

Toolkit for Action:

Stop Secure Communities in New York

(version 5, March 2012)

NY Working Group Against Deportation

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April 11, 2011

Honorable Andrew M. Cuomo, Governor
State of New York
State Capitol
Albany, NY 12224

Dear Governor Cuomo,

We are a coalition of domestic violence, workers' rights, immigrants' rights, legal service providers, LGBT, youth, labor and civil rights organizations. We write to express our shock and disappointment at learning that the Division of Criminal Justice Services signed a Memorandum of Agreement (MOA) with Immigration and Customs Enforcement (ICE) regarding Secure Communities (S-Comm) on May 18, 2010 and revised this MOA without any meaningful changes in December 2010. We write to ask that you **immediately rescind the MOA and cease implementation of S-Comm** as this program raises grave concerns for community safety, civil rights, due process and fiscal liability, among others.

Under S-Comm, all law enforcement agencies in the state are required to automatically forward the fingerprints of every arrested person (including U.S. Citizens and lawful permanent residents or "green card holders") to federal immigration databases. Based on unreliable and incomplete information, ICE then transfers people suspected of being deportable directly into the detention and deportation system, separating them from their families and communities. Locked up in detention centers in remote locations, immigrants have severely limited access to lawyers, medical care, family, witnesses, and evidence to defend against deportation.

We, the undersigned organizations, strongly oppose S-Comm as we believe that the program is fundamentally flawed and will harm our communities. Our principal concerns are that S-Comm:

- **Jeopardizes our safety:** S-Comm destroys law enforcement relationships with their communities. When community members are afraid that interaction with local police might lead to deportation, they are less likely to report crimes or cooperate as witnesses. This makes it harder for police to investigate crimes and to keep our communities safe.
- **Offends values of liberty, due process and justice:** S-Comm subverts the core promise of our legal system to afford equal protection under the law by forcing immigrants to be treated differently than U.S. Citizens in their criminal proceedings. Immigrants tagged for deportation are routinely denied bail, jailed for longer, and wrongfully disqualified from participating in alternative release programs. S-Comm also funnels people into an unjust immigration system where they are stripped of their right to a government-appointed lawyer and a "fair day in court."
- **Encourages racial profiling:** S-Comm gives the police incentives to make pretextual arrests based on race or ethnicity in order to jail people suspected of being undocumented and run their fingerprints in the hopes of turning them over to ICE for deportation. This

illegal pattern of targeting and profiling has already been well documented through studies of similar ICE-local enforcement programs.

- **Imposes significant costs on our State and localities:** S-Comm forces states and localities to absorb the costs of mass incarcerations, as ICE promises that the program will “dramatically increase” the number of people held for additional time on civil immigration detainers while providing no additional federal funding to do so.
- **Exposes New York State and localities to significant liability:** Because S-Comm does not afford sufficient protections or oversight, state and local officials, not ICE, face heavy liability for illegal detentions and deportations that occur. New York City recently paid \$145,000 to settle one such violation and will not be reimbursed by the federal government.

In addition, we are increasingly concerned about ICE’s constant shifts in position on its own policies and the absence of any mechanisms for public accountability. For example, in its efforts to get New York to agree to sign on to S-Comm, ICE assured officials that local jurisdictions could simply choose not to participate in S-Comm, but later conveniently changed its position, stating the program was mandatory. ICE has failed to explain or reconcile any of its conflicting statements despite widespread attempts by the media and advocates to gain clarity on ICE’s policies. And across the range of its work—from collaborations with police through agreements like 287(g) to its detention of immigrants—ICE has found that its own agency regularly fails to clearly articulate and maintain goals and procedures, establish measurable standards, keep records and track data, provide adequate supervision and oversight, create mechanisms for feedback, and respond to complaints and grievances. This lack of accountability and transparency, coupled with ICE’s seemingly ever-changing policies, puts localities and the public in a dangerous position. States across the country, including New York, are hard-pressed to figure out the contours of their arrangements, responsibilities, and liabilities when dealing with an agency that has been shown to flout its responsibilities to the public and even the federal government itself. Worse, all the negative consequences resulting from ICE-local enforcement collaborations are borne not by ICE, but by the localities themselves.

In view of these serious issues, we ask that New York State:

- 1) **Rescind the S-Comm MOA; and**
- 2) **Halt activation of S-Comm immediately.**

Given the broad reach and grave consequences of this program, New Yorkers deserve an opportunity for meaningful public input and debate along with the implementation of safeguards and accountability mechanisms to ensure that S-Comm will not endanger our communities, violate our rights, and divert state financial resources. **We demand that you immediately suspend all MOA contractual activities until further investigation is conducted into the community impact of, forecasted expenditures related to, and legal liability issues raised by S-Comm. We also request that you conduct a comprehensive cost-benefit analysis on this program and provide meaningful opportunities for rigorous public comment.**

We await your response to our urgent concerns and demands regarding S-Comm and are hopeful that the best interests of NY and its residents are thoroughly considered before any implementation of S-Comm takes place. Please contact Mizue Aizeki, Northern Manhattan Coalition for Immigrant Rights, at: 212-781-0355 or maizeki@nmcir.org with any questions.

Sincerely,

Action for a Progressive Pakistan

Adhikaar

African Services Committee

American Immigration Lawyers Association-
NY Chapter

Arab American Association of New York

Asian American Legal Defense and
Education Fund

Barack Obama Democratic Club of Northern
Manhattan

Breakthrough

Casa Esperanza

Center for Constitutional Rights

Central American Legal Assistance

Centro Altagracia de Fe y Justicia

Centro del Inmigrante

Civil Rights for Immigrants Team of
Alliance of Communities Transforming
Syracuse

Coalition for Economic Justice, Buffalo, NY

Coalition for the Homeless

Committee Against Anti-Asian Violence

Council of African Imams

Council of Peoples Organization

Council on American-Islamic Relations:
New York

Criminal Defense Immigration Project, New
York State Defenders Association

DAMAYAN Migrant Workers Association

Desis Rising Up and Moving

Domestic Workers United

Ecuadorian International Center

Families for Freedom

Farmworker Legal Services of NY

Fifth Avenue Committee

Greater New York Labor-Religion Coalition

Hispanic Resource Center of Larchmont &
Mamaroneck

Hudson Valley Community Coalition

Imams Salihou Djabi and Souleymane
Konate

Immigrant Defense Project

Immigrant Legal Resource Center

Immigration Equality

Immigration Justice Clinic, Benjamin N.
Cardozo School of Law

International Institute of Buffalo

International Organization for Adolescents

La Union

Latin American Workers Project

Long Island Immigrant Alliance

Long Island Jobs with Justice

LULAC Syracuse Chapter

Make the Road New York

Migrant Support Services of Wayne County

MinKwon Center

Muslim Consultative Network

New Agenda for Broad Immigration Reform

New Immigrant Community Empowerment

New Sanctuary Coalition of New York City

New York Anti-Trafficking Network

New York Jobs with Justice

New York Civil Liberties Union

New York Civil Liberties Union Capital
Region Chapter

New York Civil Liberties Union Lower
Hudson Valley Chapter

New York Civil Liberties Union Nassau
County Chapter

New York Civil Liberties Union Suffolk
County Chapter

New York Immigration Coalition

Northern Manhattan Coalition for Immigrant
Rights

Northwest Bronx Community and Clergy
Coalition

The Opportunity Agenda

Pakistan Solidarity Network

Peekskill Area Pastors Association

Queens Community House

Rockland Immigration Coalition

Safe Horizon

SEIU 32BJ

Sex Workers Organizing Project – New York
City

Society of Jesus (Jesuits), New York
Province

South Asia Solidarity Initiative

Streetwise & Safe

UAW Region 9A

Upstate New York Detention Taskforce

United Neighborhood Houses

Urban Justice Center

Violence Intervention Program, Inc.

Wayne Action for Racial
Equality

Westchester Community Opportunity
Program

Westchester Hispanic Coalition

Workplace Project

Workers Rights Law Center

Youth Ministries for Peace and Justice

Cc: NYS Attorney General Eric Schneiderman



March 17, 2011

Honorable Andrew M. Cuomo
Governor, State of New York
State Capital
Albany, NY 12224

Dear Governor Cuomo:

As New York City elected officials, we are writing to urge you to rescind the Memorandum of Agreement (MOA) New York State signed in May 2010 and revised in December 2010 with the Department of Homeland Security's (DHS) Immigration and Customs Enforcement (ICE) agency, authorizing the implementation of the Secure Communities program (S-Comm) in New York. The program would require state and local law enforcement authorities to provide the fingerprints of arrestees to federal immigration authorities in order to identify immigrants who may be eligible for deportation. It is our understanding that S-Comm raises serious public safety, civil rights, and cost concerns for New Yorkers. Yet, this agreement was signed and the program continues to move forward without consideration of the many issues raised by community organizations and without any input from either the public or elected officials. As such, we strongly recommend that you rescind the MOA that authorizes implementation of S-Comm in New York State.

We are extremely concerned as DHS has repeatedly provided inconsistent and contradictory information about S-Comm. New York State originally signed the MOA with ICE's assurance that jurisdictions that did not want to participate in sharing fingerprints with DHS could decline participation in the program. In fact, ICE officials promised New York officials that localities will have to opt-in in order to implement the Secure Communities program. Contrary to earlier assurances, the DHS now maintains that participation in S-Comm by local jurisdictions in states that have signed MOAs are mandatory. Documents released due to a FOIA lawsuit against ICE illustrate a pattern of ICE misleading state officials and elected leaders about the voluntariness of the program and the ability of local jurisdictions to either opt-in or opt-out of the program.

We believe that the implementation of S-Comm will spell dire consequences for all New Yorkers. Though DHS promotes S-Comm as a program that will improve public safety, it will in fact make communities less safe. The association between law enforcement and federal immigration authorities creates a sense of fear and distrust of police among immigrant communities. As a result, huge segments of our State and City populations will be hesitant to call upon the police for assistance or to report crimes, actually threatening public safety. We have already heard from advocates who work

in New York counties where S-Comm has been implemented that immigrant residents now fear to come in contact with the police.

