

**IS SECURE COMMUNITIES KEEPING OUR
COMMUNITIES SECURE?**

HEARING
BEFORE THE
SUBCOMMITTEE ON
IMMIGRATION POLICY AND ENFORCEMENT
OF THE
COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES
ONE HUNDRED TWELFTH CONGRESS
FIRST SESSION

NOVEMBER 30, 2011

Serial No. 112-69

Printed for the use of the Committee on the Judiciary



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IS SECURE COMMUNITIES KEEPING OUR COMMUNITIES SECURE?

WEDNESDAY, NOVEMBER 30, 2011

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON IMMIGRATION
POLICY AND ENFORCEMENT,
COMMITTEE ON THE JUDICIARY,
Washington, DC.

The Subcommittee met, pursuant to call, at 1:40 p.m., in room 2141, Rayburn House Office Building, the Honorable Elton Gallegly (Chairman of the Subcommittee) presiding.

Present: Representatives Gallegly, Smith, King, Lofgren, Jackson Lee, and Waters.

Staff Present: (Majority) Dimple Shah, Counsel; Marian White, Clerk; and (Minority) Hunter Hammill, USCIS Detailee.

Mr. GALLEGLY. Call to order the Subcommittee on Immigration Policy and Enforcement to order. Over the past year, the Obama administration has taken several steps to grant relief to illegal immigrants and other removable aliens without approval of Congress. These actions strain the constitutional separation of powers and will defy the will of the American people. They are part of the Administration's unrelenting effort to grant amnesty to illegal immigrants.

Unfortunately, the Administration is imperiling the Secure Communities program as part of this effort. Secure Communities is a powerful law enforcement tool that allows U.S. Immigration and Customs Enforcement to detain removable aliens arrested by local law enforcement agencies.

Secure Communities grew out of a local law enforcement program that we established in the mid-1990's. In the 1996 illegal immigration reform bill, I included a provision that established a pilot program in Anaheim and Ventura County, California, that authorized local law enforcement officials to screen criminals in local jails prior to being arraigned. And in 1997, this program was expanded to jurisdictions throughout the United States.

Today this program, which is now called Secure Communities, is supported by local law enforcement organizations across the Nation, including the Major County Sheriffs Association.

Ultimately, Secure Communities assists local law enforcement with the identification and remove of criminal aliens, making it a vital tool for protecting the safety of our streets and neighborhoods. Yet, amnesty groups remain stubbornly opposed to it and claim that Secure Communities results in racial profiling. However, it is

perplexing how a computer can racially profile when everyone who comes to the attention of law enforcement is checked through a database.

From the outset, the Administration has failed to enforce our immigration laws and has effectively placed its own political agenda ahead of its constitutional responsibilities to carry out the laws enacted by Congress. Secure Communities is certainly no exception. The Administration is taking what is otherwise a useful law enforcement tool and making changes to it, not to strengthen the program, but to undermine it.

The Administration has taken several steps to satisfy the desires of pro-amnesty groups, including the formation of a task force consisting largely of amnesty supporters that is designed to tell the Administration how and when it should ignore the laws written by Congress. Never before, to my knowledge, has an outside group composed largely of members with little enforcement and operational knowledge of the Department of Homeland Security been permitted to provide advice on enforcement immigration laws.

I, along with other Members, have urged the Administration to reverse the policy of granting administrative amnesty to illegal immigrants by misusing so-called priorities.

The Administration needs to focus on creating jobs for American citizens and legal workers instead of looking for backdoor means to permit illegal immigrants to stay in this country.

I, at this time, would yield to the gentlelady, my friend from California, the Ranking Member, Ms. Lofgren.

Ms. LOFGREN. Thank you, Mr. Chairman. The title of the hearing is simple, "Is Secure Communities Keeping Our Communities Secure?" And I think that is the central question we need to ask in this hearing on SCOM. Whether the program is a success depends entirely on whether it is actually making our communities safer and more secure.

Some of us on the Subcommittee have opinions on this subject, and I am sure that DHS has opinions on the subject, but none of us really are experts and we really need to ask those we entrust with community safety and learn their views about whether this is working to protect and serve our communities.

Now some have been arguing about enforcement numbers and prosecutorial discretion and so-called administrative amnesty. While we were doing this, law enforcement officials all over the country have been speaking out and asking for help. Sheriffs, police chiefs, prosecutors, both Democrats and Republicans, have been increasingly vocalizing concerns about SCOM as it is currently designed, saying that it actually threatens public safety and endangers the communities they are sworn to protect.

Now SCOM was advertised to State and local law enforcement as a simple, voluntary, race-neutral, information sharing program focused on catching the most serious criminals. And as advertised, that program would make a great deal of sense. In a world of limited enforcement resources it is just common sense to prioritize the removal of dangerous criminals. And an electronic information sharing program to find and catch such individuals, that would be a laudable thing. That's especially true when the program would be implemented with the consent of, and coordination and consulta-

tion, with State and local law enforcement officials who, after all, know best how to protect their own communities.

But according to a growing number of these State and local law enforcement officials, SCOM has failed to live up to its advertising in almost every respect.

Now while SCOM was originally sold as a voluntary program, we all now know that's not the case and actually probably never was. Despite signed agreements and promises ensuring input from State and local authorities, and an option for opting out of the program if it fails to work for a given community, DHS now intends to move forward in a mandatory fashion without any such input.

The program is also failing to live up to the promise that it would focus on serious criminals. According to ICE's own figures, over half of those identified and deported through SCOM either had no criminal convictions or were convicted of minor offenses, including driving without a license and other traffic offenses. It includes witnesses, bystanders, even victims, including even victims of domestic violence. And this is damaging community policing efforts. Ask any police chief or sheriff in the country what is his or her primary duty, and you will get the same answer, which is keeping our streets safe from serious criminals. To best accomplish that, they will probably also tell you they need the full trust and cooperation of the communities they serve. Community policing efforts are widely accredited for declining crime rates over the last decade.

Now as SCOM is currently being run by ICE, a growing number of sheriffs and police chiefs believe the program is distracting them from their primary function, diverting their resources, and also damaging trust, especially in immigrant communities. Without trust, crimes go unreported, investigations go unsolved and decades of community policing efforts are destroyed, which could leave us all less safe. Mark Curran, the Republican chair of Lake County Illinois once supported SCOM; he no longer does, because of the fear and distrust the program is engendering in the communities he is sworn to protect.

Expressing similar concerns are Salt Lake City police chief Chris Burbank, San Antonio police chief Bill McManus, Austin police chief Art Acevedo, former San Francisco Sheriff Michael Hennessey, and Boston police commissioner Ed Davis. You can't just dismiss their concerns by saying they don't believe in the rule of law. I mean, these are law enforcement officers from all over the country who are deeply committed to fighting crime and protecting the communities they serve.

Experts are also worried, Mr. Chairman, about SCOM's susceptibility to racial profiling. The program was advertised as being immune from racial profiling because it runs fingerprints on anyone who is arrested and booked, regardless of race or nationality. But the real problem is that SCOM may lead to pretextual arrests by officers who know that all fingerprints will be checked against ICE databases. If an officer chooses to issue tickets to White drivers without their license, but arrest Latinos in the same situation, SCOM would not be race neutral.

A recent report by U.C. Berkeley's Warren Institute found that between 2008 and January 2010, 93 percent of those identified

through SCOM were Latino. Now some of this may have do with the locations where the program is operating, but 93 percent is a staggering statistic because Latinos do not make up 93 percent of the removable immigrants in this country.

Now, I know the Department is taking steps to ameliorate these concerns. They have this advisory council. ICE has issued guidelines to clarify enforcement priorities. And they are good steps, but I think the hearing today is probably scheduled to attack these small baby steps forward. I am sure we will hear with displeasure the recent report of the SCOM task force which included sheriffs and police chiefs. They had extensive field hearings and consultations, and the report raises very serious concerns about racial profiling. And it recommends that ICE would hold off on enforcement action on minor traffic offense as these offenses are most likely to be pretextual.

I think the systematic use of prosecutorial discretion is absolutely necessary if the Department chooses to push forward with nationwide Secure Communities by 2013. We have dramatically increased enforcement resources over the last decade, but the capacity in detention centers is about 300,000, and we have a backlog of over 300,000 cases pending in immigration courts.

What that backlog means is there are some serious criminals waiting, and our resources are being spent on things that are minor in scope. So I am hopeful that we can learn from this hearing. I would ask unanimous consent to put my full statement in the record. I look forward to hearing from the witness and I yield back.

Mr. GALLEGLY. Without objection the full statement will be part of the record of the hearing.

[The prepared statement of Ms. Lofgren follows:]

Prepared Statement of the Honorable Zoe Lofgren, a Representative in Congress from the State of California, and Ranking Member, Subcommittee on Immigration Policy and Enforcement

The title of this hearing is simple: "Is Secure Communities Keeping Our Communities Secure?" I agree that is the central question we should be asking at a hearing on S-Comm. Whether the program is a success depends entirely on whether it is actually making our communities safer and more secure.

Some of us in this Subcommittee may have opinions on this subject. I'm sure DHS officials have their opinions. But none of us are experts. If we truly want to know whether S-Comm is making communities safer, shouldn't we ask those who are most entrusted with community safety? Shouldn't we ask the law enforcement officials most responsible for protecting and serving those very communities?

While some have been arguing about enforcement numbers, prosecutorial discretion, and so-called administrative amnesty, law enforcement officials all over this country have been speaking out and asking for help. Sheriffs, police chiefs, and prosecutors—both Democratic and Republican—have been increasingly vocalizing their concerns that S-Comm, as currently designed, actually threatens public safety and endangers the communities they are sworn to protect.

S-Comm was advertised to state and local law enforcement as a simple, voluntary, and race-neutral information-sharing program focused on catching the most serious criminals. As advertised, this program made a good deal of sense.

In a world of limited enforcement resources, it is just common sense to prioritize the removal of dangerous criminals. And an electronic information-sharing program to find and catch such individuals is laudable. This is especially so when the program is implemented with the consent of and in coordination with state and local law enforcement officials, who know best how to protect their communities.

But according to a growing number of these state and local law enforcement officials, S-Comm has failed to live up to its advertising in almost every respect.

While S-Comm was originally sold as a voluntary program, we all know now that is not the case and it never was. Despite signed agreements and promises ensuring

input from state and local authorities and an option for opting out of the program if it failed to work for the community, DHS now intends to move forward in a mandatory fashion without any such input.

The program is also failing to live up to the promise that it would focus on serious criminals. According to ICE's own figures, over half of those identified and deported through S-Comm either had no criminal convictions or were convicted of only minor offenses, including driving without a license and other traffic offenses. It has swept in witnesses, bystanders, and even victims—including even victims of domestic violence.

This is damaging community policing efforts. Ask any police chief or sheriff in the country what his or her primary duty is and you'll get the same answer—keeping our streets safe from serious criminals. To best accomplish that, they will tell you that they need the full trust and cooperation of the communities they serve. Community policing efforts are widely credited for declining crime rates over the last decade.

As S-Comm is currently being run by ICE, a growing number of sheriffs and police chiefs believe the program is distracting them from their primary functions, diverting their resources, and damaging trust with immigrant communities. Without this trust, crimes go unreported, investigations go unsolved, and decades of community policing efforts are destroyed—leaving us all less safe.

Mark Curran, the Republican sheriff of Lake County, Illinois, once supported S-Comm. He no longer does because of the fear and distrust the program is engendering in the communities he is sworn to protect. Expressing similar concerns are Salt Lake City police chief, Chris Burbank; San Antonio police chief, Bill McManus; Austin police chief, Art Acevedo; former San Francisco sheriff, Michael Hennessy; and Boston Police Commissioner, Ed Davis. You cannot simply dismiss their concerns by saying they do not believe in the rule of law. These are head law enforcement officers from across the country who are deeply committed to fighting crime and protecting the communities they serve.

Experts are also worried about S-Comm's susceptibility to racial profiling. The program was advertised as being immune from racial profiling because it runs fingerprints on anyone who is arrested and booked, regardless of race or nationality. But this ignores the real problem—that S-Comm may lead to pre-textual arrests by officers who know that all fingerprints will be checked against ICE databases. If an officer chooses to issue tickets to white drivers without their license, but arrest Latino drivers in the same situation, S-Comm can hardly be said to be race neutral.

A recent report by UC-Berkeley's Warren Institute found that between 2008 and January 2010, a full 93% of those identified through S-Comm were Latino. Some of this may have to do with the locations in which the program was operating at that time, but 93% is still staggering. Latinos do not make up anywhere near 93% of the removable immigrants in this country.

To DHS's credit, the Department has taken steps to ameliorate some of these concerns. DHS created the S-Comm Advisory Council Task Force to study the program and make recommendations for its improvement. And ICE issued updated guidance clarifying the country's enforcement priorities and the use of prosecutorial discretion for non-priority cases.

These are good steps. But they do not fully address the problems just discussed. Much more clearly needs to be done to address law enforcement concerns.

Yet I suspect that the Majority scheduled this hearing today specifically to attack these small, recent attempts to *improve* Secure Communities.

I am sure you will hear displeasure with the recent report of the S-Comm Task Force, which included sheriffs and police chiefs from across the country. Issued after extensive field hearings and consultations, the report raises concerns about racial profiling and community policing, and it recommends that ICE withhold enforcement action on minor traffic offenses—those offenses most likely to be pre-textual. The report also recommends that ICE better make use of prosecutorial discretion in appropriate cases.

I am sure you will also hear continued attacks on the recent agency guidance concerning enforcement priorities and prosecutorial discretion. ICE just released additional guidance and announced pilot programs in Denver and Baltimore for reviewing cases pending before the immigration courts.

This systemic use of prosecutorial discretion is absolutely necessary if DHS chooses to push forward with nationwide Secure Communities by 2013.

While Congress dramatically increased enforcement resources over the last decade, it did not provide commensurate resources to DOJ's immigration courts. This has resulted in detention centers filled beyond capacity and a backlog of over 300,000 cases pending in our immigration courts.

This backlog means some serious criminals wait while resources are spent on children, spouses of military families, and farmworkers. This makes no sense and will only get worse as a nationwide Secure Communities program potentially pours in hundreds of thousands of new cases into our already overburdened system.

Given limited resources, DHS made the sensible decision to put those who would do us harm—terrorists and serious criminals—first in line for removal. This is simply sound law-enforcement. It is just common sense.

Yet the Majority, at numerous prior hearings, has decried the use of prosecutorial discretion—widely accepted everywhere else in the law enforcement world—as “administrative amnesty.” This charge is premised on the ridiculous allegation that this Administration is failing to enforce our nation’s broken immigration laws.

Rather than make political attacks, we should actually discuss how to fix S-Comm to address concerns from dedicated law enforcement officials across the country. Failure to do so will lead a system overwhelmed past the breaking point—and to communities that are anything but secure.

Mr. GALLEGLY. With that, I would yield the gentleman the Chairman of the full Committee Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman. Immigration and Custom Enforcement’s primary mission is to promote public safety through criminal and civil enforcement of Federal immigration laws. As part of ICE’s mission, the agency attempts to identify and remove illegal immigrants. Through Secure Communities, ICE uses existing information sharing between the Department of Homeland Security and the U.S. Department of Justice to quickly and accurately identify immigrants who are arrested for a crime and booked into local law enforcement custody.

Under this program, the fingerprints of everyone arrested and booked are checked against FBI criminal history records and DHS immigration records to determine if immigration enforcement is required.

Secure Communities is an important and effective immigration law enforcement program. This program simply makes sense. Who wouldn’t want to deport a criminal immigrant?

But advocates for amnesty have raised opposition for one reason: Security Communities works.

Unfortunately, Secure Communities has fallen prey to the White House’s demands that DHS bypass Congress and use discretionary Executive Branch authorities to grant back-door amnesty. While the program will be operational in all jurisdictions by 2013, DHS has announced changes to Secure Communities that could potentially allow millions of illegal and criminal immigrants to avoid deportation and work in the U.S., taking jobs away from Americans.

On August 22 I sent DHS a written request for information about removable illegal and criminal immigrants brought to the attention of ICE through Secure Communities on whom ICE elected not to take action. The Committee needs to determine which of these immigrants went on to commit additional crimes.

To date, I have not received the information requested which forced the issuance of a subpoena. Apparently, the Administration doesn’t want the American public to know the facts.

The Obama administration’s refusal to fully enforce immigration laws allows illegal immigrants to work legally in the United States, forcing millions of unemployed Americans to compete with them for scarce jobs.

The Obama administration remains on the wrong side of the American people when it comes to illegal immigration. According a recent poll, two-thirds of the American people want to see our immigration laws enforced.

The Administration is putting illegal immigrants ahead of the interest of American taxpayers and unemployed Americans. The Administration should enforce all the laws on the books, not just the ones it likes.

Thank you, Mr. Chairman, I will yield back.

Mr. GALLEGLY. I thank the gentleman. We have a really distinguished group of witnesses on our panel today. I want to welcome you and say from the onset that your written statement will be made a part of the record of the hearing in its entirety. I would ask all of you to try to summarize your verbal presentation in 5 minutes because of the time period we have here today, and we would like to give everyone an opportunity to interact with questions.

With that, I introduce our witnesses the first is Mr. Gary Mead. Mr. Mead is executive associate director for Enforcement and Removal Operations, U.S. Immigration Customs Enforcement, at the Department of Homeland Security. The enforcement removal operation promotes public and safety and national security by removing national security threats, high risk criminal aliens and illegal aliens fugitives.

Prior to joining ICE in 2006, Mr. Mead spent his entire Federal law enforcement career with the U.S. Marshal Service. Mr. Mead holds a Master's degree and has received two senior executive service presidential rank awards.

Our second witness is Ms. Julie Myers Wood. Ms. Wood is president of the ICS Consulting and Immigration and Custom Solutions, LLC. Prior to founding these companies, Ms. Wood's served as Assistant Secretary of Homeland Security for the U.S. Immigration Customs Enforcement for nearly 3 years. Under her leadership, the agency sent new enforcement records with respect to immigration enforcement, export enforcement and intellectual property rights. Ms. Wood earned her bachelors degree at Baylor University, and J.D. from Cornell Law School.

Our third witness is Sheriff Sam Page. Sheriff Page is an elected official and the chief law enforcement officer of Rockingham County, North Carolina. Sheriff Page serves as the 2011, 2012 chairman of the North Carolina Sheriff's Association and formally served as president of the North Carolina Sheriff's Association in 2010. In addition, he has served the National Sheriff's Association Border and Immigration Committee since 2010. Following his high school graduation, Sheriff Page served the United States Air Force, from 1975 to 1980, he is also a graduate of the National Security Institute.

Our fourth witness, Mr. Arturo Venegas, is the former chief of police for the City of Sacramento, California. He began his law enforcement career in 1969 with the Fresno Police Department and served in various ranks. After graduating high school, he entered the military and served in the 101st airborne division in the U.S. in Vietnam. Thank you for your service.

Mr. Venegas has a bachelor's degree from the University of San Francisco, a Master's degree from California State University, Poly-

technic in Pomona and also a graduate of other California posts accredited studies.

So with that, we will start where the Mr. Mead, welcome.

TESTIMONY OF GARY MEAD, EXECUTIVE ASSOCIATE DIRECTOR, ENFORCEMENT AND REMOVAL OPERATIONS, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, UNITED STATES DEPARTMENT OF HOMELAND SECURITY

Mr. MEAD. Thank you, Mr. Chairman. Chairman Gallegly, Ranking Member Lofgren and distinguished Members of the Subcommittee, on behalf the Secretary Napolitano and Director Morton, thank you for the opportunity to discuss Secure Communities. Secure Communities is smart, effective immigration enforcement, it provides real-time leads to the ICE criminal alien program, greatly reducing the likelihood that criminal aliens will be released from State and local custody back into the community. Secure Communities is now active in more than 1,700 jurisdictions in 44 States with full deployment on track for 2013.

Since its inception, more than 109,000 convicted criminal aliens have been removed as a result of Secure Communities. However, to fully understand Secure Communities, it needs to be placed within the context of the ICE immigration enforcement and priorities. Simply put, it is ICE's responsibility to identify and remove from the country those persons unlawfully present. Like any law enforcement agency, ICE has priorities to focus the use of its resources. The ICE priorities are clear and straightforward: They include criminal aliens and those who pose a threat to our communities, immigration fugitives, repeat immigration violators and recent border crossers.

However it is important to note that does not mean cases outside the priorities will be routinely ignored. In fiscal year 2011, ICE removed a record setting 397,000 unlawfully present aliens, 90 percent of which fell into these priorities. Secure Communities is a valuable tool in meeting these priorities. 95 percent of the more than 149,000 persons removed as a result of Secure Communities fell into one these 4 priority categories.

Last fiscal year alone, more than 58,000 of the record-setting 216,000 criminal alien removals came from Secure Communities leads. While Secure Communities is smart, effective immigration enforcement, the ICE communications surrounding Secure Communities has been anything but smart or effective.

In addition, some early deployment decisions have lead to unintended, and at times, difficult-to-explain consequences. Accordingly, I would like to take a minute to explain what Secure Communities is and is not. It is the result of a fiscal year 2008 congressional directive that ICE improved and modernized its efforts to identify and remove criminal aliens. It utilizes a 2002 Federal statute requiring the sharing of information between Federal agencies.

It compares electronic criminal justice fingerprint data in the possession of the FBI with fingerprint data in the possession of DHS. When matches occur, they are reviewed on a case-by-case basis by trained ICE officers who determine what, if any, immigration action is appropriate. It is very important to note that Secure Communities does not authorize local law enforcement officers to

enforce immigration laws or divert them or their resources from their local law enforcement work. It does not target victims of or witnesses to crime, particularly in domestic violence cases. It does not promote racial profiling. MOUs with the States were not required for deployment. Other than to stop sending fingerprints of those individuals arrested and booked on local crimes to the FBI, it is not possible for States or local jurisdictions to opt out of Secure Communities.

While the fundamentals of Secure Communities have remained sound and unchanged since its inception, we have recognized a number of areas for improvement, many of which were included in the recent Secure Communities task force report. Some of the more significant changes include the following: Creation of new public ICE Web site, clearly explaining Secure Communities; the issuance of updated guidance on prosecutorial discretion and protections for victims of and witnesses to crime.

The DHS office of civil rights and civil liberties and ICE have begun providing public and law enforcement outreach materials, including the first in the series of DVDs; implementation of a joint CRCL complaint process for those who feel Secure Communities is in a particular jurisdiction is being misused; the creation of a CRCL statistical early warning tool, to help analyze and identify any potential of racial profiling and jurisdictions where Secure Communities has been activated; a soon-to-be released revised version of the ICE detainer form which will inform local law enforcement to apply the detainer only upon conviction for certain low level misdemeanors.

We are also working to identify low-level misdemeanors that would typically be outside ICE priorities and reviewing whether it would be possible to provide a post conviction model to them.

In conclusion, I would like to restate that Secure Communities is smart, effective immigration enforcement and a valuable tool in achieving our overall priorities. Thank you again for the opportunity to appear here today, and I would be happy to answer any questions you may have.

Mr. GALLEGLY. Thank you very much, Mr. Mead.
[The prepared statement of Mr. Mead follows:]



U.S. Immigration and Customs Enforcement

STATEMENT

OF

GARY MEAD
EXECUTIVE ASSOCIATE DIRECTOR
ENFORCEMENT AND REMOVAL OPERATIONS

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON

“SECURE COMMUNITIES OVERSIGHT”

BEFORE THE

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON THE JUDICIARY

SUBCOMMITTEE ON IMMIGRATION POLICY AND ENFORCEMENT

Wednesday, November 30, 2011, 1:30 p.m.

INTRODUCTION

Chairman Gallegly, Ranking Member Lofgren, and distinguished Members of the Subcommittee:

On behalf of Secretary Napolitano and Director Morton, I would like to thank you for the opportunity to discuss Secure Communities. U.S. Immigration and Customs Enforcement (ICE) is committed to enforcing the immigration law in a manner that best improves national security, public safety, border security, and the integrity of the immigration system. Simply put, this translates into ICE's seeking to remove convicted criminals and others who threaten our communities, recent illegal border crossers, and egregious immigration violators like fugitives and illegal reentrants.

The reality of limited resources requires law enforcement – at all levels – to use resources strategically and wisely to accomplish their mission. Given estimates that more than ten million people living in the United States are subject to removal, Secure Communities is a critical tool that assists ICE in better focusing its resources on apprehending and removing high priority aliens, including convicted criminals and egregious immigration law violators. Secure Communities is responsible for identifying nearly 58,000 of the more than 216,000 criminal aliens removed in Fiscal Year 2011.

While the fundamentals of Secure Communities remain sound, ICE is mindful of the concerns raised by some, including state and local law enforcement officials, and is committed to continuing to make operational adjustments to ensure that Secure Communities better aligns with our operational priorities. We look forward to working with the Committee to ensure the continued success of the Secure Communities.

Secure Communities Overview

ICE is the principal investigative arm of the U.S. Department of Homeland Security, and with more than 20,000 employees in 50 states and 47 countries, is the second largest investigative agency in the federal government. ICE's primary mission is to promote homeland security and public safety through the criminal and civil enforcement of federal laws governing border control, customs, trade, and immigration. ICE's primary priorities are to: prevent terrorism and enhance security; protect the borders against illicit trade, travel and finance; and protect the borders through smart and tough interior immigration enforcement.

Secure Communities is one part of ICE's smart, effective immigration enforcement strategy. Secure Communities uses technology to provide nearly real time leads to ICE's Criminal Alien Program (CAP), which identifies, processes, and removes criminal aliens from prisons across the United States. These leads greatly minimize the possibility that dangerous criminal aliens will be released into our communities before CAP officers can place detainees or take these aliens into custody. Prior to Secure Communities, CAP officers had to rely almost exclusively on manual access to biographic booking records maintained by each local jail and prison system in order to determine the presence of removable criminal aliens in those facilities. While CAP helped significantly increase the number of criminal alien removals from 102,024 in 2007 to 114,415 in 2008, Congress recognized that there were gaps in CAP coverage. Criminal aliens were still being released into communities across the country because ICE was unable to maintain a physical presence in the thousands of jails and prisons across the country around the clock.

Accordingly, the FY 2008 DHS appropriations act included a directive that ICE submit a plan on how ICE would identify all criminal aliens in state and local custody. At the time of the

directive, there were DHS and FBI pilot projects in Boston and North Carolina testing the interoperability or data sharing capabilities between Federal agencies. The pilot projects were comparing state and local fingerprints contained in the FBI IAFIS system with those contained in DHS IDENT system. The system takes advantage of the decades-old process in which local jails share fingerprint data with the FBI to run against FBI criminal databases. The FBI then shares this information with DHS to run against its immigration databases. This fulfills a 2002 Congressional mandate to establish an interoperable electronic data system that provides current and immediate access to information in databases of federal law enforcement agencies and the intelligence community that is relevant to determine the admissibility or deportability of an alien 8 U.S.C. § 1722. Simply put, Secure Communities helps ICE identify those who have been arrested by state and local law enforcement for non-immigration state or local crimes, who are also in the country unlawfully. It bestows no additional authorities onto local law enforcement and only identifies those who have their fingerprints submitted for criminal justice purposes.

Since 2008, ICE has expanded its use of this technological capability through Secure Communities from 14 jurisdictions to more than 1,729 today, including every jurisdiction along the Southwest border. Secure Communities has helped change the composition of those individuals who are removed – helping ICE to significantly increase the number of convicted criminals and egregious immigration law violators detained and removed. As a result, through November 2011, ICE has removed more than 111,400 immigrants identified through Secure Communities who were convicted of crimes, including more than 40,000 convicted of aggravated felonies (“Level 1”) like murder, rape, and the sexual abuse of children, or multiple felonies.

Overall, in FY 2011, ICE removed nearly 397,000 individuals — the largest number in the agency’s history. Approximately 55 percent of those removed—more than 216,000—were convicted criminals, an 89 percent increase in the removal of criminals since FY 2008. ICE achieved similar results with regard to other categories prioritized for removal. In Fiscal Year 2011, over 90% of our removals fell within our priority categories: Criminal Aliens (55%), Repeat Immigration Law Violators (20%), Border Removals (12%) and Immigration Fugitives (5%).

Improvements to Secure Communities

DHS has been mindful of the concerns raised about Secure Communities. ICE has received constructive feedback from our state and local law enforcement partners, as well as from other stakeholders. For example, some law enforcement partners raised concerns that information sharing could discourage community policing. Likewise, some stakeholders expressed that victims could be concerned about reporting crimes for fear of deportation. In June 2011, Director Morton announced a number of steps and changes that will help improve the program and clarify its goals to its field officers and attorneys, state and local law enforcement and the public. They include:

Advisory Committee Input: A Task Force to the Homeland Security Advisory Council examined ways to improve Secure Communities, including providing recommendations on how to best focus on individuals who pose a true public safety or national security threat. The council issued a report of Findings and Recommendations in September 2011. ICE is currently reviewing the report and considering the recommendations.

Issuance of prosecutorial discretion guidance: ICE Director Morton has issued a new memo providing guidance for ICE law enforcement personnel and attorneys regarding their authority to exercise discretion when appropriate—authority designed to help ICE better focus on meeting the priorities of the agency and to use limited resources to target criminals and those that put public safety at risk. The memo makes clear that the favorable exercise of discretion is not appropriate in cases involving threats to public safety, national security and other agency priorities. Moreover, to ensure that this agency guidance is implemented consistently, ICE has developed an intensive practical training module for its attorneys, and will be discussing the proper exercise of prosecutorial discretion with our field leadership at meetings scheduled in the upcoming weeks. Training of all ICE field management nationwide will be completed by January 13, 2012. Director Morton has also personally visited many of our field offices to speak with both ICE officers and attorneys about his guidance memo and its proper implementation. These proactive measures reflect our firm commitment to effectively prioritizing our immigration cases

Outreach to states: ICE and the DHS Office for Civil Rights and Civil Liberties (CRCL) have developed new series of training/awareness materials for state and local law enforcement agencies to provide clear information for state and local law enforcement about how Secure Communities works and how it relates to laws governing civil rights. CRCL has plans to develop a total of 8 videos and other materials over the course of the next several months, and will include input from law enforcement and community focus groups. The potential audience is hundreds of thousands of police officers. One video has been already been delivered and posted to the web site; there are an additional three videos that are scheduled for release by the end of January 2012. In addition to primary distribution via the Internet, DVDs and accompanying

materials will be distributed: at conferences such as the International Association of Chiefs of Police and the National Sheriffs' Association; through training academies; by direct outreach to large departments; and through the DHS Office for State and Local Law Enforcement's email distribution capability.

Protection of victims & witnesses of crimes: At the direction of Secretary of Homeland Security, ICE, in consultation with CRCL, has developed a new policy designed specifically to protect victims of domestic violence and other crimes and to ensure these crimes continue to be reported and prosecuted. This policy directs ICE officers to exercise appropriate discretion to ensure victims and witnesses to crimes are not penalized by removal. In fact, ICE is not aware of any individual who was removed following identification by Secure Communities that was found to be a victim or a witness of a crime. ICE is also working to develop additional tools that will help identify people who may be a victim, witness, or member of a vulnerable class so officers can exercise appropriate discretion.

Issuance of a revised detainer policy: ICE has revised the detainer form that ICE sends to local jurisdictions to emphasize the longstanding guidance that state and local authorities are not to detain an individual for more than 48 hours. The form, which will be deployed by the end of the year, also requires local law enforcement to provide arrestees with a copy, which includes information on how to file a complaint if an individual believes their civil rights have been violated. ICE and DHS CRCL have also developed a protocol for addressing complaints raised.

Statistical review: ICE and CRCL have created an ongoing quarterly statistical review of data generated through Secure Communities. This review will examine data for each jurisdiction where Secure Communities is activated to identify effectiveness and any indications of

potentially improper use. Statistical outliers in local jurisdictions will be subject to an in-depth analysis and DHS and ICE will take appropriate steps to resolve any problems.

ICE and CRCL have posted both a concise explanation of this project and a technical paper on the data and statistical calculations being employed on the ICE web site, www.ice.gov/secure_communities. The page also contains links to the various initiatives associated with Secure Communities.

CONCLUSION

Secure Communities is an essential component that supports ICE's public safety and law enforcement mission. I thank the Committee for its continued support of ICE, which is so important to the men and women at ICE, who work each day to ensure the safety and security of the United States. I would be pleased to answer any questions you have at this time.

Mr. GALLEGLY. Ms. Wood.

**TESTIMONY OF JULIE MYERS WOOD, PRESIDENT,
ICS CONSULTING, LLC**

Ms. WOOD. Thank you, Chairman Gallegly, Ranking Member Lofgren, distinguished Members of the Subcommittee. I appreciate

the opportunity to testify before you today about the importance of Secure Communities and the ongoing challenges faced by the agency in implementing the program. My name is Julie Myers Wood, and I am the former assistant secretary at ICE.

As Gary Mead indicated, ICE has made some significant strides in implementing Secure Communities and ensuring that serious criminal aliens are being identified and deported. When considering the remaining challenges the agency has, it is important to remember how far the agency has come. When I first arrived at ICE, we did not have a good handle on the population of criminal aliens in jails and correctional institutions, despite our obligation to monitor the criminal alien population and reduce releases into society. In fact, we really a patchwork approach. In some areas, ICE had full coverage and every criminalized alien that was there was identified and processed. In other areas, ICE had no presence at all, this was simply unacceptable.

We also did not make full use of technology to ensure that we were processing criminal aliens efficiently. It was this frustration, the frustration that ICE was failing to identify criminal aliens and that ICE was often inefficient in processing and apprehending criminal aliens that it did identify that lead to the creation of the Secure Communities program.

As Gary noted, Congress played a critical role in urging the agency to improve its efforts in this regard. A key goal of Secure Communities was to create uniformity and to ensure that all individuals who are arrested and convicted by local and state law enforcement would not simply blend back into society without an encounter by ICE. It was to take away the randomness of local programs that allowed releases to occur. Making the program voluntary or allowing localities to opt in would undermine a central goal of the program that Congress required.

The agency has made significant strides in implementing Secure Communities, but some challenges do remain. In particular, ICE has to continue to assess how to best utilize its limited resources. Some of this can be done by prioritization. However, it is critical for the agency to aggressively use tools that increase efficiency in removal proceedings without sacrificing fairness. For example, the agency should increase use of the programs that places individuals in immigration proceedings while they are serving time in Federal or State institutions, known as the institutional removal program. The agency also should increase the use of voluntary stipulated removals and, where appropriate, the use of the Rapid REPAT program, a program that provides for conditional early release of qualifying non-violent criminal aliens on the condition that they voluntarily agree to their removal, they waive any appeal rights, and agree to be deported. This saves money both on the State and local side, and saves money on the Federal side while encouraging aliens to abide by court orders.

While seeking to increase efficiency with the resources currently allocated to the program, ICE must ensure it doesn't reduce transparency or any fairness in the process. In this area, there is some room for improvement by the government. In particular, there could be enhanced education about how to avoid racial profiling, in addition to the education that is currently in place. Routine train-

ing could be implemented at the time the Secure Communities is started in a particular community. The solution to potential problems, however, must be education, and it cannot simply be the fly spec every underlying crime and arrest that subjects an immigrant to the Secure Communities process.

In summary, the agency plans to insure that all facilities are covered through Secure Communities by 2013 will go a long way in keeping our communities secure. But in order to ensure long-term success of the program, ICE must continue to address resource efficiency and fairness issues and must have the support of Congress in this regard. I thank you very much, and I look forward to any questions that you have.

Mr. GALLEGLY. Thank you, Ms. Wood.

[The prepared statement of Ms. Wood follows:]

“Is Secure Communities Keeping Our Communities Secure?”

Statement of Julie Myers Wood

Former Assistant Secretary, Immigration and Customs Enforcement (ICE)

Before the Subcommittee on Immigration Enforcement and Policy,

House Judiciary Committee

November 30, 2011

Chairman Gallegly, Ranking Member Lofgren, Members of the Subcommittee. I appreciate the opportunity to testify before you today about the importance of Secure Communities and the ongoing challenges faced by the agency in implementing the program.

My name is Julie Myers Wood, and I am the President of ICS Consulting, LLC and Immigration and Customs Solutions. In these roles, I work with companies on their internal compliance programs, create web-based solutions to assist businesses with export and immigration compliance challenges, and consult with companies that work with the government. I also serve as an Advisory Committee member of the American Bar Association’s Commission on Immigration and as a Member of the Constitution Project’s Committee on Immigration. I am testifying today solely in my personal capacity and not as a representative of any group or organization.

Prior to forming these companies, I most recently served as the Assistant Secretary of Immigration and Customs Enforcement (ICE) for nearly three years. Before that, I served in a variety of government positions, including Assistant Secretary for Export Enforcement at the Department of Commerce, Chief of Staff for the Criminal

Division at the Department of Justice and Deputy Assistant Secretary (Enforcement – Money Laundering and Financial Crimes) at the Department of Treasury.

The challenges faced by ICE in implementing Secure Communities are quite familiar to me as the agency's former Director. When I first arrived at ICE, we did not have a good handle on the population of criminal aliens in jails and correctional institutions, despite our obligation to monitor the criminal alien population and reduce releases into society. It was critical for the agency to determine the appropriate incarcerated population and create a program to more effectively identify those that had come into our country illegally, and then committed additional crimes here. Although ICE had various programs in many state, federal and local correctional institutions, the programs were not uniform and the absence of ICE representation at many facilities was of great concern to the agency, and to Congress.

In my initial review of the criminal alien programs, I discovered that the success, failure, or even mere existence of these programs depended almost entirely on the relationships between the relevant ICE officials and the federal, state or local correctional personnel. Where relationships were strong, ICE often compiled a significant record of identifications and removals. Where relationships were weak, ICE might not have any monitoring of the facility and the local law enforcement official might not even know how to contact the appropriate ICE official. This patchwork approach resulted in a number of cases where criminal aliens were released into society without ICE identifying them, and then these criminal aliens engaging in additional, sometimes violent acts.

It was the frustration that ICE was failing to identify criminal aliens and that ICE was often inefficient in the processing/apprehending of criminal aliens that it did identify, that caused the creation of the program known as Secure Communities. Congress played a critical role in urging the agency to improve its efforts in this regard. In fact, the Department of Homeland Security 2008 Appropriations Act specifically required ICE to submit a program to “improve and modernize efforts to identify aliens convicted of a crime, sentenced to imprisonment and who may be deportable, and remove them from the United States once they are judged deportable.” In Fiscal Year, 2009, Congress directed that the program be expanded to include removal of all deportable criminal aliens, regardless of whether they were in custody.

A key goal of Secure Communities was to create uniformity and to ensure that all individuals who were arrested by local or state law enforcement would not simply blend back into society without an encounter by ICE. It was to take away the randomness of local programs to help prevent releases in any city or town. Making the program voluntary or allowing localities to opt-in would undermine a central goal of the program.

The agency has made significant strides in implementing Secure Communities, but challenges remain. From the beginning, ICE recognized that there would be significant resource issues in implementing the program, and the agency sought to make appropriate priority decisions with existing resource allocations. One difficulty we anticipated was the large number of criminal aliens that would be newly identified by ICE, and the lack of resources to detain all these individuals, and put them in proceedings. This required the agency to think more creatively about the effective use of bed space, immigration proceedings, and agency personnel. Because it was always

obvious that resources were limited, ICE knew it could not simply do business as usual. Transforming the removal process was a central part of the goal of Secure Communities.

Based on existing resource limitations, it is my understanding that currently not everyone who is identified through the Secure Communities program is placed into immigration proceedings or even has their case reviewed by ICE. If resources permitted, it would be preferable for everyone identified through the Secure Communities process to go through the immigration detainer process, and a detainer would be issued on individuals as appropriate. ICE could then apply a risk-assessment tool to determine which individuals are a threat to the community and pose a significant risk of flight. Those individuals would be detained if resources permitted their detention. Other individuals could be tracked through the immigration court process while on alternatives to detention, including ICE's Intensive Supervision Appearance Program (ISAP II), bond release, or even release on their own recognizance.

It is important that ICE's review of the aliens does not result in ICE knowingly permitting criminal aliens to simply return to the streets with no follow up or monitoring of any kind. This is difficult given the resource limitations, and there are many risks or times where the agency could make the wrong call. Although it makes sense for ICE to do a classification based on offenses criminal aliens were convicted of, for example, the agency must be careful to avoid treating certain offenses as always "unimportant" or assuming that certain activities always pose no risk. This picking and choosing of criminal convictions risks creating a "conviction of the day" mentality where the government is only focused on the previous threat.

To avoid further crowding the overburdened immigration system with Secure Community referrals, however, ICE must also aggressively utilize techniques to improve the efficiency of the removal process. The agency should increase use of the program that places individuals in immigration proceedings while they are serving time in federal or state institutions (known as the Institutional Removal Program). By strategically funding courtrooms, judges, and immigration lawyers (including virtual courtrooms) in federal, state and local institutions with a high population of illegal aliens, the government could reduce excess time that criminal aliens spend in immigration custody after release from criminal custody.

The agency should also take other steps to increase efficiency and ensure that aliens identified through Secure Communities are reviewed by ICE, and put into immigration proceedings as appropriate. For example, stipulated removals provide opportunities for immigrants who have voluntarily agreed to their removal to largely avoid the court process.¹ It is important that the process be closely monitored to ensure that individuals are not forced into participating in the program, are fully informed about potential claims for relief, and understand the restrictions they are agreeing to in this process. However, for many individuals without valid claims to adjustment, stipulated removals allow them to resolve their situation promptly. A Ninth Circuit decision in 2010 criticized the process by which ICE had utilized stipulated removal, which significantly reduced stipulations all over the country for the rest of the fiscal year.² The agency purportedly has revised the process to conform to the Ninth Circuit ruling and make the notice more

¹ 8 U.S.C. §1229a(d).

² *United States v. Ramos*, No. 09-50059, available at <http://www.ca9.uscourts.gov/datastore/opinions/2010/09/24/09-50059.pdf>.

transparent, but there is more that could be done in this area to ensure that this tool is fully and appropriately utilized.

An additional mechanism that could be more aggressively utilize is the rapid repatriation program, or Rapid REPAT program. This program supports removal efforts by enhancing the ability of ICE to remove criminal aliens from the country, and reducing the number of aliens that go through the full removal process. The Rapid REPAT program provides for conditional early release of qualifying non-violent criminal aliens on the condition that those aliens voluntarily agree to their removal, waive appeal rights associated with their state convictions and agree not to return to the United States.³ This program has the dual benefits of saving the federal government money while reducing the amount of time that eligible aliens spend in detention.

While seeking to increase efficiency with the resources allocated to the program, ICE must ensure it does not reduce transparency or fairness of the process. In this area, there is also room for improvement by the government. Groups reviewing the progress of Secure Communities have identified potential issues with immigrants being improperly targeted or arrested as a “ruse” to ensure that they are screened for alienage under the Secure Communities program. Some of this criticism misses the mark – as bad actors could always behave improperly to target immigrants and refer them to ICE, with or without Secure Communities. Law enforcement officers can always call the Law Enforcement Support Center (LESC) whenever they encounter an individual to help determine whether there is an existing immigration detainer on them. However, to the extent that there are substantially more referrals with the Secure Communities program, it

makes sense to try to prevent improper behavior. To avoid problems with immigrants improperly identified and arrested by police, ICE should encourage localities to get additional training to avoid racial profiling based on the Department of Justice guidelines, and proactively work with entities to improve their processes when incidents arise. Routine training could also be implemented at the time that the Secure Communities program is started in a local community. The solution to potential problems with identification should first and foremost be education, and not simply flyspecking every underlying crime and arrest that subjects an immigrant to the Secure Communities process.

In summary, the agency's plan to ensure all facilities are covered through Secure Communities by 2013 will go a long way in keeping our communities secure. In order to ensure long-term success of the program, ICE must continue to address resource, efficiency and fairness issues with the program's implementation. Continued support by Congress will be critical in these efforts.

Mr. GALLEGLY. Sheriff Page.

**TESTIMONY OF SAM PAGE, SHERIFF, CHIEF LAW
ENFORCEMENT OFFICER, ROCKINGHAM COUNTY, NC**

Sheriff PAGE. To the Chairman of the House Judiciary Committee and to Members, I give you greetings from Rockingham County, North Carolina. I would like to thank you all for allowing me to come before you and to give testimony and answer your questions.

I have talked to a lot of sheriffs over the past couple of years across the country and in my State of North Carolina. Sheriffs see an increase in criminal illegal alien activity home based in our communities. Secure Communities—the question was is Secure Communities keeping or communities safe? I believe it does. And what I think is important about Secure Communities is that it provides additional access to information and the ability to communicate that information to other law enforcement agencies, including ICE, who we partnered with.

Prior to 2009, we did not have all the access that we have now. As of March 2011, all counties in North Carolina now have the Secure Communities program, and we all participate in this program because we see the importance. I am not going repeat the main mission, because Mr. Mead has already addressed that, but Secure Communities is very simple: A person first has to get arrested, he ends up in a local jail facility. The information is provided to us through interviews that the person was not native born, we run him through the process of the FBI and also through the immigration's fingerprint database. We wait on hit confirmations or information that comes back and we conduct interviews working with our ICE agents. ICE makes the determination as has already been stated, whether to detain or not. If the person has a bond and detainer is not issued and the person posts bond, we release that person. If a detainer is issued and he posts bond, the person is released to ICE, they have 48 hours to pick them up.

Secure Communities was designed to take serious criminal illegal aliens off the streets of our Nation. It was designed to help identify criminal offenders in the U.S., and that information assist in the deportation process. It gives local police, sheriffs and jails a great law enforcement tool to better identify those persons that have been arrested and are in custody.

I run a jail, the most important thing I can do as a sheriff in North Carolina and a sheriff in America is to be able to identify who is coming in my jail and who is being released back into the community. I relate to my citizens and sheriffs, and I would think anyone else as a sheriff or law enforcement official would believe the same thing.

Since October 2010 to the present, successes using Secure Communities, we have identified 58 criminal illegal aliens, of those, ICE has issued 49 detainers; 36 of the 58 persons arrested have been picked up by ICE; 25 of the 58 were charged with DWI offenses, driving while impaired. Ten of the 58 have reoffended and returned back to my community, by their own arrest in my jurisdiction. As of today, none of the 10 have been deported. Four of the 58 were charged with assault upon a female, domestic related. One

of the 58 was charged with assault with deadly weapon, inflicting serious injury, attempted murder, domestic.

I appreciate having Secure Communities in North Carolina and having access to the immigration automatic fingerprint system to improve our print identification process. I know this law enforcement office has more information. The quicker we get information, the more information we have, we have a better chance of solving crimes in our communities.

The last fact about ICE is, a question in which someone asked, how much does it cost? Well, first off, it didn't cost us anything. Second of all, it is very limiting amount of training, so I don't lose officers. And also, this program was asked for by all the sheriffs in North Carolina because we believe in it. And again, our primary response when we arrest people and they bring them to our jail facility, is to try to identify that person is to the best of our ability before that person is released because that person may be going back out to our communities to reoffend, we want to know what the person is. Ladies and gentlemen I thank you and honor any questions you may have.

[The prepared statement of Sheriff Page follows:]

Sheriff Sam Page

Rockingham County, NC Sheriff's Office

November 30, 2011

“Is Secure Communities Keeping Our Communities Secure?”

Sheriff Sam S. Page

Sheriff of Rockingham County, North Carolina

Population: 93,000

Area: 560 Square miles

1998 to present: Sheriff

1994-1998: Eden, NC Police Department/Patrol & Detective Division

1992-1994: NC Licensed Private Investigator/Bail Enforcement Agent

1981-1992: Rockingham County, NC Sheriff's Office/Narcotics, Patrol & Investigations

1980-1981: Ft. Lauderdale, FL Police Department/Patrol Division

1975-1980: United States Air Force/Security Police, K-9

1975: Graduate of Reidsville Sr. High School

2011-2012 – NC Sheriff's Association Executive Committee Chair

2011-2012 – North Carolina Gang Task Force

2010-2012 – National Sheriff's Association Border Security and Immigration Committee

2010-2011 – President of the North Carolina Sheriff's Association

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My name is Sam Page. I am the Sheriff of Rockingham County, North Carolina. I would like to thank Congressman Smith and the House Judiciary Committee for allowing me the opportunity to be here.

First of all, let me say that I'm not a great public speaker. That's not what I do. That's not why I'm here. Instead, I'm here before you as a 30 year veteran of law enforcement and as a United States Air Force veteran.

As a sheriff, I'm always looking for ways to better protect the citizens of my county. I believe that the most important element in law enforcement is communication. That communication and information sharing between local, state and federal agencies is a vital tool to fight crime and get criminals off of our streets.

Today, I have three main points I'd like to make about the "Secure Communities" program. First, I want to talk about my experience with the program and how we did things before. Next, I want to discuss how it functions within my jail. And last, I want to talk about the successes and concerns with the program since it has been implemented.

So first, I want to talk about my experience with the program and how we did things before. In 2009, the North Carolina Sheriffs Association became involved in a pilot program known as "Secure Communities." Four North Carolina counties decided they would take part in this new immigration enforcement process.

Prior to "Secure Communities," this is the kind of situation we dealt with. Officers pull a guy over. He's got guns, drugs and no identification. He tells an officer his name is "John Smith," and he's from Mexico. That's the information we would have to enter into our computers, along with his fingerprints. Turns out, he's not "John Smith" at all. As you can imagine, this was not a very accurate process for identifying criminals. It left us only able to depend on what the arrestee tell us.

I.C.E. had previously trained North Carolina Sheriff's departments on how to use the national computer database to assist in the identification of illegal aliens. But, the problem was, the national database didn't link up to the I.C.E. immigrations database. So, without the ability to share information and communicate digitally between different agencies, we weren't able to know as much as we could.

Starting in October 2010, several other North Carolina counties became involved with the "Secure Communities" program, including Rockingham County. Less than six months later, all 100 North Carolina counties joined in with the program.

The main goal of "Secure Communities" is to help local jails better identify those persons arrested who are believed to be criminal, illegal aliens, and then to provide that information to assist I.C.E. and the Department of Homeland Security in their deportation process.

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My next point is how the "Secure Communities" program works within my agency. The program and protocol for "Secure Communities" is reasonably simple. Our local law enforcement officers follow their normal arrest procedures for any person suspected of a criminal law violation.

After the arrest, if the suspect is committed to the local jail, booking staff conduct a standard interview and compare arrest sheet data. If it is determined that the arrestee was not born in the United States, the person is fingerprinted on our Live-Scan digital print system. The arrestee's prints are then compared against the Federal and Immigration and D.H.S. print database. Usually a match occurs within 20 minutes or less. And then, our trained booking officers notify I.C.E. personnel whether there is a print match. Even if there's not a match, we arrange an interview with an I.C.E agent and the arrestee.

