



December 23, 2010

Honorable David A. Paterson  
Governor, State of New York  
State Capital  
Albany, NY 12224

Dear Governor Paterson:

As New York City elected officials, we are writing to urge you to rescind the Memorandum of Agreement (MOA) signed earlier this May with the U.S. Immigration and Customs Enforcement (ICE) agency and the Department of Homeland Security (DHS) 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 fingerprints of all arrestees to federal immigration authorities in order to identify immigrants 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 without any input from either the public or elected officials. As such, we strongly recommend that you rescind the Memorandum of Agreement that authorizes implementation of S-Comm in New York State.

We are extremely concerned by the inconsistent information provided by the DHS about S-Comm. There are conflicting reports as to voluntariness of the program and the ability of local jurisdictions to either opt-in or opt-out of the program. The need for an accurate assessment of the program's policy and implications is especially critical in light of the fact that, contrary to earlier assurances, the DHS now maintains that participation in S-Comm by local jurisdictions in states that have opted-in is mandatory.

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, such programs 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, this segment of the State's and City's population will be hesitant to call upon the police for assistance, actually threatening public safety.

The numbers show that immigrant communities do indeed have legitimate reasons to fear the S-Comm program. Though S-Comm by congressional mandate is supposed to focus on Level I "high-threat" criminal immigrants, 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.<sup>1</sup> In fact, in some localities such as San Diego, more than half of those deported due to S-Comm are non-criminals.<sup>2</sup> Such statistics raise concerns that S-Comm may 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 all liabilities incurred by participation in S-Comm, New York risks exposure to lawsuits arising from cases of racial profiling. Furthermore, the added operational costs of S-Comm will fall upon New York. With the State facing a projected \$8.1 billion budget deficit in the next fiscal year<sup>3</sup> 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 eligible detainees to potential deportation proceedings upon release from custody. Each year 3,000 to 4,000 New Yorkers 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. We ask that the State use its resources properly – not to deport New Yorkers, 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

Jose M. Serrano  
NYS Senator

Adriano Espaillat  
NYS Assembly Member

Ydanis Rodriguez  
NYC Council Member

Jerrold Nadler  
U.S. House of  
Representatives

Charles B. Rangel  
U.S. House of  
Representatives

Bill de Blasio  
Public Advocate

Marty Markowitz  
Brooklyn Borough  
President

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<sup>1</sup> “Briefing Guide to ‘Secure Communities’ – ICE’s Controversial Immigration Enforcement Program New Statistics and Information Reveal Disturbing Trends and Leave Crucial Questions Unanswered.” 2 Aug. 2010. *Center for Constitutional Rights Web Site*. 15 Nov. 2010.

<http://ccrjustice.org/files/Secure%20Communities%20Fact%20Sheet%20Briefing%20guide%20%208-2-2010%20Production.pdf.pdf>.

<sup>2</sup> *Id.*

<sup>3</sup> “Enacted Budget Gap-Closing Plan At-A-Glance.” 20 Aug. 2010. *New York State Division of Budget Website*. 16 Nov. 2010. [http://publications.budget.state.ny.us/budgetFP/1011summary/1011enacted\\_summary3.html](http://publications.budget.state.ny.us/budgetFP/1011summary/1011enacted_summary3.html).

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NYS Senator

Liz Krueger  
NYS Senator

Jose Peralta  
NYS Senator

Daniel Squadron  
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Michael Benjamin  
NYS Assembly Member

Jim Brennan  
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NYS Assembly Member

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