12/03/2013	Bill introduced
01/14/2013	Referred to the Assembly Committee on Public Safety
04/10/2013	Passed in the Assembly Committee on Public Safety
05/16/2013	Passed in the Assembly; referred to Senate
05/29/2013	Referred to the Senate Committee on Public Safety
07/02/2013	Passed in Committee

  
Joshua Drake  
Analyst

GFM:MF:jwd

Attachment: Resolution (Parks - Perry)

AUG 20 2013

13-0002-5117

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the City of Los Angeles is a diverse community that values all of its residents, including its immigrant residents; and

WHEREAS, the U.S. Immigration and Customs Enforcement's (ICE) "Secure Communities" deportation program has resulted in the deportation of over 30,000 people from Los Angeles County since its initiation in 2009, including primary caregivers and breadwinners whose families have now been divided by deportation; and;<sup>1</sup>

WHEREAS, "Secure Communities" has imposed unwanted costs on local law enforcement and eroded trust between law enforcement and our communities; and

WHEREAS, "Secure Communities" shifts the burden of enforcement of civil immigration law onto local police by requiring local police to submit the fingerprints of all arrestees to ICE for an immigration background check at the point of booking; and

WHEREAS, ICE checks these fingerprints against its flawed, outdated database and then issues "immigration hold" requests for anyone it suspects may be deportable, without regard to that person's length of residence in the U.S., family ties, or contributions to the community; and without any standard of proof as to the person's deportability; and

WHEREAS, ICE immigration hold requests ask local police to hold an individual for 48 hours, excluding weekends and holidays, beyond the point when he or she would otherwise be released largely at local expense and without any judicial order authorizing such confinement; and

WHEREAS, an estimated 3,000 U.S. citizens have been wrongly detained through ICE's Secure Communities program as a result of flaws in ICE's databases and the lack of any standard of proof requirement for immigration holds<sup>2</sup>; and

WHEREAS, crime victims, including domestic violence victims, have been subject to immigration holds as a result of the Secure Communities program, making immigrant crime victims and witnesses reluctant to report crimes or otherwise cooperate with the police<sup>3</sup>; and

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<sup>1</sup> See Secure Communities Monthly Statistics through May 31, 2013, available at [http://www.ice.gov/doclib/foia/sc-stats/nationwide\\_interop\\_stats-fy2013-to-date.pdf](http://www.ice.gov/doclib/foia/sc-stats/nationwide_interop_stats-fy2013-to-date.pdf)

<sup>2</sup> See Aarti Kohli, et al., Secure Communities by the Numbers, available at [http://www.law.berkeley.edu/files/Secure\\_Communities\\_by\\_the\\_Numbers.pdf](http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf); ACLU, et al., U.S. Citizens Illegally Detained by Los Angeles Authorities Due to Secure Communities Program Errors, Dec. 14, 2011, available at <http://www.aclu-sc.org/u-scitizens-illegally-detained-by-los-angeles-authorities-due-to-securecommunitiesprogram-errors/>.

<sup>3</sup> See Restoring Community: A National Community Advisory Report on ICE's Failed "Secure Communities" Program, available at <http://altopolimigra.com/s-comm-shadow-report/>

WHEREAS, the City of Los Angeles relies on the trust and cooperation of all members of the community to protect public safety; and

WHEREAS, the California legislature last year passed the TRUST Act (AB 1081), which would prohibit a law enforcement official from detaining an individual on the basis of an ICE hold after that individual becomes eligible for release from criminal custody, unless certain conditions are met; and


WHEREAS Governor Brown vetoed the TRUST Act on September 30, 2012, but announced his intention to work with the legislature "forthwith" to address his concerns with the bill; and

WHEREAS the TRUST Act was reintroduced in the California Assembly on December 3, 2012 as Assembly Bill 4; and

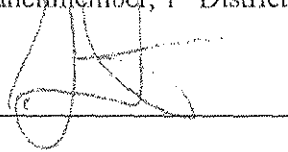
WHEREAS the TRUST Act is a modest step forward that will help California begin to restore trust between communities and law enforcement; reduce the unjust separation of Los Angeles families; and preserve local law enforcement funds for activities that increase, rather than reduce, public safety;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2012-2013 State Legislative Program SUPPORT for TRUST ACT, AB 4 (Ammiano).

Presented By: \_\_\_\_\_

  
GILBERT A. CEDILLO  
Councilmember, 1<sup>st</sup> District

Seconded By: \_\_\_\_\_



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