

DRIP Committee

From: Veronica Mendoza Jachowski <vero@rootsreborn.org>
Sent: Thursday, June 13, 2024 6:52 PM
To: DRIP Committee
Cc: Aparna Patrie; Kevin Block; Lily Solano; Tamara A. Paltin; Stacey Moniz
Subject: Re: Bill 88 (2023), Authorizing the Mayor to Enter into an Intergovernmental Agreement with the US Immigration and Customs Enforcement Homeland Security Investigations (DRIP-5)
Attachments: 6.12.24 Bill 88 Letter.pdf

Aloha e DRIP Committee,

Mahalo nui for your patience as I worked on getting you this update. Between travel and getting COVID, I'm a bit behind. However, I'm very happy to provide you with this update!

For your reference, we met in person with Chief Pelletier, Chief of Staff Mike Crowe, Stacey Moniz of Pacific Cancer Foundation, Liz Cortez of Maui Immigration Law, Kevin Block of Maui Immigration Law & Roots Reborn, and myself back in February. It was a productive meeting that provided an opportunity to break bread and begin a collaborative approach to working together for the safety of our community without the need to compromise the safety and well-being of our immigrant community. At that meeting, we discussed providing Chief Pelletier with a few bullet points for a public statement and or policy changees, establishing bi-monthly check-in meetings, and exploring the possibility of conducting educational trainings on immigration for his staff. In order for us to provide him with a few points, we continue to seek additional information from MPD.

Our last contact with the Chief has been between Aparna, Kevin, Chief, and Mark as recently as the end of May via email. We continue to request agreements that MPD has entered into with other government agencies. If there are policies that exist and are being carried out by MPD, there should be agreements in writing. We believe that doing our due diligence here not only provides clarity on what agreements our County actually has in place but, in doing so, allows us to understand how to move forward (with or without agreements).

I've provided an internal letter that we will be sharing with the Chief on the topic of agreements, policy changes and a couple of other items for your review. Please note that this will be going out to him tomorrow -- I kindly request discretion until after tomorrow.

So, to recap, we're making progress, but we're not done. Our position on Bill 88 depends on the Chief's response to the attached letter. If all goes well, we are positioned to drop our opposition to Bill 88.

I also just want to add that we believe this work is laying the groundwork for Roots Reborn (RR) and MPD to be able to work collaboratively in the long term, and not just on this issue, which we believe will have huge positive ripple effects on the overall safety of our community.

If we could ask for your support to MPD for them to act in full transparency, we would greatly appreciate it. Your support in pursuing these agreements from MPD with a letter to the Chief in support of full transparency would be invaluable!

We are profoundly grateful to you for providing a space to address these concerns. Your skillful facilitation has allowed all of us to voice our concerns and work towards a relationship that ultimately enhances community safety for all.

I welcome questions for additional clarity on anything or if you would prefer a meeting, I'm happy to make that happen too.

Best Regards,
Vero

On Sun, Jun 2, 2024 at 6:22 PM Veronica Mendoza Jachowski <vero@rootsreborn.org> wrote:
Aloha e DRIP Committee,

Thank you for this follow up! I am confirming receipt of your email and the attached letter. I will be back from break on 6/10 and will work on an update for you right away upon my return.

Regards,
Veronica

Veronica Mendoza Jachowski (*she/her/ella*)
Founding Executive Director
Roots Reborn
[Instagram](#)
rootsreborn.org

On Fri, May 31, 2024 at 8:15 PM DRIP Committee <DRIP.Committee@mauicounty.us> wrote:

Ms. Jachowski: Please refer to the attached letter from the Maui County Council's Disaster, Resilience, International Affairs, and Planning Committee Chair Tamara Paltin. Please respond by June 12, 2024.

Mahalo,

DRIP Committee Staff

--
Veronica Mendoza Jachowski (*she/her/ella*)
Founding Executive Director
Roots Reborn
[Instagram](#)
rootsreborn.org



Dear Chief Pelletier,

We appreciate your ongoing dialogue with our organization and the communities we represent. In the discussions regarding Bill 88, Roots Reborn was asked to provide a list of proposed policy changes as part of our ongoing efforts to increase cooperation and trust between the immigrant community and the Maui Police Department (MPD). Our proposed policy changes are outlined below:

1. End use of 48 Hour ICE Detainers

We request that MPD decline to effectuate any ICE detainer request absent a judicial warrant in order to minimize the risk and liability of holding a person in violation of the Fourth Amendment.

