



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		