Here's a side note. I.C.E. makes a determination whether to issue a detainer for the identified criminal illegal alien. If the arrestee is issued a bond, and it is posted, then we notify I.C.E. for pickup. They will respond within 48 hours. I.C.E. and the deportation hearing judge then make a determination of release of arrestee.

And my last point, I want to talk about the successes and some concerns with the "Secure Communities" program. Since the program was first implemented in October of 2010, we have processed and identified 58 criminal illegal aliens in my jail. Of those 58, I.C.E. has issued 49 federal detainers against those offenders and removed 36 of those offenders from my facility for processing.

Of the 58, two thirds of the arrestees committed driving offenses. And for the majority, I'm not talking about speeding tickets. Almost 50 percent of offenses were for driving while impaired. There's no excuse for an illegal alien, who's not supposed to be here in the first place, driving drunk on our roads and putting the lives of the people in my county in danger.

Along with the success of "Secure Communities," I have seen a downside in regards to how we handle the offender within I.C.E and the judicial system. The main issue I've seen is because of a concept known as "prosecutorial discretion." Of those 58 arrestees I just told you about, 10 of them came back to my facility for at least a second time, and none of them have been deported. But, why? From what I understand, I.C.E. agents and judges that deal with the deportation have the authority to decide the conditions of the release, after the offender leaves my facility. If the person is considered a low flight risk and not a danger to the community, he is typically released until the trial. After the trial, I.C.E. and the judges have the authority to decide who is deported and who can stay here in the United States. Here's what I think. If a person enters the U.S. illegally and commits a crime here, he should be deported.

In closing, as a sheriff, I believe that my first responsibility is to protect the citizens of my county against all threats. In order to do that, I need to know who is being housed in

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my jail and who is being released into the community. I appreciate the partnership with the federal authorities and this tool that gives us the ability to receive information through the digital print process and allows us to access this information system by way of "Secure Communities".

Ladies and gentleman of this committee, I thank you for your attention. I am respectfully available for any questions.

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Additional Rockingham County Information:

Rockingham County has a population of 93,643, according to the 2010 U.S. Census. Of that population, 75% are white, 18.9% are black, 5.5% are Hispanic, .5% are Asian and .4% are American Indian.

Approximately three years ago while the North Carolina Sheriffs Association was beginning the 2008 immigrations project, I started looking into the problems and issues that we experienced with the whole federal immigration program and criminal illegal aliens in our jails. I also began looking at the growing problems in our communities with transnational drug trafficking organizations and the gang problem.

Over the past three years, all law enforcement agencies in my county started participating in a gang task force due to noticed increases in gang activity and gang violence in all of our communities. As of today, 28 gang organizations have been identified. Right now, we are participating with the DOJ's safe streets initiative, "Project Safe Neighborhoods." This program is a collaboration with the federal and local prosecutors office and surrounding law enforcement agencies. It aims to reduce, gang, gun and street violence.

Over the past few years, I have noticed an increase in drug trafficking through my district in North Carolina which has resulted in large seizures of money and illegal drugs being transported by associates of the Mexican drug trafficking organizations. That's according to DEA (Drug Enforcement Agency) reports provided to the North Carolina Sheriff's Association.

In August of 2010, one of my deputies and I traveled to the Arizona border to work with the authorities there, at our own expense. The purpose was primarily to observe the Mexican drug cartel drug routes through the desert and to learn about the human smuggling and drug smuggling organizations. My activities were documented for future educational purposes with the North Carolina Sheriff's Association.

Over the past year, I have tried to educate my fellow Sheriffs across North Carolina about the threats that the Mexican drug cartels and drug trafficking organizations can pose to North Carolina in as little as two to three days traveling time from the border. I have advocated that if we protect our southern borders of the U.S., we are protecting North Carolina's backyard from the flow of illegal drugs that is affecting all of our communities.

In October 2011, I coordinated an effort to bring Sheriffs across America together in Washington, D.C. to discuss what I believe is the most serious problem today facing all Sheriffs: The drug war, Mexican drug trafficking organizations and the associated violence and crime.

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With the assistance of the Center For Immigration Studies, The Mita Group, F.A.I.R., and the support of the House Caucus on Immigrations, and Rep. Steve King, we were able to come together to discuss the issues that we face today in local law enforcement settings. I.C.E. also provided representation to discuss some of the Sheriff's concerns about the 287-G and Secure Communities programs. I reminded the panel and attendees that when your Sheriff comes to Washington you need to listen, because there is a problem back home that we need to address.

Sheriff Terry Johnson, Alamance County, North Carolina testified in our October 2011 meeting with the U.S. House Caucus on Immigrations regarding the drug related violence in his county to include two executions that were attributed to Mexican drug trafficking organizations. According to D.E.A. briefings, North Carolina is number two after the Atlanta region in drug trafficking routes used by the Mexican drug trafficking organizations.

All of the Sheriffs in attendance related stories of how they have been affected by criminal illegal aliens in their communities. At the closing of the hearing the Sheriffs were able to meet with some of North Carolina Representatives and Senators along with Representatives from Texas and Arizona.

I appreciate the opportunity to discuss my concerns before the House Judiciary Committee today. I would hope that those testifying will depart some helpful information for you to consider.

For thirty years or more we have been fighting this "War on Drugs". We have spent a tremendous amount of monies and manpower over the years.

I explain to my citizens that from what I see there is a three prong approach to winning this war.

1. To continue funding and supporting our elementary school anti-drug education programs such as D.A.R.E., and the ATF Program G.R.E.A.T. (Education)
2. To support funding for in-county and state drug rehabilitation programs. (To reduce drug demand)
3. To continue to step up our local, state, and federal law enforcement efforts to suppress drug trafficking activities within the United States. To declare the Mexican drug trafficking organizations "Terrorist" organizations, so as to be able to utilize U.S. Military assets and technology particularly along any United States borders. According to the D.E.A., the majority of all cocaine, marijuana, heroin and methamphetamines pass through our southern border with Mexico. We need to stop the flow of drugs at its source: the US border with Mexico. I am concerned about the violence occurring within Mexico

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and, according to open source information, more than 40,000 people have been killed just south of our border since 2006. We must secure our borders, before one more American citizen or law enforcement officer loses their life. Agent Brian Terry and his sacrifice, along with the C.B.P. should not be forgotten or taken for granted. Homeland Security and National Security should not be about politics.

I have worked in law enforcement work for over thirty years. As we discuss the issues regarding illegal immigrations, I hear the term “chilling effect.” This is a concern that I read about and then I look at what we are doing in my county to improve communications and relations within our local Hispanic population.

We currently provide D.A.R.E. and G.R.E.A.T. training to all six of my elementary schools. All children can participate in the programs that discuss the dangers of drugs and gangs. We also work with children in the middle schools. We provide law enforcement demonstrations with representatives of our different divisions within our agency to let the kids know what we do as deputies and as a Sheriff’s Office in the community. I make personal visits and read to all of our kids in our elementary schools and also encourage my deputies to do lunch visits for positive interaction.

The Rockingham County Sheriff’s Office participates with the D.E.A. Spanish tip line to allow persons within our Hispanic community to have an outlet to report crimes anonymously.

Lastly, the Sheriff’s Office has four Hispanic uniform deputies who help each of the four patrol division shifts to better communicate while assisting persons only able to speak Spanish. These deputies help with our efforts to reach out to our Hispanic community about crime prevention, domestic violence, drug activity, etc. These deputies have been instrumental in assisting my detective division when investigating crimes effecting our Hispanic population. In Rockingham County when a person calls for assistance your immigration status is not an issue. We provide assistance to all those who request.

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Traffic Stop Reporting required by NC Legislature:

All stops included age, sex, ethnicity.

Included below are traffic stop reports by Rockingham County Sheriff's Office

January 1, 2010 to December 31, 2010 Total Traffic Stops 437

Race	Sex	Traffic Stops	Citations Written	% Citations
White	Female/Male	275	101	37%
Black	Female/Male	125	61	49%
Hispanic	Female/Male	40	26	65%

January 1, 2011 to September 30, 2011 Total Traffic Stops 426

Race	Sex	Traffic Stops	Citations Written	% Citations
White	Female/Male	288	136	47%
Black	Female/Male	117	65	56%
Hispanic	Female/Male	21	14	67%

Mr. GALLEGLY. Thank you very much, Sheriff.
Mr. Venegas.

**TESTIMONY OF ARTURO VENEGAS, JR., PROJECT DIRECTOR,
LAW ENFORCEMENT ENGAGEMENT INITIATIVE**

Mr. VENEGAS. Chairman Gallegly, Ranking Member Lofgren and distinguished Members of the Subcommittee, thank you for the invitation to review the Immigration and Customs Enforcement Secured Community program with you. My name is Arturo Venegas. I am the retired chief of police for the city of Sacramento. I also believe I am probably the only American citizen veteran that is also an immigrant.

I now direct the law enforcement engagement initiative, a national effort to engage law enforcement executives across the country in a sensible dialogue over immigration policies that promote public safety and community cohesion.

This past summer, I served on the DHS task force on Secure Communities until the very end of the process. I concluded that the task force did not go far enough in recommending specific enforceable changes to repair the damage that the program has had on the relationship between immigrants and local police.

DHS initially introduced the Secure Communities program as only targeting those with serious criminal convictions. As a result, many of my law enforcement colleagues initially saw it as positive alternative to the 287(g) program assuming that the use of Federal database wouldn't allow for racial profiling. However in 2010, advocates gain access to DHS statistics on who exactly was being deported through the program, many of my colleagues views began to show. The data showed that 60 percent of the people deported through the program committed either low level offenses, like traffic violation, or no offense at all. These statistics led not only to more opposition from law enforcement leaders, but from governors.

In May and June, the governors of Illinois, New York and Massachusetts all formally requested removal of their States from the program, citing, number 1, the deportation of non criminals and its negative affect on community policing. And number 2, the fact that ICE misled law enforcement by leading them to believe that serious criminals were being deported.

In June, DHS created a task force to review Secure Communities, and a letter to us, my colleagues from the National Latino Peace Officers Association made three very specific recommendations for changes to Secure Communities: Number 1, tailor the program to focus only on individuals convicted of serious crimes; number 2, clarify the limits of police authority to enforce civil immigration laws; and number 3, create accountability mechanisms so these changes aren't merely voluntary.

The recommendations contained in the task force report fell short on these principles, and I chose not to sign on. In Secure Communities in its current form, and even if the recommendation of the task force are implemented, individuals simply arrested for minor violations, including traffic offenses, are still being put through the system. Immigrants continue to fear that contact with the police could lead to deportation. Crimes go unreported, leaving criminals

free to prey on others. Civil immigration enforcement continues to trump crime control in our communities.

What is more, immigrants charged with more serious, oftentimes violent, or even minor offenses, are never convicted. We will find no protection whatsoever in the current policy or the task force recommendations. It seems that we are agreeing to turn the long-standing principle of innocent until proven guilty on its head for certain groups of people. If you are an immigrant and you are charged with a serious offense or even a minor offense you are guilty until proven innocent and you will be referred for deportation.

As an immigrant myself, and as an American citizen, I cannot support that different standard. While I felt the recommendations and the task force fell short, I did agree with some of its premises, it elaborated on the need to use agency resources more effectively through the long-standing practice of prosecutorial discretion and express their support to DHS and their recent announcement of this new policy. The fact that this policy is now being politicized make no sense to me. Prosecutorial discretion is a fundamental tool of all law enforcement agencies. Police and prosecutors constantly use their discretion to decide which cases to investigate, which to prosecute and which to dismiss. They consider the factors like seriousness of the criminal violation, any record of previous violations, availability of investigative and prosecutorial resources, strength of the evidence and the violations impact on the community safety.

But as important as prosecutorial discretion is, the Administration's new policy will not fix the problems inherent in secured communities. The policy is only triggered after an individual is put into the system, but every time someone is stopped and arrested for a minor violation and detained, because of their immigration status, the immigrant community learns that police are to be feared. Immigrants need to know that local police is there to help them, not deport them. Thank you, again, for the opportunity to address you on this very important topic.

Mr. GALLEGLY. Thank you very much, Mr. Venegas.
[The prepared statement of Mr. Venegas follows:]

Prepared Statement of

Arturo Venegas, Jr.

Retired Chief of Police, Sacramento Police Department

Project Director

Law Enforcement Engagement Initiative (LEEI)

On

"Is Secure Communities Keeping Our Communities Secure?"

Before the

Committee on the Judiciary

Subcommittee on Immigration Policy and Enforcement

November 30, 2011

Washington, D.C.

Chairman Gallegly, Ranking Member Lofgren and distinguished members of the subcommittee, thank you for the invitation to review the Immigration and Custom Enforcement (ICE) Secure Communities program.

My name is Arturo Venegas. I am the retired Chief of Police for the City of Sacramento. I now direct the Law Enforcement Engagement Initiative, a national effort to engage law enforcement executives across the country in a sensible dialogue over immigration policies that promote public safety and community cohesion.

This past summer, I served as a member of DHS' Task Force on Secure Communities until the very end of the process, when I concluded that the recommendations of the task force did not go far enough in making specific and enforceable changes to repair the damage the program has had on the relationship between immigrants and local police.

When it was initially introduced, DHS presented the Secure Communities program as one that would only target those with serious criminal convictions. As a result, many of my law enforcement colleagues initially saw it as a positive alternative to the 287(g) program, one that wouldn't allow for racial profiling because all people booked into jail would be screened through a federal database. Many presumed this was how things were proceeding as the program began to take hold. However, in October of 2010, advocates gained access to DHS statistics on who exactly was being deported through the program and this was when things began to change.

At the outset of the Task Force process, the National Latino Peace Officers Association (NLPOA) submitted a letter to the Task Force with their assessment of the problem and the changes needed. A copy of the letter is attached to my written submission. They describe their evolving opposition to the program, saying, "Initially, we were quite supportive of the program. Over the past year, however, we have become increasingly concerned that Secure Communities is operating far beyond its mandate... News reports and investigations by outside groups have revealed that many of the people identified for deportation through Secure Communities have no criminal record whatsoever; some were even the victims of crime, who contacted the police seeking protection and ended up in deportation proceedings. ICE's own data shows that 60% of people deported through the program committed either low level offenses, like traffic violations, or no offense at all."

The numbers of immigrants deported who had either no criminal record or whose convictions involved minor issues like traffic offenses, led not only to more law enforcement leaders registering their opposition, but to governors actually requesting removal of their states from the program. Between May and July, the governors of Illinois, New York and Massachusetts, all requested removal of their states from Secure Communities, citing 1) the deportation of non-criminals and its effect on community policing and 2) the fact that ICE misled them, by leading law enforcement to believe that only serious criminals were being deported.

In Boston, Police Commissioner, Edward Davis, expressed his opposition to the program, after initially supporting it, saying, "they [ICE] specifically told us they would not be removing people with traffic offenses," Mr. Davis said. "They said they wouldn't

and now they have.” Commissioner Davis went on to say, “It is really disconcerting that they are not at all concerned about our precarious situation with immigrant communities.”

Despite the concerns raised by so many in government and law enforcement, DHS continued to roll out Secure Communities, requiring participation and ignoring issues raised about the impact on community policing. Then, in June, as part of a memo announcing new guidelines for using prosecutorial discretion to prioritize the deportation of dangerous criminals, John Morton, Director of Immigration and Customs Enforcement (ICE) announced the creation of the Task Force on Secure Communities to review the program and offer recommendations for reforms.

I joined the Task Force believing and still do believe that Secure Communities is a deeply flawed program. In their letter to us, my colleagues from the NLPOA, made three specific recommendations for changes to Secure Communities:

1. **Tailor the program to focus only on individuals convicted of serious crimes.** Civil immigration enforcement against non-criminals should be the job of federal immigration agents and not state and local police.
2. **Clarify the limits of police authority to enforce civil immigration laws.** The immigrant community needs to know that they can work with state and local police to put criminals behind bars and not risk their own deportation.
3. **Create accountability mechanisms so these changes aren't merely voluntary.** The limits on police roles and authority must be strictly respected and enforced by federal, state, and local law enforcement. This is the only way we can credibly repair the damage done to community policing.

I used these three recommendations as a threshold test throughout the Task Force deliberations, and argued that Secure Communities must be focused narrowly on identifying individuals convicted of serious crimes that are candidates for deportation, rather than facilitating the deportation of individuals who have committed a minor offense or no crime at all.

Unfortunately, the recommendations contained in the Task Force report fell short of these principles and I chose not to sign on. My belief is that if Secure Communities continues in its current form, or even if the scheme recommended by the task force is implemented, individuals simply arrested for minor violations, including traffic violations, will still be put through the system. The federal government will decide whether they are candidates for deportation, based on enforcement priorities that include people whose only “crime” is a prior civil immigration violation. Under this regime, many people with minor infractions, such as driving without a license, will still be put into deportation proceedings.

Immigrants will continue to fear that contact with the police could lead to deportation, crimes will go unreported, and criminals will remain free to prey on others. Civil immigration enforcement will continue to trump crime control in our communities.

What's more, immigrants charged with more serious offenses, but never convicted, will find no protection in the task force recommendations or in the current Secure Communities program. It seems we are agreeing to turn the long-stand principle of "innocent until proven guilty" on its head for certain groups of people. If you are an immigrant, and you are charged with a serious offense, you are "guilty until proven innocent" and you will be referred for deportation. As an immigrant myself, and as an American, I cannot support that differing standard.

The examples of how Secure Communities has operated well beyond its stated mission of targeting serious criminals are numerous. As part of the information gathering process, the Secure Communities Task Force hosted public hearings in Dallas, TX, Los Angeles, CA, Chicago, IL, and Arlington, VA, where we heard from community members impacted by the program. At the Task Force hearing in Los Angeles, I heard testimony from a woman who was arrested for selling popsicles without a license and put into deportation proceedings through the Secure Communities program. She was one of several vendors arrested that day in the cities of South Gate and Vernon. The wave of fear that spread through that largely immigrant city was so great, that the Mayor of South Gate also testified that evening. She worried that public safety in her city was greatly diminished because the fear in the community following the arrests was so great that people were afraid to call the police.

In the city of Lodi, near my home of Sacramento, a woman called the police for assistance in stopping her brother-in-law from assaulting her sister. In defending herself, the woman's sister left visible marks on her attacker, which led to her being arrested in addition to her attacker. Through Secure Communities, both were processed and identified as undocumented. Within days, with no criminal cases filed or prosecuted, they were both deported and their two infant American citizen children were separated from their parents.

These are just two of thousands of incidents that make victims or witnesses of crimes fear the outcome of a call to the police. Should an individual rely on police intervention for serious crimes and public safety and risk their own deportation or the deportation of a loved one or a neighbor? These cases send waves of fear through immigrant communities, making the job of crime fighting in those same communities much more difficult.

In basing his request to have his state removed from the Secure Communities program at the request of Illinois Governor Pat Quinn, General Counsel John Schomberg stated, "In reality, the Secure Communities program has had little to do with those convicted of serious crimes. By ICE's own numbers, through May 2011, less than 22% of those from Illinois who were removed from the country under the Secure Communities program were convicted of a serious crime. In other words, contrary to the 'focus' of the MOA and the original intent of the program, through May 2011, more than 75% of those deported out of Illinois under the program have never been convicted of a serious crime. More than 21% of those deported have not been convicted of any crime at all."

In recent comments supporting the Department of Justice lawsuit against the state of Utah, even Janet Napolitano, Secretary of Homeland Security expressed her concern that laws like Utah's, which force local police to act as immigration agents, divert law enforcement resources from the most serious threats "and undermines the vital trust

between local jurisdictions and the communities they serve." I agree wholeheartedly with Napolitano's assessment, but I think that Secure Communities commits the very same error of employing local police to do the federal government's job, and jeopardizes the trust of the immigrant community in the process.

In the end, I felt that the recommendations of the Task Force were not specific or enforceable enough to elicit the necessary changes to Secure Communities, and I was unable to sign on. However, I did agree with many of the premises laid out by my colleagues in the Task Force report. They elaborated on the need for law enforcement to use their resources most effectively by utilizing the long-standing practice of prosecutorial discretion and expressed their support for DHS' recent announcement of this new policy. Prosecutorial discretion is a fundamental tool of law enforcement agencies around the country. During my tenure in the Sacramento Police Department, both police and prosecutors constantly used their discretion to decide which cases to investigate and prosecute, and which cases could be dismissed. The factors we took into consideration included the seriousness of the criminal violation, the record of previous violations, the availability of investigative and prosecutorial resources, the reliability and strength of the evidence, and the impact of the violations of law on community safety. This is standard law enforcement practice.

In local policing, law enforcement agencies have launched a number of new strategies that helped us work smarter. We learned that when you have money, throwing people at the problem is easy, but not always wise. We discovered that during trying times, especially when you're strapped for resources, you must search for effective alternatives.

The fact that this policy, one that has been in practice in law enforcement for decades, is now being politicized makes no sense. Several of my colleagues from the Task Force signed on to a recent letter outlining the need for discretion, stating, "There is nothing unusual in our recommendation or in DHS's current efforts to improve its use of prosecutorial discretion. Such discretion is a normal and essential part of the everyday activities of law enforcement agencies and prosecutors' offices at the local, state, and federal levels across the nation. Exercising prosecutorial discretion, case by case, in a systematic and professional way, does not amount to administrative amnesty. Instead it helps to make sure that resources are focused in ways that best promote the overall enforcement mission."

Even the U.S. Supreme Court made it abundantly clear that a law enforcement agency has absolute discretion about its prosecutorial decisions. In *Heckler v. Chaney* (470 U.S. 821 (1985)), the Court held that "an agency's decision not to prosecute or enforce, whether through civil or criminal process, is a decision generally committed to an agency's absolute discretion."

As important as I think prosecutorial discretion is as a law enforcement tool, it won't fix the problems inherent in Secure Communities. Discretion is only triggered once an individual is put into the system, but after the point that someone is arrested for a minor violation and detained because of their immigration status, the message has already been sent to the immigrant community that police are to be feared. Immigrants need to know that local police are there to help them, not deport them. Discretion only helps

people on the back end, but successful community policing requires changes to the front end as well.

In resigning from the Task Force, I concluded that Secure Communities as it currently functions will continue to do great harm to the relationship between local police and immigrants. Until we see a complete overhaul of the program, one that gets it back to its originally stated goal of a focus on serious, convicted criminals, this program will undermine the efforts of police to work with all members of the community to fight crime, place our national security at risk and create insecure communities for us all.

Thank you again for the opportunity to address you on this very important topic.


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Date: June 30, 2011

To: Secure Communities Advisory Committee

From: Edwin Maldonado, National President
 National Latino Peace Officers Association

Re: Recommended Reforms to Secure Communities Program

For more than thirty-five years, the National Latino Peace Officers Association (NLPOA) has been working to achieve a few core objectives. At the top of that list are keeping America safe, bridging the gap between law enforcement and the Latino community, and eliminating prejudice and discrimination in law enforcement. Our belief is that these goals are complementary and can be achieved together.

In its current form, we believe that DHS' Secure Communities undermines our organization's core objectives. That is why we are writing today.

According to the federal government's description of Secure Communities, the program was supposed to focus on identifying and deporting undocumented individuals convicted of crimes. Initially, we were quite supportive of the program. Over the past year, however, we have become increasingly concerned that Secure Communities is operating far beyond its mandate, and hurting the relationship between police and the immigrant community. News reports and investigations by outside groups have revealed that many of the people identified for deportation through Secure Communities have no criminal record whatsoever; some were even the victims of crime, who contacted the police seeking protection and ended up in deportation proceedings. ICE's own data shows that 60% of people deported through the program committed either in low-level offenses, like traffic violations, or no offense at all.

When non-criminal immigrants are deported after having contact with local law enforcement, it sends a message to the community that we are agents of Immigration. This leads immigrant crime victims and witnesses to think twice before coming to us with information about real crimes. Crimes go unreported, justice goes unserved, and the entire community suffers.

As law enforcement professionals who are also Latino, we have an important perspective to offer. We chose this profession because protecting the public from crime is our number one priority. We also understand how to build relationships with members of the Latino community, given our personal experiences and backgrounds. Unfortunately, we've seen firsthand how the relationship between law enforcement and some members of the Latino community has eroded over the last several years, as the federal government and some state legislatures sought to expand police roles in immigration enforcement.

We can and must do better. A first step toward repairing that trust is to bring the scope of Secure Communities back to its original stated purpose. On June 17th, ICE Director John Morton announced several changes to the Secure Communities program. Although the changes were a step in the right direction, they are not enough.

Among the changes announced was the creation of an Advisory Committee, to address many of the concerns raised in this letter. We write today to the members of that committee to urge that your recommendations involve real, structural and enforceable changes to the Secure Communities program that bring it in line with its stated mandate and goals.

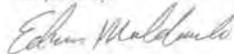
In order for us to renew our support for the Secure Communities program, it must be reformed to align with its original goals, through the following changes:

1. Taylor the program to focus *only* on individuals convicted of serious crimes. Civil immigration enforcement against non-criminals should be the job of federal immigration agents, not state and local police.
2. Clarify the limits of police authority to enforce civil immigration laws. The immigrant community needs to know that they can work with state and local police to put criminals behind bars and not risk their own deportation.
3. Create accountability mechanisms so these changes aren't merely voluntary. The limits on police roles and authority must be strictly respected and enforced by federal, state, and local law enforcement. This is the only way we can credibly repair the damage done to community policing.

These are the minimum reforms necessary to ensure that Secure Communities can become a viable program and not compromise the critical trust between local law enforcement and the Latino community.

The NLPOA is a law enforcement organization that values greatly our role in keeping America safe. We are also an organization of Latinos who know that positive outcomes are only achieved when we work together. We look forward to working with the Advisory Committee in the coming weeks to achieve reforms to Secure Communities that will restore trust and truly enhance safety in our communities around the country.

Respectfully,



Edwin Maldonado

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Mr. GALLEGLY. Mr. Mead, ICE has identified over 300,000 criminal immigrants through the Secure Communities whom it has decided to release back on to our streets. Do you have any concern that some of these released aliens will go on to commit additional crimes? And how would you answer a victim of one of these crimes who said you had it within your power to prevent their attack, but opted not to do that?

Mr. MEAD. Mr. Chairman, I am not familiar with the figure that we released 300,000 criminal aliens back on to the street. But I can tell you that we have removed more criminal aliens last year than we have removed ever before. We are working at almost maximum

capacity in terms of total removals. And our number one priority in terms of immigration enforcement is the identification and removal of criminal aliens. It would be extremely rare, extremely rare for us to knowingly let a serious criminal offender walk loose in the community. It would have to be some extraordinary circumstance probably beyond our control to do that.

Mr. GALLEGLY. You would yield that many, you say you are not familiar with the 300,000 number, but let's say it is only 286,000 or 192,000 that have been deemed to be illegally in the United States, have committed some crime, maybe something as simple as a third- or fourth-time drunk driving arrest, spousal abuse, something like that. Why are they released back into the public in a so-called catch-and-release situation?

Mr. MEAD. Well, again I am not familiar with any catch-and-release situation that may exist. Whether it is Secure Communities or the criminal alien program, we are doing everything possible to identify—

Mr. GALLEGLY. Okay, but—

Mr. MEAD [continuing]. Detain, and remove criminal aliens.

Mr. GALLEGLY. So you are not familiar with any individual, criminal alien that has been released back into the community prior to a deport hearing?

Mr. MEAD. As I said, there certainly could be circumstances like that, you could have a legal permanent resident who has been charged with a crime, not convicted of that crime—

Mr. GALLEGLY. But a legal—

Mr. MEAD [continuing]. Not subject to removal.

Mr. GALLEGLY. With all due respect, a legal, a person who has legal status is not an illegal immigrant. I am talking about people that are illegally in the country that have been identified through this program, the IDENT program, Secured Communities, however you want to refer to it, that have been turned over to your custody within, I believe as the Sheriff said, 48 hours or the time that you are notified. And you are not aware of any that have just been released back into community? I am not talking about legal residents, I am talking about illegal aliens. You know of no case where that has happened? My numbers show at least 300,000, but let's say—you can go on record as saying you don't know of any policy that would allow this to happen for an illegal; is that correct?

Mr. MEAD. No, what I am saying is I wasn't familiar with your number. I said it is not our policy to release back into the community dangerous criminal aliens.

Mr. GALLEGLY. How do you determine whether they are dangerous? Let's say hypothetically, a second drunk driving arrest, would that be considered dangerous?

Mr. MEAD. A first drunk driving arrest would be considered dangerous. Just looking at Secure Communities statistics since its inception, ICE removed over 16,000 DUIs last year, we removed 35,000 DUI cases in the United States so a first case is very serious to us.

Mr. GALLEGLY. Based on that, it would be safe to say that it is your understanding that someone direct arrested for a drunk driving arrest, driving under the influence and then turned over into your custody pending a hearing would not be released?

Mr. MEAD. It is possible they could be granted bond—

Mr. GALLEGLY. Bond, would that mean OR?

Mr. MEAD. No, it would be bond, a cash bond, it could be they are put on an alternative to detention.

Mr. GALLEGLY. I appreciate your answer.

Let me go quickly to the sheriff. Sheriff, you mentioned in your testimony that there is relatively no expense to the sheriff's department for this program, and added expense to the local jurisdiction; is that correct?

Sheriff PAGE. Yes, sir. I just want to let you know—

Mr. GALLEGLY. Do you find that using Secure Communities is difficult or onerous on the part of your deputies?

Sheriff PAGE. No, sir I have a few staff members that are trying to do the data check.

Mr. GALLEGLY. So it hasn't put an added burden on your ability to do day-to-day law enforcement? In fact, you would say it is a benefit?

Sheriff PAGE. No, sir, I think it has actually complemented our work to be able to better identify criminally-charged illegal aliens in our jail.

Mr. GALLEGLY. Thank you very much, Sheriff. The gentlelady from California.

Ms. LOFGREN. Before asking my questions, I would like to ask unanimous consent to enter some items into the record; a November 17 letter from 32 Members of Congress to the President calling for an end of Secure Communities, a November 17 letter from the members of the Secure Communities task force expressing support for prosecutorial discretion; a letter from the New York State Senator Gustavo Rivera; a series of letters and statements prepared for today's hearing by over 250 organizations, including 44 organizations serving victims of domestic violence; 50 faith-based organizations and leaders; over 80 civil rights, human rights and immigrant advocacy groups; over 75 LBGT organizations; and a sign-on letter by 43 national, State and local organizations working with survivors of domestic violence and human trafficking.

Mr. GALLEGLY. Without objection.

[The information referred to is included in the Appendix.]

Mr. GALLEGLY. Mr. Smith.

Mr. SMITH. Thank you.

Ms. LOFGREN. I don't get to ask my questions?

Mr. GALLEGLY. Oh, oh.

Ms. LOFGREN. That was a unanimous consent request to put it in the record.

Mr. GALLEGLY. I stand corrected. With all due respect, I will yield now to the gentlelady for her 5 minutes.

Ms. LOFGREN. I thank you very much.

Mr. GALLEGLY. You can't blame me for trying.

Ms. LOFGREN. I would blame myself for letting you succeed. I want to thank all of the witnesses for being here, and especially Mr. Venegas, you not only have a background in law enforcement, but you served on this task force. And sometimes I think it is important before we ask questions to establish what we do agree on. And I think everybody who I have talked to who has concerns

about this program doesn't have a concern about having violent, dangerous criminals removed.

So actually, there is more commonality here than we might expect. Where we get into trouble is when it is somebody who hasn't committed an offense, or they are pulled over for a faulty taillight and the impact that has on policing generally.

I am wondering, one of the comments, Sheriff Mark Curran who said he once supported the Secure Communities, this is his quote, he said "Fear is running through communities right now, the squad car rounds the corner, and you will see people scam, it is not because they are engaged in criminal activity necessarily, it is because they have this perception that they are illegal or they know somebody who might be undocumented, and they don't want to have anything to do with law enforcement," and that this has created problems for them in terms of getting people to call 911 or being willing to be witnesses, or if you are a victim of domestic violence, to call for help. What would be necessary? This is not only what we are doing, but the perception of what we are doing. What do you think would be necessary to get this program back on the right track?

Mr. VENEGAS. Thank you, Congresswoman. Your first point, and I think it is an absolutely important one that needs to be said again. And I have been fortunate to literally have traveled now all four corners of our great country. I have not been in a single immigrant community or any community at all where they are saying, hey, it is okay to have a burglar or robber or rapist living next to me. Even the immigrant communities are saying get those people out of here, that's it. And that is the way the program was initially sold. I think the good sheriff from Illinois was talking about, and with all due respect to my colleagues, they are in a real pickle. But the fact of the matter is, is that when you activate a county, as an example, when you activate, when they did activate Los Angeles County, nobody asked the 50 or 60 other law enforcement agencies that booked into the jail whether they wanted to participate in Secure Communities or not, they got activated de facto.

And the other part that is very important, I think, is that a lot of these communities, those chiefs had been working on community policing and recognizing that relationships are absolutely essential, not only for public safety and the neighborhoods and community, but for the country. The reality is, is that, you know, as a Nation we grew our own homegrown idiots, and the information that is very important to us and good public safety and national security often comes from the local officers and their relationships that they have with those communities.

Whenever you start impacting the trust between the law enforcement agency and the communities they served at the neighborhood and that level, you start impacting good policing for the entire community and put the Nation at risk in national security. And I think that's what the sheriff was talking about. I don't think that is just in Illinois, I think that is true in all of the communities that really are saying, hey, what are we doing? If this was done as it was initially intended with the serious felons, nobody would be have any problems at all.

Ms. LOFGREN. Mr. Mead, let me ask you a question, because in California, there is a group called The Partnership to End Domestic Violence. It is a statewide coalition of domestic violence shelters and service providers. And they have contacted me and this is what they have said: "Many of the immigrant domestic violence and sexual assault survivors we now see are too afraid to report the crimes they have suffered to law enforcement, and many others are too afraid to even seek services." They have said despite the Administration's efforts to ameliorate this program through an ICE memorandum on prosecutorial discretion, it is not clear how effectively that goal is being implemented, and the fears that are out there have impacted accessing the judicial system that this is a growing problem.

So here is the question I have for you: Congress has, on a bipartisan basis, decided that if you are a victim of domestic violence we want you to complain. As a matter of fact, we have a special visa, so if you are a victim of domestic violence you can have access to that because we think it is better to do that than to have dead victims. And yet, this policy apparently is having an adverse impact on that national goal.

What can we do? What is the agency prepared to do to make sure that many domestic violence victims, or victims of human trafficking are assured that they can go ahead and call 911 and not end up in a deportation proceeding?

Mr. MEAD. First of all, we agree completely that victims of domestic violence should not be deterred in any way from coming forward and—

Ms. LOFGREN. Unfortunately, several of them have been deported for doing that.

Mr. MEAD. I would say, an immediate response to that, we have not found a single case where a victim of domestic violence has been removed.

Ms. LOFGREN. I have cases, I will provide them to you.

Mr. MEAD. And we would be happy to get that information from you so we can run it down, because we have not been able to find anyone but going back to your original question.

Ms. LOFGREN. Here is the point, it has been reported to me by law enforcement and it has been in the newspaper, so we can do that off camera. The issue is if I call 911, my kid is going to get deported, therefore I better risk being beaten up or trafficked in a sexual manner. How do we overcome that if what you are saying—

Mr. MEAD. A couple of things have already started, one Director Morton issued, and it is on our Web site, his policy on victims of crime, and particularly victims of domestic violence stating clearly it is not our policy to use the immigration laws to adversely affect those people and deter them from reporting the crimes.

We have been getting information out to local law enforcement about the new visas that you are talking about and other protections we can afford victims of domestic violence using prosecutorial discretion. We have been in California doing public roundtables on this, and whenever we have offered to come out again and meet with any community group that would be interested in hearing

more about our program and policies because it is not our policy to use immigration law to remove victims of domestic violence.

Ms. LOFGREN. Let me just ask that—

Mr. GALLEGLY. The time of the gentlelady—just so you know, the lights are about 4 minutes behind now.

Ms. LOFGREN. Then I will ask unanimous consent for 30 additional seconds.

Mr. GALLEGLY. Without objection, I will yield the gentlelady.

Ms. LOFGREN. To say to Mr. Mead, I certainly do not challenge your sincerity, but this was just received, this is the reputable group in California and it is not working. So we need to do something more if we are actually going to get the victims of crime to do what we hope they can do which is to be safe. And I thank the Chairman for the additional time.

Mr. GALLEGLY. Mr. Smith.

Mr. SMITH. Thank you, Mr. Chairman. Mr. Mead, thank you for being here today. I understand you are recovering from the flu, so thank you for making an effort to testify.

What information today does ICE compile on those individuals who have almost 300,000 individuals who have been released into our communities that the Administration has refused to detain.

Mr. MEAD. Well, Mr. Chairman, we have a lot of information on those people that we have taken action on, including those that we have released on bond or orders of supervision. We can tell you where they were arrested, why they were arrested, and what form of—

Mr. SMITH. Does ICE have information in hand that would enable those of us who are interested to determine whether the individuals released have committed additional crimes? I am not talking about information you might get from the FBI, but do you have all of the information in hand that the FBI would need to determine whether they have committed additional crimes.

Mr. MEAD. I am not sure what information the FBI would need. We have the sort of information that you are talking about. There is a group of people, however, where we have had some contact with them, but not taken an action where we don't have as complete information.

Mr. SMITH. What percentage of the whole would that be?

Mr. MEAD. If we are talking about the universe of IDENT matches that came out of Secure Communities it could be, and this is just a rough guess, 25, 30 percent, but I can't—

Mr. SMITH. Say approximately three-quarters of the individuals who have been released, you do have that adequate information?

Mr. MEAD. We have the information that I mentioned.

Mr. SMITH. As you probably know, I was once told by the staff at ICE what you just told me that they had the information, they were going to give it to us in the next day or 2, and suddenly, ICE decided not to give us that information. Sooner or later we will get it, that is why we had to issue the subpoena.

Do you know who would have made the decision, or changed their mind about not giving us that information?

Mr. MEAD. I am not aware that a decision has been made not to give you the information.

Mr. SMITH. It is pretty obvious that we haven't received it, so somebody made that decision.

Mr. MEAD. We are working with two issues with the Department: One is how to provide information that isn't under the control of the FBI, and we are in dialogue with the FBI on that; and how do we drill down into that group of cases where we don't have good information.

Mr. SMITH. On the cases that you do, the 75 percent, are you confident I am going to get that information in the near future?

Mr. MEAD. I am confident that we will supply the information that you have requested.

Mr. SMITH. Okay, that is good news and I welcome that, thank you very much. Thank you, Mr. Chairman.

Mr. GALLEGLY. Thank you Mr. Smith. Mr. King.— Oh, I am sorry. Ms. Waters came in.

The gentlelady from California.

Ms. WATERS. Thank you very much, Mr. Chairman. I did not have time to review the U.S. Immigration and Customs Enforcement document here, the statement of Mr. Gary Mead, but I just looked it over here. Mr. Mead, reading this, it sounds as if you were taken into consideration concerns about Secure Communities, and that you have done everything—done a lot of things to address those concerns, even to the point of training and videos, and on and on and on. Why then, do we still have so many complaints about mistakes that are made? And why do we have such concentration on one group of immigrant Latinos? What happens with people from Kosovo and other places that are here illegally?

Mr. MEAD. Well, Congresswoman, first of all, we take all of the complaints seriously, and as you said, we tried to address those that we felt we could address. I can tell you that of the 1,700 jurisdictions that we have active and the 44 States, the number of concerns are relatively small, that notwithstanding, as I said, we have taken them seriously and tried to address them. As far as enforcing the immigration laws, we don't do that in any predetermined way in terms of nationality. We enforce the laws equally. We don't racially profile, we don't have targets based on countries of origin. And the end results are what they are.

Ms. WATERS. So what lead to the overwhelming arrest of Latinos, I understand that 93 percent of individuals arrested through the program are Latinos.

Mr. MEAD. Again, it is not as a result of racial profiling or country of origin. We have enforcement programs that look for those persons that are here unlawfully and we apply the law equally to them.

Ms. WATERS. Mr. Venegas, in your testimony you stated that you made three recommendations to DHS task force on Secure Communities. Can you elaborate on those recommendations and explain why you believe they would make the program more effective.

Mr. VENEGAS. Absolutely. Thank you, Congresswoman. Let me— number one was to tailor the focus of the individuals convicted on serious crimes. That was the original intent of the program, and I don't think any of the communities across the country would have any problems with having a murderer, a rapist, a serious offender, action taken. And in fact, the chiefs and sheriffs of this country

have said before you do any deportation, also make sure that they are brought before our systems of justice and that they are held accountable, number one. The clarification of the police authority to enforce civil immigration, your question right now to Mr. Mead, I think it has been a problem with DHS-ICE for a long time that they failed to recognize that it is a but-for scenario. And but-for to the program, the immigration enforcement that has taken place at the local levels now, the numbers that you listed, and very correctly, would not be in place.

The reality is that through the creation of Secure Communities nationwide, we have empowered individuals in our agencies, and I assure you, my colleagues here have fired some of those people, that have allowed their biases or their bigotry to come into play, and so they target individuals that normally would not be but-for to this program. It didn't exist with 287(g). That that they tried to create nationwide only ended up with 60 agencies actually participating, so now trying to do it nationally.

The other part is the creation of accountability mechanisms. DHS refuses to accept the fact that they have an obligation for the enforcement that begins actually at the point of contact and eventually puts people into their system. Or to the fact that it also involves the FBI. And a recognition that, truly, I think it was the good intent of Congress that said back then agencies should talk to each other. But the reality is is that no accountability measures have been put in place since the inception of this program, not only for the Federal agencies and how they work in the field, but the local law enforcement agencies that are now active participants either by the fact that they want to or de facto.

Mr. GALLEGLY. The time of the gentlelady is expired. Mr. King.

Ms. WATERS. Mr. Chairman, I have two submissions if this would be the proper time to do them. I ask unanimous consent that this letter to Governor Jerry Brown of California dated January 10, 2011 be included in the record. I also ask unanimous consent that a letter from the Coalition for Humane Immigrant Rights of Los Angeles, that is CHIRLA, express some serious concerns with the Secure Communities program such as lack of transparency, et cetera, also be included.

Mr. GALLEGLY. Without objection.

[The information referred to follows:]



COALITION FOR HUMANE IMMIGRANT RIGHTS OF LOS ANGELES

30 November 2011

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The Subcommittee on Immigration Policy and Enforcement
Committee on the Judiciary
House of Representatives
Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

On behalf of the Coalition for Humane Immigrant Rights of Los Angeles (CHIRLA), a community-based organization, I write you to express our utmost concern regarding the Department of Homeland Security (DHS) Immigration and Customs Enforcement (ICE) program known as "Secure Communities" (S-Comm), which has raised serious public safety concerns and resulted in the rapid separation of thousands of families.

We oppose S-Comm both because of the lack of accountability and transparency surrounding it as well as the very real and detrimental effects it is having on our community. DHS and ICE, together with the FBI, have variously misrepresented the Secure Communities program as both voluntary and targeted at the "worst of the worst" to the American public, law enforcement agencies, state and local governments, and Members of Congress who have appropriated funding to its breakneck implementation and rollout. The reality, decided with no input from affected localities, is that S-Comm is being imposed on us with a no return policy; and that rather than being targeted at anyone, let alone the serious criminals it purports to seek out, it functions like a dragnet.

S-Comm is effectively turning our local police officers into immigration agents. Here in Los Angeles, many agencies like the Los Angeles and Pasadena Police Departments are seeing decades-old philosophies of community policing being undermined by S-Comm. For this reason among many, the City of Los Angeles City Council voted to condemn S-Comm in June 2011. LAPD Chief Charlie Beck has said that it "tends to cause a divide here where there's a lack of trust, a lack of reporting, a lack of cooperation with the police. You know, I cannot prosecute crimes without witnesses..." Mayor Antonio Villaraigosa has been similarly vocal about S-Comm's negative impact on public safety, stating that it must either be "modified or eliminated", and that is not living up "to its intended purpose."

Outside the City of LA, but still within LA County, other localities like the City of South Gate (pop. 100,000) now suddenly find themselves increasingly involved in immigration enforcement. In August 2011, a vendor with no criminal history named Adan E. was detained by an officer of the South Gate Police Department. When his fingerprints were run, S-Comm triggered a hit and Adan found himself in deportation proceedings. The City of South Gate promptly also passed a resolution against S-Comm. Adan subsequently

joined hundreds of Angelinos at the 15 August 2011 DHS S-Comm Task Force hearing to recount his tale to the task force members. Here we see how cities large and small, often without their own knowledge, are being subsumed into a larger scheme to deport the 400,000 that ICE maintains it has the resources for.

Moreover, S-Comm actually creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests. As UCLA Law Professor Hiroshi Motomura has stated, "the discretion to arrest has been the discretion that matters", and by allowing state and local actors to become "gatekeepers" in the sense that by virtue of arrest they decide who will be exposed to potential immigration consequences, we risk "abdication of federal authority over immigration."¹

So rather than being "race neutral" as claimed by ICE, it leverages prevailing practices of local police in order to reach higher deportation levels. So whether an officer intends it or not, an arrest for a minor offense like e.g. ice cream vending on a sidewalk (illegal in the City of Los Angeles) can now lead to detention and deportation. This is what is now happening to Blandina P. from the San Fernando Valley, who risks being torn from her US citizen son because she was trying to bring bread to the table. All of our communities are hearing stories like this – and this is simply wrong.

To safeguard our communities and the protection of our rights we recommend that:

- *The "Secure Communities" program should be terminated.*
- *The problems associated with Secure Communities should be applied to inform changes to other ICE ACCESS programs, e.g. the 287(g) and the Criminal Alien programs; and the entanglement of local criminal law enforcement and federal civil immigration functions should be stopped and reversed.*
- *States and localities should not be compelled to participate in immigration enforcement programs, including the forwarding of fingerprints and other biometric information to DHS.*
- *The Department of Justice Office of Inspector General should begin an investigation into the FBI's role in Secure Communities.*

Thank you for your time and consideration

Please contact Carl Bergquist, Policy Advocate, at (213) 353 1334 and cbergquist@chirla.org if you have any questions.

Sincerely,



Angelica Salas
Executive Director, CHIRLA

¹ Hiroshi Motomura, "THE DISCRETION THAT MATTERS: FEDERAL IMMIGRATION ENFORCEMENT, STATE AND LOCAL ARRESTS, AND THE CIVIL-CRIMINAL LINE", 58 UCLA Law Review, 2011

Congress of the United States
Washington, DC 20515

June 10, 2011

The Honorable Jerry Brown
Governor of the State of California
State Capitol
Sacramento, CA 95814

Dear Governor Brown,

As members of the Los Angeles Congressional Delegation, we write to urge you to suspend California's participation in the Department of Homeland Security's (DHS) Secure Communities program until DHS's Inspector General's Office completes its investigation of the program. We believe that the DHS Immigration and Customs Enforcement's (ICE) current implementation of this program is contrary to the Secure Communities Memorandum of Agreement (MOA) signed with the State of California's Identification Bureau. ICE's implementation is undermining California law enforcement's ability to investigate and prosecute individuals who have committed serious criminal offenses.

Although we support the purported goals of the Secure Communities program, there is strong evidence that ICE has failed to meet the program's objective to "identify, detain and remove from the United States aliens who have been convicted of a serious criminal offense and are subject to removal." Rather, the program has led ICE to take into custody many individuals who do not meet the stated criteria of the program.

ICE's data shows that in Los Angeles County, more than a quarter of those arrested and taken into ICE custody had not been charged of a crime. Moreover, nearly half (45.87%) of the individuals taken into ICE custody from LA County had not committed a crime or had only been charged with a low-level offense. The ICE data demonstrate that ICE is acting contrary to the MOA.

In a recent interview with a local Los Angeles radio station, Los Angeles Chief of Police Charlie Beck warned of the chilling effect the program will have on the reporting of crime in Los Angeles. He went on to say that there was a "crisis of confidence" in Secure Communities.

If Chief Beck is correct that the program is causing a deterioration of trust between the Los Angeles Police Department and local immigrant communities, this could increase the threat of crime rather than reduce it as was the intention of the Secure Communities program. Several California newspapers have reported on victims of domestic violence who have been placed into deportation proceedings as the result of Secure Communities when they simply called the police for help.

Once again, we urge you to suspend California's participation in Secure Communities. With

several of your fellow governors from Illinois, New York and Massachusetts ending their participation in the Secure Communities program, suspending participation in the program pending the DHS Inspector General report is a prudent action.

We look forward to working with you and finding ways to truly make our communities safer and working towards comprehensive immigration reform. And we look forward to the opportunity to discuss this matter with you.

Sincerely,



Mr. GALLEGLY. Mr. King.

Mr. KING. Thank you, Mr. Chairman. I thank the witnesses. I just first note Mr. Venegas that you announced in your testimony you are likely the only immigrant on the panel. And I wonder if you could tell us how it was you were inspired to come to the United States?

Mr. VENEGAS. My mother actually was an American citizen and she was kidnapped. It is quite a long story. Do you have time for a book?

Mr. KING. Well, I would just like to have the short version.

Mr. VENEGAS. A very short version. My mother actually was kidnapped by my grandfather and taken back to Mexico where he was from. Eventually he was killed and she was raised by an aunt. Over time, she connected with her mother who was a resident in Ventura County, California. And her desire was for us to come back to the United States and actually filed immigration papers in Walahra at the consulate where she found a very compassionate U.S. employee at the embassy. And through the process we were able to come to the United States and resided initially in Santa Maria, California.

Mr. KING. Can you just tell us what year and what visa then, Mr. Venegas?

Mr. VENEGAS. That was 1958. I couldn't tell you the name of the visa or whatever.

Mr. KING. Well, thank you.

Mr. VENEGAS. But I am an American citizen now, Mr. King.

Mr. KING. I congratulate you.

Mr. VENEGAS. Actually, I became an American citizen after I served in Vietnam.

Mr. KING. I thank you. And that is the answer to my question. I appreciate that. I have another question for you, and that is the number of times I heard at least a tonal amendment about racial profiling. Can you point to any statute that prohibits racial profiling?

Mr. VENEGAS. There is statutes all over that prohibit racial profiling, however, I will tell you this, Mr. King.

Mr. KING. Could you just point to one for this panel?

Mr. VENEGAS. That prohibits racial profiling?

Mr. KING. Yes. Is there a Federal statute that prohibits racial profiling?

Mr. VENEGAS. Yeah, the Civil Rights Act.

Mr. KING. Actually, I don't think when they wrote the Civil Rights Act that they even knew what racial profiling was, Mr. Venegas.

Mr. VENEGAS. And the Fourth and Fifth Amendments in the United States Constitution prohibits racial profiling and discrimination. And our oath of office.

