
RECENT LEGISLATION

IMMIGRATION LAW — CRIMINAL JUSTICE AND IMMIGRATION ENFORCEMENT — CALIFORNIA LIMITS LOCAL ENTITIES' COMPLIANCE WITH IMMIGRATION AND CUSTOMS ENFORCEMENT DETAINER REQUESTS. — Trust Act, 2013 Cal. Stat. 4650 (codified at CAL. GOV'T CODE §§ 7282–7282.5 (West Supp. 2014)).

On October 5, 2013, California Governor Jerry Brown signed the Transparency and Responsibility Using State Tools (Trust) Act.¹ One of eight immigration-related bills signed in California that day,² the Trust Act limits California law enforcement's discretion to prolong detention pursuant to Immigration and Customs Enforcement (ICE) detainer requests. Despite the appearance of tension between federal law and the state law, the Trust Act is a permissible state limitation on local discretion to enforce detainers. Localities should exercise their remaining discretion to deny all detainers.

Understanding the Trust Act requires understanding the Secure Communities program (SCP) and its detainers. SCP is fundamentally “an information-sharing program.”³ Since long before SCP, law enforcement officers have collected identifying information — including fingerprints — from arrestees and shared it with the Federal Bureau of Investigation (FBI). SCP adds steps to the information sharing process.⁴ First, the FBI sends the identifying information to ICE, which checks it against its immigration history database. Then, ICE completes the circle by sending the results of the immigration check to local law enforcement.

If there is “reason to believe the individual is an alien subject to removal from the United States,” ICE may issue a “detainer.”⁵ A detainer notifies local law enforcement that ICE intends to assume custody of an arrestee, requests information about the arrestee's pending release, and “request[s]” that the law enforcement agency “maintain custody of an alien who would otherwise be released for a period not

¹ 2013 Cal. Stat. 4650 (codified at CAL. GOV'T CODE §§ 7282–7282.5 (West Supp. 2014)); Patrick McGreevy, *Signing Trust Act Is Another Illegal-Immigration Milestone for Brown*, L.A. TIMES, Oct. 5, 2013, <http://www.latimes.com/local/la-me-brown-immigration-20131006,0,4208269,full.story>.

² McGreevy, *supra* note 1. Among other changes, undocumented immigrants can now be licensed as lawyers and receive California driver's licenses. *Id.*

³ *Secure Communities (June 2011)*, U.S. DEPARTMENT OF HOMELAND SECURITY, <https://www.dhs.gov/secure-communities> (last visited May 10, 2014).

⁴ For a detailed account of the mechanics of SCP, see Hannah Weinstein, Note, *S-Comm: Shattering Communities*, 10 CARDOZO PUB. L. POL'Y & ETHICS J. 395, 397–400 (2012).

⁵ DEP'T OF HOMELAND SEC., IMMIGRATION DETAINER — NOTICE OF ACTION (2012), available at <http://www.ice.gov/doclib/secure-communities/pdf/immigration-detainer-form.pdf> (last visited May 10, 2014).

to exceed 48 hours (excluding Saturdays, Sundays, and holidays) to provide ICE time to assume custody.”⁶

ICE “has prioritized the removal of aliens who are in the country illegally who have also broken criminal laws,” and it “relies upon [SCP] to advance this priority.”⁷ Though ICE has been accused of deviating from these priorities in its issuance of detainers and in its deportations,⁸ it has increasingly narrowed its focus to criminal aliens: fifty-nine percent of the people deported in 2013 had a criminal conviction, and fifty-six percent of those offenders had committed either a felony or repeated misdemeanor offenses.⁹ Since the detainer program’s inception in 2008, it has played a role in the deportation of over 300,000 people.¹⁰ Almost 80,000 of those deportations have been from California.¹¹

Believing that SCP deviated from ICE’s priorities,¹² Assemblyman Tom Ammiano sponsored — and the California Legislature passed¹³ — the Trust Act in 2013. Procedurally, noted the legislature, prolonged detention jeopardizes individual liberty: “Unlike criminal detainers, which are supported by a warrant and require probable cause, there is no requirement for a warrant and no established standard of proof, such as reasonable suspicion or probable cause, for issuing an ICE detainer request.”¹⁴ As a matter of policy, SCP “harm[s] community po-

⁶ *ICE Detainers: Frequently Asked Questions*, U.S. IMMIGR. & CUSTOMS ENFORCEMENT, <http://www.ice.gov/news/library/factsheets/detainer-faqs.htm> (last visited May 10, 2014).