The numbers show that immigrant communities do indeed have legitimate reasons to fear the S-Comm program. Though S-Comm is supposed to focus on Level I “high-threat” individuals, recent studies have shown that a vast majority (79 percent) of the people deported due to S-Comm are non-criminals, meaning they had no criminal conviction on record, or were picked up (but not necessarily charged or convicted) for lower level offenses. In fact, in some localities such as San Diego, more than half of those deported due to S-Comm are non-criminals. Moreover, we have concerns that S-Comm will facilitate racial and ethnic profiling by local law enforcement agents. That is, as S-Comm requires immigration status checks of all arrestees, the program can be misused by rogue police officers who may target individuals perceived to be immigrants based on their ethnicity or English language abilities.

As ICE has made clear that states and localities and not ICE, will bear the liabilities incurred by participation in S-Comm, New York risks exposure to lawsuits arising from cases of racial profiling or prolonged detention. Furthermore, the added operational costs of S-Comm—such as holding arrestees for longer periods while waiting for ICE officials—will fall upon localities. With New York facing a projected \$8.1 billion budget deficit in the next fiscal year and the City still weathering a challenging economic environment, New York can ill-afford unnecessary expenditures that do not benefit our community.

Most importantly, we oppose the implementation of S-Comm in New York because of the real human costs of the program. Already, New York City residents have suffered the repercussions of the City’s collaboration with federal immigration enforcement on Rikers Island through the Criminal Alien Program. This program identifies non-citizens detained in state and local jails and subjects arrestees to potential deportation proceedings upon release from custody. Each year 3,000 to 4,000 New York City residents are transferred into ICE custody, many of whom are often placed in immigration centers that are far away from home, such as Texas and Louisiana. Every day, longtime immigrant residents who have contributed to our city are being separated from their families, subjected to inhumane detention conditions and deported to countries where they may be at risk of persecution. The immigration system lacks accountability or transparency and we should not facilitate the funneling of thousands of New York residents into this black hole.

We ask that you rescind the S-Comm MOA signed with ICE and DHS until further investigation and public debate are conducted on the potential consequences of participating in the S-Comm program. Ultimately, local law enforcement should not be in the destructive and costly practice of collaborating with federal immigration in this manner. We ask that the State use its resources properly – not to deport New Yorkers who have already paid their dues to society but rather to keep New York families together, promote public safety, limit unnecessary costs and liabilities, and protect the rights of its most vulnerable residents.

Sincerely,

Scott M. Stringer
Manhattan Borough President

Adriano Espaillat
NYS Senator

Jose M. Serrano
NYS Senator

Ydanis Rodriguez
NYC Council Member

Jerrold Nadler United States Representative	Charles B. Rangel United States Representative	Marty Markowitz Brooklyn Borough President	Thomas K. Duane NYS Senator
Liz Krueger NYS Senator	Jose Peralta NYS Senator	Daniel L. Squadron NYS Senator	James F. Brennan NYS Assembly Member
Deborah J. Glick NYS Assembly Member	Richard N. Gottfried NYS Assembly Member	Brian Kavanagh NYS Assembly Member	Grace Meng NYS Assembly Member
Daniel J. O'Donnell NYS Assembly Member	Nick Perry NYS Assembly Member	Linda B. Rosenthal NYS Assembly Member	Keith L.T. Wright NYS Assembly Member
Charles Barron NYC Council Member	Gale A. Brewer NYC Council Member	Fernando Cabrera NYC Council Member	Margaret Chin NYC Council Member
Inez E. Dickens NYC Council Member	Daniel Dromm NYC Council Member	Julissa Ferreras NYC Council Member	Helen Diane Foster NYC Council Member
Daniel R. Garodnick NYC Council Member	Robert Jackson NYC Council Member	Letitia James NYC Council Member	G. Oliver Koppell NYC Council Member
Brad Lander NYC Council Member	Stephen Levin NYC Council Member	Rosie Mendez NYC Council Member	Annabel Palma NYC Council Member
Diana Reyna NYC Council Member	Jumaane D. Williams NYC Council Member		



June 1, 2011*

Honorable Andrew Cuomo
Governor of New York
State Capitol
Albany, NY 12224

Dear Governor Cuomo:

Last week, the Governor of Illinois and the Illinois State Police took a critical step towards protecting the rights of their immigrant communities by terminating the state's Secure Communities (S-Comm) Memorandum of Agreement (MOA) with Immigration and Customs Enforcement (ICE). Through this action, no police in Illinois will share fingerprints with ICE—no new counties will be activated and counties that have S-Comm currently operating will be deactivated. We commend Illinois for taking this action.

Given New York's immigrant heritage and our leadership role in the nation, we firmly believe that our State, too, must immediately end this destructive program. Many of us have joined dozens of organizations in New York over the past year in raising a wide range of concerns about S-Comm and calling for an end to our State's participation in the program. It is critical that New York now join Illinois to show that stopping S-Comm is both necessary and doable.

Like us, Illinois felt that there was no choice but to completely withdraw from S-Comm. In his letter to ICE, Governor Pat Quinn pointed to **"the conflict between the stated purpose of Secure Communities and the implementation of the program."** It could not be more clear that this program serves as a dragnet for ICE to meet its draconian deportation quotas. In Illinois, less than 20% of the people ICE deported due to S-Comm were convicted of a serious crime. ICE statistics for New York show that the vast majority (approximately 80 percent) of those detained by ICE because of S-Comm were never convicted of a crime. Even more importantly, S-Comm undermines the critical work we all have undertaken for so long to protect due process, end racial profiling, restore trust in the police, and stop unfair deportations.

Especially at a time of increasing recognition of the terrible problems posed by S-Comm, we cannot afford to continue to let our immigrants get dragged through ICE's deportation machinery. Just last week, U.S. Congresswoman Zoe Lofgren, joined by U.S. Senator Robert Menendez, put a spotlight on the problematic S-Comm program, calling for "thorough investigations [of ICE] into any misconduct, including possible violations of criminal law."

As a state that is proud of its tradition of upholding and protecting civil, immigrant, and human rights, we must stop S-Comm in New York. With 24 of our 62 counties already activated, we have no time to lose. We look forward to working with you to immediately terminate our S-Comm MOA in order to truly make New York a state that protects the rights of all communities.

Sincerely,



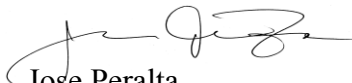
José Serrano
NYS Senate, 28th Dist.



Ruben Diaz
NYS Senate, 32nd Dist.



Jeffrey D. Klein
NYS Senate, 34th Dist.



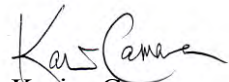
Jose Peralta
NYS Senate, 13th Dist.



Daniel Squadron
NYS Senate, 25th Dist.



Jeffrion L. Aubry
NYS Assembly, 35th Dist.



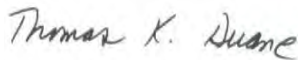
Karim Camara
NYS Assembly, 43 Dist.



Jeffrey Dinowitz
NYS Assembly, 81st Dist.



Brian Kavanagh
NYS Assembly, 74th Dist.



Thomas Duane
NYS Senate, 29th Dist.



Ruth Hassell-Thompson
NYS Senate, 36th Dist.



Bill Perkins
NYS Senate, 30th Dist.



Keith L.T. Wright
NYS Assembly, 70th Dist.



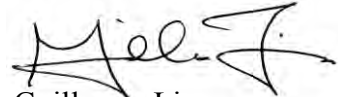
Carmen E. Arroyo
NYS Assembly, 84th Dist.



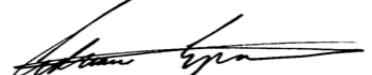
Nelson L. Castro
NYS Assembly, 86th Dist.



Deborah J. Glick
NYS Assembly, 66th Dist.



Guillermo Linares
NYS Assembly, 72nd Dist.



Adriano Espaillat
NYS Senate, 31st Dist.



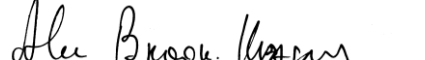
Liz Krueger
NYS Senate, 26th Dist.



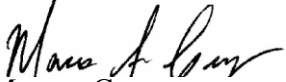
Gustavo Rivera
NYS Senate, 33rd Dist.



Thomas J. Abinanti
NYS Assembly, 92nd Dist.




Alec Brook-Krasny
NYS Assembly, 46th Dist.





Marcos Crespo
NYS Assembly, 85th Dist.

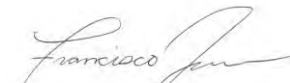


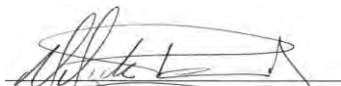
Richard N. Gottfried
NYS Assembly, 75th Dist.



Vanessa Gibson
NYS Assembly, 77th Dist.



Ellen C. Jaffee
NYS Assembly, 95th Dist.



Barbara Lifton
NYS Assembly, 125th Dist.



Francisco P. Moya
NYS Assembly, 39th Dist.



Nick Perry
NYS Assembly, 58th Dist.

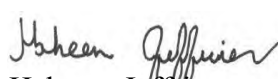

Peter M. Rivera
NYS Assembly, 76th Dist.



Linda B. Rosenthal
NYS Assembly, 67th Dist.



William Scarborough
NYS Assembly, 29th Dist.



Matthew Titone
NYS Assembly, 61st Dist.

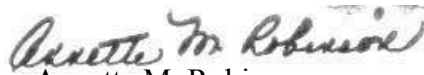

Carl E. Heastie
NYS Assembly, 83rd

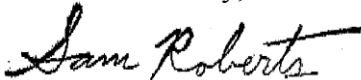

Hakeem Jeffries
NYS Assembly, 57th Dist.

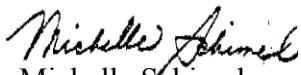

Joan L. Millman
NYS Assembly, 52nd Dist.

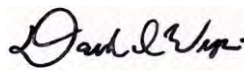

Daniel O'Donnell
NYS Assembly, 69th Dist.