As you know, ICE detainer requests are requests for police departments to detain individuals *up to an additional 48 hours* beyond the time that the person would otherwise be released (e.g., because charges were dropped, the person was released on bail or recognizance, the person was acquitted, or the person completed a jail or prison sentence). ICE detainer requests that are accompanied by Forms I-200; I-203 (if there is an intergovernmental service agreement or basic ordering agreement) or I-205 are *not* judicial warrants because they are signed by ICE agents rather than magistrates or judges and therefore, they do not provide police officers or local law enforcement with the authority to hold a person. ICE detainer requests are not mandatory, and it is up to each police department to develop its own policy on how to handle such requests.

Because ICE detainer requests are not judicial warrants, many courts throughout the country have found that police departments honoring these requests are acting in violation of the Fourth Amendment. The First Circuit, Third Circuit and many District Courts have upheld Fourth Amendment claims in which ICE detainer requests violated plaintiffs' constitutional rights against illegal search and seizure. *See Morales v. Chadbourne*, 793 F.3d 208 (1st Cir. 2015) (affirming that mere investigative interest – including investigation into one's immigration status – is not enough to justify warrantless imprisonment); *Galarza v. Szalcyk*, 745 F.3d 634 (3d Cir. 2014) (holding that Lehigh County could be held liable for its policy of detaining people on the basis of ICE detainer requests, which are not binding); *Miranda-Olivares v. Clackamas County*, 2014 WL 1414305 (District of Oregon, 2014) (holding that plaintiff was entitled to Summary Judgement for violation of her Fourth Amendment rights where she was held on ICE detainer after she would have otherwise been released); *Mendoza v. Osterberg*, 2014 WL 3784141



(District of Nebraska, 2014); *Villars v. Kubiowski*, 45 F.Supp.3d 791 (Northern District of Illinois, 2014) (holding that the plaintiff stated a viable Fourth Amendment claim against both ICE and local officials where he was held on an ICE detainer); *Uroza v. Salt Lake County*, 2013 WL 653968 (District of Utah, 2013) (plaintiff stated a viable Fourth Amendment claim where she was held on ICE detainer after she posted bail). Because of these precedents, many jurisdictions have either affirmatively stopped honoring ICE detainer requests or been ordered to do so.

Maui County Police Department General Order Chapter 101 states that MPD “will protect the fundamental rights of all persons to be free from unreasonable searches and seizures,” as the Fourth Amendment requires. Detaining persons at ICE’s request without a valid judicial warrant and probable cause justifying additional detention time not only violates the Fourth Amendment, it violates MPD’s own stated policy. We therefore ask that MPD cease honoring ICE detainer requests, unless those requests are accompanied by a separate *judicial* warrant.

We realize that this policy change could be a significant departure from existing MPD policy. We would like to convene a working group to discuss this issue further and chart a path forward.

2. Biased Policing - Training and Documentation

We seek a public explanation as to how the Department currently upholds General Order 101.9, its Policy of not “engaging in any activities that are discriminatory or indicative of a practice of bias-based profiling.” Can the MPD provide its training materials for such training, policies around when officers must complete such training, who provides them, and the course material used in the training? Would the MPD be willing to share statistics around Internal Affairs complaints around biased policing, and the results of any investigations into these matters?

We ask the MPD to publicly clarify and specifically commit to protecting the immigrant community under this policy. Additionally, we seek opportunities to conduct training for MPD officers on bias-based policing specific to the immigrant communities in Maui, much like the LGBTQI+ community currently provides such training directly to officers..

Produce all Agreements between MPD and Federal Agencies

In the discussions regarding Bill 88, you stated that there are “already agreements in place” between MPD and federal agencies regarding requests to detain individuals suspected of immigration violations. We respectfully ask for the opportunity to review those agreements.



Specifically, we ask MPD to provide us with any cooperation agreements currently in place between DHS (including ICE, HSI and ERO) and MPD. In the alternative, we ask MPD to make a formal statement that no such agreements exist, and instead produce MPD's current policies regarding procedures for handling requests from such agencies.

We would welcome the opportunity to convene to discuss the legality and implications of any agreements between MPD and ICE with ICE or ICE detainer policy MPD currently has.

3. Combined Community Outreach and Education

We seek to create a working group to see if there are mutually beneficial opportunities to build bridges between local law enforcement and the immigrant community on the topics of Bill 88, the Department's Bias-Based Profiling policies of the Department and U-visas. We seek opportunities to build trust to help bolster community policing while at the same time getting buy-in and trust from immigrant community leaders and members.

Conclusion

We see these policy revisions or requests as a starting point. We are grateful for the opportunity to engage in this dialogue, and we respect and appreciate the efforts of the Chief and the Department in addressing the issues proactively and in the spirit of cooperation.