⁷ *Secure Communities: Get the Facts*, U.S. IMMIGR. & CUSTOMS ENFORCEMENT, http://www.ice.gov/secure_communities/get-the-facts.htm (last visited May 10, 2014).

⁸ Governors in Illinois, Massachusetts, and New York cited this fact as reason enough to stop sharing information with ICE. Gretchen Gavett, *Why Three Governors Challenged Secure Communities*, PBS FRONTLINE (Oct. 18, 2011, 1:28 PM), <http://www.pbs.org/wgbh/pages/frontline/race-multicultural/lost-in-detention/why-three-governors-challenged-secure-communities>. ICE, however, maintained that information sharing was mandatory. Memorandum from Riah Ramlogan, Deputy Principal Legal Advisor, U.S. Immigration & Customs Enforcement, to Beth N. Gibson, Assistant Deputy Director, U.S. Immigration & Customs Enforcement (Oct. 2, 2010), available at https://epic.org/privacy/secure_communities/ice-secure-communities-memo.pdf.

⁹ U.S. IMMIGRATION & CUSTOMS ENFORCEMENT, FY 2013 ICE IMMIGRATION REMOVALS 1, 3 (2013), available at <https://www.ice.gov/doclib/about/offices/ero/pdf/2013-ice-immigration-removals.pdf>.

¹⁰ U.S. IMMIGRATION & CUSTOMS ENFORCEMENT, SECURE COMMUNITIES: MONTHLY STATISTICS THROUGH SEPTEMBER 30, 2013, at 2 (2013), available at http://www.ice.gov/doclib/foia/sc-stats/nationwide_interop_stats-fy2013-to-date.pdf.

¹¹ Albert Sabaté, *TRUST Act Moves Forward and Could ‘Force’ Fed’s Hand on Immigration*, FUSION (Oct. 25, 2013, 5:58 PM), http://fusion.net/abc_univision/news/story/trust-act-moves-forward-california-copied-connecticut-florida-18293.

¹² See *Ammiano Remarks to Los Angeles Rally Against S-Comm*, NAT’L DAY LABORER ORGANIZING NETWORK, <http://www.ndlon.org/en/news-all/132-migrant-rights-news/news-scomm/1047-la-ammiano> (last visited May 10, 2014) (noting that “7 out of 10 of those deported had no convictions or were arrested and deported over issues as minor as selling food without a permit”).

¹³ Roque Planas, *Trust Act Passes California Senate, But Will Jerry Brown Sign It? (UPDATED)*, HUFFINGTON POST (Sep. 10, 2013, 5:14 PM), http://www.huffingtonpost.com/2013/09/10/trust-act-california-sena_n_3899966.html.

¹⁴ Trust Act § 1(c), 2013 Cal. Stat. 4650, 4651.

licing efforts” by deterring immigrant residents and victims from reporting crime or cooperating with law enforcement.¹⁵

The Trust Act limits local discretion to enforce detainers. Under the Trust Act, local law enforcement officials in California can only enforce a detainer if its target has ever been convicted of one of a defined range of crimes. The range is expansive, encompassing “[o]bstruction of justice,”¹⁶ “[u]nlawful possession or use of a weapon,”¹⁷ or any state felony,¹⁸ among other crimes.¹⁹ When the Trust Act got to Governor Brown’s desk, he signed it proudly. “While Washington waffles on immigration,” he said, “California’s forging ahead.”²⁰

Localities responded to the Trust Act in different ways. San Francisco, which had its own limits on detainer enforcement, complied with the Act by maintaining its own, stricter standards.²¹ San Bernardino County Sheriff John McMahon, who, along with a number of other sheriffs, had opposed the Trust Act, declared his intention to “enact the letter of the new state law without endangering the spirit of federal law.”²² And Kern County Sheriff Donny Youngblood vowed to defy the Trust Act. “[I]t’s one of those state-federal laws that conflict,” said Youngblood, “[s]o, the sheriff is in the cross hairs again.”²³

Despite the perceived tension between federal law and the Trust Act, localities must follow the state law. Federal law does not preempt the Trust Act, and California can limit local discretion to enforce de-

¹⁵ *Id.* § 1(d), 2013 Cal. Stat. at 4651.

¹⁶ *Id.* § 2, 2013 Cal. Stat. at 4651–54 (codified at CAL. GOV’T CODE § 7282.5(a)(3)(H) (West Supp. 2014)).

¹⁷ *Id.* (codified at CAL. GOV’T CODE § 7282.5(a)(3)(K)).