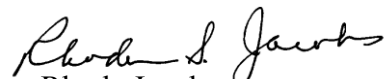

Phil Ramos
NYS Assembly, 6th Dist.

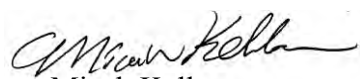

Annette M. Robinson
NYS Assembly, 56th Dist.

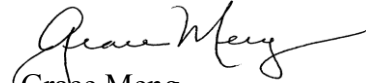

Samuel Roberts
NYS Assembly, 119th Dist.



Michelle Schimel
NYS Assembly, 16th Dist.

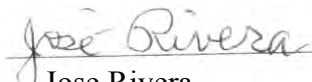

David Weprin
NYS Assembly, 24th Dist.



Rhoda Jacobs
NYS Assembly, 42nd Dist.



Micah Kellner
NYS Assembly, 65th Dist.

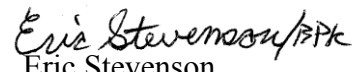

Grace Meng
NYS Assembly, 22nd Dist.


Felix Ortiz
NYS Assembly, 51st Dist.


Jose Rivera
NYS Assembly, 78th Dist.


Robert J. Rodriguez
NYS Assembly, 68th Dist.


Addie J. Russell
NYS Assembly, 118th Dist.


Eric Stevenson
NYS Assembly, 79th Dist.

Congress of the United States
Washington, DC 20515

May13, 2011

Honorable Andrew Cuomo
Governor of New York
State Capitol
Albany, NY 12224

Dear Governor Cuomo:

We are writing to urge you to rescind New York's Memorandum of Agreement and withdraw from the Immigration and Customs Enforcement's (ICE) Secure Communities program. Our concern with New York's ongoing involvement in the Secure Communities program comes from the damage that it is causing in our city and communities. New York City and New York State have a proud history as a welcoming place for people from all over the world to live; voluntarily participating in ICE's Secure Communities program tarnishes that heritage.

Last year, New York joined Secure Communities without a thorough investigation or public review of the possible consequences for the state, including decreased public safety, increased legal and fiscal liabilities and potential violations of New Yorkers' civil rights. Even then, groups such as the American Immigration Lawyers Association (AILA) indicated that there were questions that needed to be asked and pointed out that ICE had identified more than 111,000 criminal aliens in local custody, of whom only about 11,000 (10%) were charged with or convicted of crimes.

As recent press articles in the *New York Times* and *El Diario* illustrate, evidence of the fundamental flaws of the Secure Communities program continues to mount. Illinois, which has witnessed the effects of the program first hand for almost two years, has decided to withdraw from Secure Communities. In his letter to ICE, Illinois Governor Patrick Quinn pointed to "the conflict between the stated purpose of Secure Communities and the implementation of the program." In Illinois, less than 20% of the people ICE deported due to Secure Communities were convicted of a serious crime. The Secure Communities program was advertised as a way to remove alien violent criminals from our country; however, it has been used as a mass deportation immigration enforcement tool.

There is now nationwide condemnation of Secure Communities and of ICE's administration of the program. It has become clear that, during its rollout of the program, ICE made contradictory statements to the public and to government officials about Secure Communities and misled them about the agency's policy on opting-out of the initiative. Representative Lofgren, joined later by Senator Menendez, has called for "thorough

investigations into any misconduct, including possible violations of criminal law," relating to the agencies' deployment of the program.

We also want to bring to your attention that the Congressional Hispanic Caucus (CHC) has urged President Obama to issue an immediate national moratorium on the program until a review is completed. CHC's letter to the President, noted that "[s]ince its inception in October 2008, S-Comm [Secure Communities] has been deployed at a breathtaking pace with apparently little forethought or oversight." As members of the CHC, we fully support these requests for a nationwide freeze.

New York must withdraw from the Secure Communities program: First, ICE promotes Secure Communities as a mechanism to identify and target the most dangerous, violent individuals. However, the numbers show that the program operates as an overbroad immigration dragnet.

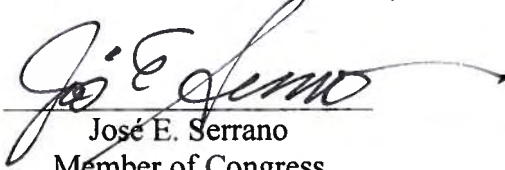
Second, the program makes New Yorkers less safe. When immigrant communities perceive that police are running immigration checks, they are less likely to report crimes or cooperate as victims and witnesses in serious criminal investigations.

Third, Secure Communities undermines the critical work New Yorkers have undertaken for so long to protect due process, end racial profiling and restore trust in the police and our criminal justice system. Under the program, ICE identifies individuals for deportation, before the underlying arrest has been reviewed by the criminal justice system. Because people are placed in immigration detention directly from the criminal justice system, victims of racial profiling or manufactured arrests have little ability to assert their civil rights.

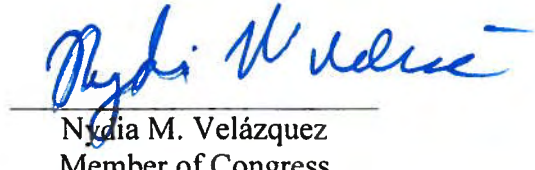
Lastly, the immigration system does not offer due process protections comparable to our criminal justice system. New York cannot participate in a program where immigrants do not have a right to counsel and where detainees are transferred to remote detention centers, severely limiting their access to family and legal counsel. By participating in such a program, New York State is undermining the work it has undertaken to protect the rights of all of its residents.

As a state that upholds and protects civil, immigrant, and human rights, we expect that, with your guidance and leadership, New York will join Illinois in withdrawing from Secure Communities.

Sincerely,



José E. Serrano
Member of Congress



Nydia M. Velázquez
Member of Congress



HON. SHELDON SILVER
ASSEMBLY SPEAKER

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May 10, 2011

Honorable Andrew Cuomo
Governor of New York
State Capitol
Albany, NY 12224

Dear Governor Cuomo:

We are writing to you as members of the New York State Assembly Puerto Rican/Hispanic Task Force to express our concern regarding the Immigration and Customs Enforcement's (ICE) "Secure Communities" (S-Comm) program and our support for a termination of our state's participation in this program. We are extremely concerned about how this program is affecting immigrant communities across the nation. New York is, in a large part, defined by its deep and proud immigrant tradition, and we cannot stand by and let this program undermine the rights and safety of our immigrant communities and facilitate widespread deportation.

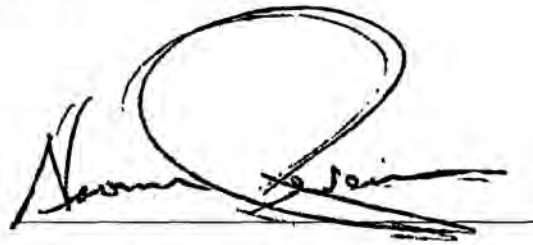
In the past couple of weeks, numerous elected officials have spoken out against this controversial program. We need to seriously examine the concerns raised by Congress Member Zoe Lofgren in her call for an investigation of S-Comm. We must support the Congressional Hispanic Caucuses' call for an immediate freeze of the program given the potential negative consequences, for communities of color in particular. We must learn from the experience of Illinois and from Governor Pat Quinn's decision to terminate the state's Memorandum of Agreement (MOA) with ICE after exhausting all other avenues to address the discrepancy between what the program states as its purpose and the actual implementation of the program.

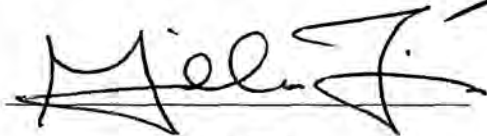
The statistics and stories derived from the implementation of S-Comm nationwide show that the program is not about protecting communities, but rather it serves as a feeder into a mass deportation system and exacerbates racial profiling. In addition, S-Comm undermines community safety as non-citizens will become increasingly fearful that contact with the police will result in potential deportation. As elected officials, we have a duty to protect the due process rights of New York residents and to ensure that civil rights are not being undermined due to racial profiling and unfair deportations. Given that, we feel that we have no other option than to terminate S-Comm in New York.

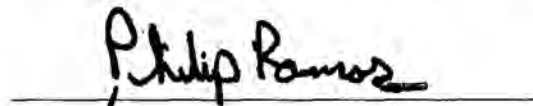
As elected officials, we will continue to support all steps to protect the rights of our communities. As Latino elected officials, we are committed to paving the way for just immigration policies by continuing the fight for the rights of all immigrants and making sure that New York remains an example of a protector of immigrant rights as a counter to the political climate in states like Arizona and Georgia. We cannot continue to participate in a program that does not offer any mechanisms for accountability to ensure that the civil rights of New Yorkers are not being violated. We hope we can all work together to take a large step towards that goal by stopping S-Comm in New York.

Sincerely,

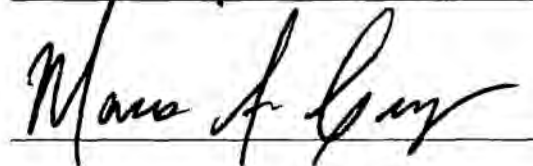




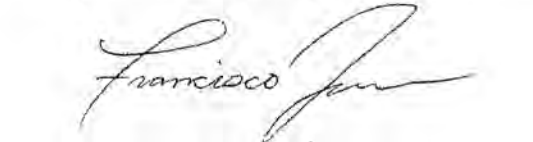












NYS Interfaith Network for Immigration Reform

March 31, 2011

The Honorable Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Dear Governor Cuomo:

As leaders of diverse faith communities in New York, we are writing to express our disappointment that New York State is continuing its participation in the federal immigration enforcement program, Secure Communities (S-Comm). We ask that you rescind the Memorandum of Agreement between the NYS Division of Criminal Justice Services and Immigration and Customs Enforcement (ICE) regarding the S-Comm program. New York's continued involvement in this program puts the public welfare, families, community safety, and civil rights at risk, and betrays the fundamental values of our state and nation.