Mr. KING. I have the floor now. Thank you. I looked at your testimony, and the number I wanted to get as a clarification, that 60 percent of those deported committed either low level or no violations at all, that basis, what universe is that that you are speaking to? I noticed that wasn't in your written testimony, so could you tell us where that fact comes from, or that statistic?

Mr. VENEGAS. Those were the facts actually that were taken out of the ICE's Web page. If you go into ICE they have all of their numbers. I have to tell you this about them, they have a lot of stuff that is on for their record.

Mr. KING. And a universe of that is at the United States of America? Is it a State, a county, how broad a universe is that?

Mr. VENEGAS. No, the United States of America.

Mr. KING. Okay. Thank you. I wanted to clarify that. And I heard your ask on that. And I would ask you if 100 percent of those that were deported had committed no crime, no serious crime, no crime at all, and not even a misdemeanor, would that trouble you?

Mr. VENEGAS. First of all, yes, absolutely.

Mr. KING. And why?

Mr. VENEGAS. But I don't think that my point or anybody's point is that 100 percent of those deported have not committed any offense. I think—and I think I have said it for the record here and a number of places that the folks, and some of them have committed very serious offenses, number one, they should be held accountable at the local level or State; and then two, action should be taken by ICE.

Mr. KING. Thank you. And three was create accountability. Are you aware of how many arrests there have been of criminal aliens in the United States for the purpose—the number of arrests of criminal aliens in the United States for homicide?

Mr. VENEGAS. I do not have the exact number.

Mr. KING. I would point your attention that that would be a study that was done and completed in March of this year 2011 by a GAO study that was commissioned by this panel. And that number is 25,064. And so I would just make this point, that when we deport people after the crime, there are already victims to crime, and I am concerned about that tone. I would turn my direction over to Ms. Wood, whom I welcome back.

Mr. VENEGAS. May I respond to that?

Mr. KING. I thank you for your testimony. I didn't have a question. But Ms. Wood, you stated that you wanted to ensure that criminal aliens are identified and deported. Was that a selected term, "criminal aliens," or would that also include those who came into the United States who were not guilty of a crime?

Ms. WOOD. That also were not—are you talking about lawful permanent residents whose crimes made them subject to removal?

Mr. KING. Well, I am really talking about those who overstayed their visa who would be guilty of a serious misdemeanor.

Ms. WOOD. No, I think I was including kind of everyone within that category, all individuals who would be amenable to removal.

Mr. KING. Thank you. I just wanted to clarify. And I appreciate that. I knew that precision would come from you. Mr. Mead, is there anything in the policy of Secure Communities that address the sanctuary cities that have a policy that refuses to cooperate?

Mr. MEAD. Not specifically. Again, it is information sharing as a result of fingerprint submission. So whether or not a city chooses to honor our detainers is really not a subject for Secure Communities. If the jurisdiction is activated in Secure Communities, their prints come to us and we are able to do the matching against our databases.

Mr. KING. Thank you. And then in conclusion, can you point to any existing statute that prohibits racial profiling?

Mr. MEAD. I can't answer that question.

Mr. KING. Could you, Ms. Wood?

Ms. WOOD. No. I am aware obviously of the DOJ guidelines against racial profiling. And they may refer to something.

Mr. KING. A guideline as far up the ladder as we go. Congress has never acted on racial profiling.

Ms. WOOD. That is right. But ICE does use those guidelines in training, and that is what I would point the panel to.

Mr. KING. No objection, just clarifying. And I think, Sheriff, you were leaning ahead. Did you have anything you wanted to add to that before I yield back?

Sheriff PAGE. Well, you are talking about the racial profiling. I have got to say that we have six sheriff offices in the State of North Carolina that participate in 287(g), and all 100 in Secure Communities. But the problem that we are seeing with the ICE side, if I can just go to this real quick, is that we helped identify criminal illegal aliens using our local resources according to the ICE study goals and we do everything they ask us to do by the book, but then the Justice Department comes down on us with lawsuits that are unfounded, troublesome, and ICE doesn't really step up to help us. We are following the program, we are following the rules and we are getting hammered.

Mr. KING. We needed to hear that, Sheriff.

Ms. WOOD. And one of the things, I do want to point out regarding Secure Communities is that reviewing everyone actually reduces a potential for racial profiling. When I was at ICE, sometimes we would have trouble with bad actors or individuals in State and local law enforcement that would act on their own and would go ahead and call up ICE and do something kind of inappropriate. Secure Communities ensures that everyone who comes into the system, no matter your color, how you speak, anything else, is screened through the program. And so I do think that, with education, can help reduce it.

Ms. LOFGREN. Would the gentleman yield?

Mr. GALLEGLY. The time of the gentleman is expired.

Mr. KING. And I yield back, Mr. Chairman. Thank you.

Mr. GALLEGLY. The gentlelady from Texas, Ms. Jackson Lee.

Ms. JACKSON LEE. Let me thank the—and I would be happy in just a moment if the Chairman would indulge me as he did Mr. King, the gentlelady has a point. But let me thank the Ranking Member and the Chairman for this very important hearing. Let me be very clear that Congress's share of come and go, and I think you have seen a delineation of some on this panel who are championing the Secure Communities and some that may have reasonable and rational questions. One thing I think that none of us will disagree with is that we support our local law enforcement, Members of Congress fight for resources to come to the local community.

May I just make a humorous comment, and that is, sometimes when we are cutting the ribbon or passing a check, the Congress people are the potted plants and you local guys are banging your chest. But that is all right. We are servants and we don't mind that. I enjoy, and I know my colleagues enjoy doing that. We want to make things work for you, but I do want to make it very clear that one person's championing of the sledge hammer approach is here today and gone tomorrow. The responsibility that we have is to do the right thing. And if it takes making the laws more clarified, then we should do that. And so I am going to pose my questions to Mr. Mead and Mr. Venegas.

Mr. VENEGAS. Venegas.

Ms. JACKSON LEE. Venegas. Thank you so very much. I was going French and I should have gone another direction from Cali-

ifornia. But I am just teasing you. Thank you for clarifying that pronunciation.

Mr. Mead, let me try to find out what kind of people are your field folk focusing on under the Enforcement Removal of Operations for the U.S. Immigration and Customs, U.S. Department of Homeland Security?

Mr. MEAD. Well, as I said earlier in my testimony, we focus on four key priorities, criminal aliens, fugitives, these are people who have been ordered removed from the country and have not departed, repeat immigration violators and recent border crossers. Those are our highest priorities. And last year of the 397,000 people that we removed, 90 percent of those removals fell into one of those four categories.

Ms. JACKSON LEE. Do you hold to racial profiling, is that how you go and find the individuals that you deport?

Mr. MEAD. I am sorry?

Ms. JACKSON LEE. Do you adhere to, do you seek out—your framework, is it about racial profiling? Do you go and pick out brown people and others that may look like they shouldn't be here, is that how you do it?

Mr. MEAD. Absolutely not.

Ms. JACKSON LEE. Is it fact-based, is it fact-based?

Mr. MEAD. Absolutely.

Ms. JACKSON LEE. All right. Then let me ask my first question. Why does the Department of Homeland Security refuse to mandate data collection with racial profiling related indicators by State and local enforcement as a precondition for participating in 287(g) Secure Communities and criminal alien programs?

Mr. MEAD. We expect that any 287(g) partner follow the guidelines. Where we get indications that there may be problems with how they are applying the program investigations ensue and we aggressively monitor them.

Ms. JACKSON LEE. Let me tell you as someone who has the greatest respect for ICE officers, we work with them all the time, we tout the work they do, we are saddened by the loss that was experienced this last year, voluntary we think they are doing is one thing, but mandating and determining whether or not there is racial profiling is another. I am going to make an official request that you should carry back to the leadership to answer, and I certainly welcome that response to this Committee why it is not mandated. The confusion I hear the sheriff caring for is he needs to know what to do. And I am going to be offended by his deputies who are racially profiling. If it was clear that that is unacceptable he would not do it. Let me move quickly.

So I am making that official request for a mandate on data collection. I want to move to the gentleman from California. We just came out of Alabama on H.B. 56. Are you familiar with that bill?

Mr. VENEGAS. Yes, ma'am.

Ms. JACKSON LEE. Can you craft the failures of the Secure Communities and by extension, your understanding of H.B. 56. That is obviously the extreme, people being thrown out of their apartments, people not getting light bills and various other necessities, can't go to school. What are you seeing? This is a fair announce-

ment that the ICE has said, people who are frequent and criminal. But you are seeing more, are you not?

Mr. VENEGAS. Absolutely. I think what, you know, and with all due respect to the elected officials in Alabama and other States, the reality is the impact of their legislation has affected communities in a wide swath that is negatively impacting their States, not only people and families and lives, their educational systems, their health systems and every aspect of the State of Alabama. With that, I would suggest to you that Secure Communities is doing precisely that across the country.

One of the law enforcement leaders in the task force made this analogy which, to me, very honestly, was ludicrous, and that was we all agreed that Secure Communities was broken and that something needed to be done. He said, you know, this is like an airplane that is flying and sometimes you got to fix the plane while it is on the air. Ladies and gentlemen, I fly a lot. I trust my pilot to fly the plane. I don't know that he or she is a hell of a good mechanic. And I would suggest to you that Secure Communities is exactly in the same boat.

Mr. GALLEGLY. The time of the gentlelady is expired. I would yield for the purpose of unanimous consent to Mr. King.

Mr. KING. Thank you, Mr. Chairman. I have a unanimous consent request to introduce into the record a copy of an article in the Daily Herald titled "Elgin sex offender facing his third burglary charge skips bail." This document identifies the consequences of sanctuary cities in the face of this discussion. I ask unanimous consent to enter it into the record.

Mr. GALLEGLY. Without objection that will be the order.
[The information referred to follows:]

Daily Herald
Big Picture . Local Focus

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Article updated: 11/28/2011 7:53 PM

Elgin sex offender facing his third burglary charge skips bail

By Paul Biasco

A convicted child sex offender and illegal immigrant who was charged with breaking into an Elgin home in June where a 13-year-old girl hid in the basement has skipped bail, according to police.

Salvador Sarabia, 28, has served time for two burglaries, drug-related charges and criminal sexual abuse of a minor and has been deported twice. He had been free after posting the required \$10,000 of his \$100,000 bail.

Sarabia, of the 800 block of Ford Avenue, did not show up for his court date on Nov. 21, and a warrant was issued for his arrest, according to Elgin police.

Although Sarabia had an Immigration and Naturalization Services hold against him, a Cook County ordinance passed in September allowed Sarabia to leave the Cook County jail after posting bond.

The controversial ordinance halts compliance with Immigration and Customs Enforcement detainer requests, which could have kept him behind bars for up to two days after posting to allow federal authorities time to pick him up for possible deportation.

On the morning June 27, Sarabia and 27-year-old Fidel Romero of Rockford broke the glass on the front door on a home on the 100 block of Neutrenton Avenue and made their way inside, police said.

The men left with a flat-screen TV and other items but were caught shortly after because a terrified 13-year-old girl was hiding in the basement during the break-in managed to call 911 while clutching her dog behind the basement bar, police said.

Police released the 911 tapes of the girl's call, who stayed on the line whispering to a dispatcher until after officers had captured Sarabia and Romero.

Sarabia was sentenced to three years in prison on burglary convictions in 2003 and 2006, according to prosecutors at his bond hearing in June. Because of those prior convictions, he faced up to 30 years in prison on the new charge.

Anyone with information on Sarabia's whereabouts is asked to call Elgin police at (847) 289-2500 or leave an anonymous tip at (847) 695-4195.

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Mr. GALLEGLY. I want to thank all of our witnesses today.
 Ms. JACKSON LEE. Mr. Chairman, a parliamentary inquiry.
 Mr. GALLEGLY. The lady will state her parliamentary inquiry.
 Ms. JACKSON LEE. Members have the privilege of submitting commentary into the record. Is it relevant to inquire what answer or what is the premise of his submission to the record? Was he answering a Member's questioning or was he responding to a witness' point that was made?
 Mr. GALLEGLY. If the gentleman would like to expand on his—I don't necessarily see that that is a requirement, but if it would

make the gentlelady feel a little more at ease, I would give the gentleman an opportunity to respond.

Mr. KING. Thank you, Mr. Chairman. I thank the gentlelady from Texas for the inquiry. This addresses a subject matter that we discussed here in this hearing with regard to the effect of sanctuary cities. And I did ask the specific question, does that change the policy with Secure Communities? And this article demonstrates how an individual who had twice been arrested for serious felonies before was released because of a city ordinance that rather than to be released—rather than to be held for ICE. The city ordinance was a sanctuary city-city ordinance. He was released into the community and he broke into a home with a young lady in it and robbed her, and now he is on the loose. So this is the kind of thing that illustrates, I think, the crimes that we could prevent if we have effective Secure Communities.

Ms. LOFGREN. Reserving the right to object, so I can say something.

Mr. GALLEGLY. I would yield to the gentlelady.

Ms. LOFGREN. Because I will not object. We have a very expansive—when I chaired the Committee and the current Chairman has a very expansive view toward putting things in the record, and I think that is the appropriate approach.

Mr. GALLEGLY. I think that the record would show that we have been pretty liberal—

Ms. LOFGREN. I agree.

Mr. GALLEGLY [continuing]. With everyone's request.

Mr. KING. Mr. Chairman, I would like to object to being called liberal.

Ms. LOFGREN. I would like to note however, again reserving the right to object, I could put in a dozen cases of people who were pulled over because of a taillight or because they had their high beams on and they were arrested because they didn't have a license because they were undocumented or because they were Latino, which is why we have 93 percent of the people removed are Latino does not reflect the demographics. And with that, I lift my reservation.

Ms. JACKSON LEE. Mr. Chairman, may I reserve the right to object?

Mr. GALLEGLY. You certainly have the right.

Ms. JACKSON LEE. Thank you, Mr. Chairman. And I will not object. Following the gentlelady's comment, I wanted to say to Mr. King I was not objecting to the Chairman's very right order of allowing you to submit. I wanted to clarify that we were not indicting ICE because I just had ICE list all the bad guys they try and get, and that is a bad guy that you would certainly be in line to find.

And I just wanted to be clear that you weren't putting it in to say that ICE had not done their job. I don't know about sanctuary cities. I think we need to find common ground. But I know that ICE is carrying on their duties as they should.

Mr. KING. If the gentlelady would yield.

Mr. GALLEGLY. I will allow the gentleman from Iowa to respond and then we will move on.

Ms. JACKSON LEE. I thank the Chairman.

Mr. KING. I would just state that the gentlelady from Texas and I don't disagree with the intent of this discussion, in that this article that I have introduced into the record actually clarifies that ICE wanted to hold them and respond but the city ordinance directed them to release. So I would yield back.

Mr. GALLEGLY. The time of the gentleman has expired. Again, I would like to thank the witnesses again, not only for your testimony, but for listening to our discussion up here on whether or not we should enter things into the record. Without objection, all Members will have 5 legislative days to submit to the Chair additional written questions for the witnesses which we will forward to the witnesses to respond as promptly as you will be able to get answers back to us so that we make them a part of the record of the hearing. And without objection all Members will have 5 legislative days to submit any additional materials for inclusion into the record.

Again, thank you all for your participation today, and even more for the service that you provide every day. Thank you. The Subcommittee stands adjourned.

[Whereupon, at 3 p.m., the Subcommittee was adjourned.]

A P P E N D I X

MATERIAL SUBMITTED FOR THE HEARING RECORD

Prepared Statement of the Honorable Lamar Smith, a Representative in Congress from the State of Texas, and Chairman, Committee on the Judiciary

Immigration and Customs Enforcement's (ICE) primary mission is to promote public safety through criminal and civil enforcement of federal immigration laws.

As part of ICE's mission, the agency attempts to identify and remove illegal immigrants. Through Secure Communities, ICE uses existing information sharing between the U.S. Department of Homeland Security (DHS) and the Department of Justice (DOJ) to quickly and accurately identify immigrants who are arrested for a crime and booked into local law enforcement custody.

Under this program, the fingerprints of everyone arrested and booked are checked against FBI criminal history records and DHS immigration records to determine if immigration enforcement action is required.

Secure Communities is an important and effective immigration law enforcement program. This program simply makes sense. Who wouldn't want to deport a criminal immigrant? But advocates for amnesty have raised opposition for one reason and one reason alone: Secure Communities works.

Unfortunately, Secure Communities has fallen prey to the White House's demands that DHS bypass Congress and use discretionary Executive Branch authorities to grant back-door amnesty. While the program will be operational in all jurisdictions by 2013, DHS has announced "changes" to Secure Communities that could potentially allow millions of illegal and criminal immigrants to avoid deportation and work in the U.S, taking jobs away from Americans.

On August 22, 2011, I sent DHS a written request for information about removable illegal and criminal immigrants brought to the attention of ICE through Secure Communities on whom ICE elected not to take action. The Committee needs to determine which of these immigrants went on to commit additional crimes.

To date, I have not received the information requested, which forced the issuance of a subpoena. Apparently, the administration doesn't want the American public to know what the facts are.

The Obama administration's refusal to fully enforce immigration laws allows illegal immigrants to work legally in the United States, forcing millions of unemployed Americans to compete with them for scarce jobs.

The Obama administration remains on the wrong side of the American people when it comes to illegal immigration. According to a recent poll, two-thirds of the American people want to see our immigration laws enforced.

The administration is putting illegal immigrants ahead of the interests of American taxpayers and unemployed Americans. The administration should enforce all the laws on the books, not just the ones it likes.

Material submitted by the Honorable Zoe Lofgren, a Representative in Congress from the State of California, and Ranking Member, Subcommittee on Immigration Policy and Enforcement

Congress of the United States
Washington, DC 20515

November 17, 2011

The Honorable Barack Obama
President of the United States
The White House
Washington, DC, 20500

Dear Mr. President:

As Secure Communities continues to expand, we write because we have been deeply troubled by the implementation of the program since its inception. We were further concerned when the Department of Homeland Security undermined the ability of states to opt out of the program by unilaterally terminating all Memoranda of Agreement with State Identification Bureaus across the country. Now, the recently released report of the task force established by DHS to review Secure Communities has led us to conclude that the program must immediately be terminated.

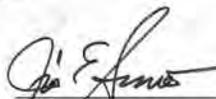
The task force report confirms the concerns we have been raising for more than a year. It makes clear that Secure Communities sows mistrust of the police and other uniformed personnel, thereby making our communities less safe. The broad scope of the program means that immigrants, both documented and undocumented, are afraid to cooperate with police officers, because doing so may lead to deportation of themselves or their families. This understandable reticence makes it harder for the police to investigate crimes that happen in our communities.

In addition to the impact on law enforcement, this program of wholesale removals hurts our communities by funneling immigrants into an unjust deportation system that fails to offer due process protections. When detained, individuals are not afforded a right to counsel and are often transferred to remote locations for detention, which severely limits their access to resources to help them fight their cases. This patently unfair system needs to be seriously reformed, not expanded through fatally-flawed programs like Secure Communities.

Immigrants are an integral part of the communities we represent. They go to our schools, work in our businesses, pay taxes, serve as the primary breadwinners in their families, and help to give our communities their unique character. Our communities continue to be damaged by this growing collaboration between police and immigration enforcement.

We urge you to immediately stop Secure Communities. We cannot make our communities safer by tearing them apart.

Sincerely,


Jose E. Serrano
Member of Congress


Yvette D. Clarke
Member of Congress

Charles B. Rangel
Charles B. Rangel
Member of Congress

Jerrold Nadler
Jerrold Nadler
Member of Congress

Gregorio Kilili Camacho Sablan
Gregorio Kilili Camacho Sablan
Member of Congress

Owen Moore
Owen Moore
Member of Congress

Pete Stark
Pete Stark
Member of Congress

Barbara Lee
Barbara Lee
Member of Congress

Jared Polis
Jared Polis
Member of Congress

Raúl M. Grijalva
Raúl M. Grijalva
Member of Congress

Jesse Jackson, Jr.
Jesse Jackson, Jr.
Member of Congress

Keith Ellison
Keith Ellison
Member of Congress

Eleanor Holmes Norton
Eleanor Holmes Norton
Member of Congress

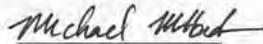
Earl Blumenauer
Earl Blumenauer
Member of Congress

Judy Chu
Judy Chu
Member of Congress

Nydia M. Velázquez
Nydia M. Velázquez
Member of Congress

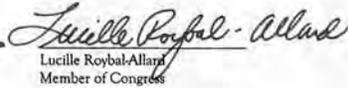
Luis V. Guterrez
Luis V. Guterrez
Member of Congress

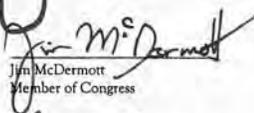
Rubén Hinojosa
Rubén Hinojosa
Member of Congress


Michael M. Honda
Member of Congress


Ed Pastor
Member of Congress

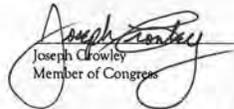

Jan Schakowsky
Member of Congress

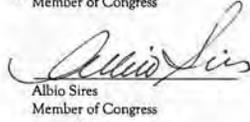

Lucille Roybal-Allard
Member of Congress

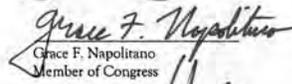

Jim McDermott
Member of Congress

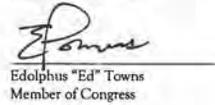

Lloyd Doggett
Member of Congress

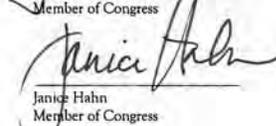

Bob Filner
Member of Congress

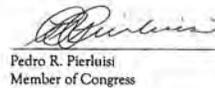

Joseph Crowley
Member of Congress

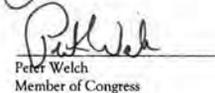

Albio Sires
Member of Congress


Grace F. Napolitano
Member of Congress


Edolphus "Ed" Towns
Member of Congress


Janice Hahn
Member of Congress


Pedro R. Pierluisi
Member of Congress


Peter Welch
Member of Congress

November 17, 2011

The Honorable Patrick J. Leahy
Chairman
Judiciary Committee
United States Senate
224 DSOB
Washington, DC 20510

The Honorable Chuck Grassley
Ranking Member
Judiciary Committee
United States Senate
224 DSOB
Washington, DC 20510

The Honorable Joseph I. Lieberman
Chairman
Homeland Security Committee
United States Senate
340 DSOB
Washington, DC 20510

The Honorable Susan Collins
Ranking Member
Homeland Security Committee
United States Senate
340 DSOB
Washington, DC 20510

The Honorable Lamar Smith
Chairman
Judiciary Committee
U.S. House of Representatives
2138 RHOB
Washington, DC 20515

The Honorable John Conyers, Jr.
Ranking Member
Judiciary Committee
U.S. House of Representatives
2138 RHOB
Washington, DC 20515

The Honorable Peter T. King
Chairman
Homeland Security Committee
U.S. House of Representatives
H2-176 FHOB
Washington, DC 20515

The Honorable Blake Farenthold
Ranking Member
Homeland Security Committee
U.S. House of Representatives
H2-176 FHOB
Washington, DC 20515

Dear Mr. Chairman and Ranking Member:

The concept of prosecutorial discretion in immigration enforcement, as in all law enforcement, is nothing new, but recent efforts to improve its use within the Department of Homeland Security have met with unwarranted criticism. As the members of the Task Force on Secure Communities, a bipartisan advisory committee of the Homeland Security Advisory Committee (HSAC), we unanimously express our support for these recent DHS initiatives. We strongly reject arguments that the use of prosecutorial discretion somehow undermines immigration laws enacted by Congress. Instead, we believe that the appropriate use of discretion can strengthen law enforcement, maximize the efficient use of finite resources, and allow DHS to concentrate on removing serious criminals and others who are and should be priorities for removal.

The Task Force, which was created by Secretary Janet Napolitano in June 2011 to review and recommend improvements to the Secure Communities program, represented a range of opinions and professions, including many law enforcement officials. Our report (available online at www.dhs.gov/xlibrary/assets/hsac-task-force-on-secure-communities-findings-and-recommendations-report.pdf), submitted to HSAC on September 22, 2011, contained a critique of Secure Communities and several suggestions meant to assure that the program would operate in a way that achieves its stated goals and is consistent with community policing and with the best practices of state and local law enforcement agencies.

One of our most critical recommendations for improving Secure Communities involved the necessity of exercising prosecutorial discretion. We urged the Department to continue its efforts to use prosecutorial discretion as an important law enforcement tool. In fact, we included specific suggestions meant to help ensure consistent and systematic exercise of prosecutorial discretion by ICE personnel in all its enforcement programs, including Secure Communities. We note that these recommendations were also endorsed by members of HSAC, who stated that the use of prosecutorial discretion is “the heart” of the matter when seeking to improve and reform Secure Communities.

Finally, we note that there is nothing unusual in our recommendation or in DHS’s current efforts to improve its use of prosecutorial discretion. Such discretion is a normal and essential part of the everyday activities of law enforcement agencies and prosecutors’ offices at the local, state, and federal levels across the nation. Exercising prosecutorial discretion, case by case, in a systematic and professional way, does not amount to administrative amnesty. Instead it helps to make sure that resources are focused in ways that best promote the overall enforcement mission.

Prosecutorial discretion is a critical tool enabling DHS to implement the law in a manner that will achieve the comprehensive objectives Congress has set in our immigration laws. As such, we urge members of Congress to reject limitations on the agency’s ability to prioritize through the exercise of discretion. Instead, we urge you to support DHS’s current efforts to instill within its law enforcement personnel the discretionary principles necessary to maintain a working and effective immigration enforcement system.

Sincerely,

Chuck Wexler (Chair)

Executive Director, Police Executive Research Forum

Bo Cooper

Partner, Berry Appleman & Leiden, L.L.P.

Adrian Garcia

Sheriff, Harris County, Texas

Douglas Gillespie
Sheriff, Las Vegas Metropolitan Police Department

Robert Glaves
Executive Director, The Chicago Bar Foundation

Benjamin Johnson
Executive Director, American Immigration Council

Andrew Lauland
Homeland Security Advisor to Gov. Martin O'Malley of Maryland

Laura Lichter
Partner, Lichter & Associates, P.C.

David A. Martin
Professor of Law, University of Virginia

Charles Ramsey
Commissioner of Police, Philadelphia

Lupe Valdez
Sheriff, Dallas County, Texas

Roberto Villaseñor
Chief of Police, Tucson, Arizona

Wendy Wayne
Director, Immigration Impact Unit, Committee for Public
Counsel Services

Sister Rosemary Welsh
Executive Director, Casa de Misericordia and
Director, Mercy Ministries Outreach

Cc: The Hon. Harry Reid, Majority Leader, United States Senate
The Hon. Mitch McConnell, Minority Leader, United States Senate
The Hon. John Boehner, Speaker of the House
The Hon. Nancy Pelosi, Democratic Leader

**SENATOR
GUSTAVO RIVERA**
33RD DISTRICT

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MINORITY LEADER
LEGISLATIVE COUNCIL CONNECTIONS
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FRANCHISE
HEALTH
HIGHER EDUCATION
LABOR

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

I am writing to you as the State Senator for the 33rd District in New York, which is comprised of the Northwest Bronx. As you can imagine, with over 65% of my Senate District being Latino and with large Dominican, West African and Vietnamese immigrant communities, in my area, I am particularly concerned with what a program like Secure Communities would do to my community and the kind of fear and general anxiety it would foster at a time when police need community members' cooperation in order to confront increasing gun violence. In neighborhoods like Fordham, University Heights and East Tremont, Secure Communities would mean less cooperation with law enforcement and even higher crime rates.

I am opposed to the Secure Communities Program because of concerns regarding the safety of our communities in the Bronx and throughout the state, but also because I do not believe it is doing what it is suppose to do in terms of focusing efforts on dangerous criminals. Too many individuals who get caught up in Secure Communities do not pose a danger to our society, and to the contrary, their interactions with Immigration and Customs Enforcement (ICE) often devastates families and entire communities.

Secure Communities is ineffective; it threatens the safety of our communities, runs counter to American principles of fairness and justice and has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pretextual arrests.

I believe that in order to protect the rights of U.S. citizens and non-U.S. citizens alike, Congress should:

- Eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- Urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration
Sincerely,



Gustavo Rivera
State Senator 33rd District



International Institute Rhode Island

November 22, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The International Institute of Rhode Island provides high quality educational, legal, and social services to immigrants and refugees throughout Rhode Island and southeastern New England. Fundamental to all of our programs and services is the promotion of self-sufficiency -- giving clients tools to help themselves become active participants in the social, political & economic richness of the American culture and community. We also provide a full range of interpreting and translating services and community education and training programs. As an organization that supports and assists immigrants in their quest for a better life in this country, **we stand in opposition to the Secure Communities program.**

We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. When there is a fear that local law enforcement agencies are involved with ICE, members of immigrant communities become weary to report crimes or even cooperate with the law enforcement agencies, creating an even less secure community.

The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress, disguising it as a tool for persecution of immigrants. The program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests since the reason for the initial arrest is not taken into account.

There is documented history of racial profiling in the state of Rhode Island. According to a study conducted by Northeastern University in 2003, "statewide, non-white motorists are 2.5 times more likely to be searched than white motorists". More recent research from the University of Rhode Island (2008) states that a "black driver would be 1

½ times as likely to be pulled over as a white driver by troopers from the same state police barracks." Hispanic drivers would be slightly more likely to be stopped as well. The International Institute of Rhode Island is active in passing a comprehensive bill against racial profiling in our state and therefore will not defend a program which allows racial profiling to be a part of the operation.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,

Bill Shuey
Executive Director



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Jewish Alliance for Law & Social Action (JALSA) is a Boston-based membership group that works to protect our constitutional guarantees for civil rights and civil liberties. We believe that the "Secure Communities" program is a seriously flawed program.

Despite its name, the "Secure Communities" program in fact threatens to undermine the working relationship between law-enforcement and the many immigrant communities in the nation by raising the specter of deportation as a punishment for acts of civic virtue. Under the program, the police are required to submit to federal authorities the fingerprints and other identifying data regarding everyone they stop who might appear to be an undocumented alien. The purpose of the plan is said to be to locate and deport illegal aliens who have committed violent or other serious crimes. Experience with the program, however, has demonstrated that few of those deported under it are guilty of such crimes, and the only crime of many is simply to be undocumented. It is not hard to imagine the chilling effect such a program has on the willingness of immigrants, who are either undocumented themselves or have undocumented friends or family members, to have any truck with law enforcement, even to report crime or to help in identifying or locating the perpetrators.

Many law enforcement personnel throughout the country have expressed their opposition to "Secure Communities" precisely because it undoes community policing relationships built up through patient multi-party efforts. Although press reports suggest that ICE has finally begun to temper its more harmful features, the program is basically wrongheaded in that it uses a dragnet approach that can only promote ethnic profiling and drive a wedge between immigrant communities and law enforcement. It should be abandoned in favor of a program of real reform, including a path to legal status for the millions of hard-working and law-abiding immigrants among us, which would go a long way to remove the fear of arbitrary deportation and to encourage cooperation with the police.

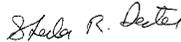
The round-up efforts in recent weeks to implement this program by supposedly targeting only immigrants who have conducted violent crimes already demonstrates the inability of this program to reign in its dragnet approach. Virtually half of the persons rounded up in the Commonwealth of Massachusetts these past weeks under a so-called "improved Secure Communities" plan are reported to have never committed any violent acts.

JALSA urges that Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement. We seriously question whether meaningful and effective protections can be put into place to prevent racial profiling or other civil and human rights violations.

At a minimum, the Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,



Sheila R. Decter
Executive Director



P.O. Box 159
Nogales, AZ 85628-0159
(520) 287-2370

www.kinoborderinitiative.org

Edificio 3, Dept. 401
Colonia Pavisaste II, C.P. 84020
Nogales, Sonora
(631) 316-2086

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Kino Border Initiative, a bi-national organization in Nogales, Arizona and Nogales, Sonora, Mexico, strives to be a humanizing presence on the U.S./Mexico border and to foster bi-national solidarity through humanitarian assistance, education, and research/advocacy. At our Aid Center for Deported Migrants and our shelter for migrant women and children in Nogales, Sonora, we see firsthand the negative effects of Secure Communities, which causes family separation.

We also oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

¹ See Aarti Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

Thank you for your time and consideration.

Sincerely,

Rev. Sean Carroll, S.J.

Rev. Sean Carroll, S.J.
Executive Director

**LUPE Statement on Secure Communities Program and Obama Administration's
Immigration Enforcement and Deportation Policy**

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

We write today to give you our recommendations for congressional action on the ICE ACCESS Program Secure Communities Initiative. La Unión del Pueblo Entero (LUPE) is an association of colonia residents committed to building stronger, healthier communities where people have the power to effect social change through community organizing and civic engagement. The farm worker leader, César Chávez, founded LUPE rooted in the belief that members of the low-income community have the responsibility and the obligation to organize themselves, and advocate for solutions to the issues that impact their lives.

It is for this reason that LUPE advocates for comprehensive immigration reform. Our members know that an immigration reform is necessary if the many undocumented Americans that form part of our families, communities and nation continue to be held back from reaching their full potential by fear of being separated from their families and structural impediments to working and providing for their families.

Immigration is a federal policy issue that can no longer wait to be addressed. Any attempts at the local or state level are only piecemeal approaches that will fail to provide comprehensive solutions. We cannot be misled by extreme xenophobic rhetoric pushing more and more enforcement policies. In fact, these radical enforcement policies are exacerbating the problem, funneling more and more individuals into a broken immigration system that separates families, criminalizes workers, divides communities, and profits off of taxpayer money through the jailing of immigrants in private, for-profit detention centers.

Our America is greater. Our values are about embracing innovation and diversity, and recognizing the contributions of every sector of our society. President Obama, however, has not lived up to these true American values. Under his administration, over one million immigrants have been imprisoned. According to numbers recently updated by Immigration and Customs Enforcement, Obama deported 982,548 immigrants from January 2009 to July 2011. It is likely that the total has surpassed one million by now. The majority of immigrants removed continue to be non-criminals.

There has been a higher rate of deportations under President Obama than at any time in American history. Obama's record number of deportations means that a record number of families have been separated. A record number of sisters, brothers, fathers, and mothers have been pushed into the dark maze that is the immigrant detention system, where private companies make record profits from tax dollars, treating immigrants as criminals.

This is because of federal ICE ACCESS Programs like the Secure Communities Initiative (S-Comm) that place federal immigration enforcement responsibilities in the hands of local and state law enforcement. S-Comm is an initiative of the Department of Homeland Security that allows Immigration and Customs Enforcement to run the immigration status of every individual that is arrested by local law enforcement—whether or not they are charged with or convicted of a crime—and transfer into ICE custody those who are found to be in the country illegally.

Collaboration between federal immigration officials and local law enforcement drives a wedge between local law enforcement and immigrant and Latino communities. The duty of law enforcement to serve and protect becomes the duty to serve those who look like they are in the country legally at the expense of those who don't. Undocumented immigrants, as tax payers and members of the community, deserve and depend on the protection of local law enforcement. Yet when local officials participate in ICE ACCESS programs, immigrant communities lose their right to be protected, instead becoming targets of local law enforcement.

What's worse, under the S-Comm program, even the intentions of local police officials to mend the broken relationship between immigrant communities and law enforcement and reinstate community policing are undermined. The program operates electronically and automatically when finger prints are sent for criminal background checks—with or without the consent of local law enforcement officials.

While the recently commissioned Task Force on Secure Communities, responding to the increasing public outcry against the program, did offer recommendations on changes to the program, those changes do not go far enough to maintain the security of the community. As retired Police Chief Arturo Venegas wrote in his resignation letter from the task force,

"If the scheme recommended by the task force is implemented, individuals simply arrested for minor violations, including traffic violations, will still be put through the system. The federal government will decide whether they are candidates for deportation, based on enforcement priorities that include people whose only "crime" is a prior civil immigration violation. I believe that many people with minor infractions, such as driving without a license, will still be put into deportation proceedings based on the scheme recommended by the task force. Immigrants will continue to fear that contact with the police could lead to deportation, crimes will go unreported, and criminals will remain free to prey on others. Civil immigration enforcement will continue to trump crime control in our communities.

"What's more, immigrants charged with more serious offenses, but never convicted, have no protection in the task force report. It seems we are agreeing to turn the long-standing principle of 'innocent until proven guilty' on its head for certain groups of people. If you are an immigrant, and you are charged with a more serious offense, you are 'guilty until proven innocent' and you

will be referred for deportation. As an immigrant myself, and as an American, I cannot support that differing standard."¹

As Mr. Venegas observes, the program, and indeed many ICE ACCESS programs like it, denies due process to undocumented immigrants. The US Constitution guarantees due process to all people on our soil, yet if they are immigrants, they are deported before having the opportunity to be proven innocent or guilty of the crimes they are charged with.

Many advocates for S-Comm and programs like it argue that it closes a loop hole that allows those who have committed a serious crime to avoid being deported for it. This argument ignores the fact that the United States' Government already has the power to obtain proper warrants for individual whose circumstances would require further detention. ICE can and should make use of that power instead of charging local and state law enforcement with doing the job of federal officials.

However, over the past decade, federal crime-fighting funds have been diverted from investigating and arresting criminals and shifted to increasing prosecution of laborers. A January 2010 report by the Warren Institute of UC Berkeley demonstrated the impact of Operation Streamline on law enforcement. The report shows how devoting increased resources toward prosecuting non-violent border crossers has actually taken away resources from operations focused on drug and weapons smuggling and human trafficking.²

A 2010 report by Transactional Records Access Clearinghouse shows that immigration prosecution had risen to 67,994 during the first nine months of FY 2009, an approximately 14% increase over 2008, and a 139% increase as compared to prosecutions 7 years ago. The majority of these prosecutions are of first-time border crossers. On the other hand, between 2003 and 2008, weapons prosecutions decreased 19% and drug prosecutions declined by 20%.³ While enforcement of immigration laws burdens local law enforcement, federal immigration and border enforcement is decreasing attention to the crime fighting programs that increase community security. The result: we are all less safe.

Our recommendations for congress regarding the program:

- Call on DHS to immediately end the program—it has done more harm than good and needs to be halted now.
- Eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement.
- Shift funding toward DHS programs focusing on level one offenders, drug and weapon smuggling and human trafficking.
- Call on DHS to eliminate all ICE ACCESS programs that treat immigrants with the "guilty until proven innocent" standard.

¹ Read Former Chief Venegas' full letter of resignation here: http://uncoverthetruth.org/wp-content/uploads/Venegas-Final-SCTF-Letter-2_.pdf

² http://www.law.berkeley.edu/files/Operation_Streamline_Policy_Brief.pdf

³ <http://trac.syr.edu/immigration/reports/218/>

- Call on DHS to ensure the constitutional right to due process for individuals detained by each ICE enforcement program.

Unless the program is halted until these reforms in ICE's immigration enforcement policy are implemented, as Former Chief Venegas most powerfully states, "Secure Communities will continue to do great harm to the relationship between local police and immigrants, undermine our efforts to work with all members of the community to fight crime, place our national security at risk and create insecure communities for all of us."

Thank you for your time and consideration.

Sincerely,



John-Michael Torres
Communications Director
La Union del Pueblo Entero

Central Florida LCLAA Chapter



Central Florida LCLAA Chapter

Email address- cf.lclaa@gmail.com

POBox 4451 Winter Park Florida 32793

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement

House of Representatives

8-353 Royburn House Office Building

Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Labor Council For Latin American Advancement is a National Non-Profit Latino organization representing the interest of over 2.0 million Latino trade unionists throughout the country and the Common Wealth of Puerto Rico.

LCLAA was founded in 1973 and is America's premier national organization for Latino workers and their families. LCLAA advocates for the rights of all workers seeking justice in the workplace and their communities.

LCLAA is not just for union members, but for all people who envision a better quality of life, a just workplace, and who demand respect and dignity for all working people..

We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security(DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies,

state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pretextual arrests.

To safeguard our communities and the protection of our rights we recommend that:

- *Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.*
- *Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations*

Thanks you for your time and consideration

Sincerely,

Victor Sanchez

Central Florida LCLAA

Chapter President

407-924-1802



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

LULAC-Syracuse chapter seeks to advance the economic condition, educational attainment, political influence, housing, health, and civil rights of the Hispanic population of the United States. As a civil rights organization, LULAC-Syracuse chapter is concerned about the significant negative impact of Secured Communities.

We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,

Jose E. Perez
Vice President of Syracuse chapter

¹ See Aarti Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

The Subcommittee on Immigration Policy and Enforcement
 House of Representatives
 B-353 Rayburn House Office Building
 Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The principles of the common good, human dignity and love for one's neighbor are fundamental to all to faith traditions. In many of our sacred texts the value of welcoming the stranger is an explicit mandate and primary tenant of our faith as in the Abrahamic traditions where it reads the below:

"You shall not wrong a stranger or oppress him, for you were strangers in the land of Egypt." (Exodus 22:21).

However, U.S. immigration enforcement policies have only become harsher and more inhumane in recent years. Immigrant communities are increasingly targeted, profiled, apprehended, detained and deported, creating an environment of increasing fear. Secure Communities allows ICE to identify, process, and remove immigrants incarcerated in federal, state, and local jails. This leads further criminalization of migrants wherein minor violations, often traffic stops, turn into an investigation of citizenship status where many are therein detained. Furthermore, low-priority non-violent offenders or even citizens are being funneled into this program needlessly separating hundreds of thousands of families. This is done in the face of Department of Homeland Security's own task force report that concluded that S-Comm sows mistrust of police and makes communities less safe.

In a speech ICE Director John Morton gave to the International Association of Chiefs of Police on October 25, 2011 he boasted of the total 396,9606 individuals deported, the largest in the agencies history^[1], but what about the 180,208 individuals who had been neither convicted nor arrested for any criminal offense? They are funneled into an unjust deportation system without rights to due process. Tragically, many of those removed in this category were U.S. residents of many years. Many of them are parents, wives and husbands whose families are left broken in the wake of an unmerciful policy.

"They treat you like the worst of criminals when in reality you have done nothing besides drive your car to work in order to survive. You do this without a license because the system does not allow it."^[2] - Fernando, Arizona

Programs such as Secure Communities create an atmosphere of xenophobia that has proven detrimental for the all immigrant and refugee communities, regardless of their documentation status. As people of faith we are called by a moral imperative to take an ethical stance for just policies and speak out against these enforcement practices hurting so many through separations of families, breaking apart whole communities and takes advantage of marginalized communities for political gain.

Our faith now calls us to be part of changing this unjust policy and ask that Secure Communities be permanently halted and recommend the following:

- 1) The Secure Communities program should be ended.
- 2) The Department of Justice Office of Inspector General should begin an investigation into the FBI's role in Secure Communities.
- 3) Criticism of Secure Communities should be applied to inform changes to other ICE ACCESS programs, and the entanglement of local criminal law enforcement and federal civil immigration functions should be stopped and reversed.
- 4) States and localities should not be compelled to participate in immigration enforcement programs, including the forwarding of fingerprints and other biometric information to the Department of Homeland Security

We cannot build strong communities if they're being torn apart. Instead we ask for a more viable solution of working towards a humane comprehensive immigration reform that can provide a pathway to citizenship for so many deserving members of our society.

Sincerely,

*Sister Janet Yurkanin, IHM
Migration and Refugee Services
Diocese of Trenton
149 N Warren Street
Trenton, NJ 08608-1307
609-394-8299 phone
609-394-0204 fax*

Statement from the Minnesota Immigrant Rights Action Committee Against the Secure Communities program

The Minnesota Immigrant Rights Action Committee (MIRAC) and the No More Deportations Campaign is strongly opposed to plans to deploy the Secure Communities program nationally, despite widespread opposition from communities, counties, and states. We call for the Secure Communities program to be ended.

Secure Communities (S-Comm) is a fingerprint database that is used to check the immigration status of those who are arrested. Immigration Control and Enforcement (ICE) claims that Secure Communities will work to deport "dangerous criminals" and reduce racial profiling, and wants to implement it nationwide by 2013.

However, the statistics paint a very different picture. Since the implementation of Secure Communities in 2008, 79% of those deported through the program had either been convicted of petty offenses (such as traffic violations), or had committed no crime at all. 28% of people deported through S-Comm since its implementation have not been convicted of any crime at all, and that number is on the rise.

When the state of Illinois tried to pull out of the Secure Communities program, Governor Pat Quinn stated in a letter to ICE "that the implementation of the Secure Communities program in Illinois is contrary to the stated purpose of the MOA... By ICE's own measure, less than 20% of those who have been deported from Illinois under the program have ever been convicted of a serious crime."

Secure Communities causes many other problems as well, including:

- destroys families and communities by increasing deportations
- increases racial profiling among local law enforcement
- is part of an unjust national immigration system
- does not allow due process
- makes communities more mistrustful of police
- increases financial and resource burdens on local law enforcement
- little transparency surrounding S-Comm, ICE misrepresents program

We urge you and the administration to scrap the Secure Communities program entirely. Immigrants from many nations form a vibrant part of the fabric of our community here in Minnesota, and implementing S-Comm will only serve to harm our community.

Minnesota Immigrant Rights Action Committee
No More Deportations Campaign

MIRA! Mississippi Immigrants Rights Alliance
P.O. Box 1104, Jackson, Mississippi 39215
601-968-5182 – www.yourmira.org

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives.
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Mississippi Immigrants Rights Alliance (MIRA) is a multi faceted alliance of faith-based, labor, community and civil rights leaders from throughout Mississippi. MIRA is a non-profit membership based organization that engages in organizing, mobilizing and advocacy with full-time organizers. MIRA also has a legal project staffed by two attorneys. MIRA, founded in 2000, has been actively engaged in local, state and national issues affecting immigrant workers.

MIRA strongly opposes the Secure Communities Program because it threatens the safety of our communities, it runs counter to moral principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the general public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.

This has been our experience in many, many cases of overt racial profiling by law enforcement jurisdictions who feel they now have license to harass by engaging in unjustified traffic stops, workplace raids, home invasions, and other tactics of terror to arrest and deport immigrants, especially Latinos, in an effort as several white politicians have stated, to "scare them out of our state." Secure Communities is nothing more than another incentive to engage in overt ethnic cleansing.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,

Bill Chandler,
Executive Director, MIRA

CC: Rep. Bennie Thompson, 2nd District, Mississippi



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:
The National Center for Transgender Equality is a national social justice organization devoted to ending discrimination and violence against transgender people through education and advocacy on national issues of importance to transgender people. We write to urge the committee to address the serious flaws and harmful effects of the current Secure Communities program being employed by the Department of Homeland Security. We strongly believe that this misguided program is actually making our communities less secure.

The Secure Communities program is of deep concern to NCTE because transgender people, and especially transgender immigrants, are at high risk for becoming victims of violent crime. According to the National Transgender Discrimination Survey, more than one in four transgender people in the United States has been the victim of a bias-motivated physical assault on at least one occasion. Among undocumented transgender people the rate of assaults was 2-3 times higher. At the same time, transgender immigrants are frequently afraid to seek assistance from law enforcement. Forty-six percent of all transgender people, and even higher numbers of Latino (51%), Black (48%) and multiracial (55%) transgender people, report that they are somewhat or very uncomfortable seeking police assistance.¹ Given these realities, we are concerned that the Secure Communities program is making an extremely vulnerable population even less likely to report crimes to law enforcement or be willing to testify in criminal cases.

Many communities who have seen reductions in violent crimes have used community policing programs relying on trust between law enforcement agencies and the people who they serve and protect. In some communities, local law enforcement is working hard to rebuild trust eroded by historical patterns of harassment and profiling of gay, lesbian, bisexual and transgender people of color. Under the Secure Communities program, however, every encounter with police is turned into a potential referral to federal authorities, with the risk of deportation. Even innocent victims of crime are not free from the reluctance to report – the majority of those deported in recent years under the Program were either not convicted of any crimes, or were convicted only of minor offenses. Victims have reported being placed into deportation proceedings after calling police for protection in vulnerable and violent situations, including domestic violence. For transgender people, and particularly those transgender people who are undocumented, their increased rate of victimization and preexisting fear of police is exacerbated by this sweeping and unbalanced

¹ Grant JM, Mottet LA & Tanis J et al., *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey* 58-9, 74, 100, 117-18, 162 (Washington, DC: National Center for Transgender Equality & National Gay and Lesbian Task Force, 2011).

program. Trust in local law enforcement is replaced by fear, and effective crime prevention and community safety are compromised in the process.

We oppose the Secure Communities program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.²

To safeguard our communities and the protection of our rights we recommend that:

- Congress should eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing. States and localities should not be compelled to participate in immigration enforcement programs, including the forwarding of fingerprints or other biometric information, particularly where abuse of civil rights is the demonstrated result.
- Police misconduct related to Secure Communities must be addressed, if the Program is maintained in some jurisdictions. ICE must stop its immigration enforcement based on information believed to have been unlawfully obtained through abusive policing practices, and what federal enforcement power exists should be used to investigate abusive and unjust practices occurring at the point of arrest by state and local law enforcement agencies.

Thank you for your time and consideration.
Sincerely,



Mara Keisling, Executive Director
National Center for Transgender Equality

² See Aari Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.



November 28, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Re: Secure Communities Program

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

Heartland Alliance's National Immigrant Justice Center (NIJC) is writing to express its opposition to the Secure Communities program as it destroys immigrant families without any benefit to public safety. In addition, the program encourages racial profiling.

For more than thirty years, NIJC has protected and advanced the rights of immigrants, refugees, and asylum seekers. Each year, NIJC represents hundreds of individuals who have been unnecessarily caught in the immigration system because of the Department of Homeland Security's (DHS's) enforcement initiatives, including the Secure Communities program.

DHS has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The program does not make our communities safer nor does it target serious criminals. Rather, as illustrated in the stories below, the Secure Communities program encourages racial profiling, undermines relationships between local police and communities, and destroys immigrant families.

