

Senator Walter F. Timilty  
Chair, Joint Committee on Public Safety  
and Homeland Security  
State House, Room 213-B  
Boston, MA 02113

Representative Carlos González  
Chair, Joint Committee on Public Safety  
and Homeland Security  
State House, Room 167  
Boston, MA 02113

**RE: Testimony on behalf of the Harvard Law School Cimmigration Clinic in Support of S.1579 and H.2418, An Act to protect the civil rights and safety of all Massachusetts residents (the Safe Communities Act)**

Honorable Members of the Joint Committee on Public Safety and Homeland Security:

Thank you for the opportunity to provide testimony in support of S.1579 and H.2418, the Safe Communities Act, which would end the Commonwealth's voluntary involvement in civil immigration matters, protect basic rights, and encourage all state residents to confidently seek help and medical care without fear of immigration consequences. With this testimony, the Harvard Law School Cimmigration Clinic joins countless others in their advocacy efforts to pass the Safe Communities Act.<sup>1</sup> We believe that much like the 2018 California Values Act and the 2021 Way Forward Act in Illinois, the Safe Communities Act will greatly benefit the residents of the Commonwealth of Massachusetts. We therefore urge the Joint Committee to favorably pass the Safe Communities Act.

The Act will help noncitizen communities restore their trust in the Commonwealth's law enforcement organizations by decoupling those organizations from federal immigration enforcement efforts. Studies have repeatedly demonstrated that when local law enforcement directly collaborates with federal immigration enforcement, the public may be less safe. For example, according to the National Coalition Against Domestic Violence, 33.9% of women in Massachusetts report experiencing domestic

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<sup>1</sup> This testimony is being provided solely on behalf of the Harvard Law School Cimmigration Clinic. The opinions expressed herein attributable to Harvard Law School, Harvard University, the Harvard Corporation, or any of its faculty, staff, or affiliates.

violence in their lifetime.<sup>2</sup> That statistic might be higher if more noncitizen women felt able to report their experiences too. Indeed, a recent academic paper in the *Journal of Economic Geography* found that when state and local police pursued greater collaboration with federal immigration enforcement, 8.4% fewer noncitizen women reported domestic violence.<sup>3</sup> The Safe Communities Act would prevent state and local police from questioning individuals about their immigration status, unless required by law. This will help ensure that non-citizens without immigration status who are victims of crimes, including domestic violence, do not fear that reporting their harm to the police will lead to their deportation.<sup>4</sup>

Moreover, as previously noted by Middlesex County District Attorney Marian Ryan, the Safe Communities Act takes important steps to ensure that state and local law enforcement do not unnecessarily disrupt criminal trials.<sup>5</sup> When immigration authorities detain and deport individuals who may be parties or witnesses in criminal proceedings, the criminal adjudication process is often severely disrupted. Therefore, passing the Act will help ensure the efficacy of our Commonwealth's criminal justice system.

Perhaps most significantly, the Act will prevent state and local law enforcement organizations from initiating new 287(g) agreements, which purport to deputize local police with the ability to enforce federal immigration laws.<sup>6</sup> As the American Civil Liberties Union (“ACLU”) recently concluded in their report,

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<sup>2</sup> National Coalition Against Domestic Violence, *Domestic Violence in Massachusetts*, [https://assets.speakcdn.com/assets/2497/ncadv\\_machusetts\\_fact\\_sheet\\_2020.pdf](https://assets.speakcdn.com/assets/2497/ncadv_machusetts_fact_sheet_2020.pdf) (last visited May 3, 2022).

<sup>3</sup> Catalina Amuedo-Dorantes and Esther Arenas-Arroyo, *Police trust and Domestic Violence: Evidence from VAWA self-petitions*, 22 *Journal of Economic Geography* 395, 407–17 (2021).

<sup>4</sup> Massachusetts Immigrant & Refugee Advocacy Coalition, *Key features of the Safe Communities Act*, <https://www.miracoalition.org/our-work/safe-communities/key-features-of-the-safe-communities-act/> (last visited May 3, 2022).