¹⁸ *Id.* (codified at CAL. GOV’T CODE § 7282.5(a)(2)).

¹⁹ Governor Brown had demanded the expansive range. He had vetoed a prior iteration of the bill a year earlier, considering the list of circumstances under which detention could be prolonged to be “fatally flawed.” Letter from Edmund G. Brown Jr., Governor of Cal., to the Members of the Cal. State Assembly (Sept. 30, 2012), available at http://gov.ca.gov/docs/AB_1081_Veto_Message.pdf. The flaws were omissions: many “serious crimes,” including “child abuse, drug trafficking, [and] selling weapons” fell outside of the 2012 Trust Act’s scope. *Id.*

²⁰ Patrick McGreevy, *Gov. Brown Signs Another Bill Easing Conditions for Immigrants*, L.A. TIMES: L.A. NOW (Oct. 5, 2013, 11:20 AM), <http://www.latimes.com/local/lanow/la-me-ln-brown-signs-more-immigration-reform-legislation-20131005,0,585883.story>.

²¹ Max Pringle, *Local Law Enforcement Agencies in California Implement Trust Act*, VALLEY PUB. RADIO (Jan. 3, 2014, 11:53 AM), <http://kvpr.org/post/local-law-enforcement-agencies-california-implement-trust-act>.

²² Shea Johnson, *Immigration Policy Limits Detention*, VICTORVILLE DAILY PRESS (Dec. 17, 2013, 9:43 AM), <http://www.vvdailynews.com/articles/law-44126-immigration-supervisors.html>; see also Brooks Barnes, *California Sheriffs Oppose Bill on Illegal Immigrants*, N.Y. TIMES, Aug. 28, 2012, <http://www.nytimes.com/2012/08/29/us/california-sheriffs-oppose-bill-on-illegal-immigrants.html>.

²³ Jose Gaspar, *Sheriff to Continue Immigration Holds Despite New Law*, BAKERSFIELD NOW (Jan. 13, 2014, 1:14 PM), <http://www.bakersfieldnow.com/news/local/Sheriff-to-continue-with-immigration-holds-despite-new-state-law-239703661.html>.

tainers. Localities should exercise their remaining discretion to deny all detainer requests.

California had the power to pass the Trust Act. Though the federal government retains the broad right to preempt state immigration laws,²⁴ no plausible reading of SCP suggests that the Trust Act has been preempted.²⁵ “[P]reemption represents a policy judgment”²⁶ and, whether Congress withdraws state powers with an express preemption provision or preemption is implied, “the purpose of Congress is the ultimate touchstone in every pre-emption case.”²⁷ Congress never intended to force state compliance with SCP detainers. Initially, states and local entities were not obligated to participate in SCP in any way.²⁸ SCP was an “opt-in” program, and the Memoranda of Agreement through which states opted in bound them to communicate with ICE but made no mention of any additional responsibility to enforce detainers.²⁹ Despite the ostensibly mandatory language on detainer forms,³⁰ the Department of Homeland Security (DHS) recently acknowledged that “detainers issued pursuant to 8 C.F.R. § 287.7 are voluntary requests.”³¹ And even if ICE wanted to make detainer enforcement mandatory, prevailing Tenth Amendment jurisprudence — which prohibits “command[ing] the States’ officers, or those of their political subdivisions, to administer or enforce a federal regulatory program”³² — indicates that it could not do so. States are thus free to

²⁴ In *Arizona v. United States*, 132 S. Ct. 2492 (2012), the Supreme Court noted that “[t]he Government of the United States has broad, undoubted power over the subject of immigration and the status of aliens.” *Id.* at 2498. Under the Supremacy Clause, U.S. CONST. art. VI, cl. 2, Congress can expressly preempt state laws. *Arizona*, 132 S. Ct. at 2500–01. Beyond express preemption, Congress can preempt state laws that conflict with — or pose an obstacle to the purposes of — federal law, and preempt states from passing laws in regulatory “field[s]” that it determines “must be regulated by its exclusive governance.” *Id.* at 2501.

²⁵ Some commentators go so far as to argue that states are preempted from enforcing detainers. See Christopher N. Lasch, *Preempting Immigration Detainer Enforcement Under Arizona v. United States*, 3 WAKE FOREST J.L. & POL’Y 281 (2013).

²⁶ Note, *Preemption as Purposivism’s Last Refuge*, 126 HARV. L. REV. 1056, 1057 (2013).