Aarón is the father of four U.S. citizen children. In March 2010, Aarón was driving with colleagues in Peoria, Illinois. Police alleged the driver was speeding and stopped the car. The officer asked for identification from the driver and all passengers, including Aarón, who was seated in the backseat. Aarón presented his identification card from the Mexican consulate. The officer asked the passengers if they "had papers" and told everyone to wait in the car. After nearly two hours, an immigration agent appeared and questioned Aarón about his documents. The immigration agent arrested Aarón and drove him more than an hour away to a jail in Springfield, Illinois, where he was detained for five days before his wife could secure his bail. He was not charged by the local police and does not have a criminal record.*

Vincente is a father of four who has lived in the United States for more than ten years. He is the sole provider for his family. Vincente's family spends most of their money on medical costs for their son, who suffers from an incurable seizure disorder. His son is confined to a wheelchair and must be fed through a tube. In February 2011, local police stopped Vincente for a broken taillight and did not press charges, instead turning him over to immigration officials. He remains in removal proceedings. If Vincente is deported, he fears that his son will die because his family cannot cover his medical expenses. Vincente cannot obtain the same medical treatment for his son in Mexico.*

Nelson and his wife came to the United States in 2007. They have two U.S. citizen sons, one with severe developmental delays. Carlos is two-years-old, yet he cannot speak, walk, feed himself, or communicate his needs. The family is working with a team of specialists to better understand their son's disabilities. In September 2011, Nelson and his family were driving to a doctor's appointment when a local police officer stopped Nelson for allegedly driving over the speed limit. The officer then learned that Nelson did not have a driver's license and immediately arrested him.*

Letter to House Subcommittee on Immigration Police and Enforcement
November 28, 2011
Page 2 of 2

The local police did not charge Nelson, but contacted immigration authorities, who detained him. Despite his pleas, the officer left Nelson's wife on the street with two small children and without a way to get home. Nelson was detained for 51 days before he could return to his family.

*(*Name has been changed.)*

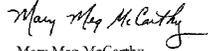
DHS's statistics as of February 2011 show that more than 80 percent of people who were deported from Illinois under the Secure Communities program had *never* been convicted of a serious crime. Many of these men and women may be entitled to legal relief, yet the Secure Communities program thrusts these individuals into removal proceedings before they understand their rights and without access to legal counsel.

To protect immigrant families and restore relationships between local communities and law enforcement, we recommend that Congress:

- Pass the End Racial Profiling Act, which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels;
- Eliminate funding for the Secure Communities program and other initiatives that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations; and
- Urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt-out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your consideration. Should you need any additional information, please do not hesitate to contact me.

Sincerely,



Mary Meg McCarthy
Executive Director
mmccarthy@heartlandalliance.org
(312) 660-1351



**Statement for the Record
House Committee on the Judiciary
Subcommittee on Immigration Policy and Enforcement**

Hearing on "Is Secure Communities Keeping our Communities Secure?"

November 30, 2011

The National Immigration Forum upholds America's tradition as a nation of immigrants. The Forum advocates for the value of immigrants and immigration to the nation, building support for public policies that reunite families, recognize the importance of immigration to our economy and communities, protect refugees, encourage newcomers to become Americans and promote equal protection under the law.

We are submitting our views about the Department of Homeland Security's "Secure Communities" program and its negative consequences for our nation's communities.

This summer, the National Immigration Forum participated as a member of the DHS Task Force on Secure Communities. The Task Force was charged with issuing recommendations on ways to improve the program, including mitigating damage to community policing practices. Driven by deep misgivings with the Secure Communities program, we engaged in the Task Force process to produce meaningful and necessary reforms to a program that is speeding towards national deployment despite glaring and fundamental flaws.

Because we felt the recommendations in the Task Force's final report did not remedy flaws in the program's operations, we did not endorse it and tendered our resignation from the Task Force.

Paramount among our concerns with Secure Communities is the program's negative impact on public safety. This negative impact is the result of the practice in some communities of arresting certain individuals who might not ordinarily be arrested so that an immigration check can be made on the individual. There are insufficient mechanisms to hold participating law enforcement agencies accountable. Abuse of the system has led to a decline in trust in participating law enforcement agencies. Communities become less safe, as victims and witnesses of crime retreat from law enforcement out of fear of immigration consequences for cooperating with the police.

More fundamentally, individuals charged with civil immigration violations should not be the target of a program funded and marketed as a way to identify threats to public safety and national security. Additionally, local decisions about how and if to participate in Secure Communities should be honored.

Secure Communities contradicts the National Immigration Forum's principles for sensible immigration reform. Until the Department of Homeland Security can assure the public that critical problems with Secure Communities have been remedied, the program should be suspended. Continuing to operate and expand a flawed program jeopardizes not only the civil rights and dignity of individuals swept in to Secure Communities, but also the community safety that the program was allegedly designed to safeguard.



November 29th, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The National Network for Arab American Communities is a network of 22 Arab American organizations in 11 states, including the District of Columbia, nationwide. The mission of NNAAC is the development of Arab American community-based nonprofit organizations that understand, meet the needs and represent the concerns of Arab Americans at the local level and collectively address these issues on the national level. NNAAC is housed at the Arab American Community Center for Economic and Social Services (ACCESS) in Dearborn, Michigan, the largest Arab American social service agency in the country. We have seen firsthand the grave effects of the Secure Communities program on our community and we oppose this heavy handed immigration enforcement program that blurs the lines between federal and state law enforcement.

We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹

Secure Communities is in particular a concern for the Arab and Muslim community in the US. From a new level of aggressive and invasive questioning of our community by federal and local law enforcement entities to the recent hearings held by Congressman Peter King, Muslim Americans, and those who are perceived to be Muslim, are facing greater challenges than we have ever faced since the tragic events of 9/11. Arab and Muslim Americans have been forced to suffer in an incredibly hostile civic environment in which prominent elected officials, religious leaders, and political news commentators have expressed outrageous hateful sentiments towards Muslims and their beliefs. Some prominent influential leaders have launched sustained campaigns to marginalize Muslim Americans and deny them protections guaranteed by the Bill of Rights preserved in our constitution. Local law enforcement officers may take advantage of this hostile environment where it is tolerable and acceptable to vilify Muslims or those perceived Muslims and increase their patrol and arrests in areas where there are large Muslim/Arab communities and an active Secure Communities program under the false guise of "national security".

To safeguard our communities and the protection of our rights we recommend that:

¹ See Aami Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration.

Sincerely,



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The Subcommittee on Immigration Policy and Enforcement

House of Representatives

B-353 Rayburn House Office Building

Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Secure Communities (S-Com) program should be abolished because the entanglement of local criminal law enforcement and federal civil immigration policy negatively impacts the local citizenry, immigrant population and law enforcement agencies. Its implementation leads to outcomes which are antithetical to the goals espoused within the U Visa and Violence Against Women laws. According to the analytical report, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*. (See <http://www.law.berkeley.edu/ewi.htm>), the Secure Communities program has led to racial profiling and wrongful arrests of U.S. citizens, while tens of thousands of families are split apart. It is a bad law which details the boundaries of common decency under the surreptitious title of public safety.

NETWORK is a National Catholic Social Justice Lobby, whose 10,000 activists, including hundreds of congregations of women and men religious, who evangelize gospel values with their voice, actions and vote. Due to the aforementioned injustices, NETWORK vehemently urges the repeal of this dangerous and shortsighted law.

The implementation of S-Com Programs has oppositional goals with other, more effective, governmental programs. The U Visa and VAWA programs were implemented to promote the identification and prosecution of violent criminals and to minimize exploitation of immigrants. Undocumented persons are encouraged to, and have reported, criminal activity without fear of removal. However, the implementation of the S-Com Program sufficiently obliterates any future law enforcement gains that would have been realized through the U Visa and VAWA protections. Victims/witnesses to crimes and abused women will be silenced once again for fear of deportation in the S-Com program. They simply cannot be certain which governmental principle will be applied in their cases.

The S-Com Program is at its core sanctioned racial profiling. Police officers working in areas that have Secure Communities in their local system have an incentive, or at least the ability, to make arrests based on race or ethnicity. Secure Communities support arrests of persons on the mere suspicion of a violation of immigration laws. Once arrested, the police can run the arrestee's name through immigration databases. A study recently released by the University of California, Berkeley Law School and the Benjamin N. Cardozo School of Law, validates this concern. A random sample was provided by Immigration and Customs Enforcement of 375 deportation cases under the program. The study found

93 percent of those arrested are Latino while Latinos only account for only 77 percent of the entire undocumented population.

Due process rights are violated by the manner in which the S-Com program is implemented. The Berkeley study showed that a mere 24 percent of individuals arrested via Secure Communities had a lawyer present during an immigration hearing. In comparison, about 41 percent of all immigration court respondents have legal representation at this critical juncture. Id.

Thousands of U.S. citizens have been wrongfully detained since the inception of the Secure Communities program. Id. Of the mere 375 cases evaluated, five United States citizens were wrongfully held by immigration agents with no clear reason specified in the records. Id. The presence of any citizens in this small sampling is a serious constitutional violation because ICE has no jurisdiction to direct the detention of any citizens. If this rate is applied to the total of all those who will be detained in a national mandatory S-Com program, hundreds of thousands of citizens are likely to be detained. To compound this injustice, they would be subjected to the same lack of due process that is available to the undocumented population.

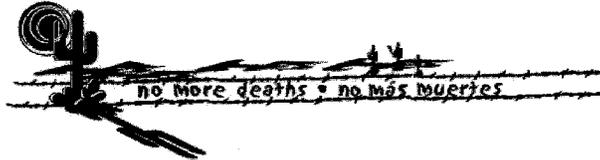
The empirical data demonstrates that the S-Com program leads to violations of the rights of citizens and non-citizens, creates mistrust in communities and does not serve its stated goals. The Department of Homeland Security should cease implementation of the Secured Communities Program until the government addresses the issues that have been identified. This is particularly true for the wrongful U.S. citizen arrests, potential racial profiling, and lack of due process in the immigration legal process. Furthermore, any aspects of the S-Com program which result in outcomes that run counter to the U Visa and VAWA protections and goals should be immediately abolished.

Holding your committee in prayer,

Simone Campbell, SSS

Executive Director,

NETWORK, A National Catholic Social Justice Lobby



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

We are writing to express our deep concerns about Secure Communities and to urge the Subcommittee to take immediate action to end the program.

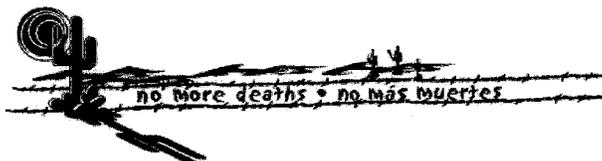
As a humanitarian organization working along the United States-Mexico border, No More Deaths has spent the past eight years responding to the impact of the failed strategy of border militarization. As providers of food, water, and emergency medical care to those we encounter in the Arizona desert, we know that migration has long been driven by a need to support families left behind. However, where those families are left has changed dramatically over the past few years.

We are now working with an increasing number of people being torn from communities across the United States. Many have lived here for decades and have established families, employment, and strong community ties; for them, the impact of deportation is devastating. We regularly hear about the ways they come to be detained and deported: a broken taillight or a call to local police for help. No matter what the stated priorities of Secure Communities, we have met thousands of people who found their entire lives upended as a result of the way their local police misuse the authority it gives them. We oppose Secure Communities because these deportations do not make our communities secure. On the contrary, this program needlessly and cruelly separates families and has a particularly devastating impact on children.

We are disturbed by the way the Department of Homeland Security has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. We have written two reports detailing abusive practices by Border Patrol and the ineffectiveness of existing oversight mechanisms to address and prevent such misconduct from occurring.¹ We are concerned that lack of accountability pervades all of DHS, making it possible for abuses to occur in all its initiatives—including Secure Communities.

¹ See *Crossing the Line* (2008) and *A Culture of Cruelty* (2011)
No More Deaths
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action@nomoredeaths.org



Like other programs that promote collaboration between local law enforcement and DHS, Secure Communities also creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.⁷ In Arizona, Sheriff Arpaio has long provided an example of what can happen when local law enforcement agents are given opportunity and support to engage in immigration enforcement.

Secure Communities is so inherently flawed that it cannot be improved. Along with border enforcement measures which have undermined the safety of families and communities for the past 20 years, the only real solution is to discontinue the program altogether.

However, we also believe that there are steps Congress can take immediately to address some of the serious concerns that have been raised by directly impacted communities, local law enforcement, and advocates around the country. We echo recommendations that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration.

Sincerely,

No More Deaths

⁷ See Aarti Kohli, Peter L. Mackowitz and Liss Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

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November 23, 2011

MISSION
OneAmerica
advances the
fundamental
principles of
democracy and
justice at the
local, state and
national levels
by building
power within
immigrant
communities
in collaboration
with key allies.

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

OneAmerica is the largest immigrant rights organization in Washington State. Our mission is to advance the fundamental principles of democracy and justice at the local, state, and national levels by building power within immigrant communities in collaboration with key allies.

We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests (Chief Justice Earl Warren Institute, Kohli, Markowitz, & Chavez 2011). The funneling of everyday hardworking members of the immigrant community into detention centers because they have a tail light out or commit other minor offenses has become all too common place. When it comes down to it, Secure Communities makes our communities less secure by undermining community trust and separating families due to low level offenses.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,

Pramila Jayapal
Executive Director and Founder

Advancing Immigrant,
Civil & Human
Rights

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OneAmerica is a nonprofit, 501(c)(3) organization

November 28, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

Immigration issues are a main concern of the Politics Focus Committee of the Racine Dominicans.

We oppose the Secure Communities Program because it threatens the safety of our communities, it runs counter to our American principles of fairness and justice. We oppose the manner in which the Program has been imposed on our country's local communities. The Department of Homeland Security has misrepresented the Secure Communities Program to the American public, law enforcement agencies, state and local governments, and Members of Congress. This Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.

To safeguard our communities and for the protection of our rights we recommend that

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state, and local levels.
- Congress eliminate funding for the secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration.

Sincerely,
The Politics Focus Committee of the Racine Dominicans
Joyce Quintana, Chairperson

pre-textual arrests.¹ Our staff recently interviewed a Latino asylum-seeker who was cited by police and then turned over to ICE in Hollywood, California. The police stopped, cited and arrested him for jaywalking. It is difficult to imagine that he would have been apprehended had he not been Latino. I also interviewed a man in Santa Monica, California arrested by ICE pursuant to a joint operation between local police and ICE. This man had the misfortune to live next door to a man wanted by the police and ICE. Because he could not produce identification or reveal the whereabouts of his neighbor, heavily armed ICE agents arrested him and commenced removal proceedings against him. He has worked the past decade as a cook in Santa Monica, California, supporting his three children and his wife, who cannot work due to illness.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,



Judy London, Directing Attorney, Public Counsel's Immigrants' Rights Project

¹ See Anri Kohli, Peter L. Minkowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.



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 T: (202) 591-3300 | F: (202) 591-3339 - info@rightsworkinggroup.org

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
 House of Representatives
 B-353 Rayburn House Office Building
 Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

Rights Working Group (RWG) is a national coalition of over 320 civil rights, immigrant rights, national security and human rights organizations formed after September 11th seeking to restore due process, civil liberties and human rights to all people living in the United States. RWG leads the Racial Profiling: Face the Truth Campaign, which works to end all forms of racial profiling in the United States, including racial profiling which results from immigration enforcement.

RWG opposes the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to this country's foundational principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹

The Secure Communities Program allows state and local police to check the fingerprints of those individuals they are booking against not only criminal databases but also the notoriously flawed DHS immigration databases. If a match is found in a DHS database, both the local law enforcement agency and ICE are automatically notified, ICE can then put an immigration hold or "detainer" on that person, initiating deportation proceedings even if the charge that the person was actually brought in on hasn't been adjudicated. Prominent law enforcement leaders oppose the two incompatible duties the Secure Communities Program forces upon them. Police Chief Chris Burbank of the Salt Lake City Police Department, in an independent report contributed to by national and community-based groups around the country who have observed the impact of Secure Communities, including RWG, said:

¹ See Aarti Kohli, Peter L. Markowitz and Lisa Chavez, "Secure Communities by the Numbers: An Analysis of Demographics and Due Process," The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.



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The Secure Communities program combined with misguided state legislation has promoted a shift in local law enforcement's mission across the country and driven a wedge between the police and the public. The resulting priority adjustment places emphasis upon civil immigration action over community policing and all criminal enforcement. Additionally, the program sets an unhealthy priority for much needed jail space. Individuals are being held for civil immigration purposes, causing criminal violators to be released. In Salt Lake County, between 700 and 900 criminal offenders are released monthly due to overcrowding. Civil detainees often supersede criminal charges. We in law enforcement must safeguard community trust. Without the support and participation of the neighborhoods in which we serve, we cannot provide adequate public safety and maintain the well being of our nation. I do not believe Secure Communities has positively contributed to the mission of local law enforcement.²

The Secure Communities Program threatens this country's foundational principles of fairness and justice. A recent report by the Warren Institute at the University of California, Berkeley Law School which analyzed DHS' own data found that Latinos are disproportionately impacted by Secure Communities.³ This data indicates discriminatory policing and racial profiling of Latinos under Secure Communities.³

We also oppose the Secure Communities Program because we have learned through FOIA litigation initiated by immigrant rights advocates that DHS has repeatedly misrepresented the program to communities, even misleading members of Congress.⁴ These misrepresentations have led to an ongoing audit of Secure Communities by the DHS Office of the Inspector General as well as a review by the Government Accountability Office.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for Secure Communities and other programs that use state and local law enforcement agencies to conduct immigration enforcement,

² Restoring Community: A National Community Advisory Report by ICE's Failed "Secure Communities" Program, August 2011. Available at <http://uncoverthetruth.org/media/restoring-community-a-national-community-advisory-report-on-ice%E2%80%99s-failed-%E2%80%99secure-communities%E2%80%99-program/>

³ See *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*.

⁴ See *id.* at 6.

⁵ "Congresswoman calls for investigation of enforcement program that screens for illegal immigrants in jails," *LA Times*, Apr. 22, 2011, available at <http://latimesblogs.latimes.com/lanow/2011/04/22/congresswoman-calls-for-investigation-of-enforcement-program-that-screens-for-illegal-immigrants-in-jails.html>.



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until and unless meaningful and effective protections are put into place to prevent racial profiling and other civil and human rights violations.

- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,

A handwritten signature in black ink that reads "Margaret Huang". The signature is written in a cursive, flowing style.

Margaret Huang
Executive Director
Rights Working Group





A NETWORK OF
HUMAN DIGNITY
GROUPS

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97056-1350

(503) 543-8417

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

Thank you for your time and consideration while reading our letter from the rural portions Oregon. The Rural Organizing Project is a statewide, non-partisan, non-profit organization that has devoted nearly twenty years toward promoting social justice, economic justice, and human dignity for all. We have a membership of 50 rural human dignity groups, and over 10,000 households.

We oppose Secure Communities Program because it does the opposite of its stated goal. It has broken up approximately 88,000 families with spouses and children who are US citizens. It makes our communities less secure by creating a climate where people refrain from reporting crimes or helping local law enforcement because of their ties with ICE. Secure Communities claims to focus on "prioritizing the removal of individuals who present the most significant threats to public safety as determined by the severity of their crime, their criminal history, and other factors" but according to a study done by the Chief Justice Warren Institute on Law and Social Policy only 8% of those detained through secure communities were convicted of aggravated felonies. 45% of those detained were solely charged with Present Without Admission (PWA) and did not have a criminal record at all. Those are people who were not a security threat to their communities and roughly 39,600 families of US citizens that did not have to be torn apart. Given the current state of our economy, the estimated \$12,500 per deportation that ICE Director Kumar Kibble quoted this past January could have been spent somewhere else to create a positive impact in the communities we live in.

The Rural Organizing Project's network of 50 human dignity groups throughout the state is mobilized to oppose ICE Access programs like Secure Communities, and is on the front lines of seeing the fallout: broken families, mistrust, decreasing public safety, and negative economic impacts in a time where we need all hands on deck to pull out of the economic crisis. On behalf of these groups, we recommend that Congress act to end the program in its entirety or discontinue it in jurisdictions that choose to opt out. The times are tough for Americans working hard to make ends meet and those who are seeking jobs to keep from drowning in debt. The money spent through Secure Communities to break up families is money that is better invested in America to keep them together.

Thank you again for your time and consideration.

Cara Shufelt,
Director - Rural Organizing Project

50 Court Street 8th Floor Brooklyn NY 11201
 T 718.943.8632 F 718.943.8646 www.safehorizon.org



November 28, 2011

Dear Members of the House Judiciary Committee:

Safe Horizon, the nation's leading victim assistance organization, opposes the mandatory implementation of the Secure Communities program because of the chilling effect it will have on immigrant victims of violence who might otherwise seek assistance from law enforcement. We are particularly concerned that the Department of Homeland Security (DHS) is indicating that Secure Communities will go forward despite objections from cities and states across the country, many of which have chosen to either suspend or opt out of this program. We respectfully urge this Committee to re-examine the Secure Communities program and help ensure that victims of crime are not left vulnerable to further violence and abuse.

Safe Horizon assists tens of thousands of survivors of domestic violence, rape, sexual assault, child abuse, human trafficking and other crimes each year throughout the five boroughs of New York City. Among other programs, we offer 24-hour hotlines, emergency shelter, legal services, and specialized care for victims of child abuse. Our clients are young and old, male and female, citizens and undocumented immigrants. We provide services in a city where local law bars the denial of services -- whether it is related to education, health care, or access to law enforcement -- based solely on one's immigration status. This law helps us reassure our undocumented clients that they can work with law enforcement to apprehend and prosecute abusers.

This is a critical tool, given the kinds of scenarios our clients encounter. For example, police who respond to domestic incidents and who are unable to discern who the primary aggressor is may arrest both parties. Tragically, if it is the abuser who has a better command of English, the police may arrest just the victim based solely on the abuser's account of the dispute. Our clients also face "revenge arrests", where the abuser makes a false claim of domestic violence to retaliate against the victim.

In our Immigration Law Project, we help hundreds of victims report crimes to law enforcement and receive critical assistance. Our attorneys advise clients who may be undocumented that they have the option to contact the police and report crimes without fear of immigration-related consequences. With the advent of Secure Communities, we would no longer be able to give this advice. Simply by being arrested, a victim's fingerprints will be forwarded to DHS, and he or she could be detained and even deported regardless of the disposition of the charge that led to the arrest.

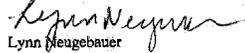
While DHS has indicated that it will be sensitive to cases involving domestic violence and other crimes, our experience is that it can take many, many months for cases to be resolved. Very few, if any, non-profit agencies have the personnel or resources to accept more than a handful of cases

of detained immigrants. By virtue of reporting abuse to the police, many thousands of undocumented victims of crime will be snared in an unforgiving system and face almost certain deportation.

It is commonplace for batterers to tell their victims, "If you report me to the police, you will be deported." For years, Safe Horizon has assuaged the fears of victims who have heard such threats by assuring them that the police and immigration are two separate entities, so one should not fear reporting a crime. With the advent of Secure Communities, the government is making the abusers' threats closer to becoming reality. As word spreads in immigrant communities about the police working with DHS, the voices of many immigrant crime victims will be silenced.

We strongly recommend that Secure Communities be suspended and re-examined to protect immigrant victims of crime – and indeed all Americans – from continued violence and abuse. Thank you for this opportunity to present our viewpoint on this important issue.

Sincerely,



Lynn Neugebauer
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November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

San Francisco Gray Panthers stands for equality, justice, and security for all, regardless of race, age, income, gender, or nationality. As such, we stand solidly with immigrant rights groups demanding an end to raids, detentions, deportations, separation of families, exclusion from public services, and laws discriminating against people based on their immigration status. Attached is a statement of our principles, which was also adapted by the California Alliance for Retired Americans, of which SF Gray Panthers is an organizational member.

We are particularly opposed to Secure Communities. By demanding that fingerprints of all arrestees be shared with DHS, regardless of whether the original charge is dropped, local police become de-facto immigration police with no accountability, and with an incentive for selective enforcement, pretextual arrests, and racial profiling.

States and Cities were told that Secure Communities was a voluntary program, and that local jurisdictions could negotiate terms of the program. But now that that Cities like San Francisco, and States, like Illinois, Massachusetts, New York, and hopefully California are exercising the right to not participate, DHS has changed the rules mid-stream and said participation is mandatory. Furthermore, DHS memoranda obtained through Freedom of Information Act actions suggest DHS was willingly deceitful in its original descriptions of Secure Communities as being voluntary. We who are trying to working to opt California out of Secure Communities find this outrageous.

The hearing process and recommendations of the Secure Communities Task Force were completely inadequate, and a transparent attempt to keep the program alive. Of the nineteen DHS S-COMM Task Force members, five resigned, saying its report was not critical enough and its recommendation to restructure the program could not ensure that immigrants detained for minor offenses would not be deported. Those who resigned included a former police chief of Sacramento CA and two unions of immigration officers.

There is no way to rehabilitate Secure Communities. It must be completely dismantled. The conduct of DHS and ICE in promulgating Secure Communities must be investigated. Congress must pass the End Racial Profiling Act.

Thank you for your consideration.

Michael Lyon
Co-Convener, San Francisco Gray Panthers

SF Gray Panthers, 1182 Market St. Room 203, San Francisco CA 94102, 416-552-8800

**Solidarity with Immigrant Workers and Families:
Submitted to CARA 2010 Convention, by SF Gray Panthers**

WHEREAS during periods of high unemployment and assaults on all working families' rights and living standards, there are frequently attacks on undocumented immigrants, accusing them of stealing jobs, overburdening social programs, and threatening national security, and

WHEREAS, anti-immigrant rhetoric is being used to hide the real cause of unemployment, namely free trade and the inevitable collapse of bubble economies based on speculation; and the real cause of shortages of social programs, namely 40 years of tax cuts and loopholes for corporations and the rich, and 20 years of wars for US control of oil and pipelines for oil and gas, all of which hurts citizen and immigrant workers alike, and

WHEREAS the Obama Administration, which had promised more humane immigration policy, has actually (1) increased raids, detentions, and deportations far beyond the Bush administration, and (2) initiated Secure Communities, a program where all arrestees' fingerprints are shared with immigration police, regardless of how trivial the charges are, or whether they are later dropped, and

WHEREAS the Obama Administration actively promotes immigration reform that (1) makes legalization of undocumented immigrants extremely difficult because of wait times, fees, fines, and language requirements, (2) requires all US residents, citizen and immigrant alike, to carry biometric national identity cards or face arrest, (3) keeps undocumented immigrant workers and their families in constant fear from increasing raids, detentions, deportations, and border security, while (4) allowing employers increased freedom to hire contract immigrant Guest Workers who labor in a state of virtual bondage because they are "legal" only while working for the employer they were contracted to, making it harder for them to organize unions, raise wages, and defend their rights, reminiscent of the hated "bracero" program of the 1950s, and

WHEREAS, free trade agreements such as NAFTA and CAFTA cause the extreme overseas poverty that drives immigrants into the US, as well as allowing companies to ship US jobs overseas,

BE IT THEREFORE RESOLVED, that CARA re-affirms the age-old truth that wages, working conditions, and living standards of ALL workers and their families are dragged down by increased exploitation and intimidation of the most vulnerable sector of workers, and

FURTHER RESOLVED, that CARA affirms the rights of all persons, whether citizen or immigrant, to protections of the Bill of Rights, due process, access to public resources, as well as living wages, dignified and safe working conditions, and the right to organize unions, and

FURTHER RESOLVED, that CARA opposes NAFTA, CAFTA, and immigration reform based on border militarization; delayed and burdensome legalization of undocumented immigrants; increased raids, detention, and deportation of undocumented immigrants; and importation of contract Guest Workers, as proposed by the President, and

FURTHER RESOLVED that CARA apprise national ARA of this resolution and the reasons for it.

Passed: October 2010

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:
Seeing as the Subcommittee on Immigration Policy and Enforcement will discuss the program Secure Communities or S-Comm this week, Services, Immigrant Rights, and Education Network (SIREN) writes to express our strong opposition to this program. SIREN is a leading non-profit organization dedicated to empower diverse immigrant communities in Santa Clara County through policy advocacy, organizing and legal services.

As Such, SIREN opposes S-Comm because it is ineffective, threatens the safety of our communities, runs counter to American principles of fairness and justice and has been deceitfully imposed on our county of Santa Clara. The Department of Homeland Security (DHS) and Immigration and Customs Enforcement (ICE), together with the FBI, have misrepresented the Secure Communities program as both voluntary and targeted at the "worst of the worst" to the American public, law enforcement agencies, state and local governments, and Members of Congress who have appropriated funding for its breakneck implementation and rollout.

S-Comm is yet another dangerous program that increases collaboration between local law enforcement and Immigration. In essence, this program has a detrimental effect on the most vulnerable members in the community, including survivors of domestic violence. They should not have to remain victims out of fear of detection and deportation

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,

Jazmin Segura
Federal Policy Advocate
Services, Immigrant Rights and Education Network (SIREN)



1012 14th STREET NW, Suite 450, WASHINGTON DC 20005
 TELEPHONE: (202) 393-2700 | FACSIMILE (202) 318-4433
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November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
 House of Representatives
 B-353 Rayburn House Office Building
 Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Sikh American Legal Defense and Education Fund (SALDEF) is the oldest Sikh American civil rights and educational organization. We empower Sikh Americans through advocacy, education and media relations. SALDEF's mission is to protect the civil rights of Sikh Americans and ensure a fostering environment in the United States for future generations.

Following the attacks of 9/11, Sikh Americans have become all too familiar with incidences of racial profiling. SALDEF objects to the Secure Communities Program, as currently implemented, because it is ineffective, it threatens the safety of our communities, and it runs counter to American principles of fairness and justice. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹ As an organization working closely with federal, state, and local law enforcement agencies across the country, SALDEF recognizes the importance of community policing – something that the Secure Communities Program places in great jeopardy.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration.

Sincerely,

Jasjit Singh
 Associate Executive Director

¹ See Aarti Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.



SISTERS OF ST. FRANCIS

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November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

We, the Sisters of St. Francis, Clinton, Iowa, have taken a public stand in solidarity with our immigrant brothers and sisters and affirm our commitment to vulnerable persons who migrate in search of protection or for a better life for themselves and their families. Furthermore, we oppose any proposed federal or state legislation that does not uphold basic human and civil rights.

We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.

Local police departments are decrying the Secure Communities program because it causes a lack of trust amongst people in their jurisdiction. Many people are reluctant to call the police when they are in danger or to serve as witnesses to criminal activity. Furthermore, many detainees are housed in private, for-profit prisons at a cost of \$65 per day. These detention centers are often located in remote areas which are inaccessible to families and difficult for access to legal aid.

To safeguard our communities and the protection of our rights we recommend that:
Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.

Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.

The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration.

Sincerely,

Janice I. Cebula, OSF
President

Social Justice Alliance of Josephine County
P.O. Box 2565
Cave Junction, Oregon 97523

112th Congress Subcommittee on Immigration Policy and Enforcement
Rayburn House Office Building
45 Independence Ave SW
Washington, District of Columbia 20515

Dear Mr. Gallegly, Mr. King, and fellow members of the United States Congress,

The Social Justice Alliance of Josephine County addresses issues that erode individual liberties, negatively affect minorities, and endanger public health and well being. The Alliance has been active for several decades and provides a local newsletter to the residents of Josephine County.

We thank you for your service on behalf of the American people.

In your discussion of Immigration and Customs Enforcement's Secure Communities Program, please add our concerns on this important issue to the record and take them into consideration as you form future legislation.

It is important to enforce the laws of the United States; without proper enforcement life would be unpredictable and insecure, making planning for the future and growth more difficult. On the other hand, overly draconian law enforcement is counter productive to the growth and prosperity of the American economy. Unfortunately the Secure Communities Program is a case of negative law enforcement as evidenced by the points below.

Deportations of individuals identified via Secure Communities often occur as a result of minor crimes or non-crimes such as driving without a license, trespassing, vandalism, shoplifting, or petty juvenile mischief. About a fourth of those deported have been non-criminals. Yet the program was intended to address high-threat criminal immigrants such as drug manufacturers and violent gang members. Obviously the intention of the program and its implementation on the ground are in gross juxtaposition, making the law untenable.

Secure Communities increases risk for illegal immigrants who contact law enforcement for legitimate reasons. One does not wish to make a police report when one risks exile for trying to help make his or her community safer. Eroding the relationship between the people and law enforcement is dangerous: at best criminal activity will go unreported; at worst it will inspire instances of vigilante justice.

While non-citizens may not be entitled to protections under the United States Constitution, the gross denial of due process inherent in Secure Communities is an affront to the spirit of America.

Individuals are targeted for deportation after arrest, not after conviction, and this is fundamentally wrong. In the United States, anyone, no matter who, is innocent until proven guilty.

Finally, Secure Communities is a drain on already scarce public resources. In Josephine County we face ever decreasing revenues for basic public services such as law enforcement. There are significant costs associated with administrative delays in booking and processing arrestees, communicating with Immigration and Customs Enforcement, and processing and enforcing immigration holds. This is a burden that the Sheriff's Office cannot afford and which makes the residents of Josephine County less safe.

In conclusion, while Secure Communities was intended to make the American people safer, its implementation has in fact reduced security and drained public resources unnecessarily. The reasonable course is to honestly admit error and take steps to create legislation that produces real improvements in security so that we may, in the end, achieve a more perfect union with increased freedom and prosperity for the American people.

Thank you for adding our comments to the record of your discussion on this important issue. We hope you've found this information useful and that future legislation reflects these observations.

With our sincere appreciation,

Daniel Dalegowski
Judy Hoyle
Barry Smitkin

The Social Justice Alliance of Josephine County



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November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
5-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

I write you on behalf of South Asian Americans Leading Together (SAALT), a national nonpartisan non-profit organization whose mission is to elevate the voices and perspectives of South Asian individuals and organizations to build a more just and inclusive society in the United States. As an immigrant and civil rights organization and as a member of the National Council Asian Pacific Americans, we write to express our concerns regarding the Department of Homeland Security's (DHS) Secure Communities Program.

We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. DHS has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the *End Racial Profiling Act* which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,

Priya Murthy
Policy Director

¹ See Aarti Kothli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
 House of Representatives
 B-353 Rayburn House Office Building
 Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Southern Coalition for Social Justice promotes justice by empowering minority and low-income communities to defend and advance their political, social and economic rights. We use the combined skills of lawyers, social scientists, community organizers and media experts to help underrepresented people develop strategies to achieve their visions for themselves and their communities, incorporating an international human rights perspective and linking their efforts to broader processes of political, legal, social and economic change in the South. One important area of our work is immigrant's rights advocacy, in which we work with families and communities directly impacted by Secure Communities.

We oppose the Secure Communities Program because it runs counter to American principles of fairness and justice. Secure Communities creates an incentive for participating local and state law enforcement agents to engage in racial profiling and pre-textual arrests. Currently, all 100 counties in North Carolina are participating in this program. We have seen participation result in increased racial profiling by local law enforcement agencies against Latinos and other communities of color, both those with and those without legal immigration status in North Carolina.

We also oppose the Secure Communities Program because it threatens the safety of our communities. The racial profiling and unnecessary detentions associated with Secure Communities have driven a wedge between immigrant communities and community policing efforts in North Carolina. Many immigrants without legal immigration status are afraid to call the police when there is a domestic violence altercation and afraid to speak to officials when they are crime victims. Yet Secure Communities enforcement efforts do not effectively target serious crimes. People who have had immigration contact via Secure Communities are often charged with misdemeanors, if they are charged at all. In short, Secure Communities results in the targeting of petty offenders while discouraging the reporting of more significant crimes.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement,
- The Subcommittee should urge DHS to immediately terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities

in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration of our concerns. Please do not hesitate to be in touch if you have any questions or I can provide further information.

Sincerely,



Rebecca Fofitane
Community Organizer



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
 House of Representatives
 B-353 Rayburn House Office Building
 Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The St. Louis Inter-Faith Committee on Latin America has accompanied the people of Latin America in their struggles for human rights and social justice for thirty years. We have worked with immigrants and refugees over the years and have understood the sacrifices they have made to make new lives in their new home. The United States has been a place of safety and security for generations. The Secure Communities program has made life miserable for hard working immigrants.

We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹ We currently are documenting examples of police bias and abuse in local municipalities.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration
 Sincerely,

Marilyn Lorenz
 Program Coordinator



¹ See Aarti Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf

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**TENNESSEE JUSTICE FOR OUR NEIGHBORS**

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November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

Tennessee Justice for Our Neighbors (TN-JFON) is part of a national network of immigration legal clinics created in 1999 by the United Methodist Committee on Relief (UMCOR). TN-JFON is a faith-driven ministry, welcoming immigrants into our churches and communities by providing free, high-quality immigration legal services, education, and advocacy. At present, TN-JFON is one of about 20 JFON clinics throughout the country. TN-JFON provided high-quality legal services to over 350 individuals in 2010 and 2011.

TN-JFON opposes the Secure Communities Program because it is ineffective, it threatens the safety of our communities by undermining trust in law enforcement, and it runs counter to American principles of fairness and justice. ICE's implementation of Secure Communities has negatively impacted immigrant women, children, and crime victims across Tennessee. Secure Communities creates powerful incentives for state and local law enforcement agents to engage in racial profiling and pretextual arrests. Secure Communities has transformed the local law enforcement landscape in Middle Tennessee by emboldening bad actors to inquire about alienage and immigration status during routine interactions with law enforcement. While ICE uses local police to expand its enforcement dragnet, the agency has made only minimal attempts to monitor local officers and ensure accountability when racial profiling and other immigration-related abuses occur. In the absence of meaningful federal resources to monitor the collateral damage of Secure Communities local communities where TN-JFON provides education and advocacy report unmistakable instances of racial profiling and prohibited immigration enforcement by untrained local police and sheriffs. These reports have grown steadily as Secure Communities expands.

The result of Secure Communities in Tennessee has been an increased reluctance among immigrant communities to report crimes such as domestic and sexual violence, child abuse, and official misconduct. For women struggling to free themselves and their children from dangerous, abusive relationships, Secure Communities has left them feeling there is nowhere to turn for protection in their greatest hours of need. No law enforcement agency can effectively police a community when it forces the community's most vulnerable members to choose between the Scylla of the federal immigration detention system and the Charybdis of continuing victimization at the hands of their abusers.

Therefore, in order to safeguard our communities and the protection of our rights, TN-JFON recommends that:

- The Subcommittee order an expedited GAO review of Secure Communities' impact on immigrant victims of domestic and sexual violence.
- Congress suspend funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Sincerely,

The Board of Directors, Tennessee Justice for Our Neighbors

UNITARIAN UNIVERSALIST
ASSOCIATION OF CONGREGATIONS



November 23, 2011
The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Unitarian Universalist Association of Congregations opposes the Secure Communities program as it has detained and deported thousands of migrants who have not committed or been convicted of any serious or violent crimes. This mass detention and arrests of non-criminal immigrants has continued despite the stated purpose of Secure Communities,ⁱ

“the removal of individuals who present the most significant threats to public safety as determined by the severity of their crime, their criminal history, and other factors – as well as those who have repeatedly violated immigration laws.”

In a speech ICE Director John Morton gave to the International Association of Chiefs of Police on October 25, 2011 he said,

“In Fiscal Year 2011, we removed at total 396,906 individuals — the largest number in the agency’s history. Of that number 216,698 were criminal aliens—also more than any other year in history. Nearly 55 percent of the aliens we removed had been convicted of criminal offenses...”ⁱⁱ

But what about the 180,208 individuals who had been neither convicted or arrested for any criminal offense? The only offense for many, if not most of them, was re-entering the country after being previously deported. Tragically, many of those removed in this category were U.S. residents of many years. Many of them are parents, forcibly removed from their children and their spouses, many of whom are citizens. Think of the effect this removal has had on those families.

The climate of fear the so called “Secure Communities” program has created in immigrant communities, a fear that is justified, has made our country less rather than more secure. Domestic security requires the cooperation of citizens and residents, regardless of their status, with local law enforcement. This result has led many police chiefs, sheriffs, and elected officials responsible for keeping the peace to opt-out of the Secure Communities program. However, ICE, despite its earlier statements suggesting that participation was voluntary, has reversed its position and made participation mandatory.

In response, at least two large urban counties, Cook County, IL, and Santa Clara County, CA, have decided to refuse “detainer requests” from ICE if the individual in question has not committed a serious criminal offense. In addition, both counties are not allowing ICE agents unfettered access to its jails. If their response, a deliberate policy of non-cooperation with the federal government, is not an indictment of the federal government’s Secure Communities program, it’s hard to imagine what is.

In addition to the above tragic consequences, Secure Communities has created a pattern of de facto racial profiling by law enforcement and a pattern of de jure discrimination and abuse similar to what existed in the American South during the era of “Jim Crow.”

The North American Free Trade Agreement, which benefitted U.S. agribusiness and farmers at the expense of millions of small farmers in Mexico, is one of the principal causes of the record number of Mexicans who have entered our country without documentation since its passage. Many unscrupulous U.S. employers exploit undocumented workers by paying them less than documented workers and some even steal their wages. The resulting lack of a level competitive playing field has hurt ethical employers who refuse to exploit workers, and lowered the wages of citizen and documented non-citizen workers.

As people of faith, Unitarian Universalists cannot turn our backs and pretend not to see, let alone refuse to respond, to the tragic injustices being suffered by people whose labor is often invisible, whose suffering is mostly hidden, and who are criminalized by simply attempting to provide for their families. One of the primary values of Unitarian Universalism is that everyone, regardless of their legal status, be treated with dignity and respect. The Secure Communities program has resulted in a system of mass arrest, mass incarceration, and mass deportation. Immigrants are languishing in poorly supervised private detention centers and suffering violence, abuse, and rape in the process. It is a program that results in systematic disrespect of their basic human rights.

The Secure Communities program cannot be reformed. Too often, the priorities that ICE Director John Morton and President Obama have stated in Washington are ignored outside the confines of the Washington, DC Beltway. It’s time, past time, to bring this program to a complete and full stop. It’s also time, past time, for Congress to pass comprehensive immigration reform.

Until Congress enacts comprehensive immigration reform, our communities will be less secure, legitimate employers will find it impossible to compete with unscrupulous ones, and the human and civil rights of millions of people will continue to be systematically violated.

In the words of the prophet,
*He has shown you, O mortal, what is good.
 And what does the LORD require of you?
 To act justly and to love mercy
 and to walk humbly with your God.*
 -Micah 6:8 (NIV)

By any measure, our current system of immigration, particularly the Secure Communities program is failing on at least two of the prophet's injunctions.

In order to insure the safety of our communities and the rights of all people, until a fair and just program of Comprehensive Immigration Reform is enacted we recommend that:

- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.
- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.

Thank you for your time and consideration

Sincerely,

Rev. Craig C. Roshaven
Witness Ministries Director
Unitarian Universalist Association

¹http://www.ice.gov/secure_communities/

⁴<http://www.ice.gov/doclib/news/library/speeches/111028morton.pdf>

The Subcommittee on Immigration Policy and Enforcement
 House of Representatives
 B-353 Rayburn House Office Building
 Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

My name is Nancy Flores and I am the point person for immigration/deportation cases at Voces de la Frontera, Wisconsin's largest Latino membership organization and leading immigrant rights group.

On a daily basis, I see the harsh effects of a policy that is in theory supposed to keep our communities safe, but in reality has had the opposite effect- creating greater insecurity in both the immigrant community and other minority groups that are also unjustly targeted. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.

Secure Communities also undermines public safety because there are many individuals who are now afraid to call law enforcement during child, sexual or domestic disputes for fear that they will be deported for being in the country without legal status. This allows for our middle and working class immigrant communities (both documented and undocumented) to fear police and teach their U.S. born children by example that police are not here to help, but to separate families.

Some cases I would like to share with you that have come to our office, include:

Miranda, who came to the Voces office in late August crying, because she was left with her four children and no job. Her husband, Agustin was apprehended after a Milwaukee police officer discovered in a traffic stop that he was here undocumented. Agustin, a person with no prior record of any kind who has been in the U.S. for 15 years, was incarcerated for nearly a month, let out on bond and now waits to be seen in front of an immigration judge. Agustin claims that he was targeted for being of a minority group driving in a predominantly white neighborhood, as he felt many people were going just as fast as he was yet he was the only one who got pulled over.

Ricardo is a 50 year old man that has a wife and three children was pulled over for going through a red light and detained and turned over to ICE. I accompanied him to his master hearing in front of an immigration judge since he could not afford a lawyer. He was given voluntary deportation and this is a devastating situation for the family who has lived in the US for over 10 years.

Juan, a 35 year-old man is now in deportation proceedings because he was arguing with his partner when his sister in law interceded and hit him over the head causing severe bleeding. He then called 911 and an ambulance rushed him to the hospital and the police waited for him upon his release from the hospital and took him into custody on domestic violence allegations. He was never officially charged with domestic violence and had no previous record or taken part in domestic violence. He was turned over to ICE when the police found him to be undocumented. He got a lawyer who advised him to apply for a U-Visa since he was the victim of abuse. Juan declined the offer in fear that this would turn around on his partner and sister and feared that his child would be taken by the state. He has been deported and separated from his little girl.

To really safeguard our communities and the protection of our rights as people we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels
- Congress eliminate funding for the Secure Communities
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program.

Thank you for your time and consideration. Sincerely,

Nancy Flores



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
8-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

WeCount! is a multiethnic organization in the area of Homestead, Florida, that works to achieve social and economic justice by bringing immigrants, students and working people together to inform themselves about their rights, support each other, develop their leadership, and take action to improve their lives. WeCount!'s leaders have campaigned for just and humane immigration reform, an end to immigration raids and family separation, against wage theft and for alternatives to zero tolerance policies in the schools. WeCount! is a dues-paying member of the Florida Immigrant Coalition (FLIC) and of the National Day Laborer Organizing Network (NDLON), and participates in the Florida Wage Theft Task Force.

We oppose the so-called Secure Communities program because it undermines the presumption of innocence; because it targets mostly persons who have been convicted of no crimes or of minor crimes; because it creates an incentive for state and local law enforcement to engage in racial profiling; because it increases the separation of families; because it undermines community policing by turning local law enforcement into immigration agents; because it appears to be a part of a massive data gathering experiment by the federal government; because of its costs to local government, and because it was imposed undemocratically on local, and now state government.

Contrary to the Obama Administration's claims, it is not targeting "the most dangerous criminal aliens." In our county – Miami-Dade County – over half of the persons deported under S-Comm have no criminal record at all. S-Comm is part of a nefarious complex of laws and practices that criminalize immigrant communities and increases the pain and suffering felt by families in our community and in communities throughout the country.

We recommend that Congress eliminate all funding for the "Secure Communities" initiative. We also urge Congress to pass the End Racial Profiling Act which would ban profiling based on race, Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.

Mail: P.O. Box 34-4116, Florida City, FL 33034
Office: 201-207 N. Krume Ave., Suits 240-280
Homestead, FL 33030
Website: www.we-count.org
Phone: (305) 247-2202 • Fax: (305) 247-1640

Page 1 of 2

Sincerely,



Jonathan Fried
Executive Director

Sara F. Anderson
3507 North Nottingham Street, Arlington, VA 22207

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

I am a Unitarian Universalist as well as a citizen of Arlington County, VA. Our UU principles support the "inherent worth and dignity of every person." This is a basis of my opposition to the Secure Communities Program; it is inconsistent with both UU and American principles of fairness and justice. Furthermore, it has been deceitfully imposed on our country's local communities, and Arlington County has opted out of participation in it. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.

§ To safeguard our communities and the protection of our rights I recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,
Sara F. Anderson

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

I teach classes at the University of Minnesota on Latino immigration. These are classes in which student are engaged in civic engagement as they do service in the Latino community. I have personally seen the horrendous effects of how the Secure Communities affect people who are here economically benefitting this state and country. I've seen families split up, many who have U.S. citizen children.

I oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration
Sincerely,

Kathleen M. Ganley
Instructor, Department of Spanish & Portuguese
University of Minnesota

¹ See Aarti Kohli, Peter L. Marcowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

November 28, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building

To Whom It May Concern:

As a representative of Campus Peace Action CPA at the University of Central Florida UCF, I am writing to request that the government end S-COMM. This type of law only produces fear and distrust among neighbors. Additionally, it ties law enforcement resources away from serious crime investigations. We ask for safe and free communities based on generosity and support, not a "Big Brother" atmosphere based on suspicion and intimidation.

Thank you for your attention to this letter.

Sincerely,

Miguel Rodriguez
Graduate Student - History Program at UCF
Campus Peace Action at UCF

California State University at Fullerton

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

I am a Sociology major at California State University at Fullerton and "Secure Communities" has been deporting immigrants at alarming rates despite the fact that the majority do not have a criminal history.

We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been decedfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,

Charles Sandoval
California State University at Fullerton
Sociology

Langley Park is a Neighborhood of Cultures

Action Langley Park

A non-profit 501c3 neighborhood coalition of residents, laborers, businesspeople, members of the clergy, and their allies
Telephone 301 405-4005, Email actionlangleypark@yahoo.com, c/o LPCC, 1500 Merrimac Dr., Langley Park 20785

•From the desk of ALP Executive Secretary William J. Hanna, Ph.D.*



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

RE: Secure Communities

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

Our organization is at the grassroots working with the immigrant population in suburban Maryland. We have observed Secure Communities in action, and we think that it is very harmful to family wellbeing as well as police effectiveness.

In Prince George's County, Maryland, most immigrants deported have not had a criminal record, and of course their families have been shattered. Also, there is a gulf between police officers and residents because of the fears generated by Secure Communities actions. Police, as you know, depend on cooperation for effective crime prevention and intervention.

President Obama has called for the deportation only of criminals who endanger our country. That's the right approach at this stage of our struggling with the immigration challenges. But Secure Communities at the local level does not adhere to the President's guidelines.

For now, making Secure Communities adhere to the President's guidelines is the right approach. Of course, a major revision of immigration law should take place as soon as possible.

Sincerely,

W. Hanna



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Alliance (formerly the Northwest Federation of Community Organizations), is a national coalition of eight state-based grassroots community organizations including The Center for Intercultural Organizing, Colorado Progressive Coalition, Idaho Community Action Network, Indian People's Action (Montana), Maine People's Alliance, Make the Road New York, Montana Organizing Project, Oregon Action, Progressive Leadership Alliance of Nevada, and Washington Community Action Network.

The Alliance for a Just Society's mission is to execute regional and national campaigns and build strong state affiliate organizations and partnerships that address economic, racial, and social inequities.

The Alliance opposes Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in

¹ See Aarti Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,

Fernando Mejia
Regional Organizer
Alliance for a Just Society
3518 S. Edmunds Street.
Seattle, WA 98118



Carol Rose, Executive Director
Tel: (617) 482-3120 ext. 313
E-mail: crose@aclum.org

November 28, 2011

Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington DC 20515

Re: "Secure Communities"

Dear Chairman Gallegly, Ranking Member Lofgren, and Subcommittee Members:

I am writing on behalf of the 22,000 members of the American Civil Liberties Union of Massachusetts to urge the US Congress to take steps to terminate the "Secure Communities" program. It is not carrying out its stated goal of removing the most dangerous and violent offenders and that makes our communities more vulnerable and less safe. In the words of Police Chief Brian Kyes of Chelsea, MA, "The trust we have built up over the years is what will keep our communities safe – not "Secure Communities."¹

Although S-Comm is supposed to focus on identifying and removing violent "Level 1" criminals, the latest (September 30, 2011) ICE Interoperability statistics show that in Boston – which agreed to pilot the program in 2006 and remains the only jurisdiction within the Commonwealth to participate in "Secure Communities" - nearly half of the deportees were not classified as having committed felonies or misdemeanors, and only 30 percent were Level 1 offenders.