<sup>5</sup> Commonwealth of Massachusetts Legislature, *Joint Committee on Public Safety and Homeland Security: 12-01-2021*, <https://malegislature.gov/Events/Hearings/Detail/4104> (last visited May 3, 2022).

<sup>6</sup> §287 (g) of the Immigration and Nationality Act 1952 provides that the Federal Attorney General may enter into an agreement with a state government so that state and local law enforcement can act as agents of immigration enforcement by investigating, apprehending, and detaining non-citizens. As a result, without committing any crime, non-citizens can be detained by state and local police.

*License to Abuse: How ICE's 287(g) Program Empowers Racist Sheriffs and Civil Rights Violations*, “racial profiling is endemic” to 287(g) agreements.<sup>7</sup> Yet, despite this, and the fact that no other state in New England currently has state or local law enforcement organizations that are party to 287(g) agreements, Massachusetts persists in this destructive practice. We therefore strongly encourage this committee pass the Safe Communities Act, providing a clear route to ending the facilitation of racial profiling through 287(g) agreements in the Commonwealth.

Massachusetts is currently the only state in New England with active 287(g) agreements. Specifically, the Massachusetts Department of Corrections and the Barnstable County Sheriff's Office (“BCSO”) both have ongoing 287(g) agreements with U.S. Immigration and Customs Enforcement (“ICE”).<sup>8</sup> Until recently, the Plymouth County Sheriff's Office and the Bristol County Sheriff's Office also had 287(g) agreements with ICE. Those agreements were terminated in 2021 following years of litigation by national and local advocacy groups who were concerned about the detention conditions at the facilities operated by those sheriffs.<sup>9</sup> Calls to terminate the remaining 287(g) agreements in Massachusetts continue.<sup>10</sup> Passing the Safe Communities Act would ensure an end to these divisive and harmful agreements.

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<sup>7</sup> ACLU Research Report, *License to Abuse: How ICE's 287(g) Program Empowers Racist Sheriffs and Civil Rights Violations* 24 (2022).

<sup>8</sup> ICE, *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act*, <https://www.ice.gov/identify-and-arrest/287g> (last visited May 3, 2022).

<sup>9</sup> Sarah Betancourt, *Plymouth Sheriff Ends Agreement To Share Immigrant Information With ICE*, WGBH News, (Sept. 10, 2021), <https://www.wgbh.org/news/local-news/2021/09/10/plymouth-sheriff-ends-contract-to-share-immigrant-information-with-ice>. In 2020, an Attorney General investigation found that the Bristol County Sheriff's Office use of excessive force on immigrant detainees and recommended that their 287(g) contract be rescinded. Office of the Massachusetts Attorney General Civil Rights Division, *Investigation into the events of May 1, 2020, at the C. Carlos Carreiro Immigration Detention Center, Unit B, Bristol County Sheriff's Office* (Dec. 15, 2020).

<sup>10</sup> See Pet. For Declaratory And Injunctive Relief Pursuant to M.G.L.c.29, §63, Catherine Russo v. James M. Cummings, No. SJ-2022 (Mass.Feb. 17, 2022). This petition, filed against the Barnstable County Sheriff and his Office, alleges that it is ultra

U.S. Department of Justice investigations into the enforcement of 287(g) agreements in Alamance County, North Carolina, and Maricopa County, Arizona, previously found evidence of widespread racial profiling. Specifically, the Justice Department reported that Alamance County Sheriff's Office's and Maricopa County Sheriff's Office's respective 287(g) agreements with ICE incentivized police to racially profile Latinx community members.<sup>11</sup> Indeed, Sheriff Kristin Graziano of Charleston County, a South Carolinian neighbor of Alamance County, recently described 287(g) agreements as “legal racial profiling,” emboldening officers to target individuals because of the color of their skin.<sup>12</sup> In Massachusetts, advocates have argued that there is similar evidence of racial profiling in the enforcement of Massachusetts' existing 287(g) agreements.<sup>13</sup>

For example, much like Alamance County's and Maricopa County's agreements, BCSO's 287(g) agreement states that police are allowed to interrogate anyone in their custody “who the officer believes to be an alien.”<sup>14</sup> Indeed, recent data indicates that people of African and Caribbean descent—particularly

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vires for the police to act as arms of immigration enforcement -- particularly following the recent Supreme Judicial Court case of *Lunn v. Commonwealth*.

