

# Amherst Sanctuary Community Bylaw Fact Sheet

The Amherst Sanctuary Community Bylaw will protect the civil rights of all Amherst residents by making sure our town police and other employees and our tax dollars are not used to help the Trump Administration deport immigrant families or create a Muslim registry.

## **KEY FEATURES OF THE SANCTUARY COMMUNITY BYLAW**

➤ **Prohibits town support for any Muslim registry.**

The bylaw prohibits any town employee from cooperating with or enforcing any federal program requiring registration of individuals based on national origin, religion or other protected characteristics.

➤ **Ensures that police resources are used to fight crime, not separate families.**

The bylaw ensures that Amherst police don't participate in federal immigration enforcement activities, including participation in inquiries, investigations, raids, arrests or detentions that are based solely on immigration status. When police become ICE agents, immigrant victims and witnesses of crime are afraid to call police, which makes us all less safe.

➤ **Prohibits use of local funds for collaboration agreements with federal agents**

The bylaw prohibits collaboration agreements between the U.S. Department of Homeland Security (DHS) and local law enforcement that deputize local officers as immigration agents, like those recently concluded by some other Massachusetts counties.

➤ **Upholds constitutional standards**

The bylaw puts citizens and non-citizens on equal footing with respect to law enforcement. It would not prevent police from arresting or detaining a person in the course of a criminal investigation or prosecution supported by probable cause of a crime, nor would it prevent local police from acting on a criminal arrest warrant / judicial warrant, which is consistent with constitutional standards applicable to all people in Massachusetts.

➤ **Conforms to federal law**

The bylaw contains several provisions ensuring compliance with federal law, specifically 8 U.S.C. § 1373, which prohibits state and local governments from restricting the exchange of information about citizenship or immigration status. Additionally, the bylaw is quite explicit that it does not create any expectation or requirement that our police department or anyone else will violate federal law.

**Stand with your Neighbors.**

**Urge your Town Meeting representatives to support the  
Town of Amherst Sanctuary Community Bylaw.**

Join us on Facebook: [www.bit.ly/AmherstSanctuaryFB](http://www.bit.ly/AmherstSanctuaryFB)  
For more information email: [amherstsanctuary@gmail.com](mailto:amherstsanctuary@gmail.com)

# Amherst Sanctuary Community Bylaw Q & A

## **Will our federal funds be cut if we pass the Amherst Sanctuary Community Bylaw?**

**Not likely.** First, the Amherst Sanctuary bylaw includes the phrases “to the extent permissible by law” and “unless required by federal or state law” and is explicit that it is consistent with 8 U.S.C. Section 1373.

Second, the threats by the President are just that -- threats. 292 law scholars ([www.ilrc.org/letter-law-profs-1373](http://www.ilrc.org/letter-law-profs-1373)) have shared the legal conclusion that section 9(a) of Executive Order 13768, which directs the federal government to withhold federal funding from states, counties, and cities with “sanctuary” policies, is unconstitutional because:

- Jurisdictions have inherent constitutional authority to promulgate “sanctuary” policies
- “Sanctuary” policies do not violate 8 U.S.C. Section 1373
- The executive’s attempted imposition of new conditions on federal grants exceeds the federal government’s spending clause authority
- Withholding federal funding to “sanctuary” jurisdictions is unconstitutional under the Tenth Amendment of the US Constitution.

## **Will our delegation stand with us as a Sanctuary Community?**

**YES!** U.S. Representative McGovern, U.S. Senators Warren and Markey, Attorney General Healey have all pledged to stand up to the President’s bullying and threats. Other cities and towns across the Commonwealth are leading the way and showing the rest of the United States that we will not be bullied. We must join them.

## **Is an ICE detainer request the same as a criminal arrest warrant?**

**NO!** ICE detainer requests are fundamentally different from criminal arrest warrants and criminal detainers. Any immigration officer may issue an ICE detainer request to any federal, state, or local law enforcement agency. No probable cause is required for the issuance of an ICE detainer and it is not reviewed by any court or judicial officer. The detainer form may request that local law enforcement hold an individual beyond the time they would have been released, *which is unconstitutional*. ICE detainers are issued by ICE agents and are not reviewed by a court.

An arrest warrant is a legal order issued by a judge after a determination that there is probable cause to believe that the person has committed an alleged criminal violation. It directs law enforcement officers to deliver an individual by means of arrest before the appropriate court.

## **Don’t local law enforcement officers have to enforce an ICE Administrative Warrant?**

**NO!** ICE administrative warrants are administrative documents that name a person subject to deportation for any reason (ie. a person who is undocumented), and authorize ICE agents to take the person into custody. ICE administrative warrants are NOT issued by a court or signed by a judge. ICE administrative warrants do not require probable cause – or any legal standard – be met. Only an authorized ICE agent is permitted to issue, serve, and execute an ICE administrative ICE warrant. ICE administrative warrants do NOT provide the basis for prolonged detention, *which would constitute a warrantless arrest*.

## **What if someone is arrested and their name appears in the National Crime Information Center (NCIC) database? Must local law enforcement agents make an arrest?**

**NO!** Not unless the NCIC entry is based on a *judicial warrant*. Most NCIC entries related to immigration are *administrative warrants* entered by ICE agents (not a judge) and do not reflect any criminal activity. An NCIC hit supported by a criminal warrant would name the court that issued the warrant, while immigration hits simply notify that an administrative warrant exists. *Local law enforcement does not have authority to act on an administrative warrant*.

## **Do local law enforcement officers have to hold a person if ICE shows there is a Deportation Order?**

**NO!** A removal order (also called a deportation order) is not a basis for an arrest or detention. A removal order is a civil immigration order which does not authorize arrest or detention. A removal order might provide evidence that a person does not have “lawful status”, *however this is a civil violation, not a crime* and not a basis for arrest or detention by a local law enforcement officer.

## **Stand with your Neighbors. Support the Town of Amherst Sanctuary Community Bylaw.**

*More specific information can be found Immigration Legal Resource Center [www.ilrc.org](http://www.ilrc.org)*

For more information on Amherst Sanctuary, email: [amherstsanctuary@gmail.com](mailto:amherstsanctuary@gmail.com)