The fact that the program has not lived up to its mission of improving public safety by focusing on the removal of dangerous criminals has led Massachusetts Governor Deval Patrick to decline to enter into a "Secure Communities" agreement and has given Boston Mayor Thomas Menino second thoughts about his City's participation.

The Mayor has written to the Department of Homeland Security's Task Force on Secure Communities that the program "is diminishing trust" and "negatively impacting public safety" and "must change substantially or be scrapped."² He stated that Boston participated in the pilot program "in the belief that our feedback would lead to improvements" and that "it would be a further violation of the public trust" if the program "proves to be a knot that the Federal Government will not untie."

ACLU of Massachusetts, 211 Congress Street, Suite 301, Boston, MA 02110
Phone: 617-482-3120 Fax: 617-451-0009 www.aclum.org

November 28, 2011
Page 2

After years of contradictory and confusing signals concerning the ability of jurisdictions to opt out of "Secure Communities," the peremptory announcement by ICE Director John Morton on August 5, 2011 terminating all existing Memoranda of Agreement underscores the undemocratic nature of the Initiative and the disturbing lack of transparency surrounding ICE policies and practices. Four members of the Massachusetts Congressional delegation subsequently wrote to Director Morton about the importance of mayors and governors being able "to seek the advice of local law enforcement authorities about whether or not to participate in the program: "We believe that local and state governments should have that choice. The federal government ought not to compel the states, and states ought not to compel municipalities."³

Given the program's disarray, its lack of credibility and its harmful impact on families in Boston and around the nation, we are not surprised that half the members of the Department of Homeland Security's Task Force on Secure Communities were in favor of either suspending or terminating the program. We agree with Task Force Member Chief Arturo Venegas of the Law Enforcement Engagement Initiative: "I believe that Secure Communities is a deeply flawed program and that, in its current form, it is undermining public safety."⁴

The US Congress should not fund a program that in its present form threatens to (in Chief Venegas' words) "do great harm to the relationship between local police and immigrants, undermine our efforts to work with all members of the community to fight crime, place our national security at risk and create insecure communities for all of us."

Sincerely,

Carol Rose

¹ Brian A. Kyes and Gladys Vega, "Policing can't be immigration enforcement," *Boston Herald*, June 4, 2011.

² Thomas Menino, Mayor of Boston to The Task Force on Secure Communities, July 8, 2011.

³ Rep. Michael Capuano, Rep. Edward Markey, Rep. James McGovern and Rep. John Olver to ICE Director John Morton, November 2, 2011.

⁴ Chief Arturo Venegas, Jr. (Retired) to Mr. Chuck Wexler, Chairman, Task Force on Secure Communities, September 14, 2011.



**American Friends
Service Committee**

Central Regional Office

4211 Grand Avenue · Des Moines, IA 50312 · 515/274-4851 · fax 515/274-2003 · afscdesm@afsc.org · www.afsc.org

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The AFSC's Immigrants Voice Program of Iowa has worked on behalf of immigrants' successful integration into their new communities since 1995. Rooted in the Quakers belief of that of God in everyone and our commitment to nonviolence, we serve everyone seeking our assistance.

Since early 2010, the Secure Communities Program has been implemented in Des Moines, Iowa. From the beginning it has proven to be ineffective in making our communities any safer because now many more immigrants who have been victims or witnesses of crimes do not come forward to authorities. Every week our office has heard at least one account of how immigrants' fear of law enforcement has prevented them from reporting crimes ranging from domestic abuse cases to serious cases of extortion and even human trafficking.

We believe that Secure Communities threatens the safety of our communities and runs counter to the American principles of fairness and justice. Furthermore, it has been deceitfully imposed on our local communities -- the Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public.

For instance, in June of 2010 we held a meeting with high-ranking regional ICE officials at the Federal Building here in Des Moines, asking them specifically if they had in place any ICE law enforcement programs and/or agreements with law enforcement anywhere in Iowa. They strongly denied having any. Months later, we found out that in November of 2009, ICE had already signed an agreement with the Department of Public Safety to implement Secure Communities in Iowa. The manner in which this came to be was secretive, preventing any public scrutiny. The false statements of high-ranking ICE officials have damaged the credibility of this agency in the eyes of diverse community leaders, who appear to believe they are above the law and beyond any sense of accountability to taxpayers and communities alike.

Lying to the general public is reprehensible and ICE has become notorious for doing just that. The DOJ should penalize public servants who lie to taxpayers, and DHS should create the necessary mechanisms to make ICE officials fully accountable to taxpayers regarding both policies and practices when working in representation of this agency.

The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹ On November 2, 2011, during a public forum on the issue, a representative of the Des Moines Police Department stated that it is not their policy to ask for immigration documents, yet they heard numerous testimonies from the audience stating otherwise: "Deported for driving while Latino" in Polk County, Iowa has become a common way of describing the escalating number of stops for non-existent traffic violations which often end up in deportations. The majority of such deportees never have any criminal record; these deportations separate parents from children, and spouses from spouses or parents, with devastating results for the most important cornerstone of any society: family unity.

To safeguard our communities and the protection of our individual rights, we recommend the following:

- Congress should pass the End Racial Profiling Act, which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress should eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.
- ICE law enforcement officers should remove the lettering "POLICE" from T-shirts and other identifying clothing. Such lettering purposefully misleads individuals mistaking ICE agents for local law enforcement agents.

Thank you for your time and consideration of this important matter. If you have questions, please contact me at (515) 274-4851 ext. 11, or ssanchez@afsc.org.

Sincerely,



Sandra Sanchez
AFSC Immigrants Voice Program Director

¹ See Ari Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf



AILA National Office
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Crystal Williams
Executive Director
Susan D. Quarles
Deputy Executive Director

Testimony of the American Immigration Lawyers Association

**Submitted to the
Subcommittee on Immigration Policy and Enforcement of the
Committee on the Judiciary of the U.S. House of Representatives**

Hearing on November 30, 2011

"Is Secure Communities Keeping Our Communities Secure?"

The American Immigration Lawyers Association (AILA) submits the following testimony to the Subcommittee on Immigration Policy and Enforcement regarding the Secure Communities program. AILA is the national association of immigration lawyers established to promote justice and advocate for fair and reasonable immigration law and policy. AILA has over 11,000 attorney and law professor members.

Secure Communities is a Department of Homeland Security (DHS) enforcement program that uses fingerprints collected by local and state law enforcement to identify individuals who may be deportable under immigration law. Although Secure Communities was promoted as targeting only serious criminals and others who pose a threat to our communities, nearly 60 percent of those deported under the program had never been convicted of a serious crime or any crime, at all. As a result, there is growing concern among diverse groups of advocates, elected leaders, and law enforcement representatives that Secure Communities actually undermines public safety by making immigrant communities afraid of any interaction with police.

Since its launch in 2008, Secure Communities has faced significant controversy over the disconnect between its stated goals and actual impact on local communities. State and municipal leadership have balked at the contradictory way that DHS rolled out the program, citing concerns about local autonomy, the lack of transparency, frequently shifting positions of DHS officials, undue cost burdens on local law enforcement, and, most importantly, the *insecurity* the program created in their communities. Over the summer, the governors of New York, Massachusetts and Illinois all withdrew from the program, citing concerns that it was sweeping in large numbers of individuals who posed no threat to their communities while at the same time undermining public safety. Finally, prominent members of Congress have called publicly for an independent investigation of DHS for allegedly misleading the public and local government officials about how Secure Communities functions and whether states and localities have any ability to terminate the program.

Because of the public outcry, the DHS Office of Inspector General (OIG) is currently conducting its own review of the program.

In response to this rising tide of criticism, in June, DHS announced a series of steps it would be taking to reform the program. Over four months later, DHS has largely failed to implement these measures.

One of the most significant steps was the creation of a special task force composed of law enforcement experts, ICE union officials, academics, legal experts and community representatives which was appointed to conduct a review of Secure Communities and submit formal recommendations to the Secretary of DHS. AILA's President-Elect, Laura Lichter, served on the Task Force.

Although DHS adopted the Task Force findings and recommendations in September, to date, DHS has not made any significant change to Secure Communities or announced any intention to implement the task force recommendations.¹ Indeed, ICE and even DHS itself has been largely silent as to the findings and criticisms by this distinguished group of stakeholders.

1. Secure Communities Is Not Targeting People Who Endanger Public Safety

Among AILA's chief concerns is DHS's failure to use Secure Communities in a way that actually targets individuals who pose a threat to public safety. When 6 out of 10 people removed under this program have no criminal offense or only a misdemeanor on record, DHS cannot plausibly represent that the program is primarily apprehending serious or dangerous criminals. The DHS task force urged DHS to ensure that Secure Communities adheres to its stated enforcement objective of prioritizing those who pose a risk to public safety or national security. It specifically recommended that DHS clarify that "civil immigration law violators and individuals who are convicted of or charged with misdemeanors or other minor offenses are not top enforcement priorities unless there are other indicia that they pose a serious risk to public safety or national security."

AILA urges DHS to adopt this recommendation and to find that an individual poses a threat to public safety before taking action under Secure Communities. In particular, DHS should issue clear guidance that the nature and seriousness of any criminal offense, whether misdemeanor or felony, must be weighed against the time elapsed since any conviction, history of rehabilitation, and other equities.

2. Secure Communities Is Making Communities Less Safe and Diverts Federal Resources Away from Enforcement Priorities

AILA is concerned that DHS, through Secure Communities and other enforcement programs, has unwisely invited extensive participation from state and local law enforcement agencies in the enforcement of immigration law. Not only does this impermissibly confuse the federal government's responsibility for enforcing the

¹ Link to task force report: <http://www.dhs.gov/xlibrary/assets/hsac-task-force-on-secure-communities.pdf>

immigration laws, but predictably—and negatively—impacts local law enforcement and the communities they are charged to protect. In August, AILA's report, "Immigration Enforcement Off Target: Minor Offenses with Major Consequences," showcased 127 examples of racial profiling and biased policing of individuals who were encountered by local law enforcement for minor offenses and, as a result, were placed in immigration removal proceedings. The report found that in the vast majority of cases, the people placed in removal proceedings had committed minor offenses or no offense at all, presented no public safety or security risk, and had no criminal background.

In lawsuits challenging various state enforcement laws, the Department of Justice has argued that state and local immigration enforcement laws have intruded unconstitutionally into an arena preempted by federal immigration law. The abuses already seen under Alabama's HB56 or Arizona's HB1070 and other similar laws provide a clear example of the concerns created by such ill-conceived legislation.

Secure Communities and other DHS programs actively invite local law enforcement participation in a way that also undermines the federal government's sovereign control. By pursuing enforcement action in such cases, ICE resources are being diverted away from the agency's priorities. Moreover, by taking action in cases arising under unconstitutional laws like HB56, DHS is tacitly approving the underlying conduct of local law enforcement, no matter how suspect.

3. DHS Has Not Addressed Concerns About Racial Profiling and Other Civil Rights Abuses

Several components of the June announcement were meant to address deep concerns over racial profiling and biased policing when local law enforcement is involved with immigration enforcement. The DHS task force recommended strengthening accountability mechanisms and remedies for the prevention of civil rights and civil liberties violations. In addition DHS announced that it would provide quarterly statistical analysis to identify jurisdictions where racial profiling might be occurring, as well as a series of videos to train local law enforcement. As yet, however, no quarterly statistics have been released and no additional trainings created. Moreover, Secure Communities remains in full force in jurisdictions currently being investigated by the Department of Justice, including Miami, where DOJ announced just last week it would be opening an investigation. In short, DHS has failed to address seriously concerns about racial profiling and biased policing with respect to Secure Communities.

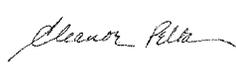
AILA remains concerned about the supervision and oversight of the program which has already been implemented in over 1500 jurisdictions and—if ICE proceeds with current plans, is expected to be activated in every town and every city by 2013. The DHS task force called for DHS to ensure greater transparency about Secure Communities and to clarify the goals of the program.

AILA Recommendations

- Many months after credible concerns have been raised about Secure Communities, AILA remains deeply concerned about this flawed enforcement program and continues to recommend that DHS suspend it until significant reforms are made to ensure it operates the way it was intended.
- DHS must implement systematic mechanisms to ensure that Secure Communities actually targets those who pose a risk to public safety or national security.
- DHS should clarify that immigration law violators and individuals who are convicted of or charged with misdemeanor offenses are not enforcement priorities unless there are other indicia that they pose a serious risk to public safety or national security. Convictions for felony crimes are an indication that the person may pose a risk to public safety, but enforcement personnel should carefully examine the facts in each case to determine whether the individual actually poses such risk.
- Secure Communities is having a negative impact on communities nationwide. Secure Communities makes our communities less secure and less safe because it drives fear into immigrant communities that the police are people they cannot trust.
- Secure Communities and other DHS programs that invite state and local law enforcement collaboration should be suspended in any state or locality where DOJ has initiated an investigation or litigation over concerns about racial profiling or civil rights abuses.

For follow-up, contact Gregory Chen, Director of Advocacy, 202/507-7615, gchen@aila.org.

Sincerely,



Eleanor Pelta
President



Crystal Williams
Executive Director

— FRAZIER, SOLOWAY & POORAK, P.C. —
ATTORNEYS AT LAW

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November 29, 2011

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The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

I am writing on behalf of the Atlanta Chapter of the American Immigration Lawyers Association, covering all of Georgia and Alabama, representing approximately 400 attorneys with expertise in immigration law and practice. We are familiar with the multiple and significant shortcomings of the Secure Communities Program, including its ineffectiveness, its threat to the safety of our communities, and its clash with widely held American principles of fairness and justice.

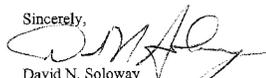
The U.S. Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in unacceptable racial profiling and pre-textual arrests.

To safeguard our communities and the protection of rights, we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels;
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations; and
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,



David N. Soloway
Chair, AILA Atlanta Chapter



**AMERICAN IMMIGRATION LAWYERS ASSOCIATION
NEW YORK CHAPTER
2011-2012**

November 28, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Re: **Opposition to Secure Communities**

Dear Chairman Gallegly, Ranking Member Lofgren & Members of the Subcommittee:

On behalf of the New York Chapter of the American Immigration Lawyers Association (AILA), we are writing to express our deep opposition to "Secure Communities." Secure Communities remains an ill-conceived program that tears families apart, puts public safety at risk and destroys cherished civil liberties. Unless it can be implemented in a way that does not violate the civil and human rights of immigrants, we cannot support it.

Secure Communities is a devastating addition to an already broken immigration system that results in mass detentions and deportations and fails at respecting the dignity, humanity and contributions of immigrants. As the centerpiece of an already aggressive immigration enforcement system, Secure Communities is overbroad, makes communities less safe, violates due process and civil liberties, and encourages racial profiling and pre-textual arrests. It was created without adequate oversight of the Department of Homeland Security or transparency within DHS, and has been implemented without any meaningful public input. In April, Rep. Zoe Lofgren (D-CA) wrote a letter to Secretary Napolitano and ICE Director John Morton stating that "DHS and ICE personnel repeatedly made false and misleading statements to local governments, the public, and members of Congress" about the program. Mr. Morton has formally acknowledged that ICE made "inconsistent statements."

In line with the concerns expressed by the Task Force, and in spite of the minor tweaks made to Secure Communities over the past few

Executive Committee

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**AMERICAN IMMIGRATION LAWYERS ASSOCIATION
NEW YORK CHAPTER
2011-2012**

months, AILA attorneys across the state and country continue to see the devastating consequences of Secure Communities everyday. Just last week, one AILA-NY attorney practicing in a jurisdiction where Secure Communities is active reported meeting with five different families over a 24 hour period that were experiencing severe distress due to the detention and imminent deportation of family members as a result of Secure Communities, which she called a "super-energized deportation and profiling effort on steroids."

If the goal of Secure Communities is simply to further enhance enforcement - without regard to the family and community ties, work history and other equities of the victims of this program - then it is clearly successful. But if those factors matter - as we believe they must - then Secure Communities is severely flawed, as it simply adds to the suffering of countless people (including a generation of immigrant and U.S. citizen children who are already suffering through the predictably negative and wide-ranging effects of losing one or two parents to deportation) while doing nothing to fix our broken immigration system. Unless major, meaningful changes are made to this program, Secure Communities will continue to add to the problems of our immigration system, and prosecutorial discretion - no matter how generously it is granted - will not change this.

If Congress is truly interested in ensuring the human and civil rights of immigrants, as well as the safety of all communities, we recommend that it take these steps immediately:

- Pass the End Racial Profiling Act, which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Eliminate funding for Secure Communities and other programs that empower state and local law enforcement to enforce the immigration laws, until and unless meaningful, effective and verifiable protections are put in place to prevent racial profiling and other civil and human rights violations.
- Urge DHS to terminate Secure Communities in jurisdictions that have opted out of the program, and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where the Department of Justice is actively investigating a pattern



**AMERICAN IMMIGRATION LAWYERS ASSOCIATION
NEW YORK CHAPTER
2011-2012**

- or practice of discriminatory policing.
- Provide meaningful opportunities to hear from immigrants and U.S. citizens who have been directly impacted by Secure Communities and similar enforcement programs.

In the event that Congress and/or DHS is unwilling or unable to act on these recommendations or similar, just remedial measures, we will have no choice but to join the call for nationwide termination of Secure Communities.

Thank you for your consideration.

Sincerely,


David Katona
Chair



Southern California Chapter

AMERICAN IMMIGRATION LAWYERS ASSOCIATION
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November 28, 2011

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The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

**Re: Statement from the Southern California Chapter of the
American Immigration Lawyers Association in
Opposition to Secure Communities**

Dear Chairman Gallegly, Ranking Member Lofgren & Members of the
Subcommittee:

The Southern California Chapter of the American Immigration Lawyers Association (AILA) urges that DHS suspend Secure Communities and/or Congress suspend funding until meaningful reforms are made. Secure Communities was touted as a program that would make neighborhoods safer by removing serious criminals from the streets. Yet, nearly 60 percent of those deported under the program were either convicted of only minor offenses or not even convicted at all. In fact, what has actually transpired is a dangerous erosion of public trust, an unnecessary diversion of federal funds from immigration enforcement priorities, and failure by DHS to adequately address concerns regarding racial profiling.

I. AREAS OF CONCERN

1. Secure Communities Erodes Public Trust

Secure Communities erodes public trust in several ways. First, DHS' stated objectives in promoting Secure Communities was to identify and deport those who pose a risk to public safety or national security. However, when nearly 60 percent of those actually deported are neither dangerous nor a risk to national security, their stated objective is being compromised. Second, Secure Communities actually hinders public safety by deterring witnesses to crime and others from working with law enforcement. Indisputably, law enforcement works best when it's engaged with the community. Indeed, crimes go unreported and victims go unprotected when entire communities fear the police. Third,

prominent members of Congress have called publicly for an independent investigation of DHS for allegedly misleading the public and local government officials about how Secure Communities functions and whether states and localities have any ability to terminate the program. Our Chapter is concerned that if Secure Communities continues, as presently implemented, these problems will only be exacerbated.

2. Secure Communities Diverts Federal Resources Away from Enforcement Priorities

Although Secure Communities ostensibly targets “criminal aliens,” it in fact affects everyone who is brought into a jail—whether or not they were arrested for a serious crime. Paradoxically, it ignores that immigration checks should only apply to persons who have been *convicted* of a crime and been judged to be a danger to the public. As has been applied, Secure Communities means more jail time for non-citizen defendants because, when there is a “hit” on a DHS immigration database, the local jail is asked to hold the individual until the conclusion of criminal proceedings for ICE. This results in a growing cost that is absorbed by the corresponding town or county. As such, Secure Communities has invited extensive participation from state and local law enforcement agencies in the enforcement of federal immigration law. Not only does this impermissibly confuse the federal government’s responsibility for enforcing the immigration laws, but adversely impacts local law enforcement and the communities they are charged to protect. By pursuing enforcement action in such cases, ICE resources are being diverted away from the agency’s priorities. Such blatant disregard for the stated purposes of Secure Communities cannot be ignored.

3. DHS Has Not Addressed Concerns About Racial Profiling and Other Civil Rights Abuses

Since the inception of Secure Communities in 2008, several groups and individuals have voiced concerns over racial profiling and biased policing when local law enforcement is involved with immigration enforcement. The DHS task force has recommended strengthening accountability mechanisms and remedies for the prevention of civil rights and civil liberties violations. In addition DHS has announced that it would provide quarterly statistical analysis to identify jurisdictions where racial profiling might be occurring, as well as a series of videos to train local law enforcement. To date, however, no quarterly statistics have been released and no additional trainings created. Moreover, Secure Communities remains in full force in jurisdictions currently being investigated by the Department of Justice. DHS has failed to address seriously concerns about racial profiling and biased policing with respect to Secure Communities. While DHS has issued memorandum regarding when it will exercise prosecutorial discretion in accord with its enforcement priorities, this does not alleviate the diversion of federal resources from immigration enforcement priorities, nor does it alleviate the already overburdened state and local governments. Moreover, it created unnecessary suffering to countless families ensnared in this flawed program. Unless major, meaningful changes are made

to this program, Secure Communities will continue to add to the problems of our immigration system, and prosecutorial discretion – no matter how generously it is granted – will not change this.

II. MEANINGFUL REFORM

If Secure Communities intends to live up to its name and its stated purpose to Congress and the American people, then the program should be suspended immediately, or federal funding withheld until the following safeguards are in place:

- Implementation of systematic mechanisms to ensure that Secure Communities actually targets those who pose a risk to public safety or national security.
- Clarification by DHS that immigration law violators and individuals who are convicted of or charged with misdemeanor offenses are not enforcement priorities unless there are other indicia that they pose a serious risk to public safety or national security. Convictions for felony crimes are an indication that the person may pose a risk to public safety, but enforcement personnel should carefully examine the facts in each case to determine whether the individual actually poses such risk. Suspending Secure Communities and other DHS programs that invite state and local law enforcement collaboration in any state or locality where DOJ has initiated an investigation or litigation over concerns about racial profiling or civil rights abuses. Provide meaningful opportunities to hear from immigrants and U.S. citizens who have been directly impacted by Secure Communities and similar enforcement programs.

Once again, the Southern California AILA Chapter calls upon DHS to implement these changes to the flawed Secure Communities program and to suspend the program until these major reforms can be made.

Your consideration is greatly appreciated,

AILA Southern California Executive Committee

Joseph S. Porta, Chair
James Y. Pack, Vice Chair
Cynthia Lucas, Treasurer
Heather L. Poole, Secretary



Americans for Immigrant Justice

formerly Florida Immigrant Advocacy Center (FIAC)

November 28, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

Americans for Immigrant Justice (formerly Florida Immigrant Advocacy Center) is a non-profit law firm that protects the rights of immigrants. We visit immigration detention centers and routinely represent immigrants who been mistreated and/or have compelling cases for legal status. In that process we have seen many immigrants detained and deported via Secure Communities (S-Comm) though they had no criminal record or only minor traffic infractions – which does not makes our country safer. For this and other compelling reasons, we oppose S-Comm and request it be shut down.

In the fall of 2010, AI Justice surveyed nearly 70 detainees at the Broward Transitional Center (BTC), a jail for immigrants with no criminal record or only minor infractions. A significant number of detainees had been arrested by local police and had immigration detainers, or “holds,” placed on them via S-Comm. One such man had been arrested for not stopping at stop sign. He was diabetic and had no criminal history other than traffic citations. After two months of feeling sick in ICE detention, he opted for voluntary departure. Before leaving he said:

"My family doesn't understand how after working here so many years they could do this to me. I know these are the laws, but we're not here to hurt anyone, just to work."

This detention alone cost taxpayers some \$10,600.¹ It also contradicted S-Comm priorities to target the “most dangerous criminals.”² Further, his deportation, like that of many others through S-Comm, actually undermines public safety. (See the first bullet point below.)

Today we continue to see immigrants who have no criminal history, have children or other immediate relatives who are U.S. citizens, have lived here many years and yet are being detained, or worse, deported through S-Comm. We see people picked up by local police for nothing more than driving without a license or standing on the sidewalk waiting for a ride –who end up detained by ICE though Secure Communities.

¹ Detained 64 days at \$166 per day; cost is based on *The Math of Immigration Detention: Runaway Costs for Immigration Detention Do Not Add Up to Sensible Policies*. National Immigration Forum, Washington D.C., Aug. 2011. <http://immigrationforum.org/images/uploads/MathofImmigrationDetention.pdf>

² Secure Communities: A Modernized Approach to Identifying and Removing Criminal Aliens. ICE brochure, Jan. 2010. <http://www.ice.gov/doclib/secure-communities/pdf/sc-brochure.pdf>

A non-profit organization dedicated to protecting and promoting the basic human rights of immigrants

3000 Biscayne Blvd., Suite 400 • Miami, Florida 33137 • 305.573.1106 • fax: 305.576.6273 • ajjustice.org

The following are compelling reasons for discontinuing this intolerably flawed program. Secure Communities:

- **Damages the public's trust of local police.** Whether or not people have legal status, they quickly realize that an arrest by local law enforcement can lead to deportation through S-Comm. Consequently, people with friends or loved ones who potentially could be deported are reluctant to provide tips, report crimes or cooperate in police investigations. A report by the national Police Executive Research Forum concluded that, "Active involvement in immigration enforcement can complicate local law enforcement agencies' efforts to fulfill their primary missions of investigating and preventing crime."³
- **Identifies U.S. citizens as unauthorized immigrants.** This leads to the arrest, detention and even deportation of people with legal status, including citizens, asylees and legal permanent residents. A recent report by the Berkeley Law Center for Research and Administration found that ICE had arrested some 3,600 U.S. citizens through Secure Communities since its inception in March 2008 through April 2011.⁴
- **Splits families apart.** *Shattered Families*, a new report, conservatively found that more than a third (39 percent) of the people arrested via Secure Communities reported having a U.S. citizen spouse or child. An estimated 88,000 fractured families with U.S. citizens have suffered the consequences.⁵
- **Encourages racial profiling** by allowing police officers inclined to racially profile to do so. The Berkeley Law Center analysis found that, while Hispanics represent 77 percent of the undocumented population, Hispanics were a disproportionate 93 percent share of all people arrested via S-Comm, a sign of racial profiling.⁶
- **Results in civil rights violations and lack of due process.** People arrested by S-Comm are more likely to be placed in detention, spend more time in detention and are unlikely to get out on bond. Among those who had an immigration hearing, only 24% had an attorney represent them — much less than the 41% of all immigrants who have lawyers in immigration court.⁷
- **Issuing detainers before people are convicted** leads to the detention and deportation of people who are not within ICE's priorities for removal. For example, police at times arrest both partners in a domestic dispute. Once the victim's fingerprints go to ICE, the

³ Debra A. Hoffmaster, *Police and Immigration: How Chiefs Are Leading their Communities through the Challenges*. Police Executive Research Forum, Washington, D.C. March 2011.

<http://www.policeforum.org/library/immigration/PERFImmigrationReportMarch2011.pdf>

⁴ Aarti Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*. Berkeley Law Center for Research and Administration, Chief Justice Earl Warren Institute. Oct. 2011, p. 2. http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

⁵ Seth Freed Wessler, *Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System*. Applied Research Center. November 2011, p. 22. <http://arc.org/shatteredfamilies>

⁶ Ibid

⁷ Michele Waslin, *New Data Highlights Devastating Impact of Secure Communities on Immigrant and Latino Communities*. Immigration Impact, Nov. 2. 2011. <http://immigrationimpact.com/2011/11/02/new-data-highlights-devastating-impact-of-secure-communities-on-immigrant-and-latino-communities/>

victim is detained and faces potential deportation. Detainers prevent immigrants from being released from jail, even when the immigrant is granted and posts bond.

- **Analyzing fingerprints before people are convicted** takes in many people with no or only minor criminal records as well as crime victims and people who have charges dropped, such as trafficking and domestic violence survivors.
- **Drains local police resources.** Cook County was spending \$15 million a year to hold immigrants flagged by Secure Communities. The federal government offered no reimbursement for the jails costs. Other communities have voiced similar complaints.⁸

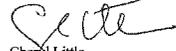
In sum, ICE misled Congress Members, communities, state governments, and the American people when it marketed S-Comm as a way to remove dangerous criminals from our streets and as an optional program. ICE continues to foist the program on states and communities that don't want it and fails to reimburse local police agencies for the program's costs.

S-Comm not only leads to civil and human rights violations, but ignores American values of fair play, due process and justice for all. This program was fatally flawed from the start. DHS should have the good sense to shut down the S-Comm program. If it doesn't, Congress would best cut off S-Comm's funding and that of other programs that rely on local police agencies to do immigration enforcement, which makes communities *less* safe.

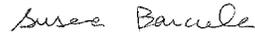
While these measures would be welcome, they nonetheless are not a solution. Ultimately the remedy needed is for Congress to reform our immigration laws and fix our broken immigration system in a way that bolsters our economy and conforms to our values as a nation of immigrants.

Thank you for your interest in immigration issues.

Sincerely,



Cheryl Little
Executive Director,
Americans for Immigrant Justice (formerly Florida Immigrant Advocacy Center)



Susana Barciela
Policy Director,
Americans for Immigrant Justice (formerly Florida Immigrant Advocacy Center)

⁸ Antonio Oliva, *Cook County bucks immigration officials*. Chicago Tribune, Sept. 8, 2011.
<http://articles.chicagotribune.com/2011-09-08/news/ct-met-county-immigration-policy-2-20110908-1#legal-immigrants-detainers-sanctuary-ordinances>



Nov. 23, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

RE: Hearing on Secure Communities

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

On November 30, 2011, the House Subcommittee on Immigration Policy and Enforcement will hold a hearing on Immigration and Custom Enforcement's Secure Communities Program ("S-Comm"). On behalf of the Asian American Center for Advancing Justice, we submit the following comments to express our deep concern and opposition to S-Comm.

Collectively, the members of the Asian American Center for Advancing Justice are non-profit, non-partisan organizations located in Los Angeles, San Francisco, Chicago and Washington DC that enrich and empower the Asian American and Pacific Islander (AAPI) community and other underserved populations through public policy, advocacy, litigation, research and community education. Our mission is to promote a fair and equitable society for *all* by working for civil and human rights and empowering Asian Americans and Pacific Islanders and other underserved communities.

By unfairly entangling local law enforcement with federal immigration enforcement, S-Comm erodes community trust in law enforcement. This flawed program also diverts scarce local law enforcement resources to federal immigration enforcement of a broken immigration system that is drastically in need of humane and fair comprehensive reform.

S-Comm is an ICE program that automatically forwards all fingerprints taken by local police to ICE for civil immigration background checks at the point of arrest. Operating on a pre-conviction model, ICE is notified upon arrest, no matter how minimal the charge or even if the person is innocent. As a result, victims of crime, including domestic violence survivors, who have called the police for help, have been put into removal proceedings because of S-Comm. This flawed design puts states and local police agencies at the center of a federal responsibility -- civil immigration enforcement.

Unfortunately, S-Comm also has become an indiscriminate mass deportation program, rather than one that is focused on identifying and deporting individuals with serious criminal convictions. When the Department of Homeland Security first requested funding from Congress for the S-Comm program in 2008, they stated that S-Comm would prioritize the deportation of level 1 offenders, which includes serious felony offenses. However, as of September 30, 2011, according to ICE's own statistics, about 74% of the 142,090 deported nationally because of S-Comm either do not have any criminal convictions or have convictions for non-level 1 offenses, including misdemeanors and minor traffic offenses.¹

¹ See Secure Communities IDENT/AFIS Interoperability Monthly Statistics through September 30, 2011. Available at http://www.ice.gov/doclib/foia/sc-stats/nationwide_interoperability_stats-f2011-to-date.pdf

Although ICE maintains that law enforcement do not actively engage in immigration enforcement under S-Comm, this simply is not true. S-Comm incentivizes police officers to stop and arrest residents who appear to be foreign-born because any fingerprints taken by police will be sent to ICE upon arrest. Once booked into the jail and automatically identified by ICE, the arrestee can and likely will be deported even if he or she was wrongfully arrested or the charges are later dropped. Data from ICE confirms that some jurisdictions, which have been notorious for racial profiling, such as Maricopa County, Arizona, have disproportionately high rates of non-criminal S-Comm deportations.²

Misrepresentations by ICE with regard to how S-Comm operates and whether the program requires local or state consent or input also raise serious concerns about government accountability and transparency. When ICE signed Memorandum of Agreements (“MOAs”) with states to deploy S-Comm in these states, ICE represented to state officials that counties had the choice to sign Statements of Intent before they are opted into the program. However, when counties, such as San Francisco, California; Santa Clara, California; and Arlington, Virginia, asked to not participate in S-Comm because it interfered with community policing strategies and drained local resources, ICE asserted that counties could not opt out. ICE pointed to the state MOAs and contended that their agreement was with the states and not with counties. However, when states such as New York, Illinois, and Massachusetts requested to opt out of the program, ICE unilaterally rescinded the MOAs with all states. S-Comm is now operating without any state or local consent despite that fact that drains local resources by increasing the number of individuals held in local jails for transfer into ICE custody.

Finally, it is important to highlight the harm that S-Comm has caused to Asian American and Pacific Islander immigrants. Many AAPI immigrants come from countries with a history of government corruption, which makes it difficult for these community members to come forward and trust law enforcement. S-Comm compounds this problem by adding potential immigration consequences to contact with local law enforcement. To date, thousands of AAPI immigrants have been identified for deportation under S-Comm. Thus, this program undercuts community policing strategies that seek to engage AAPI communities.

For the above reasons, the Asian American Center for Advancing Justice urges the Committee to demand an end to the deeply flawed S-Comm Program. Specifically, we ask that Congress eliminate funding for Secure Communities and other programs that use state and local law enforcement agencies to conduct immigration enforcement.

Thank you.

Sincerely,
 Asian Law Caucus
 Asian American Justice Center
 Asian Pacific American Legal Center
 Asian American Institute

~ Members of the Asian American Center for Advancing Justice ~

The Asian American Center for Advancing Justice (www.advancingjustice.org) works to promote a fair and equitable society for all by working for civil and human rights and empowering Asian Americans and Pacific Islanders and other underserved communities, and is comprised of the Asian American Justice Center in Washington, D.C. (www.advancingequality.org), the Asian American Institute in Chicago (www.aaichicago.org), the Asian Law Caucus (www.asianlawcaucus.org) in San Francisco and the Asian Pacific American Legal Center (www.apalc.org) in Los Angeles.

² See *id.*



Athens Immigrant Rights Coalition Athens, Georgia airc.inform@gmail.com

November 26, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Athens Immigrant Rights Coalition (AIRC) is a group encompassing local religious, civic- and university-based organizations working collectively to support the dignity, rights, and welfare of immigrant communities in the Athens area and the state of Georgia.

This letter conveys our concerns about the Secure Communities program and its harmful effects on the rights, safety, and welfare of Georgia families and communities. Together with Georgia's harsh, anti-immigrant laws, Secure Communities creates an enforcement climate that enables racial profiling and has caused innocent families - hard-working, honest, mainstays of our communities - to be broken up, impoverished, and put at emotional and physical risk, as members are detained and/or deported as a result of such things as minor traffic violations, rather than the criminal offenses intended to be targeted by the Secure Communities program. We have seen a growing climate of fear and persecution among both documented and undocumented immigrants alike, that has made them unwilling to cooperate with local law enforcement on necessary crime and safety policing actions, and afraid to go to work, buy groceries, or attend school. We have seen this climate, in turn, foster the increased abuse of basic rights of affected populations, through increased economic, criminal, and other forms of exploitation.

The state of Georgia prohibits undocumented immigrants from obtaining driver's licenses. On top of that, this year the Georgia Legislature passed House Bill 87, which imposes harsh measures on undocumented immigrants that go beyond the scope and intention of federal immigration laws. One measure allows law enforcement to check the immigration status of anyone they suspect of being in the country illegally while responding to a suspected infraction.

Imagine being pulled over for a broken taillight, and without any criminal record, ending up being jailed, separated from your family, detained, and deported. Imagine carrying hundreds of dollars of cash because you know of people who have been pulled over for a seat-belt check, and when they couldn't produce an adequate license, were told that they could either pay the officer a "fine" there and then, or be taken to the local jail. Imagine police unable to unite a missing toddler and her parents, because the neighbors won't open their doors to talk to them. Imagine mothers and children enduring domestic violence because they are too afraid to seek police, social services, or medical help. Tragically, these are not imagined events in Georgia, but

actual examples of consequences of Georgia laws and the Secure Communities Program combined.

We are concerned that Secure Communities erodes local law enforcement's relationship with immigrant populations, diminishes their ability to police real crime and safety issues in the immigrant and larger communities, and puts undue demands on local jail facilities and police resources.

We are concerned that the program has been installed largely without the knowledge, evaluation, and consent of citizens and elected officials. Local communities have been given no opportunity to assess the full implications of Secure Communities and its impact on community welfare, rights, justice, safety, policing effectiveness, and use of resources.

We are concerned about the lack of provisions for community oversight and tracking of the results of the program, such as whether it fosters racial profiling or other abusive practices, and whether it successfully targets individuals with criminal records.

We are concerned that despite being initially presented as optional, and despite many local jurisdictions' decisions against participation in it, Secure Communities is now being presented as mandatory.

Our concerns are shared by other state and local jurisdictions, who have evaluated the impacts of this program on local welfare, rights, policing, and resources, and decided to discontinue participation, only to find their way blocked.

We strongly recommend Congress to:

- Pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until meaningful and effective protections are put in place to prevent racial profiling, other civil and human rights violations, and the prosecution of non-criminal offenders, as well as provisions to allow state and local jurisdiction assessment of impacts on community welfare, rights, safety, and policing.
- Prioritize the reform of national immigration laws in order to create easier and more transparent processes for law-abiding people from other countries to legally work and reside in the U.S., thus avoiding the shadow economies of undocumented immigration that foster organized crime, exploitation, and human rights abuse.

We also recommend that the Subcommittee urge the Department of Homeland Security to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Sincerely,

Athens Immigrant Rights Coalition

Athens, Georgia.



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Black Alliance for Just Immigration (BAJI) is an education and advocacy group comprised of African Americans and black immigrants from Africa, Latin American and the Caribbean. We believe that historically and currently, U.S. immigration policy has enforced unequal and punitive standards for immigrants of color.

We are opposed to Secure Communities because:

- Screening for immigration violators encourages racial and ethnic profiling tactics
- It violates the basic promises of fairness and due process at the core of our legal system
- It makes our neighborhoods less safe, by discouraging contact with local law enforcement officials.
- "Secure Communities" has detained several U.S. citizens due to its poor execution and institutional racism, solely because someone "looks like an immigrant"

Secure Communities is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice, and it has been deceitfully imposed on our country's local communities and creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹

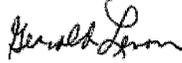
To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.

¹ See Aarti Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

- The Subcommittee urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration.
Sincerely,

A handwritten signature in black ink, appearing to read "Gerald Lenoir". The signature is fluid and cursive, with the first name being more prominent.

Gerald Lenoir
Executive Director

California
Rural Legal
Assistance
Foundation

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

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Deputy Director

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RE: Secure Communities Hearing Scheduled for November 30, 2011

Dear Chairman Gallegly, Vice-Chairman King, Ranking Member Lofgren,
and Members of the Subcommittee:

California Rural Legal Assistance Foundation (CRLAF) is pleased to provide
the Honorable Members of the Subcommittee on Immigration Policy and
Enforcement with these comments for your hearing on Secure Communities,
which is scheduled for November 30, 2011.

For over 30 years, CRLAF has successfully assisted farm workers, migrant
workers and the rural poor to improve their economic and social conditions in
the United States. We do the aforementioned by providing community
education, public policy advocacy, training, and both technical and legal
assistance to California's rural poor. In the spirit of speaking up for the most
vulnerable, on behalf of our organization, we respectfully submit this letter in
strong opposition of Secure Communities which is carried out by the U.S.
Immigration and Customs Enforcement (ICE).

According to the official ICE website on Secure Communities, "ICE
prioritizes the removal of criminal aliens, those who pose a threat to public
safety, and repeat immigration violators." [1] Unfortunately, Secure
Communities does not accomplish the aforementioned. Its flawed design has
made our communities less secure, as evidenced by ICE statistics, which
indicate that more than 5,800 individuals have been incorrectly identified
since the program was launched. [2]

Moreover, Secure Communities' methods have contributed to an environment
of fear of law enforcement and waste of taxpayer dollars. First, Secure
Communities' faulty design puts states and local police agencies at the center
of a federal responsibility—the enforcement of immigration laws—which is a
civil matter, not a criminal matter. Second, many law enforcement agencies
throughout the state have been working on a community based policing model
founded on trust and understanding. Secure Communities directly inhibits this

critical relationship from moving forward. In addition, Secure Communities has been imposed on local jurisdictions without providing an opportunity to opt-out. Compromising local policing cannot be the price our communities are asked to pay.

Our communities deserve better than a faulty program that incorrectly identifies U.S. Citizens, deports individuals who were victims of crimes, has forcefully broken apart families, makes immigrant communities afraid to report crimes that may occur in their communities and/or seek protection from local law enforcement, etc. We can and must do better.

As a starting point, we respectfully urge your Honorable Committee to create a system that is more transparent, is not misleading, and that puts into place meaningful and effective protections that will remedy the aforementioned broken system while preventing racial profiling or other civil and human rights violations. In the interim, we ask your committee to recommend and follow-through on making Secure Communities a voluntary program where the decision of local jurisdictions to “opt out” is respected. In addition, we respectfully recommend that:

- The Department of Homeland Security (DHS) suspend Secure Communities in jurisdictions with a documented record of racial profiling or where the Department of Justice (DOJ) is actively investigating a pattern or practice of discriminatory policing.
- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement—the time and money that local law enforcement is spending on housing individuals under immigration detainees is stealing vital resources from local jurisdictions that are currently suffering financially.

Once again, thank you for taking the time to read our letter on this important matter and for considering our recommendations.

Respectfully,

Amagda Perez,
Executive Director
California Rural Legal Assistance Foundation

[1] “Secure Communities,” ICE webpage on Enforcement and Removal, www.ice.gov/secure_communities, November 28, 2011.

[2] Julia Preston, *U.S. Identifies 111,000 Immigrants with Criminal Records*, N.Y. Times, Nov. 13, 2009, at A 13, November 28, 2011.

Nov. 28, 2011

The Subcommittee on Immigration Policy and Enforcement

House of Representatives

B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

We are coordinators of Cambridge United for Justice with Peace, the Cambridge MA community group member of the Greater Boston Coalition, United for Justice with Peace. Formed in the aftermath of 9/11, we believe that there can be no peace in the world without justice for all those who live on the earth. While we work toward ending wars abroad, we also ally ourselves with those who are being treated unfairly in our immediate worlds. In this connection, we have worked in solidarity with local immigrant rights groups in a campaign to stop the Secure Communities Program from entering our community.

Why are we opposed to the Secure Communities Program? Rather than making our community more secure, we believe it threatens our safety by terrorizing members of the immigrant community and making them afraid to become involved with community policing. Our chief of police in Cambridge, Robert Haas agrees with us. He has been vocal in his opposition to the program both because it is ineffective and unfair, and because it promotes racial profiling. The Cambridge City Council has passed a resolution (which is at the end of this letter) opposing Secure Communities. Most recently, we have been horrified to learn that at least 5000 children have been separated from their parents and placed in foster care as a result of their parents being detained and/or deported. In many cases, immigrant parents lose their parental rights and never see their children again. (See Applied Research Center, Shattered Families: The Perilous Intersection of Immigration Enforcement and the Child Welfare System). How can we call ourselves a humane society if we adopt policies with these kinds of consequences.

We urge your Subcommittee, at the very least, to recommend that jurisdictions that have chosen to opt out of the program be allowed to do so, as was promised before the abrupt announcement that the program is now mandatory. Further, we would hope that you would eliminate funding for the Secure Communities Initiative and other programs that use state and local law

enforcement agencies to conduct immigration enforcement until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.

Thank you for your time and consideration

Sincerely,

Vicky Steinitz and Eleanor Duckworth

Coordinators, Cambridge United for Justice with Peace

Policy Order Resolution

O-4
IN CITY COUNCIL

December 20, 2010

COUNCILLOR DECKER

- WHEREAS: It has come to the attention of the City Council that the City of Boston has participated unknowingly to the public in the "Secure Communities" program; and
- WHEREAS: Police departments participating the Secure Communities program now send the fingerprints of the individuals they arrest to the United States Immigration and Customs Enforcement (ICE) when historically those fingerprints would only be sent to the FBI; and
- WHEREAS: Immigrant advocates are concerned that the undocumented population will be far less likely to report a crime with the Secure Communities program in place as the police will be seen as an extension of the federal government; and
- WHEREAS: With the immigration system being dramatically flawed already, adding more systems that create fear in our communities is counterproductive; and
- WHEREAS: The Secure Communities program in Boston has been called a pilot program meaning other communities could soon be launching their own; now therefore be

RESOLVED: That the City Council go on record in opposition to the Secure Communities program and its potential use in Cambridge; and be it further

RESOLVED: That the City Clerk be and hereby is requested to forward a suitably engrossed copy of this resolution to the Massachusetts Legislative delegation and to Governor Deval Patrick on behalf of the entire City Council.

©
2002

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201

1

In City Council December 20, 2010
Adopted by the affirmative vote of
eight members.

Attest: D. Margaret Drury, City Clerk

A true copy:

ATTEST:- D. Margaret Drury,
City Clerk

City
of
Cam
bridg
e,
MA

| | |



Address: 213 West Union Ave.
Bound Brook, NJ 08805
(732) 746-1111 / 748-1113

Mail: P.O. Box 2693
Plainfield, NJ 07060
Fax (732) 748-1121

Joyce Antila Phipps, Esq.

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

Casa Esperanza is a non-profit community service organization in central New Jersey which provides low-cost legal services to low-income immigrants. We feel compelled to address you today to express our strongest antipathy to the ICE ACCESS program Secure Communities.

We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹

Examples of racial profiling and pre-textual arrests include stopping motor vehicles with an Hispanic driver and several Hispanic passengers for so-called "suspicious behavior" and then demanding that all passengers produce documentation of their immigration status in the country, refusing to accept consular identification documents as evidence of identity and citizenship to the point of arresting a person with such a document for carrying a false document, harassing young Hispanic men with backpacks who ride their bicycles late at night, and "patrolling" Hispanic sections of various communities to the detriment of other parts of various communities. These are but a few instances of tacit profiling that Secure Communities has encouraged. Rather than securing communities, the Secure Communities program has led to women being afraid to report domestic violence and crime victims being afraid of the police.

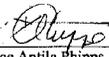
¹ See Aarti Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Respectfully Yours


Joyce Antila Phipps, Esq.
Executive Director



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

CAUSA is Oregon's statewide, grassroots immigrant rights coalition and the largest Hispanic civil and human rights, and advocacy organization in the Pacific Northwest. We work to defend and advance immigrant rights through coordination with local, state, and national coalitions and allies.

We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹

Here in Oregon, we receive calls about the devastating effects of Secure Communities everyday – a DREAM Act-eligible youth whose charges were subsequently dropped but was later put in deportation proceedings; a victim of domestic violence who called for help only to find herself arrested and at risk for deportation; children who are left without a parent. Stories such as these are examples of why trust between local law enforcements and communities is eroding.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,

Francisco López
Executive Director

¹ See Aarti Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

centerforconstitutionalrights
on the front lines for social justice

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

On behalf of the Center for Constitutional Rights, I write to urge termination of the Secure Communities program. The Center for Constitutional Rights (CCR) is a non-profit legal and educational organization committed to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. CCR's work in the United States promotes racial, gender and economic justice.

CCR is committed to increased public and government scrutiny over Secure Communities. This program was implemented under a shroud of secrecy, with little information available in the public record for the first two years of its operation. The information made publically available over the last two years has been altered to fit political considerations and messaging protocols rather than the concerns of families, policy makers and communities nationwide.

For the past year and a half, CCR, along with our co-counsel, have litigated a Freedom of Information Act lawsuit¹ against the Department of Homeland Security (DHS), Immigration Customs Enforcement (ICE), Federal Bureau of Investigations (FBI) and the Executive Office for Immigration Review (EOIR). The documents and raw data produced through this lawsuit have shown gross misrepresentations of the Secure Communities program to the American public, local law enforcement, state governments, and Members of Congress. In her July 11, 2011 Opinion and Order requiring release of a number of key documents, United States District Judge Shira Schindlin wrote: "[t]here is ample evidence that ICE and DHS have gone out of their way to mislead the public about Secure Communities."² Indeed, the agencies still resist the call for greater transparency and accountability by fighting to keep secret a memorandum dated October 2, 2010, which will shed light on the agencies' purported legal justification for mandating Secure Communities upon unwilling local jurisdictions.

Civil rights advocates have not been the only voices calling for a change in Secure Communities. Critics of the program include elected officials and local police. The *New York Times* recently called Secure Communities a "discredited dragnet that makes every cop a potential immigration

¹ For more information on the lawsuit *NDLON v. ICE, et al.*, visit our website at: <http://ccrjustice.org/secure-communities>

² *NDLON v. ICE, et al.*, 10-cv-3488, July 11, 2011 Opinion and Order, at 32.

agent.”³ These are not unfounded concerns. Last year, Maryland resident Maria Bolanos called the police for help during a domestic dispute and was arrested by local authorities because they often arrest both parties. As a result of the Secure Communities program, she now has a deportation order.⁴ Numerous such episodes have driven law enforcement officials such as San Francisco Sheriff Michael Hennessey to state that the program violates the “hard-earned trust” between immigrant communities and police.⁵

CCR is particularly concerned with the ways in which Secure Communities creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pretextual arrests. For example, CCR is currently litigating a class action lawsuit challenging the constitutionality of the New York City Police Department’s (NYPD) “stop-and-frisk” practice, which has led to hundreds of thousands of suspicion-less and race-based stops of Black and Latino New Yorkers.⁶ In addition, police departments in Newark, New Jersey, Seattle, Washington, New Orleans, Louisiana and Maricopa County, Arizona, among others, are now under investigation by the Department of Justice for racially discriminatory policies.⁷ The combination of discriminatory police practices like “stop-and-frisk” with faulty ICE programs like Secure Communities greatly increases the chances an immigrant will end up with an ICE detainer and in removal proceedings due to an unlawful police encounter. Secure Communities creates a shield for rogue police departments and bad cops.⁸

Most of all, Secure Communities tears apart families and neighborhoods of hard-working immigrants in cities and towns across the country. The governors of Illinois, New York, and Massachusetts have all taken public stands against Secure Communities. Governor Andrew Cuomo of New York, for instance, said the program could negatively impact families, immigrant communities and law enforcement in the state.