We are concerned about S-Comm for the following reasons:

- S-Comm is inimical to the public welfare. During this time of budget crisis, S-Comm uses scarce local funds to shoulder federal responsibility instead of toward the urgent and important law enforcement needs of our communities. **The greatness of New York lies in its tradition of putting the public welfare first. S-Comm betrays this tradition.**
- S-Comm will separate families. Under S-Comm, ICE will put people suspected of being deportable directly into the detention and deportation system, separating them from their families. Locked up in detention centers in remote locations, immigrants have severely limited access to their loved ones and, frequently, to legal services. Far too often, deportation is the outcome, resulting in divided families and shattered lives. **New York's tradition of protecting families and children is one root of its greatness. S-Comm betrays this tradition.**
- S-Comm damages the relationship between communities and local law enforcement agencies, putting the safety of communities at risk. Concerns about

NYS Interfaith Network for Immigration Reform

police enforcement of immigration law will prevent victims and witnesses of crime from reporting offenses, putting vulnerable members of communities in jeopardy. **New York's tradition of ensuring the safety and security of all is one root of its greatness. S-Comm betrays this tradition.**

- In this merger of the federal immigration and local criminal justice systems, non-citizens are channeled into detention and deportation through reliance on a criminal justice system often characterized by racial profiling and racially biased policing. **The embrace of tolerance and the rejection of racial and ethnic stereotyping are one root of New York's greatness. S-Comm leads to a betrayal of these values.**

We, the undersigned, ask for your leadership in ending New York's participation in S-Comm. The shared values of our diverse faith communities, our state and our nation at large require it, and the welfare of immigrants, families and children - indeed, of all New Yorkers - hang in the balance.

Sincerely,

Lisa Sharon Harper
Executive Director
New York Faith & Justice
Co-Chair, New York State
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New York, NY

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Co-Chair, New York State Interfaith
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NYS Interfaith Network for Immigration Reform

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Bangladesh Hindu Buddhist
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Manhasset, NY

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Memorial United Methodist
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St. Barnabas Episcopal Church
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NYS Interfaith Network for Immigration Reform

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Vanessa Cardinale
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Wally Robinson
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Bette Alexander
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The Grail
Cornwall on Hudson, NY

Rev. Steve Phillips
United Methodist Church
Pleasantville, NY

Mayra Lopez-Humphreys
Ass. Professor, Nyack College
Metro Hope Church
New York, NY

Better Alexander
New York, NY

Rabbi Simkha Weintraub
New York, NY

Sara Jones
Intern
New York Faith & Justice
Bronx, NY

NYS Interfaith Network for Immigration Reform

CC:

Scott M. Stringer Manhattan Borough President	Adriano Espaillat NYS Senator	Jose M. Serrano NYS Senator	Ydanis Rodriguez NYC Council Member
Jerrold Nadler United States Representative	Charles B. Rangel United States Representative	Marty Markowitz Brooklyn Borough President	Thomas K. Duane NYS Senator
Liz Krueger NYS Senator	Jose Peralta NYS Senator	Daniel L. Squadron NYS Senator	James F. Brennan NYS Assembly Member
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Daniel J. O'Donnell NYS Assembly Member	Nick Perry NYS Assembly Member	Linda B. Rosenthal NYS Assembly Member	Keith L.T. Wright NYS Assembly Member
Charles Barron NYC Council Member	Gale A. Brewer NYC Council Member	Fernando Cabrera NYC Council Member	Margaret Chin NYC Council Member
Inez E. Dickens NYC Council Member	Daniel Dromm NYC Council Member	Julissa Ferreras NYC Council Member	Helen Diane Foster NYC Council Member
Daniel R. Garodnick NYC Council Member	Robert Jackson NYC Council Member	Letitia James NYC Council Member	G. Oliver Koppell NYC Council Member
Brad Lander NYC Council Member	Stephen Levin NYC Council Member	Rosie Mendez NYC Council Member	Annabel Palma NYC Council Member
Diana Reyna NYC Council Member	Jumaane D. Williams NYC Council Member	Charles E. Schumer United States Senator	Kirsten Gillibrand United States Senator

May 10, 2011

Governor Andrew Cuomo
State Capital
Albany, NY 12224

Dear Honorable Governor Cuomo,

As organizations dedicated to working with victims of domestic violence and human trafficking, we are writing to urge you to end Secure Communities (S-Comm) in New York State. From our vast experience working with crime victims, we know that New York's participation in S-Comm, or any proposal to involve local police in immigration enforcement activities, negatively impacts immigrant crime victims and witnesses. These types of programs heighten victims' fear of police, may put victims themselves in deportation proceedings, and will prevent immigrant survivors from being able to access the services and protections available to them. For this reason, we oppose New York's participation in S-Comm and urge you to rescind the Memorandum of Agreement between New York and ICE.

We are concerned that the state's current entanglement with ICE threatens the safety of victims of domestic violence, tears families apart, and compromises public safety for all New Yorkers. S-Comm endangers all New Yorkers by deterring immigrant community members from participating in police investigations, particularly in domestic violence situations. Calls reporting domestic violence sometimes result in the arrest of both parties present. Because of ICE's entanglement with law enforcement, even the wrongful arrest of victims of domestic violence can result in their detention and deportation. According to ICE's own assessment, it is inappropriately detaining many of its civil detainees, including people seeking protection under the Violence Against Women Act (VAWA). As a result, many immigrants already do not seek police intervention when abusive relationships develop for fear that they will be swept away by an unjust system. These fears have only increased with the implementation of S-Comm.

Furthermore, protection under VAWA is only one potential form of relief for victims of domestic violence. They may also be eligible for cancellation of removal, adjustment of status to legal permanent residence, and various persecution-based forms of relief such as asylum, withholding of removal, and protection under the Convention Against Torture. However, we cannot effectively advocate for victims of domestic violence when New York jails and prisons work with ICE to transfer them to immigration detention centers thousands of miles away from New York State. Therefore, many of these people will not have access to legal representation or social services throughout their detention and deportation proceedings. A direct result of this interagency cooperation is that many New Yorkers are deported when they should return home to their families and receive the services they require.

In addition to fearing their own deportation, victims of domestic violence may be reluctant to seek police intervention and services because they fear the deportation of their spouses or partners. While many of our clients seek assistance to end a violent situation and may want to pursue criminal charges, the end result they seek is rarely the permanent exile of their partner and the ensuing financial and emotional hardship on their family. In order to keep their partner out of a broken deportation system, many victims are reluctant to seek help. This allows the abuse to escalate while victims continue to distrust the City's safety nets.

We agree with the leaders in the New York law enforcement community, including former Manhattan District Attorney Robert Morgenthau and NYPD Commissioner Kelly, who have spoken

out about the risks to public safety resulting from law enforcement's entanglement with ICE. When immigrant communities fear the police, they will be less likely to seek the aid of law enforcement and participate as witnesses in criminal cases. In a state that is home to so many immigrants, the culture of fear created by S-Comm creates an unacceptable risk to all New Yorkers.

Please take the necessary steps to keep our communities truly secure. We urge you to use the State's limited resources to keep New York families together, promote public safety, and protect the rights of our most vulnerable residents by rescinding the S-Comm MOA and stopping S-Comm's implementation in New York immediately. If you have any questions or would like to discuss this further, please contact Marisol Arriaga at the Legal Aid Society, Civil Division at 646-340-1950 or email maarriaga@legal-aid.org.

Sincerely,

The Arab-American Family Support Center

Good Shepherd Services, Safe Homes Project

inMotion, inc.

Legal Aid Society, Civil Practice

Legal Services NYC

Legal Services Staff Association, a unit of UAW 2320

National Asian Pacific American Women's Forum (NAPAWF)

New York Asian Women's Center

Northern Manhattan Improvement Corp.

Safe Horizon

SAKHI for South Asian Women

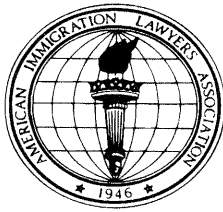
STEPS to End Family Violence

UAW Local 2325 - Assoc. of Legal Aid Attorneys

Urban Justice Center, Domestic Violence Project

Urban Justice Center, Sex Workers Project

Violence Intervention Project, Inc.



**AMERICAN IMMIGRATION LAWYERS ASSOCIATION
NEW YORK CHAPTER
2010-2011**

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May 19, 2011

Honorable Andrew Cuomo
Governor of New York
State Capitol Building
Albany, NY 12224

Re: **Opposition to "Secure Communities"**

Dear Governor Cuomo:

On behalf of the New York Chapter of the American Immigration Lawyers Association (AILA), we are writing to urge you to rescind the Memorandum of Agreement with Immigration & Customs Enforcement (ICE) implementing Secure Communities. Rather than participate in an ill-conceived program that tears families apart, puts public safety at risk and destroys cherished civil liberties, New York should reaffirm its commitment to immigrants by immediately ending its cooperation with ICE.

Secure Communities is a devastating addition to an already misguided national immigration policy that prefers mass detention and deportation to respecting the dignity, humanity and contributions of immigrants. By automatically placing any immigrant who is arrested into the detention and deportation system (regardless of the charge and ultimate disposition), Secure Communities continues the federal government's shameful collusion with local police to use the criminal justice system as a dragnet for deporting massive numbers of immigrants.

Every day AILA attorneys see the devastating consequences that the war on immigrants and Secure Communities is having throughout the state. Based on our collective experience and expertise, it is our firm conviction that the program is fatally flawed for the following reasons:

- Secure Communities is **overbroad**. Although the Department of Homeland Security (DHS) billed the program as an effective way to identify violent criminals and significant safety and security threats, DHS' own statistics directly contradict its stated purpose, as a significant majority of the immigrants detained through Secure Communities had no prior criminal record or had committed very minor offenses (often years or decades ago).



