

File No. 120324

Committee Item No. \_\_\_\_\_

Board Item No. 42

**COMMITTEE/BOARD OF SUPERVISORS**  
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Committee \_\_\_\_\_

Date \_\_\_\_\_

Board of Supervisors Meeting

Date April 10, 2012

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**OTHER** (Use back side if additional space is needed)

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Completed by: Joy Lamug

Date April 5, 2012

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

1 [Supporting Assembly Bill 1081 - The TRUST Act]

2  
3 **Resolution supporting Assembly Bil 1081 (Ammiano) the TRUST Act, a bill that**  
4 **establishes standards for local governments to ensure that an individual will only be**  
5 **detained pursuant to an Immigration and Customs Enforcement hold if that individual**  
6 **has been convicted of a serious or violent felony, and provides key safeguards against**  
7 **profiling and the wrongful detention of U.S. citizens.**

8  
9 WHEREAS, U.S. Immigration and Customs Enforcement (ICE) has developed a  
10 program that entangles and burdens local police with civil immigration enforcement, known  
11 as "Secure Communities" ("S-Comm"), which requires the sharing of fingerprint information  
12 at the point of booking by local or state law enforcement, citizen or non-citizen, no matter the  
13 severity, with the Department of Homeland Security/ICE; and, since implementation of S-  
14 Comm, about 70% of the individuals deported as a result of the program have no criminal  
15 record, or have been found to have committed low level crimes, some of those including  
16 survivors of domestic violence who called the police for help; and,

17 WHEREAS, The program has torn apart local communities throughout the country  
18 and has eroded public trust of the police within immigrant communities, leading Governors  
19 Pat Quinn of Illinois, Andrew Cuomo of New York, and Duval Patrick of Massachusetts, to  
20 formally request to terminate, suspend, or refuse to sign an agreement with ICE with regard  
21 to S-Comm; and, law enforcement officials have expressed strong concerns regarding the  
22 damage caused by S-Comm to community policing; and,

23 WHEREAS, The Office of the Inspector General has commenced an investigation into  
24 the S-Comm Program in response to a request from U.S. Congresswoman Zoe Lofgren;  
25 and,

1           WHEREAS, The U.S. Congressional Hispanic Caucus, the U.S. Congressional  
2 Progressive Caucus, and the Los Angeles Congressional Delegation have all called upon  
3 President Barack Obama to suspend S-Comm nationally because of concerns over racial  
4 profiling and the harm caused to victims of crime who have been swept up into deportation  
5 proceedings by S-Comm after calling the police for help; and,

6           WHEREAS, The Transparency and Responsibility Using State Tools ("TRUST") Act  
7 (AB 1081-Ammiano) is a pending state bill that will rebuild the trust that S-Comm has  
8 undermined between immigrant communities and local police by establishing standards for  
9 responding to burdensome detainer requests; and

10           WHEREAS, the TRUST Act establishes standards for local governments to ensure  
11 that an individual will only be detained pursuant to an ICE hold if that individual has been  
12 convicted of a serious or violent felony, and provides key safeguards against profiling and  
13 the wrongful detention of U.S. citizens; now, therefore, be it

14           RESOLVED, That the San Francisco Board of Supervisors supports passage of the  
15 TRUST Act (AB 1081-Ammiano) in California; and be it

16           FURTHER RESOLVED, That the San Francisco Board of Supervisors calls upon the  
17 California legislature, Governor Jerry Brown, and Attorney General Kamala Harris to support  
18 passage of the TRUST Act; and be it

19           FURTHER RESOLVED, That the Clerk of the Board of Supervisors send a copy of  
20 this resolution to Assemblymember Tom Ammiano, author of the TRUST Act, and San  
21 Francisco representatives in the state legislature, including Assemblymember Fiona Ma,  
22 Senator Mark Leno, and Senator Leland Yee; and be it

23           FURTHER RESOLVED, That the San Francisco Board of Supervisors calls upon the  
24 Office of the Inspector General to conduct a thorough investigation regarding the impact of  
25

1 the Secure Communities Program, and whether localities are legally mandated to comply  
2 with the program; and be it

3       FURTHER RESOLVED, That the San Francisco Board of Supervisors calls upon  
4 President Barack Obama, Department of Homeland Security Secretary Janet Napolitano,  
5 and Congress, to take steps to pass just, fair, and comprehensive immigration reform, rather  
6 than ad hoc and flawed enforcement programs like S-Comm that erode trust between local  
7 police and the community.