²⁷ *Wyeth v. Levine*, 129 S. Ct. 1187, 1994 (2009) (quoting *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 485 (1996)) (internal quotation marks omitted).

²⁸ Nat’l Day Laborer Org. Network v. U.S. Immigration & Customs Enforcement Agency, 827 F. Supp. 2d 242, 247 (S.D.N.Y. 2011) (“Initially, the federal government indicated that participation in Secure Communities by state and local law enforcement agencies was voluntary . . .”).

²⁹ Memorandum of Agreement Between U.S. Dep’t of Homeland Sec. Immigration and Customs Enforcement and [State Identification Bureau], available at http://www.ice.gov/doclib/foia/secure_communities/securecommunitiesmoatemplate.pdf.

³⁰ The language on detainers intimates that they are mandatory: “[Local officials] shall maintain custody of the alien for a period not to exceed 48 hours . . . in order to permit assumption of custody by [ICE].” 8 C.F.R. § 287.7(d) (2014) (emphasis added).

³¹ Defendants’ Memorandum in Support of Motion for Partial Judgment on the Pleadings at 9, *Moreno v. Napolitano*, No. 11-CV-05452, 2013 WL 4014240 (N.D. Ill. Aug. 2, 2013).

³² *Printz v. United States*, 521 U.S. 898, 935 (1997).

decide for themselves whether to limit — or even prohibit — the enforcement of detainers.³³

Moreover, California has full authority to restrict local discretion to enforce detainers. There have been instances in which the federal government has validly bypassed state laws to empower local governments to participate in federal regulatory programs. In *City of New York v. United States*,³⁴ the Second Circuit upheld a federal law prohibiting states from limiting local discretion to share immigration information with the federal government.³⁵ New York could not limit information sharing because Congress had expressly prohibited such limitations.³⁶ Absent such an express prohibition, however, courts will invoke the “working assumption that federal legislation threatening to trench on the States’ arrangements for conducting their own governments should be treated with great skepticism, and read in a way that preserves a State’s chosen disposition of its own power.”³⁷

Even if Congress had expressly prohibited restrictions on local discretion to enforce detainers, local law enforcement agencies would have no discretion to detain beyond the discretion left by the Trust Act. The absence of a restriction is not the same as an affirmative grant of power. Even if California could not *restrict* the enforcement of detainers, there would be no sovereign *granting* localities the power to enforce detainers.³⁸ The federal government has not granted this power as, “under Secure Communities, state and local law enforcement officials are not authorized to enforce immigration laws on behalf of ICE.”³⁹ Nor does California. California defines whom it authorizes to act as an of-

³³ ICE has indicated that it does not intend to challenge the Trust Act. Kim Minugh, *Sacramento Sheriff Opts for State over Federal Law in Forgoing Most ICE Holds in Jail*, SACRAMENTO BEE (Feb. 20, 2014, 10:38 PM), <http://www.sacbee.com/2014/02/20/6176532/sacramento-sheriff-opts-for-state.html>.

³⁴ 179 F.3d 29 (2d Cir. 1999).

³⁵ *Id.* at 37.

³⁶ Congress had stated that “no State or local government entity may be prohibited, or in any way restricted, from sending to or receiving from [ICE] information regarding the immigration status, lawful or unlawful, of an alien in the United States.” 8 U.S.C. § 1644 (2012).

³⁷ *Nixon v. Mo. Mun. League*, 541 U.S. 125, 140 (2004).

³⁸ *Cf. id.* at 134 (“[P]reempting a ban on government utilities would not accomplish much if the government could not point to some law authorizing it to run a utility in the first place.”).

³⁹ U.S. IMMIGRATION & CUSTOMS ENFORCEMENT, SECURE COMMUNITIES CRASH COURSE 20 (2009), available at http://www.ice.gov/doclib/foia/secure_communities/securecommunitiespresentations.pdf. The detainer forms issued to local law enforcement note the statutory authority by which ICE can issue detainer requests, but they make no mention of any provision which authorizes independent detention authority based on a detainer. See DEP’T OF HOMELAND SEC., *supra* note 5.

ficer of the peace⁴⁰ and the powers possessed by those officers,⁴¹ and the Trust Act limits the scope of those powers.⁴²

Neither the federal government nor California grants localities the power to enforce detainers outside the limits in the Trust Act, and localities cannot independently claim such a power. California's power over localities is nearly absolute.⁴³ The state has elected to give local governments broad power,⁴⁴ but this broad grant remains subject to the supremacy of California law. "[L]ocal legislation that conflicts with state law is void."⁴⁵ Local law enforcement agencies thus have no power to detain beyond what California allows. If a California law enforcement officer defies the Trust Act, she commits a misdemeanor by prolonging detention without legal authority to do so.⁴⁶

The Trust Act *prohibits* compliance with certain detainers, but it does not *compel* compliance with any detainers — localities retain discretion. They should exercise their discretion to further limit — or deny altogether — the enforcement of detainers. The marginal benefit of detainer enforcement does not justify its costs to its individual subjects and to community policing.