AMERICAN IMMIGRATION LAWYERS ASSOCIATION NEW YORK CHAPTER 2010-2011

- Secure Communities **makes New York less safe**. Since any interaction with the police can lead to deportation, many immigrants are refusing to report crimes or otherwise cooperate with or assist local police. In order to serve and protect the public, local police departments must build trust with immigrant communities long fearful of being targeted by law enforcement. Secure Communities will effectively destroy the gains made in those critical relationships.
- Secure Communities **violates due process and civil liberties**. Since anyone arrested will be placed into the detention/deportation system regardless of the ultimate outcome of their case, Secure Communities encourages racial profiling and pretextual arrests by giving police the incentive to target people based only on their appearance. Once arrested, immigrants are often sent to remote prisons, far from their families, support networks and legal assistance, thereby denying them the right to a fair hearing. The legal rights guaranteed under the Constitution and Bill of Rights apply to all people in the U.S. – not just American citizens. Any program that encourages racial profiling while denying the victims of such abuse a fair day in court must be opposed and condemned, not institutionalized.
- Secure Communities **lacks oversight and transparency**. There are no official safeguards or accountability mechanisms relating to Secure Communities. In addition, prominent members of Congress have called for independent investigations of DHS and ICE for misleading the public and lying to state governments about how the program would function. State leaders – including governors and law enforcement officers – have opposed DHS and ICE’s dishonesty, deception and long record of shifting positions and conflicting statements regarding detention/deportation priorities and the ability of localities to opt out of the program.
- Secure Communities **forces local police to do the federal government’s job**. Making and enforcing immigration laws is the sole responsibility of the federal government. Just as New York could not grant citizenship to undocumented immigrants without Congress changing the law, its police officers should not be forced to act as federal immigration agents either. Local police are supposed to preserve public safety, not increase the federal government’s deportation statistics.
- Secure Communities **imposes huge costs** on New York. Secure Communities will dramatically increase the number of people held in jail for additional time, as well as require local police to upgrade their technology capacities, thereby imposing substantial costs at a time



**AMERICAN IMMIGRATION LAWYERS ASSOCIATION
NEW YORK CHAPTER
2010-2011**

when the state can least afford it. In addition, New York government officials will be exposed to liability and litigation expenses for wrongful detentions and deportations.

- **Secure Communities was implemented in New York without any public input**, making a mockery of the democratic process.

As the Governor of New York, you can ensure that our state remains a welcoming place for immigrants by refusing to be pressured by the federal government to cooperate in Secure Communities. You can follow the lead of Governor Quinn of Illinois and be a model to the rest of the country by announcing that you will not participate in an out of control program that terrorizes your constituents while risking public safety. You have the power – and the obligation – to stand up for the rights of immigrants in New York. We urge you to do the right thing and opt out of Secure Communities.

Sincerely,

A handwritten signature in cursive script, reading "Alexis S. Axelrad".

Alexis S. Axelrad
Chapter Chair

A handwritten signature in cursive script, reading "Tanya Goldsmith".

Tanya Goldsmith
Co-Chair, Advocacy/Media Committee

A handwritten signature in cursive script, reading "Michael Mandel".

Michael Mandel
Co-Chair, Advocacy/Media Committee

Background Materials

“SECURE COMMUNITIES”

Our country is facing a crisis of mass detentions and deportations that runs against our values of fairness and justice. Through Secure Communities (S-Comm) and other programs, the police and Immigration and Customs Enforcement (ICE) are increasingly collaborating to use the criminal justice system to deport immigrants. S-Comm leads to the deportation of people who have already paid their debt to society and who contribute to their families and to our state. Meanwhile, their families and communities are deprived of breadwinners, loved ones, and support systems.

How Does S-Comm Work?

- If you get arrested for any reason where S-Comm is activated, the police will forward your fingerprints to ICE.
- If ICE thinks you are deportable, the agency will decide what enforcement action to take. Enforcement actions usually include arrest by ICE, transfer to ICE custody, and initiation of deportation proceedings.
- Generally, ICE will issue a “detainer” (or “hold”), which is a request that the police or jail hold you for an extra 48 hours after your criminal case has been resolved, so that ICE can transfer you to immigration custody.

S-Comm funnels immigrants into a fundamentally unfair deportation system

S-Comm funnels immigrants into a fundamentally unfair deportation system that denies most immigrants the right to a fair hearing. Often sent to far-away detention centers, most immigrants are forced to defend themselves without loved ones, information, or even lawyers to help them navigate the deportation process.

S-Comm threatens our safety and divides our communities.

When community members are afraid that interaction with local police might lead to deportation for themselves or a loved one, they are less likely to report crimes or cooperate as witnesses. This makes it harder for police to investigate crimes and makes us all less safe.

S-Comm violates due process and other protections.

- S-Comm encourages racial profiling. The program gives the police incentives to make pretextual arrests based on perceived race or ethnicity in order to funnel immigrants into the deportation system.
- S-Comm creates a dual system of justice. Under S-Comm, immigrants are routinely denied bail, jailed for longer periods, and disqualified from alternative release programs. This unfair approach hurts whole families and neighborhoods across our state.

ICE Must Honor NY State's Decision to End S-Comm!:

On June 1, 2011, Governor Andrew Cuomo suspended S-Comm in New York, stating, “There are concerns about the implementation of the program as well as its impact on families, immigrant communities and law enforcement in New York.” On August 5, 2011, ICE unilaterally withdrew S-Comm agreements with states, suddenly claiming they were unnecessary. Although S-Comm remains active in 31 New York counties, we are continuing efforts to maintain and expand Cuomo’s decision and to terminate the program nationally.

ICE ACCESS & S-COMM

ICE ACCESS

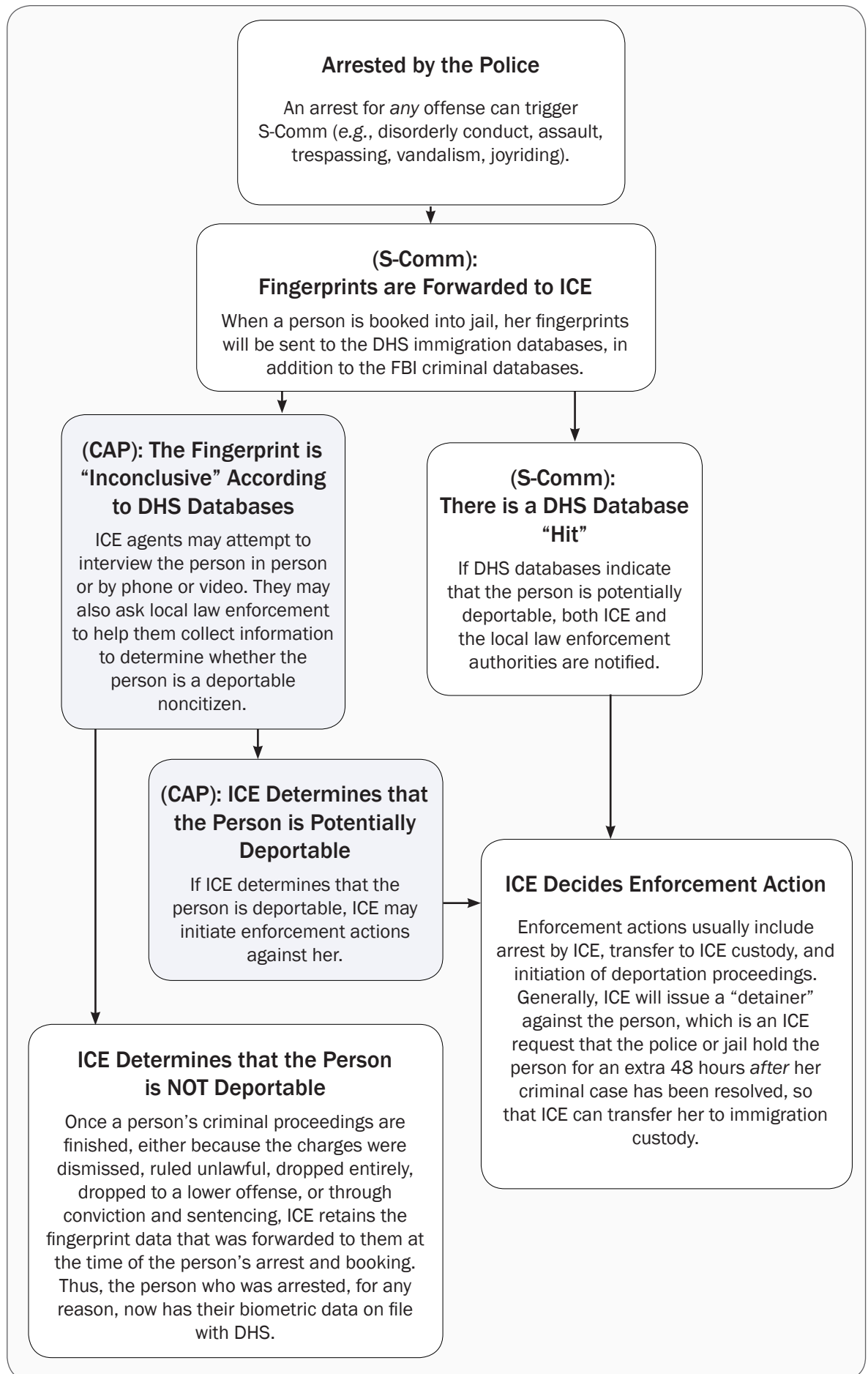
Immigration and Customs Enforcement's Agreements of Cooperation in Communities to Enhance Safety and Security (ICE ACCESS) is a suite of programs designed to get city, county, and state law enforcement to help ICE deport immigrants. FY 2010 funding for ICE ACCESS is nearly \$1.5 billion.

ICE ACCESS programs include:

Criminal Alien Program (CAP): ICE agents are deployed to jails and prisons to get information about potential noncitizens to transfer them to immigration detention for deportation proceedings. In the past three years, over half a million people have been flagged for deportation through CAP.

Secure Communities (S-Comm): Fingerprints taken by local law enforcement are automatically run when processing arrest through immigration databases. This provides ICE a constant presence at police stations. S-Comm is now active in more than 630 jurisdictions across the country.

287(g): ICE enters into agreements with local law enforcement to allow police to act as immigration officers. More than 70 287(g) agreements have been signed across the country.



“SECURE COMMUNITIES” ADVOCACY POINTS OF UNITY

Demand: NY State must immediately rescind the S-Comm Memorandum of Agreement.