**Introduced by Assembly Member Ammiano**

**(Coauthors: Assembly Members Alejo, Bonilla, Cedillo,  
Eng, Monning, Skinner, and Yamada)**

**(Coauthors: Senators Calderon, Hancock, and Yee)**

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*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) Illinois, Massachusetts, New York, Washington, and Washington, D.C. have all refused to enter into, suspended, or terminated a memorandum of agreement with the United States Department of Homeland Security regarding the Immigration and Customs Enforcement's Secure Communities program because the program undermines community policing, public safety, and protections against racial profiling. Pursuant to the program, federal officials have claimed the authority to use state and local law enforcement resources for the purpose of channeling individuals into federal civil immigration enforcement based on minimal contact with law enforcement.

(b) Immigrant residents who are victims or witnesses to crime, including domestic violence crimes, are less likely to report the crime or cooperate with law enforcement because any contact with law enforcement could result in deportation. Victims or witnesses to crimes may have recourse to lawful status (such as U-visas or T-visas) that detention resulting from Secure Communities obstructs.

(c) United States Immigration and Customs Enforcement (ICE) holds or detainers are optional requests, frequently triggered by the Secure Communities Program or other ICE police entanglement programs, that ICE sends to local jails to ask them to hold individuals for additional time so that the individual can be transferred into immigration detention. Pursuant to the Tenth Amendment to the United States Constitution, ICE may not mandate the expenditure of state and local resources or the use of state and local agencies to implement federal programs. ICE detainers are a drain on local resources because ICE does not reimburse for the full cost of responding to a detainer, which can include, but is not limited to, extended detention time and the administrative costs of tracking and responding to detainers.

(d) State and local law enforcement agencies bear the brunt of the costs of responding to ICE holds, including the additional length of time individuals are held beyond the point they would be released if not for the immigration hold. ICE holds have come under increased scrutiny with revelations they have led to the needless prolonged detention in local jails of immigration domestic violence victims, street vendors arrested only for

selling food without a permit, and even United States citizens. The cost of ICE holds includes the impact that ICE holds have on community policing, public safety, and protections against racial profiling.

SEC. 2. Chapter 17.1 (commencing with Section 7282) is added to Division 7 of Title 1 of the Government Code, to read:

CHAPTER 17.1. STANDARDS FOR RESPONDING TO UNITED STATES IMMIGRATION AND  
CUSTOMS ENFORCEMENT-HOLDS

7282. (a) An individual shall not be detained by a law enforcement official on the basis of an immigration hold after that individual becomes eligible for release from criminal custody, unless, at the time the individual becomes eligible for release from criminal custody, all of the following conditions are satisfied.

(1) The individual has been convicted of a serious or violent felony, according to the criminal background check or documentation provided to the law enforcement official by the United States Immigration and Customs Enforcement.

(2) The continued detention of the individual on the basis of the immigration hold would not violate any federal, state, or local law, or any local policy.

(3) (A) The legislative body of the local agency of the jurisdiction that the individual is being detained in has prepared a plan that contains all the following requirements:

(i) Ensures that a United States citizen is not being detained pursuant to an immigration hold.

(ii) Monitors and guards against racial profiling.

(iii) Ensures that crime victims are not discouraged from reporting crimes.

(B) This plan is a public record for purposes of the California Public Records Act (Chapter 3.5 (Commencing with Section 6250) of Division 7 of Title 1.)

(b) For purposes of this chapter, the following terms have the following meanings:

(1) "Eligible for release from criminal custody" means that the individual may be released from criminal custody because one of the following conditions has occurred:

(A) All criminal charges against the individual have been dropped or dismissed.

(B) The individual has been acquitted of all criminal charges filed against him or her.

(C) The individual has served all the time required for his or her sentence.

(D) The individual has posted a bond.

(E) The individual is otherwise eligible for release under state or local law, or local policy.

(2) "Immigration hold" means an immigration detainer issued by an authorized immigration officer, pursuant to Section 287.7 of Title 8 of the Code of Federal Regulations, that request that the law enforcement official maintain custody of the individual for a period not to exceed 48 hours, and to advise the authorized immigration officer prior to the release of that individual.

(3) "Law enforcement official" means any local agency or officer of a local agency authorized to enforce criminal statutes, regulations, or local ordinances or to operate jails

or to maintain custody of individuals in jails, and any person or local agency or state government entity authorized to operate juvenile detention facilities or to maintain custody of individuals in juvenile detention facilities.

(4) "Local agency" means any city, county, city and county, special district, or other political subdivision of the state.

(5) "Serious felony" means any of the offenses listed in subdivision (c) of Section 1192.7 of the Penal Code and any offense committed in another state which, if committed in California, would be punishable as a serious felony as defined by subdivision (c) of Section 1192.7 of the Penal Code.

(6) "Violent felony" means any of the offenses listed in subdivision (c) of Section 667.5 of the Penal Code and any offense committed in another state which, if committed in California, would be punishable as a violent felony as defined by subdivision (c) of Section 667.5 of the Penal Code.

SEC. 3. The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