Congress has before it federal agencies that continue rapid deployment of Secure Communities despite an outcry against the program and formal requests by states and localities to end or limit participation in the program.⁹ We request that the Subcommittee urge DHS to immediately terminate Secure Communities in all jurisdictions, starting with those that have requested to opt out of the program and jurisdictions with a record of racial profiling or where the Department of Justice is actively investigating a pattern or practice of discriminatory policing. In addition, we request that the Subcommittee urge DHS to issue a moratorium on future deployment of Secure Communities to any new jurisdictions until the program is thoroughly investigated.

³ Editorial, “An Incremental Change,” *New York Times*, November 18, 2011.

⁴ “Domestic Violence Survivor Confronts Secure Communities Director,” *Deportation Nation*, November 11, 2010. Available at: <http://www.deportationnation.org/2010/11/domestic-violence-survivor-confronts-secure-communities-director/>

⁵ Michael Hennessey, “Secure Communities destroys public trust,” *San Francisco Chronicle*, May 1, 2011.

⁶ More information on CCR’s case *Floyd v. City of New York*, is available at: <http://ccrjustice.org/floyd>.

⁷ A total of 18 police departments are currently under investigation by the Department of Justice Civil Rights Division. Kevin Gray, “Justice Department Opens Probe of Miami Police,” *Reuters*, November 17, 2011.

⁸ See Aarti Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

⁹ Kirk Semple, “Cuomo Ends State’s Role in Checking Immigrants,” *New York Times*, June 1, 2011.

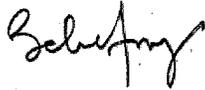
Additionally, we ask Congress to eliminate funding for Secure Communities in the near future, as well as for other programs that use state and local law enforcement agencies to conduct immigration enforcement, such as the Criminal Alien Program (CAP), 287(g), and other ICE ACCESS (Agreements of Cooperation in Communities to Enhance Safety and Security) programs.

Deportations in our country have reached astounding and unprecedented levels. The Center for Constitutional Rights believes that the rights and protections guaranteed by the U.S. Constitution (and international human rights treaties the United States has signed onto) must extend to everyone in the country regardless of their race, national origin, or immigration status.

We look to you to stand with immigrant communities and end the Secure Communities program.

Thank you for your time and consideration. If you have any questions or concerns, please contact Sunita Patel at (212)614-6439 or spatel@ccrjustice.org.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Baher Azmy". The signature is fluid and cursive, with the first name being more prominent.

Baher Azmy
Legal Director
Center for Constitutional Rights



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

Our organization aims to educate, create awareness and address the pressing needs of the immigrant community. Our organization opposes the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,

Beatriz De La Espriella
Vice President of External Affairs
CHISPAS - UF

¹ See Aarti Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf



CIVIC TRUST

PUBLIC LOBBYING CO.

† Advocacy for the people †

Civic Trust Public Lobbying Company strives for excellence and effectiveness. Our ultimate mission is to put into practice community ideas and magnify residents' voices in criminal justice, prison and drug policy reform utilizing collective resources already available to rebuild neighborhoods, communities and the state of Connecticut.

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallely, Ranking Member Lofgren, and Members of the Subcommittee:
Civic Trust Public Lobbying mission is to put into practice community ideas and magnify residents' voices in criminal justice, prison and drug policy reform utilizing collective resources already available to rebuild neighborhoods, communities and the state of Connecticut. Civic Trust Public Lobbying Company is a platform works with local constituency groups to increase Connecticut residents' ability to create new policies; amend old policies and remove unjust antiquated laws in criminal justice, prison and drug policy reform. Secure Communities Programs violates civic engagement rights for all Connecticut tax-payers.

We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹ In Connecticut we have the Penn Act that deters police officers from inappropriate stops. Civic Trust Public Lobbying Company and our allies are working towards adding religious profiling as we have natural born citizens who choose the Muslim religion and their rights are being violated. Overt interrogation is NOT keeping our communities safe. It is increasing less community/police positive relationship and reporting of crimes.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration
Sincerely,

LaResse Harvey
Founder/Executive Director
860-777-7814

¹ See Aarti Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

**Civic Trust Public Lobbying Co. • LaResse Harvey, Executive Director • P.O. Box 1895 • Hartford, CT 06144 •
860.777.7814 • civictrustlobbying@gmail.com**



U the Name of God, the Compassionate, the Most Gracious

Council on American-Islamic Relations
453 New Jersey Avenue, S.E., Washington, DC 20003
Tel 202.462.6797 Fax 202.462.0833 www.cair.org

November 29, 2011

Subcommittee on Immigration Policy and Enforcement
U.S. House Committee on the Judiciary
B-353 Rayburn House Office Building
Washington, DC 20515

RE: **Concern Over November 30 Subcommittee Hearing on Secure Communities Program**

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Council on American-Islamic Relations (CAIR), the nation's largest Muslim civil liberties and advocacy organization, appreciates that the House Subcommittee on Immigration Policy and Enforcement plans to hold a hearing on November 30 regarding the Immigration and Customs Enforcement (ICE) Secure Communities Program.

CAIR, in addition to the Rights Working Group and numerous civil rights and advocacy organizations, recognizes the need for a comprehensive review of Secure Communities and U.S. immigration law as a whole. According to ICE, in 2010, 27 percent of those detained nationwide under the program were "criminals,"¹ and in the state of Illinois 78 percent of those detained were individuals who had committed only "misdemeanors or had no criminal record."²

We oppose Secure Communities because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been imposed on our country's states and local communities. While the program – as it was originally devised – was intended to identify, prioritize, and remove only the most serious criminal offenders, in practice it has led to deportation based on minor immigration violations, racial profiling, and state disengagement from the program.

The program requires state and local law enforcement agencies (LEAs) to focus on undocumented immigrants, diminishing overall law enforcement efforts to prevent other serious types of crime. Frequently, those who report crime or are victims of crime are the ones deported because of their immigration status.

While Secure Communities is supposed to be a "voluntary" state-federal deportation program that enhances information-sharing between ICE, the Federal Bureau of Investigation, and states and local LEAs, ICE has announced that it will, "proceed with Secure Communities without the agreement of state and local jurisdictions" after having rescinded its prior agreements with participating states and jurisdictions. Massachusetts, Illinois and New York have already attempted to withdraw from the program.

WASHINGTON, D.C.
ALABAMA ARIZONA ARKANSAS CALIFORNIA COLORADO CONNECTICUT FLORIDA GEORGIA ILLINOIS INDIANA IOWA KANSAS KENTUCKY LOUISIANA MASSACHUSETTS MICHIGAN MINNESOTA MISSISSIPPI MISSOURI MONTANA NEBRASKA NEVADA NEW JERSEY NEW YORK OHIO PENNSYLVANIA SOUTH CAROLINA TEXAS VIRGINIA WASHINGTON

Subcommittee on Immigration Policy and Enforcement
November 29, 2011
Page 2

We believe that the Department of Homeland Security (DHS) has misrepresented Secure Communities to the American public, state and local governments, LEAs, and members of Congress. The program also creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.³

We ask the Subcommittee to support comprehensive reform of the Secure Communities Program, establishing a common-sense approach for states and LEAs, respecting the rights of citizens and immigrants, and promoting greater public safety. To safeguard our communities and the protection of our rights we recommend that:

- Congress reform Secure Communities to focus state and local LEA resources on deporting "high priority" convicted drug traffickers, gang members, and violent criminals, not "low priority" immigrants seeking a path towards citizenship.
- Congress pass the End Racial Profiling Act, which would ban profiling based on race, religion, ethnicity, and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where the Department of Justice is actively investigating a pattern or practice of discriminatory policing.

We look forward to the hearing and hope to distribute the highlights of its proceedings to our constituency in order to alleviate concerns regarding the mismanagement and abuses of this nationwide immigration enforcement program.

Sincerely,



Nihad Awad
National Executive Director

Subcommittee on Immigration Policy and Enforcement
November 29, 2011
Page 3

¹ See U.S. Immigration and Customs Enforcement: *Secure Communities, IDENT/AFIS Interoperability Monthly Statistics through February 28, 2011*, March 7, 2011, available at <http://nclon.org/pdf/scommfeb/natlonwidestats20112.pdf>

² See Illinois Coalition for Immigrant and Refugee Rights, "Immigration Enforcement--The Dangerous Reality Behind 'Secure Communities,'" 2011, available at

<http://icirr.org/sites/default/files/ImmigrationEnforcementTheDangerousRealityBehindSecure%20Communities.pdf>

³ See Aarti Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

Crossing Borders **920 Carmel Drive** **Dubuque, Iowa 52003**

November 23, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren and Members of the Subcommittee:

I write on behalf of the members of a group of concerned citizens in Dubuque, Iowa who are members of the **Crossing Borders Committee**. Our goal is to raise awareness within the City of Dubuque and surrounding areas of the need for comprehensive immigration reform and to address any issue that either impedes or fosters this goal. We desire to educate the public concerning the injustices experienced by our immigrant brothers and sisters and to advocate on their behalf.

One of our major concerns is the **Secure Communities** initiative that went into effect in the County of Dubuque last April. Although the initial intention of this legislation was to create a sense of safety/security for its citizens, it, as you know, has had the opposite effect. Without a doubt the **Secure Community Program** has left everyone feeling less safe and uncomfortable. It has fostered racial profiling on the local level and has placed our local police in the very dubious situation of having to enforce federal immigration laws.

The **Secure Community Program** has also separated families and caused grave economic instability for many of our immigrants. In addition women who are living in abusive situations are afraid to report such abuses for fear of deportation.

This is not the type of community that we desire in Dubuque, Iowa. Rather we desire to be a welcoming community, one that works with, respects, supports and offers opportunities for education and integration for all of our people.

At the same time we are very aware that for such a community to develop we need to work at the federal level for **comprehensive immigration reform**. It is time to stop taking miniscule steps that only aggravate a situation and to address the real cause of the problem, namely that our current immigration laws are out of date and need to be addressed as a whole.

Until the above takes place we ask you to consider the following:

1. Eliminate funding for the Secure Communities Initiative and other initiatives that use state and local police to conduct immigration enforcement unless meaningful protections are put into place to end racial profiling.
2. Request DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling.

Thank you for considering our request and for protecting our immigrant brothers and sisters.

Sincerely,

Sister Mary McCauley, BVM mmccauley@bvmcong.org
Chair: Crossing Borders



Diocese of San Bernardino
OFFICE OF SOCIAL CONCERNS
OFICINA DE PASTORAL SOCIAL

November 28, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

I work for the Justice for Immigrants office for the Diocese of San Bernardino, which includes the two counties of San Bernardino and Riverside in California. Forty-six percent of the people in the City of San Bernardino receive some kind of aid. Our area is both poor and hostile to undocumented residents. The local police departments use Secure Communities and the 287g programs readily and recent figures indicate that the two counties deport numerous non-criminal residents.

In an article published in the Riverside Press Enterprise on September 4, 2011:

In Riverside and San Bernardino counties, about 24 percent of the 3,391 people deported after being identified under Secure Communities had been convicted of the most serious felonies, such as murder, rape, child sexual abuse, drug trafficking and some categories of theft and burglary, according to ICE data. Another 13 percent were convicted of less serious felonies, or of three or more misdemeanors.

But the rest either had been found guilty of minor crimes or had no record of a criminal conviction that ICE could locate. Some had no criminal record but had ignored orders to leave the country or returned after being previously deported.

Asked to comment, ICE representatives referred to written statements. ICE says Secure Communities targets only those arrested for a crime, and that it prioritizes people "who present the most significant threats to public safety."

S-Comm is a tool that encourages racial profiling and creates a divide between the police and the community. The effective tool of community policing has been replaced by fear and suspicion. Secure Communities is anything but secure.

We encourage you to pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels, eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations. Further, the Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration.

Sincerely,

Handwritten signature of Kathi Scarpace in cursive.

Kathi Scarpace
Justice for Immigrants

1201 E. Highland Ave.
San Bernardino, CA 92404
Phone: (909) 475-5465 ea Fax: (909) 475-5473

DRM Capitol Group, LLC

November 29, 2011

**The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515**

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

DRM Capitol Group serves as a voice of undocumented youth in the nation's capital. Our work ensures that immigrant youth are represented in the halls of power and are correctly and directly informed of the actions of Congress, Executive Agencies, and the Courts. We provide a watchful policy tracking and an active lobbying presence to ensure important issues, like the DREAM Act, stay high on Washington's agenda.

We oppose the Secure Communities Program because it is ineffective and it runs counter to American principles of fairness and justice. More specifically:

Secure Communities breeds INSECURE communities

- Secure Communities serves as an excuse to arrest up immigrants. As a result, immigrants will avoid the police. When immigrant communities know or believe that police are involved with ICE, seeking aid from police becomes too risky. Crimes go unreported and victims go unprotected when entire communities fear the police.
- Even legal immigrants fear cooperating with or seeking help from law enforcement if they fear they could somehow be placed into removal proceedings, or if they have family members who are undocumented.
- When community members stop cooperating with law enforcement, everyone is less safe.

Secure Communities casts too wide a net, with too few safeguards for U.S. Citizens.

- Secure Communities ostensibly targets "criminal aliens" but in fact affects everyone who is brought into a jail-whether or not they were arrested for a serious crime. Immigration checks should only apply to persons who have been convicted of a crime and been judged to be a danger to the public. If the program was not used for persons who are arrested for very minor offenses, the incentive for racial profiling would be greatly reduced.
- Secure Communities has unclear priorities and uncertain accountability.
- DHS admits in a recent report on immigration detention that many non-citizens released from jail do not have convictions, and less than half of the non-citizens booked into immigration detention have any criminal conviction at all.
- ICE has not shown how its priorities - giving highest priority to persons convicted of serious crimes - are being monitored, implemented, and enforced. Without

enforcement, it is not clear how police who are prone to arrest individuals based on racial profiling will be held to account.

Secure Communities involves EXPENSIVE COSTS for local jails and communities

- Secure Communities means more jail time for non-citizen defendants because, when there is a "hit" on a DHS immigration database, the local jail is asked to hold the individual at the conclusion of criminal proceedings for ICE. This results in a growing cost that falls on the town or county.

To safeguard our communities and the protection of our rights we recommend that:

- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,

Cesar Vargas, J.D.
Government Affairs Managing Director
DRM Capitol Group, LLC



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Electronic Frontier Foundation (EFF) is a nonprofit civil liberties law firm and advocacy organization representing public interest in the digital age. We are writing to express deep concerns about the privacy and due process implications of the Secure Communities Program, which includes data-sharing practices that exceed the data minimization and use specifications practices articulated in the Department of Homeland Security's *Fair Information Practice Principles*. The Secure Communities Program sets a dangerous precedent for overcollection and misuse of sensitive personally identifiable information, with ramifications for the privacy and due process rights of all Americans.

Under Secure Communities, local law enforcement agencies have lost control over the data they collect for purely local purposes. They are required to submit fingerprints and detailed information on all individuals they arrest to the Federal Bureau of Investigation (FBI), which then sends a copy of the data to the U.S. Immigration and Customs Enforcement (ICE). ICE then checks the immigration status of the individuals, and moves to deport those who do not have appropriate residency standing. Notably, individuals can be arrested, fingerprinted, and deported even if they are not convicted of a crime. For example, individuals engaged in civil disobedience at a protest rally but whose charges are later dismissed or individuals who are wrongfully arrested due to racial discrimination or false evidence could find their fingerprint data collected and face potential deportation. In fact, ICE reports that 21% of the program's deportees were never convicted of a crime,¹ contrary to the due process principles that are fundamental to the American legal system.

EFF is concerned that the Secure Communities Program fails to meet the standards of the *Fair Information Practice Principles: Framework for Privacy Policy at the Department of Homeland Security* (FIPPS).² These principles create a foundation to ensure that the Department of Homeland Security will uphold the privacy rights of individuals even when conducting investigations of importance to national security. DHS is responsible for overseeing the Secure Communities Program, and thus the entire program should adhere to the FIPPS. More broadly, the FIPPS provide a framework for the collection and

¹ See *Quinn hits back against immigration checks*, Chip Mitchell, WBEZ 91.5 Radio, August 25, 2011
<http://www.wbez.org/story/quinn-hits-back-against-immigration-checks-91065>

² See *Privacy Policy Guidance Memorandum 2008-01*, The Fair Information Practice Principles: Framework for Privacy Policy at the Department of Homeland Security, December 29, 2008
http://www.dhs.gov/xlibrary/assets/privacy/privacy_policyguide_2008-01.pdf

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usage of personal information generally, and can be seen as guiding principles for government and nongovernmental agencies dealing with sensitive personal information in a wide range of circumstances.

The FIPPs define 8 principles, including:

Purpose Specification: DHS should specifically articulate the authority that permits the collection of PII and specifically articulate the purpose or purposes for which the PII is intended to be used.

Data Minimization: DHS should only collect PII that is directly relevant and necessary to accomplish the specified purpose(s) and only retain PII for as long as is necessary to fulfill the specified purpose(s).

Use Limitation: DHS should use PII solely for the purpose(s) specified in the notice. Sharing PII outside the Department should be for a purpose compatible with the purpose for which the PII was collected.

The Secure Communities Program runs counter to these principles by transferring data between agencies in ways that exceed the purpose for which the data was originally collected. In particular, fingerprint data of individuals booked into jails is obtained for the purpose of identification and checking preexisting criminal history; it is not collected to review an individual's immigration status for possible deportation. Being booked into a jail – especially when one is not convicted of a crime – should not give the government carte blanche to share one's personal information between government agencies. This secondary usage of the data is incompatible with the purpose for which the data was originally collected, and the transfer of data from detention facilities such as local jails to a central database within ICE violates the principles of use limitation and data minimization.

The expediency of the Secure Communities process comes at the cost of dearly held American rights to privacy and due process, and sacrificing civil liberties for such expediency in immigration enforcement creates a dangerous precedent. The Secure Communities of today may be only the first step in DHS's efforts to expand its dragnet data collection program. While Secure Communities is currently operating with data collected from arrestees, if left unchecked this program has the potential to expand to personally identifiable information from a range of other sources.

We oppose the Secure Communities Program because it threatens the privacy rights of Americans and runs counter to due process. To safeguard civil liberties, we recommend that:

- Congress order an external review of the data retention and sharing practices under Secure Communities, and create guidelines for cabining data such that it is not used for purposes other than for which it is collected.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct

November 29, 2011
Page 3 of 3

immigration enforcement until and unless programs are instituted that respect civil liberties.

- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program.

Thank you for your time and consideration.

Sincerely,

/s/

Jennifer Lynch, Staff Attorney
Rainey Reitman, Activism Director
Electronic Frontier Foundation

ESCONDIDO HUMAN RIGHTS COMMITTEE
P.O. Box 300221
Escondido, CA 92030-0221

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

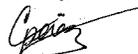
We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration .

Sincerely,



Consuelo Perez
Escondido Human Rights Committee

¹ See Aarti Kothli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.



Franciscan Action Network

Transforming the World in the Spirit of St. Francis and St. Clare

3025 4th Street, N.E. • Washington, DC 20017 • 202-527-7575 • 1-888-364-3388 (toll free) • 202-527-7576 (fax)

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren and Members of the Subcommittee:

Franciscan Action Network (FAN) whose members are men and women, religious and lay, throughout the United States, works to coordinate and amplify the Franciscan voice to address issues of peacemaking, poverty and human rights, and care for all of creation. We are actively involved in the efforts of faith communities to protect the rights of immigrants and to reform our country's failed immigration system.

In this letter we specifically express our opposition to the Secure Communities Program. While DHS and ICE maintain that Secure Communities is an information-sharing program, not a local immigration enforcement program, the practice proves to be otherwise, as reported to us by some of our members working with immigrant communities. Despite the articulated purpose of the program to deport the "worst of the worst," ICE's own data makes clear its failure to do so. Between October 2008 and April 24, 2011, Secure Communities achieved 104,802 deportations of which 26 percent were for Level 1 crimes and merely 14 percent for Level 2 crimes. Worse, 29 percent were of individuals without any criminal convictions. (ICE statistics quoted in an analysis of the United States Conference of Catholic Bishops) Yet, DHS intends to expand Secure Communities nationwide by 2013.

We are convinced that the program is ineffective, threatens rather than secures the safety of our communities, and runs counter to American principles of fairness and justice. To truly safeguard communities and protect rights, we join others in offering recommendations including:

- Congress pass the End Racial Profiling Act which would apply to federal, state and local levels
- DHS immediately develop and implement improved and effective standards, training, oversight and accountability mechanisms to prevent racial profiling and other civil and human rights violations; Congress withhold funding until such protections are operative
- DHS terminate Secure Communities in jurisdictions that have chosen to opt out of the program, and suspend Secure Communities in jurisdictions with a documented record of racial profiling and other discriminatory practices.

Thank you for your consideration.

Sincerely,

Marie Lucey, OSF
Director of Advocacy and Member Relations
Franciscan Action Network

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

We, the members of the Gospel Justice Committee of the Sisters of the Most Precious Blood of O'Fallon, Missouri, are opposed to the program of Secure Communities. We believe that all people should be treated with dignity and respect. And the concept of Secure Communities program is ineffective and has been presented inappropriately to the people of the United States and has led to racial profiling of people who appear different than ourselves.

To safeguard our communities and to protect the rights of all people, we recommend:

that Congress pass the End Racial Profiling Act thus banning any type of profiling because of race, religion, ethnicity or place of birth.

that Congress prohibit state and local law enforcement from conducting immigration enforcement.

that the subcommittee urge DHS to terminate Secure Communities in areas that do not wish to participate in them

Thank you for your time and consideration

Sincerely,

Sister Carol Boschert, C.P.P.S.
Gospel Justice Committee
Member



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

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Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

I write as Senior Organizer for Grassroots Leadership, a 31 year-old Southern and Southwestern-based social justice organization that works with communities across the country on issues related to prison privatization, criminal justice, and immigration issues. "Secure Communities" has been detrimental to many of the communities in which we work.

"Secure Communities" devastates immigrant families and drives a wedge between immigrant communities and local law enforcement. At the same time, the program has contributed to record numbers of detentions and deportations that have enriched for-profit prison corporations.

In Texas, we have seen more than 27,000 people deported since the program's inception in 2008. The vast majority of those deported under "Secure Communities" are detained for only minor infractions or have no convictions whatsoever. What's more, there is an increasing body of data that demonstrates that "Secure Communities" undermines public safety by making it less likely that immigrants will call the police if they are victims of crime.

It is time to end this program once and for all. The Subcommittee should urge DHS to end "Secure Communities" in localities that have opted out of the program and suspend the program in jurisdictions with a record of racial profiling or where the Department of Justice is actively investigating a pattern or practice of discriminatory policing. Ultimately, "Secure Communities" must be abandoned in favor of more just and reasonable policies.

Please do not hesitate to call me at 512-499-8111, or email me at bibal@grassrootsleadership.org. I would very much like to discuss this further. Thank you for your consideration.

Sincerely,

Bob Libal
Senior Organizer

National Office | PO Box 36006 | Charlotte, NC 28236-6006 | VOICE 704.332.3090 FAX 704.332.0445
Texas Office | 2604 E. Cesar Chavez, Austin, TX 78021 | VOICE 512.499.8111 | GrassrootsLeadership.org



HARVARD IMMIGRATION PROJECT

Pound Hall 407 • 1563 Massachusetts Avenue • Cambridge, MA 02138 • Phone: 617.496.5096

November 30, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Harvard Immigration Project is a Student Practice Organization at Harvard Law School that is committed to providing community outreach, education and advocacy, and pro bono legal representation to immigrants. We seek to provide opportunities for students to gain practical and meaningful experience in immigration law while serving immigrant communities with high-quality legal representation and advocating for positive changes in U.S. immigration law with an emphasis on protecting immigrant's rights.

We oppose the Secure Communities Program because it:

- ***makes everyone unsafe by breeding distrust between local police and the communities they serve.*** Police agencies throughout the U.S. regularly assert that it is in both the their own and their communities' best interest to make guarantees that cooperation with authorities does not and will not trigger immigration consequences. Likewise, members of immigrant communities, in general, place a high priority on public and personal safety but are reluctant to contact authorities that might ensnare community members—themselves and others—in the immigration enforcement system. Secure Communities puts at risk the already tenuous relationship between law enforcement and the immigrant communities they police and protect. Because Secure Communities vitiates the discretion of local authorities by requiring that police submit the fingerprints of *all* arrestees to federal immigration authorities, a community's participation in the program erodes the distinction between local police and ICE. In our home state of Massachusetts, community members have already expressed fear and hesitance to reach out to the police in an emergency due to the possible implementation of Secure Communities. In response to these concerns, Governor Deval Patrick refused to sign onto Secure Communities in June of this past year.¹
- ***punishes hard-working immigrant community members as if they were criminals.*** The vast majority of individuals (79%) deported through the program are either non-criminals or were arrested for low-level offenses, such as traffic violations.² These data belie assurances to immigrant populations that Secure Communities is focused primarily on the

¹ "Massachusetts Rejects Secure Communities Immigration Enforcement Program" available at http://www.huffingtonpost.com/2011/06/06/massachusetts-rejects-immigration-enforcement-program_n_871970.html

² BRIEFING GUIDE TO "SECURE COMMUNITIES," available at http://www.cardozo.yu.edu/uploadedFiles/Cardozo/Profiles/immigrationlaw-741/NLON_FOIA_Briefing%20guide.final.pdf (last visited Nov. 29, 2011).

apprehension of “high threat” criminals and not on general immigration enforcement. Further, they demonstrate that in practice the program clearly contravenes the congressional mandate establishing it.³

- ***is ineffective and contrary to foundational American values of fairness and equality.*** The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. Secure Communities creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pretextual arrests.⁴ Secure Communities raises further civil rights concerns: the existence of the Secure Communities mandatory detainer may result in unnecessary or prolonged detention and there is no complaint or redress procedure for individuals erroneously identified.⁵

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act that would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where the Department of Justice is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration.

Sincerely,

The Harvard Immigration Project

³ U.S. DEPT. OF HOMELAND SECURITY, IMMIGRATION AND CUSTOMS ENFORCEMENT, SECURE COMMUNITIES: QUARTERLY REPORT, FISCAL YEAR 2009 REPORT TO CONGRESS, THIRD QUARTER, August 27, 2009, ICE FOIA 10-2674.000277 - ICE FOIA 10-2674.000317, at ICE FOIA 10-2674.000279 (noting the congressional mandate to prioritize those individuals convicted of crimes, prioritizing those convicted of serious crimes); U.S. DEPT. OF HOMELAND SECURITY, IMMIGRATION AND CUSTOMS ENFORCEMENT, 1ST QUARTERLY STATUS REPORT (April – June 2008) FOR SECURE COMMUNITIES: A COMPREHENSIVE PLAN TO IDENTIFY AND REMOVE CRIMINAL ALIENS, August 2008, ICE FOIA 10-2674.000095 - ICE FOIA 10-2674.000133, at ICE FOIA 10-2674.000097 (noting that congress allocated funds for ICE to “improve and modernize efforts to identify aliens convicted of a crime [and] sentenced to imprisonment”).

⁴ See AARTI KOHLI, PETER L. MARKOWITZ AND LISA CHAVEZ, SECURE COMMUNITIES BY THE NUMBERS: AN ANALYSIS OF DEMOGRAPHICS AND DUE PROCESS, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

⁵ MICHELE WASLIN, PH.D., THE SECURE COMMUNITIES PROGRAM: UNANSWERED QUESTIONS AND CONTINUING CONCERNS, SPECIAL REPORT COMMISSIONED BY THE IMMIGRATION POLICY CENTER 3-4 (November 2009). See also MASSACHUSETTS IMMIGRANT AND REFUGEE ADVOCACY COALITION, SECURITY COMMUNITY ADVOCACY, available at <http://www.miracoalition.org/en/issues-roknav-public-safety/secure-communities/218-secure-communities-advocacy> (last visited Nov. 29, 2011).



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement

House of Representatives

B-353 Rayburn House Office Building

Washington, DC 20515

Houston United is a coalition of local groups dedicated to promoting and protecting the rights of all immigrants, documented and undocumented. We oppose the Secure Communities Program because it has been imposed on states whose governors have tried to opt out, because the program's existence encourages the police to engage in racial profiling, and because the vast majority of those deported under Secure Communities had no criminal records or were picked up for very low-level offenses. The Department of Homeland Security misrepresented Secure Communities to Congress, to the public and to our law enforcement agencies, with the result that local governments are burdened financially in order to comply, yet national security is not improved and people are being unlawfully and certainly unnecessarily detained.

Houston United recommends that the DHS terminate the Secure Communities Program in all states who choose to opt out and to suspend Secure Communities in all jurisdictions where racial profiling by local law enforcement has been documented or is under investigation.

To keep our communities safe and protect our rights, we strongly urge that Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels. We also recommend that Congress defund any programs that utilize local law enforcement agencies for immigration enforcement unless effective oversight measures are in place to prevent racial profiling and rights abuses.

Thank you for your attention,

Hope Sanford , Dave Atwood, Deb Shafto, Marianela Acuna-Arreaza and George Reiter for Houston United



HUMAN RIGHTS INITIATIVE OF NORTH TEXAS
www.hrionline.org

November 23, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

Human Rights Initiative of North Texas (HRI) is a non-profit agency in Dallas that provides legal services to victims of human rights abuses, specifically immigrants who have been victims of violence. In that capacity, we have represented hundreds of VAWA and U-Visa clients over the last few years. We fully understand the importance of facilitating cooperation between violent crime victims and law enforcement (rather than instilling a fear of deportation among such victims). For this reason, we have been opposed to Secure Communities since its inception.

HR's primary reason for opposing the Secure Communities Program is because it threatens the safety of our communities. Secure Communities is also contradictory in both spirit and effect to the VAWA and U Visa program. Local law enforcement should work with immigrants to catch dangerous criminals rather than fostering an environment of fear in the immigrant community. The overall effect of the Secure Communities Programs is to create an atmosphere of unease between law enforcement and the community. Many immigrants tell us that they have been afraid to report, and have not reported, domestic violence, sexual assault and other serious incidents because they fear that their undocumented status will stop the police from helping them and put them in danger of being deported. Research shows that perpetrators often use immigration status as a tool of power and control over their victims. Like other victims of domestic violence and sexual assault, immigrant survivors should be able to trust their local police to help them when they report crimes. Secure Communities, however, has eliminated that trust when local police are viewed instead as a branch of federal immigration enforcement.

For instance, dual arrests unfortunately occur frequently in domestic violence cases involving immigrants, particularly if the victim has limited English proficiency. In such cases, even if prosecutors move forward in only prosecuting the abuser and the victim is later released without charges, under Secure Communities the victim may find that she has an ICE detainer and has been put in deportation proceedings nonetheless. This has happened in numerous occasions, including to some of our clients.

Although Secure Communities purports to target and remove only serious criminal offenders, the reality is that many people who are arrested and subjected to this program are not dangerous criminals, and include victims of domestic violence and sexual assault who are wrongfully arrested or are arrested for minor violations that come to light when they seek help. Not only does this have a detrimental impact on the survivor and her children but, as word spreads, such incidents undermine community policing and result in silencing other victims who are too afraid to seek help.

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Ann. Suzanne Hunt
Ezekiel Johnson
Tha'Ken Ann Mungsh
Michael Rios
Cecilia H. Polanco
Hazel LaVerne Simmons
Lekha Singh

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Attorney, Women and Children's Program
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Ximelba Lopez
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HUMAN RIGHTS INITIATIVE OF NORTH TEXAS
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While we appreciate ICE's efforts to try to identify and triage out domestic violence and sexual assault survivors, immigrant crime survivors are even less likely to trust ICE, the agency charged with deporting them and their families. If survivors of crime must rely on ICE to identify them, our local criminal justice systems are failing in their responsibility to uphold public safety.

This is not just a problem for immigrant victims and for those of us who work with them. Those who harm immigrant women and children know that Secure Communities is an effective tool for instilling fear and coercing silence. When whole communities fear participating in our justice system, this undermines public safety for everyone and makes our communities less safe.

Local and state law enforcement agencies must be allowed to choose not to participate in Secure Communities until these problems are solved. Moreover, we encourage you and the Administration to find ways other than Secure Communities to achieve your goals without eroding our society's commitment to protecting the safety of all victims of crime and our communities at large.

We also oppose the Secure Communities Program because it is ineffective, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration.

Yours truly,

 Christine Cooney Mansour
 Legal Director

2801 Swiss Avenue, Dallas, Texas 75204 • P 214 655 0520 • F 214 825 0793



3 West 29th Street, Suite 803, New York, NY 10001
 Tel: 212.725.6422 • Fax: 800.391.5713
 www.ImmigrantDefenseProject.org

November 29, 2011

Dear House of Representatives Subcommittee on Immigration Policy and Enforcement:

I write on behalf of the Immigrant Defense Project, a nonprofit organization for whom I serve as Co-Director, to express opposition to the deportation program known as "Secure Communities."

The Immigrant Defense Project promotes fundamental fairness for immigrants accused or convicted of crimes. We seek to minimize the harsh and disproportionate immigration consequences of contact with the criminal justice system by 1) working to transform unjust deportation laws and policies and 2) educating and advising immigrants, their criminal defenders, and other advocates.

We wholeheartedly oppose S-Comm. This fundamentally flawed program violates due process by funneling immigrants into an unjust deportation system that offers no fair day in court; compromises the criminal justice system by fomenting distrust in the police; and destroys immigrant families and communities.

That is why we at IDP led the coalition of domestic violence, LGBTQ, family services, civil rights, immigrant rights, and family services advocates that got Governor Cuomo to suspend S-Comm in New York this past June. We believe that the only solution to the problems S-Comm poses is to terminate it nationwide.

Termination of S-Comm, as you know, has widespread support, both in New York and across the country. Attached to this letter you will find diverse examples of objections to S-Comm that we have gathered as part of our New York campaign to end the program. These include:

- Letter from more than 80 organizations across New York asking Governor Cuomo to end S-Comm (dated April 11, 2011)
- Letter from more than 130 diverse faith leaders across New York asking Governor Cuomo to end S-Comm (dated March 31, 2011)
- Letter from more than 30 New York City elected officials asking Governor Cuomo to end S-Comm (dated March 17, 2011)
- Letter from 50 New York State elected officials asking Governor Cuomo to end S-Comm (dated June 1, 2011)
- Press release of Governor Cuomo announcing the suspension of S-Comm (dated June 1, 2011)
- Press release by domestic violence and trafficking advocates applauding Governor Cuomo's decision to suspend S-Comm (dated June 1, 2011)

If you have any questions, please do not hesitate to contact me at mfei@immigrantdefenseproject.org or 212.725.6486.

Sincerely,

A handwritten signature in black ink, appearing to read "Michelle T. Fei", is written over a circular stamp or seal.

Michelle T. Fei
 Co-Director

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

Suspend S-Comm
 April 11, 2011
 Page 2

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.**

Suspend S-Comm
 April 11, 2011
 Page 3

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 mizueki@nmccir.org with any questions.

Sincerely,

Action for a Progressive Pakistan	Families for Freedom
Adhikaar	Farmworker Legal Services of NY
African Services Committee	Fifth Avenue Committee
American Immigration Lawyers Association- NY Chapter	Greater New York Labor-Religion Coalition
Arab American Association of New York	Hispanic Resource Center of Larchmont & Mamaroneck
Asian American Legal Defense and Education Fund	Hudson Valley Community Coalition
Barack Obama Democratic Club of Northern Manhattan	Imams Salihou Djabi and Souleymane Konate
Breakthrough	Immigrant Defense Project
Casa Esperanza	Immigrant Legal Resource Center
Center for Constitutional Rights	Immigration Equality
Central American Legal Assistance	Immigration Justice Clinic, Benjamin N. Cardozo School of Law
Centro Altagracia de Fe y Justicia	International Institute of Buffalo
Centro del Inmigrante	International Organization for Adolescents
Civil Rights for Immigrants Team of Alliance of Communities Transforming Syracuse	La Union
Coalition for Economic Justice, Buffalo, NY	Latin American Workers Project
Coalition for the Homeless	Long Island Immigrant Alliance
Committee Against Anti-Asian Violence	Long Island Jobs with Justice
Council of African Imams	LULAC Syracuse Chapter
Council of Peoples Organization	Make the Road New York
Council on American-Islamic Relations: New York	Migrant Support Services of Wayne County
Criminal Defense Immigration Project, New York State Defenders Association	MinKwon Center
DAMAYAN Migrant Workers Association	Muslim Consultative Network
Desis Rising Up and Moving	New Agenda for Broad Immigration Reform
Domestic Workers United	New Immigrant Community Empowerment
Ecuadorian International Center	New Sanctuary Coalition of New York City
	New York Anti-Trafficking Network
	New York Jobs with Justice
	New York Civil Liberties Union

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April 11, 2011
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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

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
Interfaith Network for
Immigration Reform
New York, NY

Diane Steinman
Co-Chair, New York State Interfaith
Network for Immigration Reform
New York, NY

Adam G L Bartholomew
Church of the Ascension
Mt. Vernon, NY

Adem Carroll
Muslim Consultative Network
New York, NY

Afton Branche
Immigration Policy Analyst
Drum Major Institute for Public
Policy
New York, NY

Sister Alice Maureen Darragh, SC
St. Peter Convent
Yonkers, NY

Alvarenga Silva
Brazilian Catholic Community
New York, NY

Ana Lourdes
Brazilian Catholic Community
New York, NY

Andrea Pastor
AJC
New York, NY

Arna Berg
New York, NY

Rev. Geo. Anthony Hoeltzel
Holy Cross Church
Yonkers, NY

Anthony M Carrozza, O.F.M.
St Francis Church & Friary
New York, NY

NYS Interfaith Network for Immigration Reform

Rev. Dr. Anthony P. Johnson The Community Church New York, NY	Belinda Luscombe All Angels Church New York, NY	Rev. Wm. Blake Rider Rector Christ Episcopal Church Poughkeepsie, NY
Cara Ryan Master's Candidate, NYU University Grad. School of Arts & Sciences Queens, NY	Carol A. Barnes SC Sisters of Charity New York, NY	Carol Barton United Methodist Women Immigrant/Civil Rights Initiative New York, NY
Carol DeAngelo, SC Ardley, NY	Rev. Dr. Carolyn L. Stapleton United Methodist Brooklyn, NY	Rev. Cass L. Shaw General Presbyter Albany Presbytery Albany, NY
Charlene Obernauer Executive Director Long Island Jobs with Justice / multi-faith Hauppauge, NY	Rev. Charles H. Strout, Jr., DMin NY Annual Conference of the United Methodist Church Brooklyn, NY	Sister Charlotte Raftery Sisters of Charity New York, NY
Charmaine Ruddock Bronx Health REACH The Institute for Family Health New York, New York	Rev. Chloe Breyer Executive Director The Interfaith Center of New York New York, NY	Sr. Claire Regan Sisters of Charity of New York New York, NY
Cyrus McGoldrick Civil Rights Manager Council on American-Islamic Relations New York, NY	Deborah C. Jenkins New York Annual Conference United Methodist Women Brooklyn, NY	Sr. Dolores M. Mitch M.M. Maryknoll Sisters Maryknoll, NY
Sr. Dorothy Metz Sisters of Charity of New York New York, NY	Rev. Douglas P. Cunningham New Day United Methodist Church Bronx, NY	Rev. Ellice Higginbotham United Church of Christ New York, NY
Sr. Elizabeth Butler Sisters of Charity of New York New York, NY	Ellen Greeley Temple Israel of Northern Westchester. Social Justice Committee (Jewish) New York, NY	Emily Klukas CBA Specialist Hands United/Manos Unidas Latino Commission on AIDS Elmhurst, Queens

NYS Interfaith Network for Immigration Reform

Rev. Erika K. Meyer Rector Church of the Good Shepherd New York City, NY	Florence Laufer Migration & Integration / Strategic Partnerships United Nations Alliance of Civilizations New York, NY	Sister Florence Mallon, SC New York, NY
Rev. Frances Twigg Rector St John's Episcopal Church, New City, NY	Gail Golden Co-Chair Rockland Immigration Coalition New City NY	Gary Wiley Grace Trinity Church New York, NY
Geraldine Hanley, SC New York, NY	Pastor Gilford T. Monroe Mt Zion Church of God (7th Day) New York, NY	Rev. Dr. Gordon AR Edwards, PhD, PsyD, LMFT, LP Sr. Pastor Calvary United Methodist Church Bronx, NY
Grace Goodman Judson Memorial Church New Sanctuary Coalition New York, NY	Sister Grace Troisl, ED.D. Bronx, NY	Rev. Hector Laporta Fourth Avenue United Methodist Church Brooklyn, NY
Rev. Herbert Miller Park Slope United Methodist Church Brooklyn, NY	Rev. Hermon Darden Pastor First United Methodist Church Mt.Vernon, NY	Hesham El-Meligy Muslim Interfaith and Community Leader Staten Island, NY
Ihana Ofgang Legal Fellow UNITED SIKHS New York, NY	Iyaloriso Oseye Mchawi Executive Director Omo Obatala Egbe, Inc. Brooklyn, NY	Jane Rubio Metro Hope New York, NY
Jane Treuhold Chair Immigration Task Force, Judson Memorial Church New York, NY	Sr. Jean Bocian SC Yonkers, NY	Sister Jean Flannelly, SC, MTS, PhD, Sisters of Charity Douglaston, New York
Rev. Jeff Wells Chairperson Board of Church and Society New York, NY	Jo Renee Fine New York, NY	Rev. John Collins Memorial United Methodist Church New York, NY
Rev. John F. Backe Fordham Lutheran Church Bronx NY	Fr. John Mendonca Our Lady of the Angelus Parish New York, NY	Father John P. Duffell Pastor The Church of the Ascension New York, NY

NYS Interfaith Network for Immigration Reform

Rev. John R. Long, DD First Presbyterian Church, Buffalo Buffalo, NY	Josefa Castro Catholic Charities Brooklyn & Queens Astoria, NY	Joyce Willis Executive Director The Havens Relief Fund Society New York, NY
Sister Judith Garson Society of the Sacred Heart New York, NY	Kate Spaulding Administrative Manager New York, NY	Rev. Dr. Katharine Henderson President, Auburn Theological Seminary New York, NY
Sr. Kathleen Aucoin Sisters of Charity of New York New York, NY	Rev. Krystin Granberg Broadway Presbyterian Church New York, NY	Laurin Raiken Associate Professor, Director Gallatin School of Individualized Study New York, NY
Lily Butler Interfaith Chaplain SCNY Bronx, NY	Rev. Linda Bartholomew Associate Rector Grace Church New York, NY	Linda Thompson Lay Leader First United Methodist Church Amityville, NY
Sr. Maggie Kelly, SC Sisters of Charity Bronx, NY	Marcia O Bent UMW St. John's UMC New York, NY	Sister Maria Iglesias Sisters of Charity of New York Nanuet, NY
Marilyn C. Wakefield Reservoir United Methodist Church West Hurley, NY	Sr. Marion Hunt Sisters of Charity of New York New York, NY	Chaplain Mark Callender Brooklyn, NY
Rev. Mark E Marsh Pastor Victoria Congregational Church Jamaica, NY	Rev. Mark C. Hallinan, SJ Society of Jesus, NY Province New York, NY	Marlene Altman AJC New York, NY
Martha Gallahue National Ethical Service New York, NY	Sr. Mary Ann Garisto Sisters of Charity of New York New York, NY	Mary Ellen Kris Lay Leader Park Avenue United Methodist Church New York, NY
Sr. Mary Ellen O'Boyle Sister of Charity of New York New York, NY	Sr. Mary Nerney Congregation of Notre Dame New York, NY	Maxine Phillips Judson Memorial Church New York, NY

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Michael Carnevale, OFM Catholic Charities of NYC New York, NY	Michael Ellick Judson Memorial Church New York, New York	Rabbi Michael Feinberg Greater New York Labor-Religion Coalition New York, NY
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Nancy Zukowski, Lake Ronkonkoma United Methodist Church New York Annual Conference, Board of Church and Society Medford, NY	Fr Nelson a belizarlo o.carm New York, NY	Rev. Noel Koestline Southold, NY
Paige Churchman Brooklyn, NY	Sister Patricia Noone Bronx, NY	Sr. Patricia Walsh Sisters of Charity of New York New York, NY
Ratan Barua President Bangladesh Hindu Buddhist Christian Unity Council Of USA New York, NY	Sister Regina Bechtle Sisters of Charity of New York Bronx, NY	Sr. Regina Murphy Sisters of Charity Bronx, NY
Sister Rita Nowatzki,SC NY, NY	Rev. Robert B. Coleman The Riverside Church New York	Robert D. Adams Unitarian Universalist Congregation at Shelter Rock Manhasset, NY
Rev. Robert Dresser, Newburgh, NY	Rev. Dr. Robert L. Brashear West-Park Presbyterian Church New York, NY	Rosemarie Pace Pax Christi Metro New York New York, NY
Rev. Elizabeth Fisher St Thomas Episcopal church Amenia Union NY	Samantha Mc Lane New York, NY	Sarah Sayeed, Ph.D. Women In Islam, Inc. New York, NY
Dr. Sheila Collins Memorial United Methodist Church New York, NY	Ibrahim Souleimane Konate Spiritual Leader of Masjid Aqsa General Secretary of The Council of African Imams Inc New York, NY	Stephen F Groth St. Barnabas Episcopal Church Ardsley, New York

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
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	Charles E. Schumer United States Senator	Kirsten Gillibrand United States Senator



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	Leticia James NYC Council Member	G. Oliver Koppell NYC Council Member
Brad Lander NYC Council Member	Stephen Levin NYC Council Member	Rosic 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.

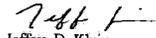
Especially at a time of increasing recognition of the terrible problems posed by S-Comm, we cannot afford to continue to let our immigrants get dragged through ICE's deportation machinery. Just last week, U.S. Congresswoman Zoe Lofgren, joined by U.S. Senator Robert Menendez, put a spotlight on the problematic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

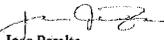
As a state that is proud of its tradition of upholding and protecting civil, immigrant, and human rights, we must stop S-Comm in New York. With 24 of our 62 counties already activated, we have no time to lose. We look forward to working with you to immediately terminate our S-Comm MOA in order to truly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

Sincerely,

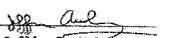

José Serrano
NYS Senate, 28th Dist.

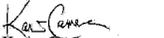

Ruben Diaz
NYS Senate, 32nd Dist.

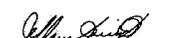

Jeffrey D. Klein
NYS Senate, 34th Dist.


Jose Peralta
NYS Senate, 13th Dist.

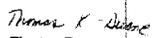

Daniel Squadron
NYS Senate, 25th Dist.

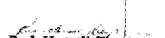

Jeffrion L. Aubry
NYS Assembly, 35th Dist.

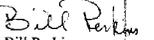

Karim Carrara
NYS Assembly, 43 Dist.


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.

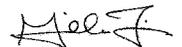

Bill Perkins
NYS Senate, 30th Dist.

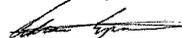

Keith L.T. Wright
NYS Assembly, 70th Dist.

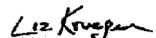

Carmen E. Arroyo
NYS Assembly, 84th Dist.


Nelson L. Castro
NYS Assembly, 36th Dist.


Deborah J. Glick
NYS Assembly, 66th Dist.

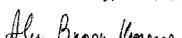

Guillermo Linares
NYS Assembly, 72nd Dist.


Adriano Espaillet
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-Kraus
NYS Assembly, 46th Dist.


Marcos Crespo
NYS Assembly, 85th Dist.


Richard N. Gottfried
NYS Assembly, 75th Dist.

Vanessa A. Gibson
Vanessa Gibson
NYS Assembly, 77th Dist.

Ellen C. Jaffee
Ellen C. Jaffee
NYS Assembly, 95th Dist.

Barbara S. Lifton
Barbara Lifton
NYS Assembly, 125th Dist.

Francisco P. Moya
Francisco P. Moya
NYS Assembly, 39th Dist.

Nick Perry
Nick Perry
NYS Assembly, 58th Dist.

Peter M. Rivera
Peter M. Rivera
NYS Assembly, 76th Dist.

Linda B. Rosenthal
Linda B. Rosenthal
NYS Assembly, 67th Dist.

William Scarborough
William Scarborough
NYS Assembly, 29th Dist.

Matthew Titone
NYS Assembly, 61st Dist.

Carl E. Heastie
Carl E. Heastie
NYS Assembly, 83rd

Hakeem Jeffries
Hakeem Jeffries
NYS Assembly, 57th Dist.

Joan L. Millman
Joan L. Millman
NYS Assembly, 52nd Dist.

Daniel O'Donnell
Daniel O'Donnell
NYS Assembly, 69th Dist.

Philip Ramos
Phil Ramos
NYS Assembly, 6th Dist.

Annette M. Robinson
Annette M. Robinson
NYS Assembly, 56th Dist.

Samuel Roberts
Samuel Roberts
NYS Assembly, 119th Dist.

Michelle Schmel
Michelle Schmel
NYS Assembly, 16th Dist.

David Weprin
David Weprin
NYS Assembly, 24th Dist.

Rhoda Jacobs
Rhoda Jacobs
NYS Assembly, 42nd Dist.

Micah Kellner
Micah Kellner
NYS Assembly, 65th Dist.

Grace Meng
Grace Meng
NYS Assembly, 22nd Dist.

Felix Ortiz
Felix Ortiz
NYS Assembly, 51st Dist.

Jose Rivera
Jose Rivera
NYS Assembly, 78th Dist.

Robert J. Rodriguez
Robert J. Rodriguez
NYS Assembly, 68th Dist.

Addie J. Russell
Addie J. Russell
NYS Assembly, 118th Dist.

Eric Stevenson
Eric Stevenson
NYS Assembly, 79th Dist.

*Original letter sent May 9, 2011

Published on *Governor Andrew M. Cuomo* (<http://www.governor.ny.gov>)

[Home](#) > [Printer-friendly](#)

Governor Cuomo Suspends Participation in Federal Secure Communities Program

(1)

Albany, NY (June 1, 2011)

Governor Andrew M. Cuomo today announced that New York State will suspend participation in the federal Secure Communities Program to review the mounting evidence that the program is not meeting its stated goal and has serious consequences for witnesses, victims of crime and law enforcement.

The goal as stated by the federal government was to deport serious felons, and, based on evidence to date, it appears the program in New York is failing in this regard and is actually undermining law enforcement. Because of similar concerns, the Inspector General of the U.S. Department of Homeland Security (DHS) is investigating the program.

"There are concerns about the implementation of the program as well as its impact on families, immigrant communities and law enforcement in New York," Governor Cuomo said. "As a result, New York is suspending its participation in the program."