What to Say About S-Comm

- S-Comm **automatically checks fingerprints** of every arrested person taken at booking against immigration databases
 - Based on these database checks, Immigration and Customs Enforcement (ICE) then transfers people suspected of being deportable straight into the detention and deportation system from the criminal justice system
 - In the deportation system, people are often sent far away to remote detention centers— with **no loved ones or even lawyers to help defend against deportation**
- New York’s Division of Criminal Justice Services (DCJS) signed a Memorandum of Agreement (MOA) with ICE on May 18, 2010 with **no public input**.
- S-Comm and other collaborations between ICE and local police:
 - **Jeopardize our safety** by creating a climate of mistrust between communities and law enforcement and encouraging immigrants both to not report crimes and to not cooperate.
 - **Offend values of liberty, due process, and justice** by forcing immigrants to get treated differently from US Citizens in criminal proceedings and funneling people into the unjust deportation system where they have no “fair day in court”
 - **Encourage racial profiling** by giving the police incentives to make pretextual arrests in order to transfer people into deportation
 - **Impose significant costs** on our localities by forcing them to absorb costs of mass incarcerations
 - Force local taxpayers to fund the costs of illegal detentions and deportations
- ICE is an agency that offers **no accountability**. All **liabilities fall on local governments and local law enforcement** agencies
 - There is **no recourse available** to people whose rights are violated
- People who get caught in the S-Comm have already **“paid their debt to society”**
 - Deportation strips away family and community **support systems and breadwinners**
- New Yorkers deserve a chance to have **meaningful input and debate** to ensure that S-Comm will not **endanger our communities, violate our rights, and divert scarce resources**

What NOT to Say or Focus Unduly On and Why

- We should NOT say it is OK to deport “dangerous or violent criminals”
 - **Deportation is not the answer** for people in the criminal justice system
 - Deportation **should not come as a second punishment** to those who have done their time

New York State Working Group Against Deportation

- Our goal is to bring attention to how **unjust the detention and deportation system is** overall. We undermine our work by advocating for the deportation of any particular group
- Our work on S-Comm is just one part of our **broader work to change immigration laws** to stop deportations. We need immigration reform that provides all, not just some, immigrants an opportunity to live lawfully in the US and that, at a minimum, gives immigrants a fair day in court
- We should NOT criticize S-Comm primarily because innocent people or low-level offenders make up the majority of those swept into S-Comm
 - Our immigrant communities **shouldn't be divided into the "deserving" and "undeserving"** to be deported
 - We are **not fighting for S-Comm to work efficiently**—i.e., to do what ICE says it's supposed to be doing (catching the "dangerous criminals")—but rather to put an end to the collaborations between local law enforcement agencies and ICE that are tearing apart families
- We should NOT emphasize that S-Comm is problematic because of its potential for errors—for example, that green card holders (aka lawful permanent residents) without convictions and US Citizens get caught up in S-Comm
 - We **don't want to privilege certain groups** over others
 - Again, we are not fighting for S-Comm to work efficiently and according to ICE's stated goals
- We should NOT call for increased policing by local law enforcement
 - Many immigrant communities are already **overly targeted** by the police
- We should NOT call for "comprehensive immigration reform" to solve immigration problems
 - We need reform, but **current CIR proposals increase deportations, and include ratcheting up S-Comm** and similar programs
 - We need immigration reform that provides all, not just some, immigrants an opportunity to live lawfully in the US and that, at a minimum, gives immigrants a fair day in court

Res. No.

Resolution calling on the Governor of New York to immediately rescind the Secure Communities Memorandum of Agreement.

By Council Members Rodriguez, Dromm, Ferreras, and Mark-Viverito

Whereas, On May 18, 2010, the New York State Division of Criminal Justice Services entered into a Memorandum of Agreement with U.S. Immigration and Customs Enforcement (“ICE”) of the Department of Homeland Security (“DHS”) regarding the implementation of the Secure Communities program; and

Whereas, Under the Secure Communities program, states to enter into agreements with ICE to identify and remove criminal non-citizens from the United States by using fingerprint-based biometric technology during the booking process; and

Whereas, Under the Secure Communities program, fingerprints taken by local law enforcement officers during booking are automatically checked against DHS records; and

Whereas, If fingerprints taken by local law enforcement officers match those in DHS records, local ICE officers are automatically notified in order to determine whether any action is required; and

Whereas, Once a Memorandum of Agreement is entered into between a state and ICE, ICE works with the state’s identification bureaus to develop deployment plans for activating the biometric information sharing capability in their jurisdictions; and

Whereas, ICE reports that as of November 2, 2010, the Secure Communities program has been activated in 752 jurisdictions in 34 states since 2008; and

Whereas, According to ICE, Secure Communities is active in every jurisdiction in Arizona, Delaware, Florida, Texas, Virginia and West Virginia; and

Whereas, ICE plans to have the biometric sharing capability of the Secure Communities program activated nationwide by 2013; and

Whereas, ICE is not responsible for the costs incurred by states and their jurisdictions for holding a non-citizen on detainer, nor does ICE reimburse localities for detaining an individual, which renders localities solely responsible for the expenses incurred by holding a person on detainer; and

Whereas, Based on ICE data reviewed by the Benjamin N. Cardozo School of Law, the Center for Constitutional Rights, and the National Day Laborer Organizing Network, only 20% of the more than 46,000 people deported under Secure Communities were charged with or convicted of serious crimes and the majority of people deported under Secure Communities had no criminal records or had been picked up for low-level offenses; and

Whereas, According to critics of the program, Secure Communities violates due process and will lead to the automatic deportation of many people with minor criminal violations, or who paid their debt to society long ago and are now fully contributing to their families and our state; and

Whereas, Localities nationwide have formally expressed their opposition and desire to opt-out of the program including Arlington County, Virginia, Washington, D.C., and San Francisco, CA; and

Whereas, According to ICE, there is no way for a jurisdiction to opt-out of the Secure Communities program once a state has entered into a Memorandum of Agreement with ICE to implement the program; and

Whereas, The Washington, D.C. Metropolitan Police Department is the only local law enforcement agency to successfully terminate its signed Memorandum of Agreement; and

Whereas, New York government officials can follow the example of Washington, D.C., which rescinded its Secure Communities Memorandum of Agreement on June 23, 2010, after receiving public input on the program by having the chief of police, who had originally signed the MOA, send a letter stating that Washington, D.C. no longer wished to participate in the program; and

Whereas, New Yorkers strongly believe that due process is a human right, the denial of which puts all of our freedoms at risk; now, therefore, be it

Resolved, That the Council of the City of New York calls on the Governor of New York to immediately rescind Secure Communities Memorandum of Agreement.

JEB
LS #1580
11/12/10

REGULAR MEETING OF THE ITHACA TOWN BOARD
MONDAY, JUNE 13, 2011

TB RESOLUTION NO. 2011- 106: Requesting that Governor Cuomo Rescind the Secure Communities Memorandum of Agreement Between New York State and the Department of Homeland Security

WHEREAS in March, 2008 the U.S. Immigration and Customs Enforcement (ICE), an agency of the Department of Homeland Security (DHS), initiated a Secure Communities Program and

WHEREAS in May, 2010 New York State signed a Memorandum of Agreement (MOA) with ICE to allow the Secure Communities Program into New York, which was revised on December 28, 2010 and

WHEREAS this Memorandum of Agreement requires New York State and any participating local law enforcement departments to use fingerprint-based biometric technology during booking of arrestees and requires them to share this data immediately with DHS, effectively opening the door for ICE presence in every police precinct across New York State and

WHEREAS the way in which the Department of Homeland Security went about signing this agreement with the Department of Criminal Justice Services was neither transparent nor public and the agreement was signed without any public input and without the knowledge of many elected officials who are entrusted to represent the best interests of constituents and

WHEREAS confusing and contradictory information has been provided as to whether municipal participation in the Secure Communities Program is voluntary or compulsory once an agreement is signed and

WHEREAS the increasing collaboration between law enforcement agencies and ICE is of great concern due to the negative impact on community trust in policing, the potential for racial profiling, and most importantly, the funneling of thousands of New Yorkers into immigration detention and deportation without the exercise of due rights and

WHEREAS the detention and deportation system lacks accountability or transparency, and often sends New York immigrant residents thousands of miles away to immigration detention centers located in Texas, Louisiana, and Alabama, where they are deprived of adequate access to counsel, medical care, family, witnesses, and other evidence necessary to defend themselves against deportation and

WHEREAS beyond the individual suffering, each one of these New Yorkers leaves behind a broken family and

WHEREAS, ICE has made clear that localities, not ICE, will bear the financial and resource burdens and all liabilities incurred by participation in the Secure Communities Program and its related programs and

WHEREAS as New York is grappling with an \$8.1 billion budget deficit and Tompkins County is still weathering a challenging economic environment and can ill-afford unnecessary expenditures that do not benefit our community and

WHEREAS on May 4, 2011, Governor Quinn of Illinois requested a termination of the Memorandum of Agreement between the Illinois State Police and DHS stating that ICE's records show that more than 20% of the deportations from the state under the program have been of persons who were not convicted of any crime and nearly 79% of those deported nationwide under the Secure Communities Program are non-criminals or were picked up but not necessarily charged or convicted

Now therefore be it

RESOLVED that the Town Board of the Town of Ithaca does not support the County's participation in the Secure Communities Program in its current constitution and implementation and

RESOLVED, further, that the Town Board of the Town of Ithaca strongly urges New York State Governor Andrew Cuomo to rescind in its entirety the Memorandum of Agreement (MOA) New York State signed in May 2010 and revised in December 2010 with the Department of Homeland Security's Immigration and Customs Enforcement agency authorizing the implementation of the Secure Communities Program in New York and

RESOLVED, further, that the Town Board of the Town of Ithaca urges Governor Cuomo not to commit New York State to any future involvement in the program until further investigation, review, and public debate on all aspects and impacts of the program and

RESOLVED, further, that the Town Clerk forward copies of this resolution to Governor Andrew Cuomo, New York State Senators James L. Seward and Thomas F. O'Mara, and Assemblywoman Barbara S. Lifton.