Localities can benefit only marginally by enforcing detainers. Detainers are not necessary to keep criminals off the street, as California law enforcement officials have detention authority without detainers: they may detain someone who has been "charged with [a] crime and committed for trial," "or upon civil process."⁴⁷ Nor are detainers necessary for immigration enforcement. Notwithstanding the Trust Act, ICE gets information about every arrestee in every jail in the United States.⁴⁸ It can assume custody of people in California jails, or arrest them after they have been released.⁴⁹ Detainers are therefore not necessary to detain or deport undocumented immigrants. They afford ICE forty-eight hours beyond local law enforcement's ordinary detention au-

⁴⁰ See CAL. PENAL CODE § 830.2 (West 2008 & Supp. 2014).

⁴¹ See *id.* § 830.1.

⁴² See Trust Act § 2, 2013 Cal. Stat. at 4651–54 (codified at CAL. GOV'T CODE § 7282.5 (West Supp. 2014)).

⁴³ Cf. *Hunter v. City of Pittsburgh*, 207 U.S. 161, 178 (1907) (noting that cities, counties, and their subsidiaries are, by "settled doctrines of [the Supreme Court]," "convenient agencies for exercising such of the governmental powers of the state as may be entrusted to them").

⁴⁴ CAL. CONST. art. XI, § 7 ("A [California] county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with [California] general laws.").

⁴⁵ *City of Riverside v. Inland Empire Patients Health & Wellness Ctr., Inc.*, 300 P.3d 494, 499 (Cal. 2013).

⁴⁶ CAL. PENAL CODE § 146 (West 1999).

⁴⁷ CAL. PENAL CODE § 4000 (West 2011 & Supp. 2014).

⁴⁸ U.S. IMMIGRATION & CUSTOMS ENFORCEMENT, ACTIVATED JURISDICTIONS (2013), available at <https://www.ice.gov/doclib/secure-communities/pdf/sc-activated.pdf>.

⁴⁹ 8 U.S.C. § 1226(a) (2012).

thority to assume custody. However valuable giving these forty-eight hours to ICE might be to localities, its value is outweighed by its costs.

First, detainers obstruct community policing. The Trust Act noted that “immigrant residents who are victims of or witnesses to crime, including domestic violence, are less likely to report crime or cooperate with law enforcement when any contact with law enforcement could result in deportation.”⁵⁰ To counter this fear, the Act limits the conditions under which local law enforcement officials serve the functions of immigration officials, thereby reducing tension between communities that fear deportation⁵¹ and the law enforcement officials sworn to protect them. Localities should go further by enforcing fewer detainers than the Act allows. “[W]hen you have a law that has so many exceptions,” asked a participant at a local forum on the Trust Act, “how do you know when you’re going to be turned over to ICE?”⁵² A blanket denial of detainers does not eliminate all fear: it neither undoes the recent and rapid marriage of the criminal justice and immigration enforcement systems,⁵³ nor fully separates the people involved in each system.⁵⁴ In the overwhelming majority of California counties, though, denying detainers would separate local law enforcement officers and immigration officers. This separation would send a signal that local officers — the people with whom the community interacts — enforce public safety laws, not immigration laws. Though the impact of this signal cannot be quantified, communities should consider sending it.

Second, refusing to enforce detainers could express a commitment to procedural protections. SCP detainers forego certain procedural

⁵⁰ Trust Act § 1(d), 2013 Cal. Stat. 4650, 4651.

⁵¹ To a majority of Hispanics, legislation that provides protection from deportation is more important than a path to citizenship. Mark Hugo Lopez et al., *On Immigration Policy, Deportation Relief Seen as More Important than Citizenship*, PEW RES. HISP. TRENDS PROJECT (Dec. 19, 2013), <http://www.pewhispanic.org/2013/12/19/on-immigration-policy-deportation-relief-seen-as-more-important-than-citizenship>.