In a letter to DHS, Governor Cuomo's administration stated that information produced thus far has called into question – at both the federal and state levels – the implementation and intended effect of the Secure Communities program.

Governor Cuomo's office has also received complaints stating that the goals of the program were not being met. The questions raised are further aggravated by inconsistent statements by DHS and a failure to disclose basic information about the program.

Congressman Jose E. Serrano said, "Governor Cuomo has taken a brave and necessary step in suspending New York State's participation in the flawed 'Secure Communities' program, and he deserves great praise. He is firmly in line with our state's pro-immigrant tradition and on behalf of the immigrants and their friends in our community, I would like to thank him. Having New York

State pull back from this unfair and aggressive program should be a wake-up call to the Department of Homeland Security. It is time to end this program and I am glad my home state will no longer take part."

Congresswoman Nydia M. Velázquez said, "I thank Governor Cuomo for showing the leadership and foresight to suspend this misguided program, which does not reflect New York's long history as a welcoming home for newly arrived immigrants. The Secure Communities initiative does not make our nation safer, but inhibits cooperation with law enforcement and violates immigrants' due process rights."

Derek P. Champagne, Franklin County District Attorney and President of the District Attorneys Association of the State of New York (DAASNY), said, "By suspending the state's participation in this program until a comprehensive review is complete, the Governor is sending a strong message that the law enforcement tools we utilize must be clearly communicated, evenly applied and effective. We will continue to use the effective tools that have been in place for many years to ensure that we are identifying and preventing any risk to public safety."

Janet DiFiore, Westchester County District Attorney, said, "I support Governor Cuomo's decision to take New York State out of the Secure Communities Program in light of reports of the unintended consequences by its implementation. I remain confident that law enforcement throughout the state presently has sufficient tools at its disposal to continue to safeguard and protect all New Yorkers."

State Senator Adriano Espaillat, Chair of the Latino Caucus of the Senate, said, "Governor Cuomo's decision to end the so-called Secure Communities program in New York will restore rights and justice to countless immigrants across the state. We must enact policies and reforms that bolster our diverse population, not penalize it by instilling a sense of fear of wrongful deportation in our neighborhoods."

State Senator Gustavo Rivera, Vice Chair of the Latino Caucus of the Senate, said, "I applaud Governor Cuomo for having the courage to put an end to this program's existence in New York. The Secure Communities program has frightened victims and witnesses of crime from coming forward. We need to make our neighborhoods safe places for our families and not take part in a problematic and contradictory program that hinders our safety."

Assemblyman Felix Ortiz, Chair of the Puerto Rican/Hispanic Task Force, said, "The Secure Communities program has done the opposite of what it was supposed to do, and Governor Cuomo is right in removing our state from the program. While we continue to work to find ways to make it safer for victims and witnesses of crime to come forward and be a part of the process to save our communities, we must not let our state be part of an experiment that puts innocent

people at risk."

Thomas H. Mungeer, President of the New York State Police Benevolent Association, said, "We support Governor Cuomo's action today in suspending Secure Communities until the numerous questions, including a federal Inspector General's investigation, can be resolved. Police rely upon a partnership with the communities that they serve to ensure the public safety of us all. The questions that have surrounded the implementation of Secure Communities drives a wedge between law enforcement and the people they are sworn to protect. We are confident that the procedures we currently use and the strong relationships we currently have with federal, state and local authorities will ensure that we can keep our communities safe while also maintaining our relationship of trust."

John Poklemba, Counsel to the New York State Association of Chiefs of Police, said, "Governor Cuomo has made the right decision to take New York State out of the controversial Secure Communities program. This program unfortunately has had a negative impact on our crime-fighting efforts. Law enforcement must have tools and resources that are both effective and fair."

Jack Maher, Sheriff of Rensselaer County and President of the New York State Sheriffs Association, said, "Every day, law enforcement officers put their lives on the line to rid our neighborhoods of crime, and we do it with the cooperation of the law-abiding public. This program was intended to make communities safer and stronger, but many people question whether this program has really accomplished its objectives. Governor Cuomo is right to remove our state from this program until all concerns are addressed."

Clinton County Sheriff David Favro said, "Governor Cuomo's decision to freeze the Secure Communities program until the questions that have been raised about its implementation can be settled, is a wise one. While we are sworn to keep our communities safe, that cannot come at the price of their trust. Our strong current partnerships with federal law enforcement and long-standing operations in this state will ensure that we continue to communicate effectively to identify undocumented immigrants in our county jails and take appropriate actions."

Chautauqua County Sheriff Joseph Gerace said, "We support Governor Cuomo's action today in suspending Secure Communities until the numerous questions, including a federal Inspector General's investigation, can be resolved. Sheriff departments rely upon a partnership with the communities that they serve to ensure public safety for us all. The questions that have surrounded the implementation of Secure Communities jeopardizes that relationship. We are confident that the procedures we currently use and the strong relationship we currently have with federal, state and local authorities will ensure that we can keep our communities safe while also maintaining our relationship of trust."

Steven Krokoff, Chief of the Albany Police Department said, "In light of the confusion

surrounding this program and the pending Inspector General's review, the Governor's decision to freeze this program until the federal review is complete is appropriate. The procedures we currently use will ensure the safety of neighborhoods across the state while at the same time encouraging individuals in all communities to come forward to report crimes."

Donna Lieberman, Executive Director of the New York Civil Liberties Union, said, "We applaud Governor Cuomo for taking the bold step of removing New York State from the Secure Communities initiative, which, despite its name, has become a sore subject for those who work day and night to make our neighborhoods safer. We need to ensure that vulnerable populations are protected, and the decision to remove our state from this program is a positive move for all New Yorkers."

Chung-Wha Hong, Executive Director of the New York Immigration Coalition, said, "For centuries, families have gone to great lengths to come to this great nation, and we owe it to ourselves and our neighbors to make sure the law is on their side. Unfortunately, the Secure Communities program has failed to provide protections to many individuals. Governor Cuomo's decision to remove New York from the program is a right one, and we look forward to working with him to make our state safe for all residents."

A copy of the letter sent to DHS can be found at: <http://www.governor.ny.gov/assets/Secure%20Communities.pdf> [2].

Source URL: <http://www.governor.ny.gov/press/06012011FederalSecureCommunitiesProgram>

Links:

[1] <http://www.governor.ny.gov/>

[2] [http://www.governor.ny.gov/assets/Secure Communities.pdf](http://www.governor.ny.gov/assets/Secure%20Communities.pdf)

FOR IMMEDIATE RELEASE:
June 1, 2011

CONTACTS:
Tiloma Jayasinghe 917-669-0696
Cecilia Gaston 212-410-9080
Mizue Atzeki 914-471-2775

Domestic Violence and Trafficking Advocates Applaud Governor Cuomo for Protecting Families by Ending "Secure Communities" in New York

New York, NY -- Advocates for immigrant women who have survived domestic violence or human trafficking are encouraged by Governor Andrew Cuomo's announcement today that New York State is suspending New York's participation in a controversial deportation program known as "Secure Communities" (S-Comm). Under the program, the fingerprints of every person booked by the police are checked against Department of Homeland Security databases for immigration violations. The program has been facing increasing national criticism from political leaders, as these past few weeks Illinois Governor Pat Quinn withdrew the state's participation and the Congressional Hispanic Caucus called on President Obama to freeze the program immediately stating it may "endanger the public." These voices join the growing number of organizations that have been working to halt ICE's mass deportation agenda and to bring attention to how S-Comm fuels racial profiling, mistrust in police, and unfair deportations.

On May 9, a dozen organizations that provide services for thousands of survivors of domestic violence or human trafficking sent a letter to Governor Cuomo explaining how S-Comm would make New Yorkers less secure and undermine the decades of work advocates have done to increase protections for these survivors. These organizations took the opportunity to alert the Governor that, by participating in S-Comm, New York is helping to perpetuate the cycle of abuse against victims of domestic violence and human trafficking by giving abusers and traffickers yet another way to control their victims.

S-Comm would foster increased fear of police. Abusers and traffickers often threaten their victims with false arrests and deportation, and S-Comm would effectuate this threat. Advocates also argue that the program endangers New Yorkers by deterring immigrant community members from participating in police investigations, particularly in domestic violence situations where the arrest of both parties is a common occurrence. Even wrongful arrests can lead to detention and deportation under Secure Communities—as reports have shown has happened to women under S-Comm in Florida, Maryland and California. "Secure Communities jeopardizes not just the fundamental human rights of the immigrant women we serve, but the resilience and vitality of the community they reside in" said Tiloma Jayasinghe, Executive Director of Sakhi for South Asian Women. "It prevents people facing domestic violence from reaching out for help from the police, even if they are being severely abused for fear that they or their family will be punished. As advocates, we know that any perceived cooperation between immigration and local law enforcement has a chilling effect on what is already an underreported crime. The Governor's stand will allow us to continue our efforts toward effective community policing to protect the people we serve."

In addition to the possibility of their own deportation, people whose partners have been deported face a heavy economic and emotional toll in trying to keep their families together. In order to keep a partner out of an unjust deportation system, many victims of domestic violence will allow abuse to escalate. According to Cecilia Gastón, Executive Director of Violence Intervention Program, Inc., "For our women victims of domestic violence throughout the state, Secure Communities is a huge deterrent to seeking help. We should not allow the threat of deportation to stand in the way of our families' safety. The Governor has taken a significant step to recognize the damage S-Comm would cause to all our communities."

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November 30, 2011

The Honorable Zoe Lofgren
Ranking Member, Subcommittee on Immigration Policy and Enforcement
U.S. House of Representatives

Dear Representative Lofgren:

As California's statewide coalition of domestic violence shelters and service providers, the California Partnership to End Domestic Violence is concerned about the effect Secure Communities (SComm) is having on the immigrant women and children we help. Programs such as Secure Communities that have been implemented by the U.S. Immigration and Customs Enforcement (ICE) over the past few years have resulted in the unprecedented entanglement of the state and local criminal justice systems with federal immigration enforcement. As a result, many of the immigrant domestic violence and sexual assault survivors we now see are too afraid to report the crimes they've suffered to law enforcement and many others are too afraid to even seek services. Despite the Administration's efforts to ameliorate this problem through an ICE memorandum on prosecutorial discretion, it is not clear how effectively these goals are being implemented and the fears of accessing safety and justice for victims of crime are growing, not diminishing.

The Partnership is the statewide coalition providing a united voice on legislation and budgetary initiatives for California's domestic violence shelters, service providers and advocates. We believe that by sharing expertise, advocates and legislators can work together to end domestic violence.

Research shows that perpetrators often use immigration status as a tool of power and control over their victims. Like other victims of domestic violence and sexual assault, immigrant survivors should be able to trust their local police to help them when they report crimes. SComm, however, has eliminated that trust when local police are viewed instead as a branch of federal immigration enforcement. Numerous stories and media articles have demonstrated how public safety is undermined when a victim of domestic violence or sexual assault calls the police for help and subsequently finds that she has been arrested and placed in deportation proceedings.

Dual arrests unfortunately occur frequently in domestic violence cases involving immigrants, particularly if the victim has limited English proficiency. In such cases, even if prosecutors move forward in only prosecuting the abuser and the victim is later released without charges, under SComm the victim may find that she has an ICE detainer and has been put in deportation proceedings nonetheless, as has happened in numerous occasions.

Although Secure Communities purports to target and remove only serious criminal offenders, the reality is that many people who are arrested and subjected to this program are not dangerous criminals, and include victims of domestic violence and sexual assault who are wrongfully arrested or are arrested for minor violations that come to light when they seek help. Not only does this have a detrimental impact on the survivor and her children but, as word spreads, such incidents undermine community policing and result in silencing other victims who are too afraid to seek help.

Although we appreciate ICE's efforts to try to identify and triage out domestic violence and sexual assault survivors, immigrant crime survivors are even less likely to trust ICE, the agency charged with deporting them and their families. If survivors of crime must rely on ICE to identify them, our local criminal justice systems are failing in their responsibility to uphold public safety.

This is not just a problem for immigrant victims and for those of us who work with them. Those who harm immigrant women and children know that SComm is an effective tool for instilling fear and coercing silence. When whole communities fear participating in our justice system this undermines public safety for everyone and makes our communities less secure.

Local and state law enforcement agencies must be allowed to choose not to participate in SComm until these problems are solved. Moreover, we encourage you and the Administration to find ways other than SComm to achieve your goals without eroding our society's commitment to protecting the safety of all victims of crime and our communities at large.

Thank you for considering our comments.

Sincerely,



Tara Shabazz
Executive Director
California Partnership to End Domestic Violence



November 30, 2011

Dear Members of the House Judiciary Committee:

As an organization that serves domestic violence survivors, HAWC is concerned about the effect Secure Communities (SComm) is having on the immigrant women and children we help. Programs such as Secure Communities that have been implemented by the U.S. Immigration and Customs Enforcement (ICE) over the past few years have resulted in the unprecedented entanglement of the state and local criminal justice systems with federal immigration enforcement. As a result, many of the immigrant domestic violence and sexual assault survivors we now see are too afraid to report the crimes they've suffered to law enforcement and many others are too afraid to even seek services. Despite the Administration's efforts to ameliorate this problem through an ICE memorandum on prosecutorial discretion, it is not clear how effectively these goals are being implemented and the fears of accessing safety and justice for victims of crime are growing, not diminishing.

HAWC provides services and support to survivors of domestic violence residing in the 23 cities and towns on the North Shore in order that they may make informed, independent decisions about their futures.

Research shows that perpetrators often use immigration status as a tool of power and control over their victims. Like other victims of domestic violence and sexual assault, immigrant survivors should be able to trust their local police to help them when they report crimes. SComm, however, has eliminated that trust when local police are viewed instead as a branch of federal immigration enforcement. Numerous stories and media articles have demonstrated how public safety is undermined when a victim of domestic violence or sexual assault calls the police for help and subsequently finds that she has been arrested and placed in deportation proceedings.

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Thank you for considering our comments.

Sincerely,

Jessie Ballantine
Cape Ann Program Coordinator
HAWC

The Honorable Elton Gallegly
Chair, Subcommittee on Immigration Policy and Enforcement
U.S. House of Representatives

The Honorable Zoe Lofgren
Ranking Member, Subcommittee on Immigration Policy and Enforcement
U.S. House of Representatives

November 30, 2011

As organizations that serve domestic violence and sexual assault survivors, we are concerned about the effect Secure Communities (SComm) is having on the immigrant survivors and their children we help. Programs such as Secure Communities that have been implemented by the U.S. Immigration and Customs Enforcement (ICE) over the past few years have resulted in the unprecedented entanglement of the state and local criminal justice systems with federal immigration enforcement. As a result, many of the immigrant domestic violence and sexual assault survivors we now see are too afraid to report the crimes they've suffered to law enforcement and many others are too afraid to even seek services. Despite the Administration's efforts to ameliorate this problem through an ICE memorandum on prosecutorial discretion, it is not clear how effectively these goals are being implemented and the fears of accessing safety and justice for victims of crime are growing, not diminishing.

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For instance, dual arrests unfortunately occur frequently in domestic violence cases involving immigrants, particularly if the victim has limited English proficiency. In such cases, even if prosecutors move forward in only prosecuting the abuser and the victim is later released without charges, under SComm the victim may find that she has an ICE detainer and has been put in deportation proceedings nonetheless, as has happened in numerous occasions.

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Thank you for considering our comments.

Sincerely,

National Organizations

Advocates for Human Rights
 Arte Sana
 ASISTA Immigration Assistance
 Battered Women's Legal Advocacy Project
 Break the Cycle
 Casa de Esperanza: National Latin@ Network for Healthy Families and Communities
 Dialogue on Diversity
 Institute on Domestic Violence in the African American Community
 National Center for Victims of Crime
 National Clearinghouse for the Defense of Battered Women
 National Coalition of Anti-Violence Programs
 National Latina Alliance against Sexual Violence
 National Network to End Domestic Violence
 National Organization of Sisters of Color Ending Sexual Assault
 National Resource Center on Domestic Violence
 Victim Rights Law Center
 Women of Color Network

State Organizations

California Partnership to End Domestic Violence
DC Coalition Against Domestic Violence
Illinois Coalition Against Domestic Violence
Immigrant Law Center of Minnesota
Immigrant Legal Advocacy Project, Maine
Iowa Coalition Against Domestic Violence
Jane Doe Inc. (Massachusetts Coalition Against Sexual Assault & Domestic Violence)
Kansas Coalition Against Sexual and Domestic Violence
Michigan Coalition Against Domestic and Sexual Violence
Minnesota Coalition Against Sexual Assault
New Jersey Coalition for Battered Women
North Carolina Coalition Against Domestic Violence
Ohio Domestic Violence Network
Pennsylvania Coalition Against Domestic
Tennessee Coalition to End Domestic and Sexual Violence
Virginia Sexual and Domestic Violence Action Alliance
Wyoming Coalition Against Domestic Violence and Sexual Assault

Local Organizations

Caminar Latino, Atlanta, Georgia
Catholic Charities of Dallas, Immigration and Legal Services
Community-University Health Care Center, Minneapolis, Minnesota
Florida Coastal School of Law Immigrant Rights Clinic
Hispanic Resource Center, Mamaroneck, NY
Legal Aid Society of Minneapolis, Minnesota
Mid Shore Council on Family Violence, Maryland
Social Justice Center, Albany, NY
WESPAC Foundation, Westchester County, NY

November 30, 2011

The Honorable Elton Gallegly
Chair, Subcommittee on Immigration Policy and Enforcement
U.S. House of Representatives
2309 Rayburn House Office Building
Washington, DC 20515-0523

The Honorable Zoe Lofgren
Ranking Member, Subcommittee on Immigration Policy and Enforcement
U.S. House of Representatives
1401 Longworth House Office Building
Washington, DC 20515-0523

Dear Honorable Elton Gallegly and Honorable Zoe Lofgren:

As a coalition of organizations in New York State dedicated to working with survivors of domestic/intimate partner violence, family violence, human trafficking, sexual assault, other forms of gender-based, homophobic and transphobic violence, and discrimination against individuals living with HIV, we are extremely concerned about the effect that programs like Secure Communities (S-Comm) will have on the immigrant survivors we serve. The unprecedented entanglement of state and local criminal justice systems with federal deportation programs like S-Comm completely undermines community safety by making non-citizen survivors of violence and other crimes afraid of the very people entrusted to protect them. As home to one of the most diverse and vibrant immigrant communities in the country, New Yorkers still struggle every day with improving our community policing relationships and increasing access to justice and safety for all non-citizen survivors. S-Comm stands to erode the substantial progress that anti-violence advocates have made towards this end.

We are acutely aware of the devastating impact that S-Comm is having on immigrants throughout the country. We are disheartened when we hear that anti-immigrant legislation in states like Alabama, Georgia and Arizona has made immigrant survivors afraid of accessing even the most basic services. Because S-Comm clearly jeopardizes the possibility for meaningful progress in our communities' relationships with local law enforcement, we stand in solidarity with Governor Cuomo's courageous decision earlier this year to suspend New York State's participation in this fatally flawed program.

S-Comm works numerous injustices in the communities we serve and helps perpetuate rather than prevent violence. Sexual assault, domestic/intimate partner violence, human trafficking, homophobic and transphobic violence are already underreported crimes. S-Comm's adverse impact on reporting cannot be understated and underscores how this program pushes survivors deeper into the shadows and creates a culture of fear. In New York, as in many other states, dual

and mandatory arrests are quite common in cases where intimate partner violence exists. This is especially so for immigrant victims of violence who often live in linguistic, social and cultural isolation. Batterers often threaten immigrant survivors with arrest and deportation and are particularly adept at using the criminal justice system as a tool to reinforce their power and control. We also routinely hear reports of survivors who are not provided with interpretation when interfacing with law enforcement and who are improperly arrested as a result or are unable to report their victimization. S-Comm thereby adds teeth to a batterer's threat and places survivors at increased risk of further violence and deportation. Even if the criminal charges against survivors are eventually dismissed, S-Comm ensures that they face deportation, detention, and indefinite separation from their children, families, and communities.

This is highly problematic when batterers already routinely intimidate survivors by threatening to take their children away from them. Non-citizen survivors of violence with children face the very real threat of being separated from them especially when they are subjected to immigration detention. "Shattered Families," a recent report published by the Applied Research Center (ARC), highlights the numerous problems encountered by families when immigration enforcement and the child welfare system intersect.¹ Detained non-citizen parents whose batterers have initiated custody proceedings against them or whose children are in the custody of child protective services often face insurmountable barriers in family reunification as they neither have the ability to appear in court or comply with child protective service reunification plans. S-Comm will only exacerbate these concerns and even more children, citizens and non-citizens alike, will face forced separation from their parents.

We also still have substantial concerns regarding the disproportional negative impact S-Comm will have on non-citizen Lesbian, Gay, Bisexual, Transgender, Queer and HIV affected (LGBTQH) immigrants and survivors. According to a 2010 report published by the National Coalition of Anti-Violence Programs (NCAVP), there was a substantial increase in the severity of intimate partner violence in LGBTQH communities coupled with a marked decrease in the willingness of LGBTQH survivors to reach out to local law enforcement for assistance.² LGBTQH individuals still face enormous obstacles in obtaining competent assistance from local law enforcement and in seeking orders of protection now available to them through the 2008 New York Access to Family Court Bill.³ LGBTQH immigrants of color are at increased risk for negative encounters with local law enforcement in our state and elsewhere because of police profiling, selective enforcement, and discrimination. We have a long way to go in New York to improve access to justice and appropriate services for LGBTQH survivors and S-Comm impedes our ability to move forward with this important work.

In jurisdictions where S-Comm has already been implemented, all non-citizen survivors are faced with an increased risk of ending up with an U.S. Immigration and Customs Enforcement (ICE) detainer lodged against them and in deportation proceedings, sending the chilling message to survivors everywhere that reporting leads to deportation. S-Comm undermines survivors' safety by removing them from familial and community support networks that are so essential to

¹ Applied Research Center, *Shattered Families, The Perilous Intersection of Immigration Enforcement and the Child Welfare System. Executive Summary* (2011), available at <http://arc.org/shatteredfamilies>.

² National Coalition of Anti-Violence Programs, *Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Intimate Partner Violence* (2010), available at <http://www.avp.org/documents/IPVReportFull-web.pdf>.

³ L.2008, c. 326, eff. Jul. 21, 2008; N.Y. Fam. Ct. § 812(1)(e).

their survival. We are concerned about the increasing prospect of funneling survivors into a broken detention system where they are vulnerable to harassment, sexual assault, lack of access to adequate medical care and other human rights violations which amplify the abuse they have already experienced. Many LGBTQH and other survivors of violence have fled to the United States due to gender-based and homophobic and transphobic violence in their home countries and the failure of their governments to meaningfully protect them.

Survivors of human trafficking are also at an increased risk for violence because of programs like S-Comm. New York State, especially New York City, is a destination for trafficked persons from all over the world who are forced into various labor sectors, such as restaurant, domestic and commercial sex work or prostitution. Trafficked persons are often unwilling and afraid to come forward. Because they are also unfamiliar with the U.S. legal system, they often do not self-identify as trafficking survivors and are even unaware that trafficking is a crime and a human rights violation. A trafficking survivor is more often than not arrested while a trafficker remains at large signaling the continued shortcomings of local law enforcement in meaningfully promoting efforts to identify and protect them. These arrests often trigger the mandatory detention of the trafficking survivor who then faces an uphill battle like other victims of violence in securing adequate legal representation and navigating through a deportation system that offers few options and remains fraught with due process violations.

We have serious concerns with the Administration and ICE's attempts at using prosecutorial discretion to triage victims who are in deportation proceedings. The reality is that immigrant crime survivors are highly unlikely to trust ICE, the agency charged with deporting them and their families. For this reason, ICE agents and staff are not appropriately positioned to make determinations about who is a victim and possibly qualifies for immigration relief. ICE's prosecutorial discretion memos in our experience have still not significantly shifted the agency's response here in New York, especially where survivors have convictions. We know that these are often the most victimized and marginalized survivors but that they are the least likely to benefit from the prosecutorial discretion memo. More importantly, non-citizen survivors' access to justice and safety in New York should not rest solely on ICE's prosecutorial discretion let alone in places where anti-immigrant and anti-LGBTQH bias is even more pervasive.

As anti-violence advocates, we understand the complex dynamics of unsafe relationships. To truly have secure communities, we need to ensure that immigrants including non-citizen survivors do not equate local law enforcement with deportation. Doing so helps us build rather than erode the trust that is so essential in encouraging survivors to come forward and end the cycle of abuse. Nothing short of a termination of S-Comm will protect the safety and integrity of our communities. The lives of the survivors we work with depend on it.

We thank the members of the House Judiciary Committee for its serious consideration of our communities' concerns.

Sincerely,

Barrier Free Living, Inc.

Breakthrough

Community Healthcare Network
Garden of Hope
Good Shepherd Services, Safe Homes Project
Empire Justice Center
Korean American Family Service Center
inMotion
Latino Commission on AIDS
LatinoJustice-PRLDEF, Latinas at Work Project (LAW)
The Legal Project
The Legal Aid Society
Long Island Immigrant Alliance
Long Island Teachers for Human Rights
Neighbors in Support of Immigrants
New York City Anti-Violence Project
Safe Horizon
Sakhi for South Asian Women
Sanctuary for Families
SEPA Mujer
Streetwise and Safe
Turning Point for Women and Families, New York
New York Anti-Trafficking Network
New York Asian Women's Center
Violence Intervention Program, Inc.
Voces Latinas

**New York State
Interfaith Network for
Immigration Reform**

Co-Chairs:
Jocilia Castro
Catholic Churches, Diocese of Brooklyn and Queens

Rev. Michael Fillick
Judson Memorial Church

Director:
Dr. Diane Steinman

Steering Committee:

F. Adem Carroll
Muslim Traditionalist-Progressive Alliance

Jacki DiSposito
New York Immigration Coalition

Rabbi Michael Feinberg
Greater New York Labor-Religion Coalition

Ellen Greeley
Interfaith Center of New York

Rev. Mark Hillman, S.J.
*St. Mary of the Assumption and
Our Lady of Carmel*

Minister Patricia Malcolm
Churches United to Save and Heal

Daisy Palmieri
The Hudson Valley Community Coalition

Annie Rawlings, M. Div.
Interfaith Center of New York

Dr. Sarah Sayeed
Interfaith Center of New York

Michael Schmidt
AIC, New York

Rev. Gary Wiley
Trinity Grace Church

**In partnership with
The New York Immigration Coalition
The Hudson Valley Community Coalition*

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

On behalf of the New York State Interfaith Network for Immigration Reform, a Network of more than 100 diverse faith community leaders throughout the state, we are writing to express our opposition to the Secure Communities program (S-Comm).

In our view, S-Comm undermines, rather than enhances, public safety and security, defeating the very purpose it is intended to serve. There is ample evidence that concerns in immigrant communities about local police enforcement of federal immigration law are preventing victims and witnesses of crime from reporting offenses, endangering vulnerable members of our communities and the communities themselves.

Moreover, S-Comm makes America less fair and just by creating an incentive for participating state and local law enforcement agents to engage in racial and ethnic profiling and racially biased policing. In addition, the singling out of immigrants as lawbreakers has fanned the flames of bigotry, too often resulting in bias incidents and hate crimes against immigrants.

On these grounds, the Interfaith Network urged Governor Cuomo to terminate New York State's participation in S-Comm, and strongly opposes its implementation in our state.

To ensure the safety of our communities and the protection of human and civil rights, we urge that:

- Congress pass the End Racial Profiling Act, thus banning profiling based on race, religion ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for S-Comm until and unless effective protections are put in place to prevent racial profiling.
- The Subcommittee urge DHS to end S-Comm in jurisdictions that have chosen to opt out of the program.

Thank you for your consideration.

Very truly yours,
Dr. Diane Steinman
Director, The New York State Interfaith Network for Immigration Reform



Statement of the National Immigration Law Center

Hearing on November 30, 2011

"Is Secure Communities Keeping Our Communities Secure?"

Submitted to the Subcommittee on Immigration Policy and Enforcement
of the Committee on the Judiciary of the U.S. House of Representatives

Submitted by Don Lyster, Director, DC Office

Since 1979, the National Immigration Law Center (NILC) has been dedicated to defending and advancing the rights of low-income immigrants and their family members. Over the past 30 years, NILC has earned a national reputation as a leading expert on immigration, public benefits, and employment laws affecting immigrants and refugees. Our extensive knowledge of the complex interplay between immigrants' legal status and their rights under U.S. laws is an essential resource for legal aid programs, community groups, and social service agencies across the country.

Secure Communities Is Not Targeting People Who Endanger Public Safety

The Secure Communities Program was launched in October 2008 and was touted as a program intended to target "the worst of the worst,"¹ convicted, criminal aliens. Details about the operation of the Program, like those of many other ICE programs, were cloaked in secrecy. According to the Homeland Security appropriations bill initially authorizing funds for the Program, its purpose was "to identify aliens convicted of a crime, sentenced to imprisonment, and who may be deportable, and remove them from the United States *once they are judged deportable*."² In actuality, the Program sweeps up anyone who has contact with the police. For example, deportation proceedings were triggered for a Los Angeles area resident who called 911 to protect herself from her abusive boyfriend.³

Early criticisms of the Program have proven well-founded: the Program gives police an incentive to arrest perceived immigrants because the police know that immigration status will be checked at the jailhouse; the Program discourages victims and witnesses from calling the police out of fear that their own immigration status will be challenged; and the Program could never meet its stated goal of prioritizing "the most dangerous and violent offenders"⁴ for deportation by using a pre-conviction fingerprinting model.

Data about the Secure Communities Program's performance and effects has been sparse, and ICE's use of the data obfuscates the Program's true nature.⁵ In both its data and promotion of the Program, ICE has shifted use of the term "criminal alien" from meaning a convicted and deportable immigrant to encompassing perceived immigrants, regardless of whether the person in question has committed any crime, whether the person has been convicted of a crime, or even whether the person is deportable. Through a Freedom of Information Act (FOIA) lawsuit filed by the Center for Constitutional Rights, the Cardozo School of Law, and the National Day Laborer Organizing Network, DHS has recently been forced to release more data relating to the Program. The FOIA data shows that since the Secure Communities Program's inception, nearly 74% of individuals deported through the Program were either

¹ *ICE Fiscal Year 2008 Annual Report* at 5, <http://www.ice.gov/doclib/news/library/reports/annual-report/2008annual-report.pdf> (last visited May 9, 2011).

² FY 2008 DHS Approps, Pub. L. No. 110-161 [*emphasis added*].

³ See Matt Coker, "Battered Woman Facing Deportation, Embodies Problems with ICE Program" (OC Weekly, May 13, 2011) http://blogs.ocweekly.com/travelazing/2011/05/saura_garcia_battered_secure.php (last visited November 28, 2011).

⁴ *Secure Communities: A Modernized Approach to Identifying and Removing Criminal Aliens*, (ICE Jan. 2010), <http://www.ice.gov/doclib/secure-communities/pdf/sc-brochure.pdf> (last visited May 9, 2011).

⁵ See Lena Graber, "How ICE misleads on the Secure Communities program" (Washington Post, May 9, 2011) http://www.washingtonpost.com/opinions/how-ice-misleads-on-the-secure-communities-program/2011/05/06/AEJ08UC_story.html (last visited May 9, 2011).

noncriminals or were picked up based on allegations of low-level offenses.⁶ The Program's stated priority of targeting the most dangerous and violent criminals is not being met,⁷ yet DHS continues to roll-out the Program at breakneck speed. The Program is currently activated in over 1,500 jurisdictions in at least 42 states, with nationwide implementation expected by 2013.

DHS Has Not Addressed Concerns About Civil Rights Abuses

Despite the plethora of government and nongovernmental reports damning the 287(g) program for similar and related flaws,⁸ not until March 2011 did DHS give a nod to oversight of the Secure Communities Program, and the nod was weak. During a March 18, 2011 meeting with White House staff at which advocates expressed the same grave concerns they had been voicing about the Secure Communities Program for years, DHS Secretary Janet Napolitano announced that DHS Officer for Civil Rights and Civil Liberties (CRCL) Margo Schlanger would make recommendations on the Program's oversight. Ten days later, Ms. Schlanger gathered advocacy groups and announced five civil rights concerns relating to the Program. Advocacy groups, including NILC, were invited to provide input to these five oversight recommendations. Given the advocacy community's longstanding criticism and repeated pleas that the Program be scrutinized prior to widespread implementation, the untimely request for recommendations showed a lack of understanding of the breadth of flaws associated with the Program. In a letter signed by a dozen civil and immigrant rights organizations, NILC asked CRCL to support a recommendation that ICE halt implementation of the Secure Communities Program until meaningful changes addressing the

⁶ ICE IDENT/IAFIS Interoperability Statistics: Monthly Statistics through February 28, 2011, http://uncovershadow.org/wp-content/uploads/nationwide_interoperability_stats-02011-feb28-1.pdf (last visited May 9, 2011).

⁷ See "How ICE misleads", *supra* note 12.

⁸ *The Performance of 287(g) Agreements*, OIG-10-63 (Dept. of Homeland Security Office of Inspector General, Mar. 2010), www.dhs.gov/xoig/assets/mgmt/mis/OIG_10-63_Mar10.pdf (last visited May 9, 2011); *The Performance of 287(g) Agreements Report Update*, OIG-10-124 (Dept. of Homeland Security Office of Inspector General, Sept. 2010), http://www.dhs.gov/xoig/assets/mgmt/mis/OIG_10-124_Sep10.pdf (last visited May 9, 2011); Randy Capps, Marc R. Rosenblum, Cristina Rodriguez, and Muzaffar Chishti, *Delegation and Divergence: A Study of 287(g) State and Local Immigration Enforcement* (Migration Policy Institute, Jan. 2011), <http://www.migrationpolicy.org/pubs/287g-divergence.pdf> (last visited May 9, 2011); *Terror and Isolation in Cobb: How Unchecked Police Power under 287(g) Has Torn Families Apart and Threatened Public Safety* (American Civil Liberties Union of Georgia, Oct. 2009), <http://www.aclu.org/287gReport.pdf> (last visited May 9, 2011); *Immigration Enforcement: Better Controls Needed over Program Authorizing State and Local Enforcement of Federal Immigration Laws* (Government Accountability Office, GAO-09-109, Jan. 2009), www.gao.gov/new.items/d09109.pdf (last visited May 9, 2011); Aarti Shahani and Judith Greene, *Local Democracy on Ice: Why State and Local Governments Have No Business in Federal Immigration Law Enforcement* (Justice Strategies, Feb. 2009) <http://www.justicestrategies.org/sites/default/files/US-Democracy-On-Ice-print.pdf> (last visited May 9, 2011); *The Policies and Politics of Local Immigration Enforcement Laws* (American Civil Liberties Union of North Carolina Foundation and Immigration & Human Rights Policy Clinic, University of North Carolina, Feb. 2009) <http://www.law.unc.edu/documents/clinicalprograms/287gpolicyreview.pdf> (last visited May 9, 2011); *The Persistence of Racial Profiling in Gwinnett: Time for Transparency, Accountability, and an End to 287(g)* (American Civil Liberties Union of Georgia, March 2010), <http://www.aclu.org/Gwinnet/RacialReportFinal1.pdf> (last visited May 9, 2011); Mai Thi Nguyen and Hannah Gill, *The 287(g) Program: The Costs and Consequences of Local Immigration Enforcement in North Carolina Communities* (The University of North Carolina at Chapel Hill, Feb. 2010) http://sa.unc.edu/immigration/287g_report_final.pdf (last visited May 9, 2011).

Program's numerous flaws could be made.⁹ NILC received no response to its letter.

Advocacy groups like NILC are not alone in criticizing the Program. The controversial program has sparked outcry among immigrant and law enforcement communities across the country. In response to the criticism, the DHS Office of Inspector General (OIG) is currently conducting its own review of the program.

DHS also formed an Advisory Council Task Force to review the Program. The Task Force released a report in September 2011 that unsurprisingly outlined the Program's detractions and identified a few substantive recommendations that would reduce the number of people caught in Secure Communities' dragnet. However, the report failed to make the crucial call to terminate the program, prompting several of the Task Force's members to resign rather than add their names to an incomplete report and endorse DHS's repeated attempts to tinker with the a program that is beyond repair. Since the report's release, DHS has not made any significant change to the Secure Communities Program or announced any intention to implement the task force recommendations.¹⁰

Secure Communities is Making Communities Less Safe and Diverts Resources Away from Enforcement Priorities

The Secure Communities Program changes traditional cooperation between police and federal immigration enforcement by robbing local police of their wisdom in protecting their communities. The Program functions as a dragnet, sweeping up victims of domestic violence, witnesses to crimes, hard-working parents of citizen children who are driving their children to school, and churchgoers. The result of the Program is that all of our communities are less safe. Criminals go free when witnesses and victims are too scared to call the police out of fear their fingerprints will be checked. This has led a number of law enforcement leaders across the country to publicly denounce the program. According to Ron Hampton, President of Black Law Enforcement in America:

Immigration and Customs Enforcement's (ICE) "Secure Communities" program is incompatible with community policing... Local law enforcement's mission is to keep communities safe. The federal government should not coerce local law enforcement to do the federal government's job at a time of scarce resources, and certainly not at the cost of public safety.¹¹

Moreover, the Secure Communities Program is burdensome and costly for police departments. ICE insists that law enforcement agencies "incur little to no cost" due to implementation of Secure Communities, but police tell a different story.¹² According to Lt. Michael Barry in Martin County, FL,

Time is [...] a factor for our staff. Sending I.A.Q.'s, [Immigration Alien Queries], waiting for responses, making phone calls to different immigration officials for clarification on detainees status, gathering

⁹ Letter from NILC to CRCL, (April 6, 2011) www.nilc.org/immilawpolicy/LocalLaw/Letter-to-CRCL-re-SCOMM-011-04-06.pdf (last visited May 9, 2011).

¹⁰ Link to task force report: <http://www.dhs.gov/xlibrary/assets/bsac-task-force-on-secure-communities.pdf>

¹¹ Restoring Community: A National Community Advisory Report on ICE's Failed "Secure Communities" Program (August 2011) at 5, available at <http://aitcpimmigra.com/documents/FINAL-Shadow-Report-regular-print.pdf>.

¹² Benefiting Law Enforcement throughout the United States, (ICE), <http://www.ice.gov/docid/secure-communities/pdf/lea-benefits.pdf> (last visited May 9, 2011).

additional information for immigration such as photos, booking sheets, fingerprints, and palm prints [for Secure Communities] takes away from the deputies regular duties within the facility].¹³

Because of the logistics of holding Secure Communities arrestees on detainers, police officers lose time that would otherwise be spent serving and protecting their communities. Local jails bear the cost of housing arrestees who are held under immigration detainers rather than being released on bond. Police have neither the resources nor the training to undertake this role. By diverting "critical and already strained police resources away from the task of pursuing serious and violent crimes into the complicated and vague task of enforcing immigration laws," the Secure Communities Program negatively impacts public safety.¹⁴

Conclusion

The Secure Communities Program has resulted in untold numbers of fundamental rights violations. The Program is simply too broken to be allowed to continue operating. To safeguard our communities and the protection of our rights, Congress should eliminate funding for the Program until and unless meaningful and effective protections are put into place to prevent civil and human rights violations. Also, members of this Subcommittee should urge DHS to terminate the Program in jurisdictions where DOJ is actively investigating a pattern or practice of discriminatory policing.

For follow-up, contact Tyler Moran, Policy Director, 208-333-1424, moran@nilc.org, or Don Lyster, Director, DC Office, 202-384-1279, lyster@nilc.org.

¹³Memorandum RE Immigration Procedures from Lt. Michael Barry to Major Steve Chase, (Feb. 28, 2008) <http://www.fiafla.org/Case%201%20-%20Martin%20County%20Memo.pdf> (last visited May 9, 2011).

¹⁴Declarations submitted to the Arizona district court on June 14, 2010 in *Friendly House, et al. v. Whiting, et al.*, No. CV-10-01061-PHX-JWS (D.Ariz.).



New Sanctuary Movement of Philadelphia

4404 N 5th St
Philadelphia, PA 19140

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

My name is Jennifer Rock, I am the co-director of a faith-based immigrant rights organization in Philadelphia. Philadelphia participates in the Secure Communities program and we have seen nothing but destruction come from this program. Our families are getting torn apart, they are living in fear. They are terrorized by the police and then victimized because it is widely known that our members won't call the police for fear of deportation. Deportation and detention is not the solution to the immigration crisis. This program is causing nothing but harm.

We oppose the Secure Communities Program because it is unjust. Included in this letter are two testimonies from families that have directly felt how harsh and ineffective Secure Communities is in our neighborhoods. Their names have been changed to protect their identity. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration
Sincerely,

Jennifer Rock
Co-Director

¹ See Aarti Kohli, Feizi L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.lev.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf



New Sanctuary Movement of Philadelphia

4404 N 5th St
Philadelphia, PA 19140

Testimony of Concepción

My name is Concepción. I came in 1988 because in our country, there isn't much work. And we came to work to struggle for something better, even for a better world, a better country. Here I have a son, my husband, in Philly I have my sister, nothing more. My grand dream is that we, as a family, my children and I will be united. My son came when he was 2 years old. He was a child that was very intelligent, quite a dreamer – aye, he was such a creative kid. He was one of the best in his school. He was a catechist and used to volunteer. He wanted to be a pilot to fly military planes. He went to high school here. This is his country, where he grew up, his culture, all of it.

It was very very sad when I have had to talk about this, it's like removing my heart, stirring my feelings, but –ahh, they arrested my son, no? It has greatly affected us. My son was arrested because he had lent some money and when he asked for the money from the person, when he charged him, that man accused him of aggression because he said he had a knife and I don't know what, but that was not true. What my son says is that he asked for his money, the man said he was going to pay him, but he had to wait a bit. So then he was about to get on the bus, then the police arrived and arrested him in Center City. I think they were friends, but I don't know where they met, but sincerely my son was innocent.

At first, we didn't know because no one called us – we were in suspense. One waits for him because you know when he's supposed to arrive, and when he doesn't, you imagine thousands of things.

He went to court three times, and three times the accuser did not show. And so my son was suffering, but he was innocent. And then it didn't take long, then they sent him over to ICE. I say it was not deserved, I mean, that the police arrested him and delivered him to ICE so quickly.

It affected me sadly because I became sick from thinking so much about my son, since it was the first time [we were apart] ... They deported him without reason... But... it makes you feel powerless. And this was very sad because it was a separation, it was a piece of my heart that was gone. My heart was split in half. It was a very hard change, abrupt, very abrupt – because he didn't even know how to get there, from where I am from, I mean he was in my land...

We can't fulfill our dreams, because we are missing something. Oh my God... My son's dream was cut short, because he wanted to study and have a career, he wanted to go to college. But why he didn't have this opportunity? Because he was an immigrant too.

I think that the function of the police is they have to focus in their job, not as ICE agents, and protect the community, those that in reality work, that there is no drug addiction, that there is no trash in our community, and not to lose the trust of the community. Clearly we have lost trust in the police because sometimes we are scared to talk of too many things that we see in the community. I don't have the trust to go to them or to report. Why? Because the police will



New Sanctuary Movement of Philadelphia

4404 N 5th St
Philadelphia, PA 19140

attack first, saying "Give me your ID" or what if they come and arrest me only, just for opening my mouth??

Well, I propose that there should be just laws, laws that protect the immigrants. And like I say, that the representatives, those in government realize that, yes, we do have all the rights by being human, by being in the community, right? Because we participate in the community by being workers in this country, because we contribute to this country – we pay taxes, right? because we are children of God.

In the future, well, we will do all that is necessary... until where? but we will continue to struggle, God willing, so there is more justice in this country for the generations to come. That they treat us like human beings, because we came to work, we came to give all, even for the community, because we also like to help.



New Sanctuary Movement of Philadelphia

4404 N 5th St
Philadelphia, PA 19140

Testimony of Antonio Vela

My name is Antonio Vela. I am 36 years old. I came here to the United States the end of 2000. I live with my wife and two children – a six-year-old daughter and a little 4-year-old boy.

Sadly, on May fifth in front of my house a persecution takes place. A person in a white t-shirt and one dressed completely in black comes along. Running. The person in the white shirt coming forward says, “Buddy, let me into your house, I’ll give you a thousand dollars!” At that moment I do a double take, catching on that he was running away from someone. Out of defense of my family, I tell him: “Get out of here. Get out of here!”

The second person comes running along behind him, completely dressed in black, gives me a blow on the head with his fire arm. Seated right on the steps at my door. They end up arresting me – they move me around, they handcuff my hands behind my back. And I remember how I was completely full of blood from head to toe.

The person in black stays with my wife, getting her to tell him where the person was that he was following – putting the gun to her head in front of my children. My children begin to cry, frightened to see a guy like him pointing a gun at their mother’s head. They cry, and the guy comes and says “Shut up!” in English. My wife, upon seeing me like Christ covered in blood, says, “Take him to the hospital – my husband is hurt.” They take me to Episcopal Hospital, to the emergency room. They stitch me up with seven stitches to the injury. They took two IDs from me – an unexpired driver’s license from this country and a Mexican Consular ID. They never returned my IDs to me.

From there they took me to District 24, 25. The judge there read me the charge: assaulting an officer. The 21st of May I went to court in an attempt to clear up matters. Right there in court two people appear and identify themselves as Immigration agents. And right away they ask me if I have identification that identifies me as here legally in the country. I didn’t want to speak. As I didn’t speak, the Immigration agents arrested me. They take me to a building at 16th and Callowhill. They fully declare that I am an illegal immigrant.

I was in prison 11 days. All I could think about was my family. I asked God for the opportunity to leave a free man so I could be with my family. I paid a bail of \$7,500 in order to get out of jail.

If they had deported me right away, it would be very sad for my children because they would lose their rights as citizens of this country. That is cruel and unjust for them. They are not at fault that their parents were undocumented immigrants.

I can’t take a walk during the daytime because I might meet someone or someone might come up to me. I imagine that person is going to harm me. My wife, at the least noise, jumps. My little kids wake up two or three times crying every night. Fortunately they are getting therapy. My children are really bad off psychologically – they can’t stand to see a policeman. For them the



New Sanctuary Movement of Philadelphia

4404 N 5th St
Philadelphia, PA 19140

police are bad. For them all police are bad. When they see the police, they are scared. My littlest one, when he's in the car, he wants to hide himself so that the police won't see him. The police were the ones there when they took me away under arrest covered in blood. My daughter, she wanted to be a police woman, because I always explained to my children how the police take care of us.

If I see a crime, I would not call the police nor would I call anybody. Why? Because by simply calling, I could be blamed for something.



NEW SANCTUARY COALITION OF
 NEW YORK CITY
 239 THOMPSON STREET, NEW YORK, NY,
 10012
 TEL. 646-395-2925
 INFO@NEWSANCTUARYNYC.ORG
WWW.NEWSANCTUARYNYC.ORG

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
 House of Representatives
 B-353 Rayburn House Office Building
 Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The New Sanctuary Coalition of NYC is an interfaith network of congregations, organizations, and individuals, standing publicly in solidarity with families and communities resisting detention and deportation in order to stay together. We recognize that unjust global and systemic economic relationships and racism form the basis of the injustices that affect immigrants. We seek reform of United States immigration laws to promote fairness, social and economic justice. Our spiritual mission is to welcome the strangers among us, and to clothe and feed them. We work with immigrant communities who are afraid every day of their lives, and for too long, we have seen our congregations disappear before our eyes because of these deportation programs. We see the harm these programs cause our families and communities.

We oppose the Secure Communities Program because it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. This mass deportation program has come under fire for serving as a dragnet into the unjust deportation system, while eroding civil liberties and discouraging cooperation between immigrants and police officers. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pretextual arrests.¹

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act that would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.

¹ See Azari Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

- Congress eliminates funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement.
- The Subcommittee should urge DHS to terminate Secure Communities.

Thank you for your time and consideration
Sincerely,

With gratitude and hope,
The NYC New Sanctuary Coalition, by its 2011 Co-Chairs


Rev. Susan Switzer


Rev. Fabian Arias

MICAH CUSH RIC SOPHIA ESTHER JOSHUA JONAH AMOS NAOMI RUTH



3195 S. Superior Street, Milwaukee, WI 53207 414-831-2070, Fax: 414-831-2071
wisdomwi@sbcglobal.net

The Gamaliel Foundation in Wisconsin

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

WISDOM is an interfaith organization composed of 10 local, congregation-based organizations in the state of Wisconsin. We come together around shared faith values including dignity, respect, and embracing immigrants.

On behalf of WISDOM, I write to oppose the Secure Communities Program because it violates our deeply held values by separating families and causing fear and disruption in the lives of immigrants. Secure Communities is also ineffective, it threatens the safety of our communities, and it runs counter to religious and American principles of fairness and justice.

Additionally, the Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests. We need for immigrants to trust and respect law enforcement officers, not be afraid of them.

To safeguard our communities and the protection of the rights of immigrants, we call on you to:

- Pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.

Thank you for your time and consideration.

Sincerely,

Nancy Holmlund
WISDOM President

The Honorable Elton Gallegly
 Chair, Subcommittee on Immigration Policy and Enforcement
 U.S. House of Representatives

The Honorable Zoe Lofgren
 Ranking Member, Subcommittee on Immigration Policy and Enforcement
 U.S. House of Representatives

November 30, 2011

Dear Representatives Gallegly and Lofgren:

As an organization that serves domestic violence victims, the Wisconsin Coalition Against Domestic Violence is concerned about the effect Secure Communities (SComm) is having on the immigrant women and children we help. Programs such as Secure Communities that have been implemented by the U.S. Immigration and Customs Enforcement (ICE) over the past few years have resulted in the unprecedented entanglement of the state and local criminal justice systems with federal immigration enforcement. As a result, many of the immigrant domestic violence and sexual assault survivors we now see are too afraid to report the crimes they've suffered to law enforcement and many others are too afraid to even seek services. Despite the Administration's efforts to ameliorate this problem through an ICE memorandum on prosecutorial discretion, it is not clear how effectively these goals are being implemented and the fears of accessing safety and justice for victims of crime are growing, not diminishing.

The Wisconsin Coalition Against Domestic Violence is a private, nonprofit organization composed of domestic violence programs, battered/formerly battered women and individuals who share a common vision of eliminating violence against women, oppression and the circumstances that contribute to any person across the lifespan living in fear within their families, intimate relationships, or in caregiving relationships.

Research shows that perpetrators often use immigration status as a tool of power and control over their victims. Like other victims of domestic violence and sexual assault, immigrant survivors should be able to trust their local police to help them when they report crimes. SComm, however, has eliminated that trust when local police are viewed instead as a branch of federal immigration enforcement. Numerous stories and media articles have demonstrated how public safety is undermined when a victim of domestic violence or sexual assault calls the police for help and subsequently finds that she has been arrested and placed in deportation proceedings.