MOVED: Herb Engman

SECONDED: Pat Leary

VOTE: AYES: Herb Engman, Pat Leary, Tee-Ann Hunter, Rich DePaolo, Eric Levine and Pat Leary Motion passed unanimously

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February 22, 2011

A U.S. Immigrant Program

To the Editor:

Re “[U.S. Hardens Its Stance on an Immigrant Policy](#)” (news article, Feb. 18): As part of a coalition that seeks to end New York’s participation in the Secure Communities program, we are disappointed to learn the extent to which our state was misled by federal agencies more concerned with instituting a dangerous program than with operating honestly and transparently.

New York signed up for Secure Communities last May without any public debate or scrutiny.

Secure Communities undermines everything New York stands for: diversity, equality and fairness. It throws immigrants into the black hole of deportation, endangers our safety by promoting fear of the police, and threatens to cost our state millions of dollars.

Immigration and Customs Enforcement has proved repeatedly to be an unreliable partner. Its Secure Communities program is designed to deport immigrants en masse, not to protect the public. New York should stand up to federal duplicity and bullying. Gov. Andrew M. Cuomo must immediately rescind the Secure Communities agreement.

Michelle Fei
Mizue Aizeki
New York, Feb. 18, 2011

The writers are, respectively, co-director, Immigrant Defense Project, and community liaison, Northern Manhattan Coalition for Immigrant Rights.



SECURE COMMUNITIES: PAYING A PRICE NEW YORK STATE CANNOT AFFORD

Secure Communities (S-Comm) Will Result in Significant Additional Fiscal Costs to New York State and Counties

S-Comm will result in a dramatic increase in the number of detainees lodged against immigrants in NY jails.¹ Too many of the state's scarce resources have already gone to paying the direct and indirect costs of detainees. Federal reimbursement through the SCAAP program only covers a small fraction of these expenses because it is both underfunded² and severely restricted in scope.³

Pre-trial custody costs: When immigration detainees are lodged, immigrants in pretrial detention throughout NY State are (1) being denied bail; (2) refusing to post offered bail for fear of transfer to ICE; and (3) often choosing to go to trial rather than accept plea offers. Counties must pay the *cost of housing detainees during the pendency of their criminal cases and the costs of additional trials*. DAs must also either abandon cases against immigrants transferred before their cases are resolved or *incur the costs of seeking a writ and arranging transfers*.

Post-Criminal Custody Costs: ICE issued approximately 13,000 detainees on immigrants in NYC DOC custody between 2004 and 2008 through the Criminal Alien Program.⁴ DOC estimates that it costs \$170/day to house a detainee.⁵ Because DOC holds people with detainees for approximately two days beyond the time they would have been released in order to facilitate their transfer to ICE,⁶ *NYC had to pay an additional \$4.4 million during this period*. This estimate does not account for the additional detention costs faced by other counties throughout NY.

ATI Opportunity Costs: ICE detainees unfairly render immigrants ineligible for Alternatives to Incarceration (ATIs), which cost \$1,400 to \$13,000/person/year,⁷ compared to housing detainees at DOC at an average cost of \$62,595/person/year.⁸ These lost opportunity costs add up to *millions of dollars/year*.

Public Assistance: Among previously self-sufficient families, *25% became reliant on TANF and 50% on food stamps* after losing their breadwinners to deportation,⁹ *adding significantly to the costs of these programs*.

Foster care: According to DHS, over 108,000 undocumented parents of U.S. citizen children were removed from the U.S. between 1997 and 2007.¹⁰ During that same period, 88,000 citizen children were impacted by the deportation of an LPR parent.¹¹ *New York's foster care system and child welfare agencies face an increased and costly burden* when parents are deported and their U.S. citizen children are left behind.¹²

S-Comm Exposes New York State and Localities to Significant Liability

Because S-Comm will dramatically increase the number of people held on immigration detainers—without affording sufficient protections or oversight—New York State and localities will face increased liability for illegal detentions that occur.

New York City has already paid \$145,000 as a settlement¹³ to an immigrant who was illegally held in DOC custody beyond the 48 hours permitted by federal regulation.¹⁴ The City was NOT reimbursed by the federal government for this expense.

Advocates have witnessed similar examples of illegal detention beyond the requisite 48-hour period in counties including, but not limited to, Suffolk, Orange, Nassau, and Dutchess counties.

New York State and localities will likely also face increased liability as a result of accusations of racial profiling and erroneous arrests of citizens and green card holders.¹⁵

Suits by immigrants illegally held in local jails beyond the 48 hours permitted by law were filed in the following states:

California (Suit filed Sept. 2008)¹⁶

Colorado (Suit filed April 2010)¹⁷

Florida (Suit filed Feb. 2009)¹⁸

Indiana (Suit filed June 2010)¹⁹

Pennsylvania (Suit filed July 2008)²⁰

Tennessee (Class action suit filed Aug. 2010)²¹

Washington State (Suit filed in 2010)²²

¹ See 8 C.F.R. § 287.7. “Upon a determination by the Department to issue a detainer for an alien not otherwise detained by a criminal justice agency, such agency shall maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by the Department.”

² See Bureau of Justice Assistance, Office of Justice Programs, *FY 2009 SCAAP Awards*, <http://www.ojp.usdoj.gov/BJA/grant/09SCAAPawards.pdf>.

³ See Bureau of Justice Assistance, Office of Justice Programs, *FY 2009 SCAAP Guidelines*, http://www.ojp.usdoj.gov/BJA/grant/2009_SCAAP_Guidelines.pdf. SCAAP was developed to provide only “partial compensation to the states and local jurisdictions for costs associated with incarceration of undocumented aliens.” (Government Accountability Office reported recently that the four states and four localities that housed the most criminal aliens in 2003, New York, California, Florida and Arizona saw only 25 percent of their overall incarceration costs), not just correctional officer salary cost, covered through the SCAAP. NY State counties received only 8% of the total SCAAP grants for NY State between 1996-2009.

⁴ See ICE FOIA Response Letter to Nancy Morawetz dated Dec. 12, 2008.

⁵ See Marsha Weissman, *Aspiring to the Impracticable Alternatives to Incarceration in the Era of Mass Incarceration*, 33 N.Y.U. REV. L. & SOC. CHANGE 235, 244 (2009) (citing N.Y. City Alternatives to Incarceration Coal., *Alternatives to Incarceration Programs: Cut Crime, Cut Costs and Help People and Communities*, <http://www.cases.org/Papers/ATIs.htm>) (explaining that “[a]ccording to the City’s Department of Correction, the average annual cost per jail inmate is \$62,595”).

⁶ See 8 C.F.R. § 287.7(d).

⁷ Office of the Inspector General – Department of Homeland Security (2009), *Removals Involving Illegal Alien Parents of United States Citizen Children*.

⁸ See *supra* note 11.

⁹ See *Facing Our Future: Children in the Aftermath of Immigration Enforcement*, Urban Institute (Feb. 2010).

¹⁰ Office of the Inspector General – Department of Homeland Security (2009), *Removals Involving Illegal Alien Parents of United States Citizen Children*.

¹¹ *In the Child’s Best Interest? The Consequences of Losing a Lawful Immigrant Parent to Deportation*. (March 2010). University of California, Berkeley School of Law and University of California, Davis, School of Law.

¹² See *The Impact of Immigration Enforcement on Child Welfare*, First Focus (Mar. 2010).

¹³ *Harvey v. City of New York*, No. 07-0343 (E.D.N.Y. June 12, 2009).

¹⁴ See 8 C.F.R. § 287.7(d).

¹⁵ Early data from S-Comm pilot jurisdictions shows more than 5,800 U.S. citizens have already been identified as matches through S-Comm.

¹⁶ *Committee for Immigrant Rights of Sonoma County v. County of Sonoma*, No. CV08 4220 RS (N.D. Cal.).

¹⁷ *Quezada v. Mink*, No. 10-879 (D. Col.).

¹⁸ *Cote v. Lubins*, No. 5:9-cv-00091 (M.D. Fla. 2009).

¹⁹ *Melendez Rivas v. Martin*, No. 10-197 (N.D. Ind.).

²⁰ *Urbina v. Rustin*, No. 08-0979 (W.D. Pa. 2008).

²¹ *Ramos-Macario v. Jones*, No. 10-0081 (M.D. Tenn.).

²² *Arroyo v. Spokane County Sheriff’s Office*, Claim No. 10-0046 (June 2010).

Secure Communities Fails to Promote “National Security”

More than anything, public safety relies on community members working cooperatively with law enforcement. Yet, New York took a huge step in jeopardizing our collective safety by signing an agreement with Immigration and Customs Enforcement to participate in Secure Communities this past May.¹ In offering an explanation for green-lighting S-Comm five months later, a New York State Division of Criminal Justice Services (DCJS) official asserted, “New York has a public safety interest in identifying and deporting serious alien defendants from state prisons and jails.” He further added, “While we are very cognizant of the civil rights of immigrants, we are equally cognizant of the fact that this State [sic] is a premier target for terrorism.”

But the truth is, using S-Comm as an instrument to fight terrorism is misguided and dangerous. Below we detail just some of the reasons why S-Comm makes us all less safe.

S-Comm Was Never Designed to Catch Terrorists

DHS has long had a **wide range of programs aimed at counter-terrorism** through its National Security portfolio. These include the **Counterterrorism and Criminal Exploitation Unit**, which works with the FBI to identify potential terrorists, and the **Border Enforcement Security Task Force (BEST)** which partners with federal, state, local, and international counterparts to promote border security and which includes locations in New York.

In contrast, S-Comm falls under ICE’s Enforcement & Removal Operations (ERO), which purports to “enforce the nation’s immigration laws in a fair and effective manner.” S-Comm is meant to “modernize the identification and removal of criminal aliens from the United States.” The term “criminal aliens” currently encompasses people in status (including green card holders) and the undocumented who have criminal convictions, though, practically speaking, many who have simply been arrested but not convicted are also identified as “criminal aliens.”

