

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](mailto: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