⁵² Karina Ioffe, *Cautious Optimism, Uncertainty at Marin Forum on Immigration*, NOVATO PATCH (Dec. 4, 2013, 10:13 AM), <http://novato.patch.com/groups/politics-and-elections/p/cautious-optimism-uncertainty-as-new-immigration-law-goes-into-effect-jan-1>.

⁵³ Immigration violations are now — but have not always been — punished as crimes; criminal activity is now — but has not always been — punishable by deportation. David Alan Sklansky, *Crime, Immigration, and Ad Hoc Instrumentalism*, 15 NEW CRIM. L. REV. 157, 163 (2012).

⁵⁴ Some law enforcement agencies would continue to fulfill immigration enforcement functions. ICE has contractual agreements with some state and local law enforcement agencies — called Memoranda of Agreement — by which it delegates authority for immigration enforcement. 8 U.S.C. § 1357(g) (2012). Three California Sheriff’s Offices — L.A. County, Orange County, and San Bernardino County — have entered into such agreements. U.S. IMMIGRATION & CUSTOMS ENFORCEMENT, FACT SHEET: DELEGATION OF IMMIGRATION AUTHORITY SECTION 287(G) IMMIGRATION AND NATIONALITY ACT, available at <http://www.ice.gov/news/library/factsheets/287g.htm> (last visited May 10, 2014).

safeguards,⁵⁵ and they forebode process deficiencies throughout the removal process. Of the people who have been detained under SCP, only half were given a hearing before an immigration judge⁵⁶ and only twenty-four percent of those who got a hearing were represented by counsel.⁵⁷ People detained under SCP were far likelier to be transferred to ICE detention and deported than were their counterparts who began in DHS immigration detention.⁵⁸ Though the constitutionality of immigration detainers — which allow for up to four days of warrantless detention⁵⁹ and which do not allow access to a magistrate — is beyond the scope of the argument here,⁶⁰ public officials should not deny procedural protections incautiously.⁶¹ By narrowing the circumstances under which local agencies can detain without process, the Trust Act is a step in the right direction. Localities should narrow these circumstances even further.

In signing the Trust Act, Governor Brown sought to “move the state forward on issues that could change the national debate.”⁶² California has for decades been a focal point of the discussion on immigration,⁶³ and the Trust Act is an innovative policy intervention that other states can emulate.⁶⁴ Local entities must follow the Act, and they should exercise their remaining discretion to extend procedural protections and send the signal that officers’ only goal is to protect their community.

⁵⁵ See *supra* note 14 and accompanying text. These foregone guarantees include a hearing with a magistrate and a detailed complaint stating the charges against the arrested person. CAL. PENAL CODE § 849 (West 2008).

⁵⁶ AARTI KOHLI ET AL., SECURE COMMUNITIES BY THE NUMBERS: AN ANALYSIS OF DEMOGRAPHICS AND DUE PROCESS 2 (2011), available at https://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ Letter from Erwin Chemerinsky, Dean, Univ. of Cal. Irvine Sch. of Law et al., to Edmund G. Brown Jr., Governor of Cal. 6 (Aug. 30, 2012), available at http://www.immigrationpolicy.org/sites/default/files/docs/2012.08.30_Law_Prof_TRUST_Act_support_letter.pdf.

⁶⁰ The constitutionality of detainers has been extensively discussed elsewhere. See, e.g., *Moreno v. Napolitano*, No. 11 C 5452, 2012 WL 5995820 (N.D. Ill. Nov. 30, 2012); Christopher N. Lasch, *Federal Immigration Detainers After Arizona v. United States*, 46 LOY. L.A. L. REV. 629, 666–68 (2013).

⁶¹ For a more comprehensive call for procedural protections in the federal immigration system, see, for example, David Cole, *In Aid of Removal: Due Process Limits on Immigration Detention*, 51 EMORY L.J. 1003, 1037–39 (2002).

⁶² McGreevy, *supra* note 1.

⁶³ See Rick Su, *The States of Immigration*, 54 WM. & MARY L. REV. 1339, 1369–73 (2013) (discussing a California immigration-related ballot measure and its impact on other states’ policymakers and the federal government).

⁶⁴ Advocates for immigrant rights in other states are promoting Trust Act–like bills (often by the same name). See, e.g., Letter from Roger I. Abrams, Professor, Northeastern Univ. Sch. of Law et al., to The Honorable William Brownsberger, Senate Chairman, Mass. Joint Comm. on the Judiciary et al. (Feb. 3, 2014) (advocating for a Trust Act in Massachusetts) (on file with the Harvard Law School Library).