

The Honorable Alejandro Mayorkas

Nominee, Secretary of the Department of Homeland Security

April 23, 2021

Dear Mr. Mayorkas,

We, the undersigned civil rights, immigrant justice, and religious advocacy organizations across Montana congratulate you on your recent confirmation as secretary of the U.S. Department of Homeland Security (DHS). We hope that you'll take this opportunity to make reforms that ensure the safety and civil rights of all Americans, immigrant or otherwise.

In that spirit, we urge you to prioritize ending Immigration and Customs Enforcement (ICE) programs that threaten the civil rights of citizens and residents in our state by entangling state and local agencies in federal immigration enforcement. Most importantly, we ask that you put an end to the use of ICE detainer requests, the 287(g) program, and the Secure Communities program.

These programs pose a threat to Montanans' civil rights, undermine public safety, and pose immense costs to cities and towns that participate. Local enforcement of these programs have led to numerous instances of wrongful detention and racial profiling here in Montana^{1,2,3}, and recent changes to state law have made them even more harmful by eliminating localities' discretion in how or whether to enforce them.

While immigration detainers and the 287(g) program are designed to be voluntary, Montana's Governor just signed two bills into law that *compel* local enforcement of immigration detainers⁴ and cooperation with federal immigration agencies.⁵ These detainers mistakenly identified at least 3,234 U.S. citizens for arrest from 2002-2020 alone,⁶ and Montana's new enforcement regime all but guarantees further civil rights violations unless these federal programs are halted.

These programs don't only threaten civil liberties, they also threaten public safety. Numerous studies show that participation in these programs doesn't decrease local crime rates,⁷ and asking local police to play the role of federal immigration officers erodes trust within communities. ICE collaboration programs make people experiencing domestic violence, sexual abuse and human trafficking far less likely to seek urgently needed police protection and local services, out of fear of deportation and separation from their children.⁸ These programs make our communities less safe and need to end.

¹ "Rios Diaz v Butler" <https://www.clearinghouse.net/chDocs/public/IM-MT-0001-0004.pdf>

² Lopez v Gallatin County" https://www.aclumontana.org/sites/default/files/field_documents/lopez_complaint.pdf

³ "Ramon v Lincoln County" https://www.aclumontana.org/sites/default/files/opinion_-_published.pdf

⁴ Montana Legislature, House Bill 223, <https://leg.mt.gov/bills/2021/billpdf/HB0223.pdf>

⁵ Montana Legislature, House Bill 200, <https://leg.mt.gov/bills/2021/billpdf/HB0200.pdf>

⁶ Syracuse Transactional Records Access Clearinghouse, <https://trac.syr.edu/phptools/immigration/detain/>

⁷ For a summary of studies concerning Secure Communities and crime rates, see Alex Nowrasteh, "Trump Executive Order Reestablishes 'Secure Communities,'" Jan. 25, 2017, <https://www.cato.org/blog/trump-executive-order-reestablishes-secure-communities>. See also Nick Miroff, "Study finds no crime increase in cities that adopted 'sanctuary' policies, despite Trump claims," Washington Post, Oct. 21, 2020, https://www.washingtonpost.com/national/sanctuary-city-study-immigration-crime/2020/10/21/5810d13a-12fa-11eb-82af-864652063d61_story.html.

⁸ See Kathryn Finley, "Access to Justice in a Climate of Fear: New Hurdles and Barriers for Survivors of Human Trafficking and Sexual Violence," Center for Migration Studies, Jan. 29, 2019 https://cmsny.org/publications/finley-climate-of-fear/#_ftn8.

Lastly, these programs present a steep financial burden to localities in the costs of enforcement and liability that they create for cities and towns.⁹ When flawed federal tools like ICE detainers lead to constitutional violations, as has happened numerous times in recent years, localities are left on the hook for settlements ranging up to \$350,000.¹⁰ Especially in Montana, where local enforcement of these programs was just made mandatory, more civil rights violations and costly lawsuits are all but certain unless these federal programs are put to an end.

As long as these ICE collaboration programs continue to exist, the civil rights, safety, and local tax dollars of all Montanans are under threat. Immigrant communities help make our state and our country more vibrant and prosperous. We urge you to take decisive action to protect all of our civil liberties by ending the use of these flawed federal programs.

Sincerely,

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⁹ ACLU, *Gerardo Gonzalez v ICE*, <https://www.aclusocal.org/en/cases/gonzalez-v-ice>

¹⁰ See ACLU, "Recent ICE Detainer Damages Cases," <https://www.aclu.org/fact-sheet/recent-ice-detainer-damages-cases>.