

## Positive advancements in the revised Boston Trust Act

1. Police will not ask about immigration status of anyone,<sup>1</sup> including of survivors of crimes or domestic violence who are requesting certifications for U and T visas.<sup>2</sup>
2. Police will not perform the functions of an immigration officer.<sup>3</sup>
3. Police will not generally give ICE personal information about individuals (defined as information that identifies or describes them) or information about when individuals will be released from custody,<sup>4</sup> with two exceptions:
  - a. Police can share information about a person's criminal history with HSI (Homeland Security Investigations, a subdivision of ICE that generally investigates transnational crimes).<sup>5</sup>
  - b. Police can share information through criminal task forces.<sup>6</sup> (See below)
4. Police will not arrest a person on an ICE detainer or an ICE administrative warrant,<sup>7</sup> consistent with Massachusetts law, and will not transfer an individual to immigration authorities unless there is a judicial warrant.<sup>8</sup>
5. Requires that the police train officers on the ordinance.<sup>9</sup>

## Remaining questions and concerns

1. Section 4(a)(1)(F) prohibits police officers from “performing the functions of an immigration officer.” Will the BPD withdraw from the Memorandum of Understanding with HSI, which designates a BPD officer as a “task force officer” deputized to act as a customs agent?<sup>10</sup>
2. The ordinance allows BPD to share information with HSI<sup>11</sup> and continue to work in partnership with federal agencies so long as the primary purpose is not enforcement

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<sup>1</sup> Section 4(a)(1)(A)

<sup>2</sup> Section 4(b)(4)

<sup>3</sup> Section 4(a)(1)(F). While this would seem to apply to so-called “287(g)” agreements, BPD has also participated in a task force with HSI, in which at least one BPD officer was deputized to act as a customs agent. See <https://www.wbur.org/news/2019/10/25/boston-police-immigration-officers-relationship-documents>

<sup>4</sup> Section 4(a)(1)(C). Note that we believe this section includes an important typo: the word “or” should exist between “section1,” and “regarding.” We are hopeful that the council will correct the typo promptly.

<sup>5</sup> Section 4(b)(2)

<sup>6</sup> Section 4(b)(3)

<sup>7</sup> Section 4(a)(1)(E)

<sup>8</sup> Section 4(b)(2)

<sup>9</sup> Section 4(e)

<sup>10</sup> See Memorandum of Understanding at <http://data.aclum.org/wp-content/uploads/2019/10/DHS-MOU-2014.pdf>.

<sup>11</sup> Section 4(b)(2)

of civil immigration laws.<sup>12</sup> How will BPD prevent officers from using low-level crimes as a pretext to contacting ICE, as happened in the Paz Flores case?<sup>13</sup> The plain language of the ordinance does not seem to preclude the use of a crime as a pretext to working with ICE. And, even if the primary purpose is not civil immigration enforcement, how will BPD ensure that these partnerships do not end up helping ICE deport individuals?

3. The ordinance prohibits BPD from “providing personal information” to ICE, including HSI.<sup>14</sup> Currently, ICE has access to a database called COPLINK into which the BPD enters information, including personal information as defined in the ordinance. How will the BPD ensure that personal information entered into COPLINK is not provided to ICE?
4. Police retain the right to investigate and enforce the federal statute that makes it a crime to re-enter the United States after being deported for an aggravated felony.<sup>15</sup> The new version of the ordinance adds that this can happen only if the violation is detected during unrelated police activity. It also adds a requirement that arrests under this section be reported annually to the City Clerk. We question why the Boston Police should enforce federal immigration laws at all –even criminal ones. We will closely track the annual reports to the City to see to what extent the police are doing this enforcement.
5. While the City Council heard testimony and accepted written comments from the public, it did not engage community members in the drafting or re-drafting of the Boston Trust Act. Community members and advocates are crucial stakeholders in this process. How will the city better engage community members in the implementation of this ordinance?

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<sup>12</sup> Section 4(b)(3)

<sup>13</sup> <https://www.wbur.org/news/2019/03/07/boston-police-ice-task-force>

<sup>14</sup> Section 4(A)(1)(C) & (D)

<sup>15</sup> Section 4(b)(1)