The reality is that S-Comm has facilitated the deportation of tens of thousands of immigrants in the past two years, of which close to 80% were either non-criminal or low-priority targets according to DHS data. ***Despite a record-breaking number of deportations this year—392,000 people—ICE has not identified even one terrorist through S-Comm or its other EROs.*** Justifying New York’s participation in S-Comm as a tool to catch terrorists or to promote “national security” is akin to burning down a farm to look for a potential needle in a haystack.

S-Comm Undermines Counter-Terrorism Efforts

Strikingly, DHS itself acknowledges that domestic terrorism—in other words, acts committed by U.S. citizens—is now the primary problem the agency faces. DHS Secretary Napolitano admitted that she has “witnessed a movement from international extremism to domestic

¹ Monika Fabian “Immigration Leaders Press Paterson to Revoke Enforcement Program” WNYC News, Wednesday, October 20, 2010, <http://www.wnyc.org/articles/wnyc-news/2010/oct/20/immigration-leaders-press-paterson-revoke-enforcement-program/>

extremism – cases in which Americans radicalized and decided to plot attacks against the country.”² Similarly, President Barack Obama’s homeland security advisor, John Brennan stated, “There needs to be community engagement... It’s that engagement with those local communities that’s going to be the critically important mechanism to detect that radicalization even before they depart.”³

S-Comm, then, functions as an obstacle to effectively fighting terrorism. It undermines the community trust that DHS itself emphasizes is key to successful identification of terrorist threats. The need for community trust in law enforcement in order to promote public safety cannot be overemphasized. After the terrorist attacks of September 2001, the Bush Administration, along with Congress, set out to answer two critical questions: How were these terrorist attacks allowed to happen, and how do we avoid such tragedies again? Consequently, the National Commission of Terrorist Attacks upon the United States was established. This body published *The 9/11 Commission Report*, finding that, in order to fight terrorism, the U.S. government needed to encourage, rather than discourage, information sharing by immigrants. In order to do so, the report stated, “[o]ur borders and immigration system, including law enforcement, ought to send a message of welcome, tolerance, and justice to members of immigrant communities in the United States and in their countries of origin. We should reach out to immigration communities.”⁴ By promoting and implementing S-Comm, ICE disregards and undermines the findings of *The 9/11 Commission Report* by fostering distrust in immigrant communities of local law enforcement agencies.

Local law enforcement themselves recognize that S-Comm undermines community trust. As Salt Lake City Chief of Police Chris Burbank stated, “By increasing our role in civil immigration action, state and local law enforcement is placed in the untenable position of potentially engaging in unconstitutional racial profiling, while attempting to maintain trust within the communities we protect.” He also pointed to a study by Consortium in Police Leadership Equity that “reveal[s] that providing municipal police the powers of federal immigration agents is likely to discourage cooperation with law enforcement and encourage contempt and suspicion ... In fact, one in three law-abiding citizens surveyed said they would not report certain serious crimes if police officers were empowered to determine citizenship status.”⁵

Conclusion

S-Comm neither aims, nor supports efforts to fight terrorism. Sadly, it does the exact opposite by actively dissuading immigrant communities from even approaching law enforcement to report crimes. As local law enforcement officials, immigrant rights groups, and crime victims advocates alike agree, S-Comm is a lose-lose proposition. S-Comm violates our rights and divides our communities, all while undermining our safety and security.

² EILEEN SULLIVAN, JANET NAPOLITANO: DOMESTIC TERRORISM IS TOP CONCERN, HUFFINGTON POST, FEB. 21, 2010, http://www.huffingtonpost.com/2010/02/21/janet-napolitano-domestic-terrorism_n_470915.html

³ EILEEN SULLIVAN, JANET NAPOLITANO: DOMESTIC TERRORISM IS TOP CONCERN, HUFFINGTON POST, FEB. 21, 2010, http://www.huffingtonpost.com/2010/02/21/janet-napolitano-domestic-terrorism_n_470915.html

⁴ THE 9/11 COMMISSION REPORT: FINAL REPORT OF THE NATIONAL COMMISSION ON TERRORIST ATTACKS UPON THE UNITED STATES 390 (2004)

⁵ Testimony of Chris Burbank, Chief of Police, Salt Lake City Police Department, to the Subcommittee on the Constitution, Civil Rights and Civil Liberties, Utah Legislature (6/17/10):

Concerns about ICE's "Secure Communities" (S-Comm) and Its Impact on Efforts to Stop Domestic Violence and Human Trafficking in New York

S-Comm is Detrimental to Community Policing and Threatens the Safety of All New Yorkers

- S-Comm undermines the most important building block of community oriented policing strategies: trust between immigrant communities and local law enforcement. Trust is quite difficult to build but unfortunately very easy to erode.
- It is well documented that to truly have *secure communities*, police and residents must work together in a spirit of cooperation instead of a climate of fear so people are more willing to contact the police for help, participate in investigations and cooperate as witnesses.
- S-Comm adds to the multiple barriers to building trust between police and immigrant communities. These include:
 - fear that contact with the police can lead to deportation
 - linguistic and cultural isolation of immigrant communities
 - distrust of police and judicial systems immigrants may have from experience in their countries of origin

Failure to address these barriers has serious consequences for public safety, leads to an underreporting of crime, and increases immigrants' vulnerability as victims. Domestic violence, sexual assault and trafficking are already underreported crimes.

- Immigrants rely on social networks for information and sometimes these networks disseminate rumors or false information. Any cooperation (real or perceived) between ICE and local law enforcement will have a chilling effect on immigrants' willingness to report crimes negatively impacting the safety of ALL New Yorkers and increasing immigrants' own vulnerability as crime victims.
- Advocates and service providers are acutely aware that national attention to the devastating ramifications of S-Comm for immigrant families. S-Comm activation throughout the country and local stories about the ICE collaboration with NY jails has already influenced immigrants' fears about interactions with local law enforcement. News about women facing deportation after reporting domestic violence due to S-Comm has spread quickly throughout our communities.
- New York's participation in S-Comm will seriously erode any possibility and progress for meaningful community partnerships with local law enforcement.

Participation in S-Comm Will Drive Immigrant Survivors Further Underground

- S-Comm undermines decades long efforts by advocates and law enforcement to combat human trafficking and domestic violence because it hampers our ability to encourage women to avail themselves of the immigration protections created for them by Congress.
- 1. **Advocates have increasingly worked in collaboration with federal, state and local law enforcement to facilitate cooperation with police with the goals of preventing trafficking, protecting victims, and prosecuting abusers and traffickers.**

Secure Communities decreases public safety by sending the message that law enforcement is working with ICE to deport people, including crime victims. NYC participation in S-Comm has the ability to completely unravel the progress that our advocacy community has achieved over the past 16 years working steadily to encourage victims of domestic violence to report. Immigrant survivors of domestic violence and human trafficking are still often extremely reluctant to report their abuse and are distrustful of law enforcement despite advocacy efforts to raise community awareness about domestic violence based immigration relief. Trafficking victims are often enmeshed in the criminal justice system for crimes which they were forced to commit by their traffickers. They may not realize that what is happening to them is actually a crime and certainly often rightfully fear that their criminal background actually places them in a highly vulnerable position to be deported.

- 2. **S-Comm will empower abusers by allowing them to cause the detention and deportation of their victims.**

By making it so simple for abusers to cause their victim's deportations, S-Comm will erase decades of progress in our work. With the arrival of S-Comm, abusers will find it easier to make good on their threats of having their victims deported and make it much more difficult for advocates like us to successfully encourage victims to report their abuser's crimes and leave abusive relationships.

- 3. **Abusive relationships are entrenched in relationships of power and control, where the abuser maintains a stronghold over the victim, not only through physical abuse, but also through threats of retaliation if the victim reports the abuse to law enforcement.**

In relationships where the victim is a noncitizen, abusers commonly threaten the victim with falsely reporting them to the police and causing their deportation. Even now, without S-Comm, we commonly see this tactic being used successfully against victims. Abusers swear out false complaints alleging that the victim committed some minor crime, and the police arrest the victim. Currently, these cases tend to be recognized as retaliatory and dismissed in the interests of justice when they reach the Courts, but S-Comm will likely trigger the victim's deportation before that point. With S-Comm, fingerprints will be immediately sent to immigration authorities upon arrest, long before the defendant is taken before a judge, resulting in a potentially deportable immigrant victim's being detained and processed by immigration authorities whether or not a criminal judge recognizes that the allegations are retaliatory and dismisses all charges against the victim.

4. **Mandatory arrest and dual arrest practices in New York have the potential to drag domestic violence survivors unjustly into the criminal justice system, making them increasingly vulnerable to deportation in an S-Comm world.**

If this happens, the only message survivors will hear is that reporting domestic violence leads to deportation.

5. **S-Comm will endanger victims of domestic violence by forcing them to choose between reporting their abusers to law enforcement and ensuring their children's well-being.**

One of the main reasons why domestic violence victims remain in abusive relationships is because they lack the financial means to leave and don't want to expose their children to poverty. We have worked to ease those concerns by encouraging victims to access child support, when available, to ensure their children's financial stability. By causing the deportation of abusers, S-Comm will eliminate the possibility of victims being able to access child support, therefore forcing them to choose between reporting the abuser to law enforcement and losing him as a means of financial support for their children, or staying in a dangerous relationship.

6. **There is no way to fix S-Comm to protect victims of domestic violence. S-Comm in any form will make the immigrant community afraid of law enforcement.**

Immigration authorities have suggested that they might be willing to address some of our concerns by providing their agents with 'discretion' in dealing with cases of immigrant domestic violence victims. We do not believe that will address the damage that S-Comm will cause these same victims. Victims will not take any chances in interacting with the police even if ICE develops a special policy regarding crime victims because they won't take any risks in losing their families or their livelihood. In a city where 36% of the population is foreign-born, we cannot afford to associate law enforcement authorities with immigration enforcement. We believe that doing so will alienate our neighbors, and cause immigrant communities to retrench out of fear, making it even more difficult for us to reach and protect the most vulnerable amongst them: immigrant victims of domestic violence and their children.