<sup>11</sup> Department of Justice Office of Public Affairs, *Department of Justice Releases Investigative Findings on the Maricopa County Sheriff's Office*, (Dec. 15, 2011), <https://www.justice.gov/opa/pr/department-justice-releases-investigative-findings-maricopa-county-sheriff-s-office>; Department of Justice Office of Public Affairs, *Justice Department Releases Investigative Findings on the Alamance County, N.C., Sheriff's Office*, (Sept. 18, 2012) <https://www.justice.gov/opa/pr/justice-department-releases-investigative-findings-alamance-county-nc-sheriff-s-office>.

<sup>12</sup> Caitlin Byrd, *Charleston sheriff cuts ties with ICE, calls policy 'legal racial profiling'*, *The State* (Jan. 05, 2021), <https://amp.thestate.com/news/charleston/article248281210.html> (last visited May. 1, 2022).

<sup>13</sup> For example, at least one study has noted that the Barnstable County 287(g) agreement has disproportionately resulted in the detention and deportation Jamaican noncitizens. Sophie Hills, *Sheriff Cumming's Agreement With ICE Is Renewed Again*, *Provincetown Independent*, (July. 14, 2021) <https://provincetownindependent.org/news/2021/07/14/sheriff-cummings-agreement-with-ice-is-renewed-again/>.

<sup>14</sup> ICE and Alamance County, *Memorandum of Agreement*, (2007) <https://www.ice.gov/doclib/287gMOA/sheriffsofficeofalamancecounty.pdf> (last visited April. 29, 2022); ICE and Maricopa County, *Memorandum of Agreement*, (2007) <https://www.ice.gov/doclib/287gMOA/maricopacounty.pdf> (last visited April. 29, 2022); ICE and BCSO, *Memorandum of Agreement*, (2020), [https://www.ice.gov/doclib/287gMOA/287gJEM\\_BarnstableCoMA2020-06-09.pdf](https://www.ice.gov/doclib/287gMOA/287gJEM_BarnstableCoMA2020-06-09.pdf) (last visited April. 26, 2022).

individuals of Jamaican descent—are most frequently referred to ICE by BCSO.<sup>15</sup> Jamaicans only make up approximately 11% of the foreign-born population in Barnstable County,<sup>16</sup> yet account for approximately 36% of cases referred to ICE.<sup>17</sup>

Racial profiling in immigration enforcement is not uncommon. The Black Alliance for Just Immigration have noted that Black non-citizens are more likely to be deported and often due to racial profiling, which leads to disproportionate rates of Black non-citizens being detained and deported. BCSO, as a result of their 287(g) agreement, appear to be perpetuating this injustice in Massachusetts.<sup>18</sup> Sadly, according to the recently released report by the ACLU, the Massachusetts Department of Corrections has a similar “pattern of racial profiling and civil rights violations, including disproportionate targeting of racial minorities.”<sup>19</sup>

Due to these concerns about racial profiling, it is vital that Massachusetts follow every other state in New England and discontinue the use of 287(g) agreements. Passing the Safe Communities Act will ensure that happens. Thank you for your consideration.

Respectfully Submitted,

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<sup>15</sup> BCSO, *In The Press: Foreign Born Inmates*, <http://www.bsheriff.net/public-info/news-2/> (last visited April. 5, 2022); *See also* Hills, *supra* note 13.

<sup>16</sup> *See* U.S. Census Bureau, *American Community Survey*, (2020) <https://www.census.gov/programs-surveys/acs> (last visited Apr. 12, 2022).

<sup>17</sup> BCSO, *supra* note 15.

<sup>18</sup> Black Alliance for Just Immigration, *Who We Are*, <https://baji.org/who-we-are/> (last visited May. 1, 2022).

<sup>19</sup> ACLU, *supra* note 7, at 39.