Dual arrests unfortunately occur frequently in domestic violence cases involving immigrants, particularly if the victim has limited English proficiency. In such cases, even if prosecutors move forward in only prosecuting the abuser and the victim is later released without charges, under SComm the victim may find that she has an ICE detainer and has been put in deportation proceedings nonetheless, as has happened in numerous occasions.

Although Secure Communities purports to target and remove only serious criminal offenders, the reality is that many people who are arrested and subjected to this program are not dangerous criminals, and include victims of domestic violence and sexual assault who are wrongfully arrested or are arrested for minor violations that come to light when they seek help. Not only does this have a detrimental impact on

307 South Paterson Street, Suite 1
 Madison, Wisconsin 53703-3041



608-255-0539 Fax/TTY: 608-255-3560
www.wcadv.org

the survivor and her children but, as word spreads, such incidents undermine community policing and result in silencing other victims who are too afraid to seek help.

Although we appreciate ICE's efforts to try to identify and triage out domestic violence and sexual assault survivors, immigrant crime survivors are even less likely to trust ICE, the agency charged with deporting them and their families. If survivors of crime must rely on ICE to identify them, our local criminal justice systems are failing in their responsibility to uphold public safety.

This is not just a problem for immigrant victims and for those of us who work with them. Those who harm immigrant women and children know that SComm is an effective tool for instilling fear and coercing silence. When whole communities fear participating in our justice system this undermines public safety for everyone and makes our communities less secure.

Local and state law enforcement agencies must be allowed to choose not to participate in SComm until these problems are solved. Moreover, we encourage you and the Administration to find ways other than SComm to achieve your goals without eroding our society's commitment to protecting the safety of all victims of crime and our communities at large.

Thank you for considering our comments.

Sincerely,



Patti Seger,
Executive Director

cc: The Honorable Lamar Smith
The Honorable John Conyers
The Honorable Jim Sensenbrenner Jr.

Migrant Support Services of Wayne County
6055 Robinson Rd.
Sodus, New York 14551

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

Migrant Support Services of Wayne County is a community organization of advocates protecting the human rights of our citizens and supporting their emergency social needs. Because we have been observing, documenting, and reporting the extreme effects of Immigration enforcement on the immigrant farmworker community in which we operate, we have first hand knowledge of the detrimental effects on families and particularly their children.

We have witnessed infants being removed from their parents and abandoned on the side of the road to the arms of strangers. We have seen US citizens handcuffed and detained in front of their families and neighbors for no reason. We have observed Border Patrol agents follow families into stores with no provocation leading to the extreme loss of business income. We have observed congregations harassed by immigration agents patrolling in front of churches, traveling back and forth at 5 mph during Mass.

The concept of Secure Communities is flawed and is an awkward attempt to both improve security and remove dangerous aliens. Here in Upstate New York, from where a majority of the undocumented people are detained and deported from the Northern border, there are no reports of gang activity, dangerous criminal aliens, nor felons to justify the large number of federal immigration agents in the Buffalo sector, and there is clearly no advantages to S-Comm in this region.

We urge the dissolution of this band aide approach immigration enforcement as it is detrimental to our safety, is an unwarranted expense, and leads to fear in the documented and undocumented population and US citizens of Hispanic descent.

Sincerely,

John L. Ghertner, MD
Director
Migrant Support Services of Wayne County



623 Mamaroneck Avenue
Mamaroneck, NY 10543
Tel: 914-835-1312
Fax: 914-835-1351
www.hrcn.org

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Executive Director
Zoe Colon, MPA

Ex-Officio
Martha Lopez-Hairatty

November 28, 2011

Dear Members of the House Judiciary Committee:

As organizations that serve domestic violence and sexual assault survivors, we are concerned about the effect Secure Communities (SComm) is having on the immigrant women and children we help. Programs such as Secure Communities that have been implemented by the U.S. Immigration and Customs Enforcement (ICE) over the past few years have resulted in the unprecedented entanglement of the state and local criminal justice systems with federal immigration enforcement. As a result, many of the immigrant domestic violence and sexual assault survivors we now see are too afraid to report the crimes they've suffered to law enforcement and many others are too afraid to even seek services. Despite the Administration's efforts to ameliorate this problem through an ICE memorandum on prosecutorial discretion, it is not clear how effectively these goals are being implemented and the fears of accessing safety and justice for victims of crime are growing, not diminishing.

Research shows that perpetrators often use immigration status as a tool of power and control over their victims. Like other victims of domestic violence and sexual assault, immigrant survivors should be able to trust their local police to help them when they report crimes. SComm, however, has eliminated that trust when local police are viewed instead as a branch of federal immigration enforcement. Numerous stories and media articles have demonstrated how public safety is undermined when a victim of domestic violence or sexual assault calls the police for help and subsequently finds that she has been arrested and placed in deportation proceedings.

For instance, dual arrests unfortunately occur frequently in domestic violence cases involving immigrants, particularly if the victim has limited English proficiency. In such cases, even if prosecutors move forward in only prosecuting the abuser and the victim is later released without charges, under SComm the victim may find that she has an ICE detainer and has been put in deportation proceedings nonetheless, as has happened in numerous occasions.

Although Secure Communities purports to target and remove only serious criminal offenders, the reality is that many people who are arrested and subjected to this program are not dangerous criminals, and include victims of domestic violence and sexual assault who are wrongfully arrested or are arrested for minor violations that come to light when they seek help. Not only does this have a detrimental impact on the survivor and her children but, as word spreads, such incidents undermine community policing and result in silencing other victims who are too afraid to seek help.

Education • Community • Growth

Founded in 1998

Although we appreciate ICE's efforts to try to identify and triage out domestic violence and sexual assault survivors, immigrant crime survivors are even less likely to trust ICE, the agency charged with deporting them and their families. If survivors of crime must rely on ICE to identify them, our local criminal justice systems are failing in their responsibility to uphold public safety.

This is not just a problem for immigrant victims and for those of us who work with them. Those who harm immigrant women and children know that SComm is an effective tool for instilling fear and coercing silence. When whole communities fear participating in our justice system this undermines public safety for everyone and makes our communities less secure.

Local and state law enforcement agencies must be allowed to choose not to participate in SComm until these problems are solved. Moreover, we encourage you and the Administration to find ways other than SComm to achieve your goals without eroding our society's commitment to protecting the safety of all victims of crime and our communities at large.

Thank you for considering our comments.

Sincerely,

Zoe Colon

Zoe Colon,
Executive Director
Hispanic Resource Center

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515



Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

Tenants & Workers United ("TWU") is a democratically-controlled, grassroots organization dedicated to social and economic justice for the people in Northern Virginia. We appreciate the opportunity to express our concerns with the operation of the Secure Communities immigration enforcement program.

TWU has been heavily involved in supporting efforts to end discriminatory immigration programs, such as Secure Communities, because of the threat such programs present to our civil rights, particularly the civil rights of immigrants. TWU is well aware of the flaws of Secure Communities and is troubled by the inadequate focus on protecting civil rights. We are also troubled by the training local law enforcement officials receive to enforce Secure Communities. While there are other immigration enforcement programs with protections against discrimination that Immigration and Customs Enforcement ("ICE") is making available to local law enforcement, ICE has failed to make these anti-discrimination protections in trainings for Secure Communities mandatory for participating jurisdictions.

TWU opposes the Secure Communities Program for a number of reasons. First, Secure Communities has been proven ineffective at targeting serious criminal threats efficiently. Second, communities have become less safe since the implementation of Secure Communities. Third, Secure Communities lacks transparency in that it has been consistently and inaccurately misrepresented to the public, law enforcement agencies and to Members of Congress on numerous occasions.

To safeguard our communities and to protect our civil rights we recommend that:

- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Tenants and Workers United ♦ Inquilinos y Trabajadores Unidos

3801 Mount Vernon Avenue, Alexandria, VA 22305 phone 703.684.5697 fax 703.684.5714 www.twusc.org

Thank you for considering our views on this important matter. We commend the Committee for closely examining this immigration enforcement program in light of all the issues that have been created by its implementation.

Sincerely,



L. Gabriel Rojo,
Executive Director
Tenants and Workers United

Tompkins County Immigrant Rights Coalition
c/o Ute Ritz-Deuteh, Ph.D.
P.O. Box 855
Ithaca, NY 14851

November 27, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Gallegly, Ranking member Lofgren, and Members of the Subcommittee:

We, the members of the Tompkins County Immigrant Rights Coalition in Ithaca, Tompkins County, New York have been actively engaged in advocating for immigrant rights in Ithaca, Tompkins County, and beyond. We have witnessed firsthand the increased anxiety many immigrants (even those with documentation or green cards) have experienced in the past few years, as the government's enforcement policies have become more aggressive. In upstate New York students are detained on trains and buses, parents are deported causing hardship on their U.S. citizen children, workers are deprived of their wages, and people are afraid to report crimes, even if they are the victims. We oppose the Secure Communities Program because it adds to these problems, violates basic due process rights of all persons and undermines the trust between immigrants and local law enforcement. We oppose racial profiling and believe strongly in equal rights and fair treatment of all persons residing in our community. Secure Communities (S-Comm) is making us less safe; it lacks transparency and accountability, is expensive, and does not solve our immigration problem.

In Ithaca and Tompkins County there is strong support for immigrant rights, reflected by the fact that the city council, town board, and the county all passed resolutions in regard to Secure Communities, in which they expressed serious concerns about the rationale and implementation of the program. Our local sheriff has also expressed his opposition to S-Comm to county legislators.

The Common Council of the City of Ithaca unanimously adopted the resolution on June 1, 2011 titled *Request that Governor Cuomo Rescind "Secure Communities" Agreement*, noting that Immigration and Customs Enforcement (ICE) has repeatedly pressured the Ithaca Police Department to participate in the program and in the process provided confusing and contradictory information. Civil rights organizations have expressed great concern about the erosion of due process rights and racial profiling that the program creates, and the fact that families are being torn apart. Furthermore ICE has failed to demonstrate what "the increased financial and resource burdens on local law enforcement" would be. The City of Ithaca Common Council therefore resolved that it "does not support the City's participation in the Secure Communities Program" and furthermore asked Governor Cuomo to rescind the MOA entirely (rather than just suspending it) until a "thorough investigation and review of the program" can be conducted.

The Tompkins County Legislature adopted resolution no. 2011-104 on June 21, 2011 titled *Request that Governor Cuomo Rescind the Secure Communities Memorandum of Agreement Between New York State and the Department of Homeland Security*, which resolved to urge Governor Cuomo to rescind the MOA and "not 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 are conducted."

The Ithaca Town Board unanimously passed a similar resolution June 13, 2011 titled *Requesting that Governor Cuomo Rescind the Secure Communities Memorandum of Agreement Between New York State*

and the Department of Homeland Security. The resolution notes that DHS signed agreements “without any public input and without the knowledge of many elected officials who are entrusted to represent the best interests of constituents” and that the “detention and deportation system lacks accountability or transparency” causing individual suffering and broken families. The Town Board of Ithaca resolved that it does not support the County’s participation in the Secure Communities Program and urges Governor Cuomo to rescind the MOA in its entirety.

The Tompkins County Immigrant Rights Coalition supports these resolutions passed by the Common Council of the City of Ithaca, the Tompkins County Legislature, and the Town Board of Ithaca, and applauds Governor Cuomo’s decision to suspend the participation of New York State in the Secure Communities Program.

We therefore make the following recommendations to the Subcommittee on Immigration Policy and Enforcement:

1. Congress should pass the End Racial Profiling Act which would ban profiling on the local, state, and federal level.
2. Congress should eliminate funding for the Secure Communities Program and other similar programs that use state and local law enforcement agencies to conduct federal immigration enforcement.
3. The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program. Furthermore, S-Comm should be suspended in jurisdictions that have a record of racial profiling, or that are currently being investigated by the Department of Justice.
4. The Subcommittee should urge their colleagues in the U.S. Congress to pass Comprehensive Immigration Reform that is just, fair, and humane for all.

We are sure the members of the Subcommittee are aware that the Bill of Rights guarantees freedom from arbitrary arrest and the right to due process for “all persons” and not just for U.S. citizens. The current immigration system, and especially enforcement policies and their implementation, violates the U.S. Constitution and several international human rights norms.

We urge you to not get blinded by the extremist views expressed by those who believe that it is justified and practical to deport 11 million people. On average, 10,000 U.S. citizen children lose a parent to deportation annually. This is a travesty to which enforcement-only policies are adding every day. ICE is deporting 400,000 people a year because that is how much congressional funding is available. It is within the power of Congress to change that. We urge you to ask DHS to suspend the program and to find comprehensive solutions that are humane and in compliance with the U.S. Constitution and our belief in a fair and just society.

Thank you for your consideration.

Sincerely,

Ute Ritz-Deutch, Carlos Gutierrez, Laurie Konwinski
Ute Ritz-Deutch, Carlos Gutierrez, Laurie Konwinski
Tompkins County Immigrant Rights Coalition, Ithaca, New York

Enclosed: Resolutions regarding Secure Communities passed in 2011 by the Common Council of the City of Ithaca, the Tompkins County Legislature, and the Ithaca Town Board

Common Council of the City of Ithaca

June 1, 2011 CC Meeting

13.2 Alderperson Rosario – Request That Governor Cuomo Rescind “Secure Communities” Agreement – Resolution

By Alderperson Rosario: Seconded by Alderperson Cogan

WHEREAS, in March 2008, U.S. Immigration and Customs Enforcement (ICE), an agency of the Department of Homeland Security (DHS), announced the initiation of the Secure Communities program; and

WHEREAS, on December 28, 2010, New York State entered into a Memorandum of Agreement with ICE/DHS, regarding the Secure Communities program, which agreement requires the State and any participating local police departments to use fingerprint-based biometric technology during booking and to share this data immediately with DHS; and

WHEREAS, the City of Ithaca has been repeatedly pressed by ICE to sign such an agreement so as to make the Ithaca Police Department a participant in the biometric program; and

WHEREAS, confusing and contradictory information has been provided as to whether municipal participation in the Secure Communities program is voluntary or compulsory, and

WHEREAS, civil rights organizations have expressed great concern about the erosion of due process rights and racial profiling that the Secure Communities program creates, the splitting up of families and strain on communities of increased deportations, and the increased financial and resource burdens on local law enforcement, and

WHEREAS, on May 4, 2011, Governor Quinn of Illinois wrote a letter to DHS terminating the Secure Communities Memorandum of Agreement between the Illinois State Police and DHS, explaining that the stated purpose of the program to identify, detain, and remove from the US aliens who have been convicted of serious crimes is contrary to actual ICE-provided statistics, which show that more than 20% of the deportations under the program have been of persons who were not convicted of any crime, and

WHEREAS, according to the New York Civil Liberties Union, 82% of those deported from New York under the Secure Communities Program were non-criminals as classified by ICE, meaning at the time of arrest on the instant offense, they had no prior record, and

WHEREAS, New York State and the City of Ithaca have historically been beacons of hope for immigrants and refugees, now therefore be it

RESOLVED, That the Common Council of the City of Ithaca does not support the City's participation in the Secure Communities program, as that program is now constituted and as it is being implemented, and be it further

RESOLVED, That the Common Council of the City of Ithaca hereby applauds Governor Cuomo's decision on June 1st, 2011 to suspend New York State's Memorandum of Agreement regarding the Secure Communities Program, and further urges that Governor Cuomo rescind the aforementioned Memorandum of Agreement in its entirety, and that a thorough investigation and review of the program be conducted before the State commits to further involvement, and be it further

RESOLVED, That the City Clerk be and hereby is requested to convey copies of this resolution to Governor Cuomo, Assemblywoman Lifton, and Senator O'Mara.
Carried Unanimously

Tompkins County Legislature
 320 North Tioga Street, Ithaca, NY 14850
www.tompkins-county.org/legislature

DOC ID: 2686
 Department: Tompkins County Legislature
 Category: Legislation/Funding - State and Federal
 Functional Category: Public Safety

ADOPTED

Resolution No. 2011-104

**Request 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 Immigration and Customs Enforcement (ICE) to allow Secure Communities 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 these 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

WHEREAS, this agreement was signed without any public input, and without the knowledge of many State-level elected officials who are entrusted to represent the best interests of constituents yet many learned about Secure Communities months after the MOA was signed, and

WHEREAS, confusing and contradictory information has been provided as to whether municipal participation in the Secure Communities program is voluntary or compulsory, such as ICE officials having promised New York officials that localities will have to opt-in in order to implement the Secure Communities program yet DHS now maintains that participation in Secure Communities by local jurisdictions in states that have signed MOAs are mandatory, and

WHEREAS, the increasing collaboration between law enforcement agencies and ICE is of great concern to the Tompkins County Legislature due to the negative impact this collaboration has 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, many 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 Secure Communities and its related programs, and

WHEREAS, as New York is grappling with an \$8.1 billion budget deficit and Tompkins County

Tompkins County Legislature

Meeting of June 21, 2011

Resolution No. 2011-104 Request that Governor Cuomo Rescind the Secure Communities Memorandum of Agreement Between New York State and the Department of Homeland Security

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 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, and

WHEREAS, on June 1, 2011, New York Governor Andrew Cuomo announced that New York State will suspend participation in the federal Secure Communities Program, stating that, "there are concerns about the implementation of the program as well as its impact on families, immigrant communities and law enforcement in New York," and

WHEREAS, we applaud and support this suspension by the governor and sees it as a move in the right direction towards fully rescinding New York State's participation in the program, now therefore be it

RESOLVED, on recommendation of the Public Safety Committee, That the Tompkins County Legislature 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,

RESOLVED, further, That the Tompkins County Legislature urges Governor Cuomo to not 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 are conducted,

RESOLVED, further, That the Clerk of the Legislature forward certified copies of said resolution to Governor Andrew Cuomo, New York State Senators James L. Seward, Thomas F. O'Mara, Michael F. Nozzolio, and Assemblywoman Barbara S. Lifton.

SEQR ACTION: TYPE II-20

RESULT:	ADOPTED [13 TO 2]
MOVER:	Peter Stein, Member
SECONDER:	Leslyn McBean-Clairborne, Member
AYES:	Burbank, Chock, Dennis, Luz Herrera, Kiefer, Lane, Mackesey, McBean-Clairborne, McKenna, Pryor, Robertson, Shinagawa, Stein
NAYS:	Frank Proto, Brian Robison

Tompkins County Legislature

Meeting of June 21, 2011

Resolution No. 2011-104 Request that Governor Cuomo Rescind the Secure Communities Memorandum of Agreement Between New York State and the Department of Homeland Security

STATE OF NEW YORK)
) ss:
COUNTY OF TOMPKINS)

I hereby certify that the foregoing is a true and correct transcript of a resolution adopted by the Tompkins County Legislature on June 21, 2011.



IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Legislature at Ithaca, New York, on June 22, 2011.

Catherine Corbett Clerk
Tompkins County Legislature

**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

Sisters of Charity
6301 Riverdale Avenue
Bronx, NY 10471-1093

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

My congregation, Sisters of Charity, came to New York City from Baltimore, MD. in 1817 to reach out to Irish orphaned children whose parents had succumbed to yellow fever on the unsanitary passenger ships of the 19th century. Our mission today remains the same: to come to the aid of persons in need, and in particular to be voices for the voiceless.

The main reason we oppose Secure Communities is that even from its title, Secure Communities, it is meant to be deceptive. Translated into practical terms, it means that each and every undocumented person is a potential terrorist who must be deported in order to keep our communities safe. Furthermore, we oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹ In New York City, it has usurped the relationship between our local police and our immigrants, who fear to trust police in the mistaken anxiety that the result will mean deportation.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,

Elizabeth Butler, Member, Sisters of Charity of New York

¹ See Aarti Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Data Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The MinKwon Center for Community Action (formerly YKASEC) opposes the Secure Communities Program and calls for this Subcommittee to follow the recommendations to take steps to end this misguided program.

The MinKwon Center was established in 1984 to meet the needs and concerns of the Korean American community through our five program areas: Advocacy & Community Organizing, Social Services, Civic Participation, Youth Empowerment, and Culture. Since our founding, we have made a profound presence in the Korean American community through various grassroots organizing, education, and advocacy initiatives that address important community issues.

Our position has been clear from when it was first introduced. DHS must end the misguided and unjust S-Comm program. The MinKwon Center has been active in educating our community members about the deep flaws of this program, mobilizing them for action, and working with a coalition of advocates to push for its termination. The misguided and unjust S-Comm program has resulted in serious consequences for witnesses and victims of crime, infringed on our civil liberties, and created a climate of fear among hardworking immigrant communities.

We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.

¹ See Aarti Kothli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Data Practices*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.



-
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,

A handwritten signature in black ink, appearing to read "Steven Choi".

Steven Choi, Esq.
Executive Director



Queens Community House
108-25 62nd Drive
Forest Hills, NY 11375

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

As a community-based organization in Queens, the most diverse county in the world, we work with immigrants and first generation Americans from nearly one hundred different nations. We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities.

The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.

Thank you very much for your time and consideration.

Sincerely,

A handwritten signature in black ink that reads "Irma E. Rodriguez".

Irma E. Rodriguez
Executive Director



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Muslim American Society of New York Inc, is a chapter of the Muslim American Society, striving to move people towards God-consciousness, Liberty, Justice and to convey Islam with utmost clarity. We are a religious, social and charitable not for profit grass roots organization working to improve our communities and find the recent Immigration Policy and Enforcement proposals contradictory to the our country's basic principles and values.

We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹ In New York, we have had numerous issues with Muslims (immigrants and American born and raised) who have been profiled and mistreated for their religious affiliation.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

¹ See Aarti Kohli, Peter L. Markowitz and Law Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf

Sincerely,

Maher El Jamal
President
Muslim American Society of New York, Inc.



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

RE: Hearing on Secure Communities

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The House Subcommittee on Immigration Policy and Enforcement will hold a hearing on ICE's Secure Communities Program on November 30, 2011. The National Asian Pacific American Women's Forum (NAPAWF) joins with immigrant rights, women's rights, civil rights, and other leaders to call on Congressional leaders to urge for the halt of the flawed Secure Communities program. NAPAWF is the only national, multi-issue Asian and Pacific Islander (API) women's organization in the country. NAPAWF's mission is to build a movement to advance social justice and human rights for API women and girls. NAPAWF has been a co-leader of the National Coalition of Immigrant Women's Rights and is a lead partner of the We Belong Together initiative, and as such, wishes to express our concerns with flawed immigration enforcement policies that harm women and their families.

Women now comprise 51% of immigrants in the US and they continue to serve as the breadwinners, foundations, and lead decision-makers for their communities and families. They take their children to school to make sure they learn, buy groceries to feed their families, and work in order to provide for their children. As immigrants, Asian Pacific Islander (API) women are vital contributors to the economic and social wealth of our communities. Yet, women are also devastatingly impacted by immigration enforcement policies that make them fear the police. API women disproportionately comprise survivors of international human trafficking crime rings, yet they lack the language fluency and knowledge of the U.S. legal system to access life-saving legal and support services. Secure Communities further increases their fear and barriers to escape these situations when women and survivors cannot be sure whether local law enforcement will assist or arrest them. When communities don't trust the police to protect them, perpetrators of crime go free and contributing members of the community remain silent and afraid.

Women who have been detained or deported by ICE suffer immense human rights abuses. There is incredible cruelty in a system that separates mothers from their children, deny women health care services, even when they are birthing or nursing, subject detainees to sexual abuse and assault at the hands of unscrupulous detention center guards, and can even result in parents losing their parental rights over their children.

If DHS officials and Congressional leaders are concerned about the safety of our communities and security of our economy, policies that allow immigrants to integrate fully into the fabric of their communities, support and protect their families, and contribute fully to local economies, would do far more to keep us safe by allowing local law enforcement agencies to focus on targeting and preventing actual crime.

Sincerely,

Christine Soyong Harley
Policy and Programs Director



105 Chauncy St. #901
 Boston, MA 02111
 www.miracoalition.org
 Voice: (617) 350-5480
 Fax: (617) 350-5499

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
 House of Representatives
 B-353 Rayburn House Office Building
 Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Massachusetts Immigrant and Refugee Advocacy Coalition (MIRA) submits this letter in regard to your November 30th hearing on the federal Secure Communities program (SComm). The Massachusetts Immigrant and Refugee Advocacy Coalition (MIRA) is the largest organization in New England promoting the rights and integration of immigrants and refugees. We serve the commonwealth's one million foreign-born residents with policy analysis and advocacy, institutional organizing, training and leadership development, and strategic communications. The Coalition involves an active membership of over 140 organizations, including community-based groups, social service organizations, ethnic associations, schools, refugee resettlement agencies, health centers and hospitals, religious institutions, unions, and law firms, as well as thousands of individual members, contributors, and allies.

We are strongly opposed to SComm because it is ineffective, diminishes the safety of our communities, and has been deceitfully imposed on our country's local communities. Here in Massachusetts, we already have the Criminal Alien Program (CAP). Through this program, Immigration and Customs Enforcement (ICE) agents check the immigration status of all those held in jails and prisons throughout the state. The State Department of Corrections also has a 287(g) agreement, which deputizes local prison officials to replicate the efforts of CAP by checking the immigration status of those held in jails and prisons. Because all those who are the supposed targets of SComm are already caught through other programs, SComm adds nothing to the security of our communities. Rather, SComm only serves to identify those people who are arrested, often as a result of racial-profiling, yet not convicted or even charged with a criminal violation creating greater strains on police-community relations and eroding decades of important advances in community policing.

Such strains on police-community relations pose a serious threat to the security of our communities, actually running counter to the intent of SComm. Here in Massachusetts, we have had multiple instances of immigrant victims of crime, even those with documents, fearful of reporting those crimes to the police. In one instance, a female driver was assaulted on the street by a driver who had rear-ended her, but her lack of status left her fearful of reporting either the accident or the assault to the police. Victims of domestic violence are at particular risk, because often both parties in such situations are arrested, fingerprinted, and held until the authorities have an opportunity to uncover the truth of the situation. Many domestic violence advocates have been questioning whether it is safe to tell victims to go to the police. Local politicians pushing for the program have not helped the situation. In one instance, when asked about a hypothetical situation in which an undocumented woman is raped and beaten on the street, one state representative responded, "My thought is that if someone is here illegally, they should be afraid to come forward."³ Although many

³ Monahan, John. "Immigrant Checks Urged". *Worcester Telegram & Gazette*. 6/8/2011. <http://www.telegram.com/apps/obcs.dll/article?AID=/20110608/NEWS/106089913/1116>.





305 Chauncy St. #901
 Boston, MA 02111
www.miracoalition.org
 Voice: (617) 350-5480
 Fax: (617) 350-5499

Jurisdictions report a decrease in crime after implementing SComm, we believe that this is a result of underreporting as immigrant fear turning to the police, rather than an actual drop in crime rates. In truth, SComm leaves our communities vulnerable to the worst elements in our society and puts them at greater risk of victimization by leaving them no form of redress.

The Department of Homeland Security's (DHS) repeated attempts to misrepresent SComm to the American public, law enforcement agencies, state and local governments, and Members of Congress has been well documented in the past, however it is worth repeating some of the concerns expressed by various government sources. In her April 28, 2011 letter to DHS officials, Representative Zoe Lofgren expressed concern that some, "False and misleading statements [from DHS and ICE] may have been made intentionally, while others were made recklessly, knowing that the statements were ambiguous and likely to create confusion."² Representative Lofgren proceeded to ask DHS and ICE to investigate any misconduct – including possible criminal misconduct – on the part of the department and agency. Similarly, in their September 2011 report, DHS's Task Force on Secure Communities expressed concerns with incorrect statements and unilateral policy changes in the program that have created confusion in local jurisdictions.³ Mayor Thomas Menino of Boston, the only jurisdiction in the state to participate in SComm, has also expressed concern with the program. In his July 8, 2011 letter to DHS (attached), Mayor Menino lamented the fact that, "Boston took part in Secure Communities as a pilot project, with the understanding that only the most serious criminals would be affected and the belief that our feedback would lead to improvements in the program. It would be a further violation of the public trust if instead Secure Communities proves to be a know that the Federal Government will not untie."

We hope that the Subcommittee will take a close look at the many failings of SComm and address those failings in ways that will ensure that our communities truly are secure. In particular, we respectfully ask that the Subcommittee:

- Recommend the elimination of funding for SComm and other programs that degrade community policing by using local law enforcement to conduct civil immigration enforcement; and
- Urge DHS to terminate SComm in jurisdictions that have chosen to opt-out of the program and those jurisdictions with a history of racial or ethnic profiling or other patterns of discriminatory policing.

We greatly appreciate your attention to this matter and look forward to working with the Subcommittee to ensure that civil law enforcement does not threaten the security of any of our communities. Please feel free to contact me anytime at (617) 350-5480 x211 or emillona@miracoalition.org if you have any questions.

Sincerely,

Eva A. Millona
 Executive Director

² Letter from Representative Zoe Lofgren to DHS and ICE. April 28, 2011.
<http://big.assets.huffingtonpost.com/lofgrenFollowUp.pdf>

³ Task Force on Secure Communities Findings and Recommendations. September 2011. pp. 12-13.
<http://www.dhs.gov/xlibrary/assets/hsac-task-force-on-secure-communities.pdf>





CITY OF BOSTON • MASSACHUSETTS

OFFICE OF THE MAYOR
THOMAS M. MENINO

July 8, 2011

HAND DELIVERY

Task Force on Secure Communities
Attn: Mr. Chuck Wexler, Chairman
Department of Homeland Security
Washington, D.C. 20528

To the Task Force on Secure Communities,

I met this week with leaders of Boston's immigrant communities and my law enforcement team, and what they told me confirms what you are hearing around the country: Secure Communities must change substantially or be scrapped.

As operated now, Secure Communities is diminishing trust, an essential part of the neighborhood fabric and a vital public safety tool. In particular:

- 1. Secure Communities is negatively impacting public safety. The program is leading community members – including witnesses and victims of crime – to withhold information from the police for fear of deportation;
- 2. The lack of accuracy and transparency in the data used is worsening these fears; and
- 3. To address this in part, *criminal actions should be partitioned from administrative ones* so that only serious felony crimes result in Immigration and Customs Enforcement proceedings.

I have asked my Police Commissioner to communicate these problems to you in person and the urgent attention which they demand. If these shared concerns of Boston's immigrant and law enforcement communities are not remedied as part of your review process, the City of Boston cannot participate in Secure Communities as we have.

Boston took part in Secure Communities as a pilot project, with the understanding that only the most serious criminals would be affected and the belief that our feedback would lead to improvements in the program. It would be a further violation of the public trust if instead Secure Communities proves to be a knot that the Federal Government will not untie.

My grandparents came from Italy to Boston, a city now home to almost 200,000 immigrants. I know the full value of trust in our neighborhoods, then and today, and I urge the Task Force's immediate action.

Sincerely,

Thomas M. Menino
Mayor of Boston



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

Michigan's Alliance for Immigrants' Rights and Reform works diligently to reform our broken immigration system and support the civil and labor rights of immigrants in our region. Without doubt, our values of justice and fairness are consistently violated by the Secure Communities program. Prior to your subcommittee meeting on November 30, 2011 we are writing in strong opposition to this failed program.

The core violation of the program is its disregard for human and civil rights. The U.C. Berkeley research into the program plainly shows a pattern of racial profiling, lack of due process, and illegal detention of US citizens. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests that occur when an agency really wants to check immigration status without provocation. Any program that leads to such gross errors and rights violations is a program that is obviously not working.

In addition, this program results in distrust between immigrant communities and local law enforcement. When immigrants see that local police are involved in enforcing immigration laws, they will be less likely to report crimes, act as witnesses, or provide other valuable information. Additionally, the resources that Secure Communities requires are not reimbursed to local municipalities, further burdening police budgets.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.

- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling, or suspicion of discriminatory policing.

Thank you for your time and consideration
Sincerely,

Ryan Bates
Director, Alliance for Immigrants Rights & Reform
248.787.6767
ryan@michiganimmigrationreform.org
2651 Saulino Court, Dearborn, MI 48120



137-159 West 25th Street
12th Floor
New York, NY 10001
(212) 627-2227
www.nyic.org

Flaherty, Louis Scellitto
Executive Director, Central and Programs (ICDP)

Suzanne Aguiar
Director, CDP

Lucy Alamo
T-1000

Joan Anderson
Assistant Administrator of Adult Basic Education
T-1000

Colleen Chaney
National Immigration Alliance, Assistant

Manfred Chelini
Migration Policy Institute, NYU School of Law

Victoria Epstein
Migration Institute, Urban Education Center
T-1000

Heather Flanagan
NYU Law School

Carl Galkin
National Immigration Coalition

Veronica Haysman
Executive Director, CDP

Sam Fink
NYU Law School of Public Administration, Director
T-1000

Xi Jiang
Migration Institute, Center for Community Justice

Christine Kelly

Christa Kim
Asian American 9th Ward

Wilfredo Larranaga
Executive Director, CDP

Mai Lee
Immigrant Program, Association T-1000

Carman Magallon
Executive Director, Center for Immigrant Justice
T-1000

Francis Olivares
NYU Center for Immigration

Heidi Palumbo
Madison Valley Community Center

Mohammed Razi
Council of People's Organizations (CPO)

Pat Reyes
Spanish New York, Dominican People's Voice

Linda Rosemer
South American Association of New York

Rose Roberts
NYU School of Law, NYU

Isakary Tardis
NYU School of Law

Eva Torres Nolasco
Executive Director, Alliance of New York

Lucy Valentin
Long Island Immigrant Alliance (LIIA)

Christy Vasquez
T-1000

Barbara Wilcox
Executive Director, CDP

Patrick Young
Council of American-Spanish Groups (CASG)

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

We are writing to express our concerns about Secure Communities. The New York Immigration Coalition is an umbrella policy and advocacy organization for nearly 200 groups in New York State that work with immigrants and refugees. The NYIC aims to achieve a fairer and more just society that values the contributions of immigrants and extends opportunity to all. This past June, we welcomed Governor Andrew Cuomo's attempt to temporarily suspend New York's participation in Secure Communities. However, since Governor Cuomo's announcement, DHS has maintained that the program is mandatory and continued its use in New York - without state authorization.

By its very nature, Secure Communities fails to promote public safety because the moment local police engage in immigration enforcement, they lose the trust of the communities they serve. Although Secure Communities purports to protect public safety, the reality is, the program has threatened the safety of our communities because witnesses and victims of crime are afraid to come forward. In addition, Secure Communities encourages racial profiling and indiscriminately funnels immigrants into an unjust and inhumane immigration detention and deportation system.

There is also growing evidence that ICE intentionally misled government officials as to the voluntary nature of the program. In July, a federal judge in a Freedom of Information Act (FOIA) lawsuit against ICE by the Center for Constitutional Rights, the Cardozo School of Law, and the National Day Laborer Organizing Network concluded that "[t]here is ample evidence that ICE and DHS have gone out of their way to mislead the public about Secure Communities." According to documents obtained through the litigation, ICE adopted an intentionally misleading definition of "voluntary" and "opt out" in order to expand implementation of the program before the expected pushback from localities.

To safeguard our communities and the protection of our rights we recommend that Congress eliminate funding for Secure Communities and other programs that use state and local law enforcement agencies to conduct immigration enforcement.

Thank you for your time and consideration.
Sincerely,

Chung-Wai Hong
Executive Director
New York Immigration Coalition



Jewish Community Relations Council
of San Francisco, the Peninsula, Marin, Sonoma, Alameda and Contra Costa Counties

JCRC: PURSUING A JUST SOCIETY AND SECURE JEWISH FUTURE

ADVOCATE
ON ISSUES
OF VITAL
CONCERN

PROMOTE
MUTUAL
RESPECT

REPAIR
THE
WORLD

DO NOT
STAND
IDLY BY

STRENGTHEN
OUR CIVIL
SOCIETY AND
DEMOCRATIC
INSTITUTIONS

SPEAK
WITH A
COLLECTIVE
VOICE

WWW.JCRC.ORG

November 23, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly:

We write on behalf of the Jewish Community Relations Council (JCRC) of San Francisco, the Peninsula, Marin, Sonoma, Alameda and Contra Costa Counties to oppose the Secure Communities Initiative. The JCRC represents over 60 Jewish organizations and synagogues on matters of public affairs.

Historically, the American Jewish community has supported generous and rational immigration laws and policies. We look both to the teachings of our Jewish religious and ethical tradition, and to core American values relating to immigrants, for guidance on immigration reform. Our traditions call on us to "welcome the stranger" and provide an effective legal immigration system characterized by rule of law, national interest and compassionate treatment.

As Americans and Jews, we have benefited from our country's pluralistic society which is rooted in, and enriched by, its immigrant tradition. We further believe that a rational system of immigration that attracts productive workers would foster entrepreneurship, and help the nation maintain its competitive edge.

Among the issues of particular importance to the Jewish community are the following:

- maintaining of intergroup tensions that arise from immigration-connected issues
- maintenance of family unity/family reunification
- ending scapegoating of immigrants, that tends to increase racism and xenophobia
- maintenance of civil liberties protection for immigrants

We oppose the Secure Communities Program because: 1) it threatens the safety of our communities by creating an atmosphere of fear, and making whole communities afraid to trust and work in cooperation with local law-enforcement; 2) we believe S-COMM is ineffective; 3) persons already in the process of becoming American citizens have been arrested and jailed, because of misunderstandings or confusion within the S-COMM program. 4) It runs counter to American principles of fairness and justice-with victims of domestic violence put into deportation hearings after reporting their abuser and parents of young American-citizen children deported leaving their children alone, frightened and without proper care. And, 5) it has been imposed on our country's local communities, with no option for communities that do not want to participate.

To safeguard our communities and the protection of our rights we recommend that:

- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies, schools and health services organizations to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration. Please do not hesitate to contact Jessica Trubowitch at 415-977-7409 or jtrubowitch@jccr.org if JCRC can be of any assistance on this matter.

Sincerely,

Terilyn Laft
President

Jessica Trubowitch
Director, Legislative Affairs and Intergroup Relations

CC: Members of the Subcommittee on Immigration Policy and Enforcement: Mr. King, Ms. Lofgren, Mr. Lungren, Mr. Gohmert, Ms. Jackson Lee, Mr. Poe, Ms. Waters, Mr. Gowdy, Mr. Pierluisi, Mr. Ross

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Oakland, CA 94610
510.318.6817

NORTH BAY REGION

200 N. San Pedro Road
San Rafael, CA 94903
415.472.5128

PENINSULA REGION

Dexter Korel Campus for Jewish Life
3921 Fabian Way, Suite A022
Palo Alto, CA 94303
650.847.1715

Dear Members of the Subcommittee on Immigration Policy and Enforcement,

I am writing to express my disdain for the Secure Communities Program. Secure Communities neither leads to security nor communities. In fact, it leads to less safe communities because people are afraid to report crimes to the police.

As Thanksgiving has just passed and we think about our country's history, it is impossible not to realize how immigrants have made and are making this country great. My 13 year old daughter said "What could be more American than being an immigrant?"

Immigration reform needs to happen and not inhumane sub-policies like Secure Communities.

Thank you,

Isabelle Thacker
First Unitarian Society of Newton
Newton, MA

November 29, 2011

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The principles of the common good, human dignity and love for one's neighbor are fundamental to all to faith traditions. In many of our sacred texts the value of welcoming the stranger is an explicit mandate and primary tenant of our faith as in the Abrahamic traditions where it reads the below:

"You shall not wrong a stranger or oppress him, for you were strangers in the land of Egypt." (Exodus 22:21).

However, U.S. immigration enforcement policies have only become harsher and more inhumane in recent years. Immigrant communities are increasingly targeted, profiled, apprehended, detained and deported, creating an environment of increasing fear. Secure Communities allows ICE to identify, process, and remove immigrants incarcerated in federal, state, and local jails. This leads further criminalization of migrants wherein minor violations, often traffic stops, turns into an investigation of citizenship status where many are therein detained. Furthermore, low-priority non-violent offenders or even citizens are being funneled into this program needlessly separating hundreds of thousands of families. This is done in the face of Department of Homeland Security's own task force report that concluded that S-Comm sows mistrust of police and makes communities less safe.

In a speech ICE Director John Morton gave to the International Association of Chiefs of Police on October 25, 2011 he boasted of the total 396,9606 individuals deported, the largest in the agencies history[1], but what about the 180,208 individuals who had been neither convicted nor arrested for any criminal offense? They are funneled into an unjust deportation system without rights to due process. Tragically, many of those removed in this category were U.S. residents of many years. Many of them are parents, wives and husbands whose families are left broken in the wake of an unmerciful policy.

"They treat you like the worst of criminals when in reality you have done nothing besides drive your car to work in order to survive. You do this without a license because the system does not allow it.[2]"- Fernando, Arizona

Programs such as Secure Communities create an atmosphere of xenophobia that has proven detrimental for the all immigrant and refugee communities, regardless of their documentation status. As people of faith we are called by a

moral imperative to take an ethical stance for just policies and speak out against these enforcement practices hurting so many through separation of families, breaking apart whole communities and takes advantage of marginalized communities for political gain.

Our faith now calls us to be part of changing this unjust policy and ask that Secure Communities be permanently halted and recommend the following:

- 1) The Secure Communities program should be ended.
- 2) The Department of Justice Office of Inspector General should begin an investigation into the FBI's role in Secure Communities.
- 3) Criticism of Secure Communities should be applied to inform changes to other ICE ACCESS programs, and the entanglement of local criminal law enforcement and federal civil immigration functions should be stopped and reversed.
- 4) States and localities should not be compelled to participate in immigration enforcement programs, including the forwarding of fingerprints and other biometric information to the Department of Homeland Security

We cannot build strong communities if they're being torn apart. Instead we ask for a more viable solution of working towards a humane comprehensive immigration reform that can provide a pathway to citizenship for so many deserving members of our society.

Sincerely,

Robert C. (Bob) Malles 494 N Mississippi River Blvd Saint Paul MN 55104 cell:
651 497-4564 home: 651 645-2195



November 28, 2011

Subcommittee on Immigration Policy and Enforcement
 House of Representatives
 B-353 Rayburn House Office Building
 Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

On behalf of the Illinois Coalition for Immigrant and Refugee Rights (ICIRR), I am writing to express our continued concerns with the ICE "Secure Communities" program. ICIRR is a statewide coalition of 130 organizations dedicated to promoting the rights of immigrants and refugees to full and equal participation in the civic, cultural, social, and political life of our diverse society.

The Illinois State Police signed its Memorandum of Agreement with ICE on November 2, 2009. Since then, ICE has activated 26 counties, one-fourth of the 102 counties in Illinois. These counties include every county immediately surrounding Cook, the county that includes Chicago. These counties have witnessed rapid growth during the past two decades, both overall and in their immigrant populations.

Since going online in Illinois, "Secure Communities" has reached far beyond its purpose, as stated in the MOA, of catching individuals "convicted of a serious criminal offense." ICE's own statistics reveal that through September 2011, 58% of all individuals identified and deported under the program from Illinois have been individuals with either no convictions, or "level 3" individuals with convictions only for misdemeanors. In Lake County, the county immediately north of Cook, 67% of ICE arrestees are either non-criminals or level 3. It is little wonder that Lake County Sheriff Mark Curran, a Republican, has called "Secure Communities" a "distraction" that ties up jail space and officer time that his department can be using for other law enforcement purposes.

We have also learned about ICE's concerted campaign to get Cook County onto "Secure Communities" despite local policies limiting cooperation with immigration enforcement. This campaign was exposed through Freedom of Information Act litigation undertaken by the National Day Labor Organizing Network, the Center for Constitutional Rights, and Cardozo Law School. The FOIA documents reveal ICE strategies that included misleading communities about the scope of the program, surrounding Cook County with other activated counties in a "ring of interoperability," and even using the political clout of the then-White House Chief of Staff (now Chicago mayor) Rahm Emanuel. These documents proved so embarrassing that on the eve of their publication, ICE fired its regional coordinator for "Secure Communities" for Illinois.

We note that ICE has conducted similar campaigns to persuade other communities and states like California to sign on, including confusing if not misleading statements regarding whether counties and states can withdraw. Indeed, the federal judge hearing the FOIA litigation noted a few weeks ago that “there is ample evidence that ICE and DHS have gone out of their way to mislead the public about Secure Communities.”

Finally, and most important, “Secure Communities” and similar programs that engage local law enforcement have undermined the efforts of many police departments to build trust with immigrant communities. When any traffic stop—for offenses as minor as having a rosary or dream-catcher on one’s rearview mirror—can turn into a deportation case, and when immigrant crime victims and witnesses are afraid to come forward for fear of being questioned themselves, public safety for the entire community suffers.

Our state government has responded. The Illinois House, with bipartisan support, passed that Smart Enforcement Act, legislation to force changes in Illinois’ participation in “Secure Communities.” And on May 4, Governor Quinn sent to ICE a letter withdrawing Illinois from the program altogether. The governors of New York and Massachusetts and by sheriffs, mayors, and city councils across the country have taken similar action.

ICE responded to this groundswell of opposition in August by unilaterally terminating its Memoranda of Agreement with states participating in “Secure Communities”, including Illinois. ICE now insists that it can receive fingerprints directly from the FBI, completely removing states and local communities from any decision-making process over implementation of the program. In doing so, ICE demonstrated appalling disrespect for our Governor and our state, and for everyone else who has recognized the deep flaws within “Secure Communities.” Even more appalling, ICE made this announcement while DHS’ task force regarding “Secure Communities” was still conducting hearings, taking testimony, and considering possible reforms.

This subcommittee should challenge ICE to provide the statutory and other legal authority for compelling Illinois and other states and communities to participate in “Secure Communities.” ICIRR continues to question the legal basis for preventing Illinois and other jurisdictions from opting out. The authorities ICE has cited, the 2002 Enhanced Border Security Act and the 2008 DHS appropriations act, do not require the compulsory use of interoperable DHS and FBI databases embodied in “Secure Communities.” This subcommittee should also investigate how ICE came to decide that this program is to be compulsory, and the FBI’s role in this decision.

Holding ICE accountable for its past misrepresentations and for the damage that “Secure Communities” has done to local law enforcement and immigrant communities can only rebuild the agency’s standing. We urge this subcommittee to use its influence to get ICE to

- honor the decisions of local and state elected officials to foster public safety and community policing by withdrawing from the program,

- immediately halt "Secure Communities" at very least until its has implemented the recommendations of the DHS task force and the DHS inspector general has completed his investigation of the program, and
- If the problems we have identified regarding the program's overreach and harmful effects on local public safety cannot be remedied, end "Secure Communities" altogether.

Thank you the opportunity to comment and for considering this letter.

Sincerely



Fred Tsao
Policy director



November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Hudson Valley Community Coalition is made up of individuals and organizations throughout the five counties of the lower Hudson Valley of New York: Dutchess, Orange, Putnam, Rockland and Westchester. The members unite together to achieve immigration solutions that include and work for all members of the community.

We oppose the Secure Communities enforcement program because it threatens the safety of our communities, and it is being imposed on our communities in a deceptive and arbitrary manner. Secure Communities is implemented in every county in our region. This is true even though Governor Cuomo *suspended* New York's participation in the program. We see and feel the effect of this type of immigration enforcement program on our friends and family every day. Secure Communities is having a direct impact on the safety of the most vulnerable people in the community, especially immigrant women and children. Here are some examples of recent incidents in our area:

- An individual was beaten in front of a group of people in town; no witnesses would come forward because of fear they would be detained and deported;
- A woman did not access the Sheriff's Department after her daughter had been molested by a man for fear either she or her daughter would be detained;
- Teenagers being abandoned in jail by their parents who are afraid to visit and get caught in the detention system;
- Immigrants and their relatives are not accessing government agencies and medical treatment because of fear of Secure Communities.

We routinely receive calls for assistance from relatives of Latino individuals who have been stopped by the police or sheriff for minor traffic violations and immediately detained by ICE. Indeed, according to a recent analysis, a "large majority (83%) of people arrested through Secure Communities is placed in ICE detention as compared with an overall DHS immigration detention rate of 62%, and ICE does not appear to be

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www.hvcoalition.org

exercising discretion based on its own prioritization system when deciding whether or not to detain an individual."¹

We therefore make the following recommendations in order to protect our communities and to safeguard our rights as New Yorkers:

- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions such as New York that have chosen to opt out of the program, and to suspend Secure Communities in jurisdictions with a documented record of racial profiling or where the Department of Justice is actively investigating a pattern or practice of discriminatory policing.
- Congress should eliminate funding for Secure Communities and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- Congress should pass the End Racial Profiling Act, which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.

Thank you for your time and consideration.

Sincerely,



Betsy Palmieri
Executive Director
Hudson Valley Community Coalition
PO Box 173
Cross River, NY 10518

¹ See Aarti Kohli, Peter J. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.

Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ) Organizations Call for the Immediate Elimination of ICE's "Secure Communities" Program

On August 5, 2011, U.S. Immigration and Customs Enforcement (ICE) Director John Morton informed governors that ICE would terminate all agreements with states to implement its controversial fingerprint-sharing "Secure Communities" (S-Comm) program, despite previously saying that states and counties could opt-out or modify that agreement. **This announcement came as a result of powerful community mobilization throughout the country to challenge S-Comm and expose the harmful consequences of police/ICE collaboration.**

LGBTQ immigrants—particularly LGBTQ youth of color, low-income LGBTQ people, and LGBTQ survivors of violence—are disproportionately impacted by S-Comm and all "ICE ACCESS" programs, a set of thirteen federal programs that create partnership between federal law enforcement and local, state, and tribal police and courts.

Because of widespread police profiling, selective enforcement, and poverty, LGBTQ immigrants come into high rates of contact with law enforcement, leading to a greater risk for deportation, now made even greater by programs such as S-Comm. Unfortunately, these programs are only the first steps in the Federal Bureau of Investigation's (FBI) biometric-sharing "Next Generation Identification" (NGI), a massive searchable database of palm print, fingerprint, and iris scans as well as scar, mark, tattoo, and facial recognition that will be accessible across federal agencies, including the U.S. Department of Defense and Department of Homeland Security.

As LGBTQ leaders, activists, and community members, we call on President Obama to take decisive action to eliminate these destructive programs that target and have severe consequences for LGBTQ people, low-income people, immigrants, people of color, survivors of violence, and young people.

How S-Comm Harms LGBTQ Communities:

- **Police/ICE collaboration further endangers LGBTQ communities and all communities with less access to resources.** All immigrants in this country struggle to find safe and secure housing, healthcare, employment, and education while living in fear of deportation. Immigrants who are LGBTQ are particularly vulnerable to detention and deportation because they are more likely to come into contact with law enforcement through police profiling and discriminatory enforcement of minor offenses, as well as through false or dual arrest when they attempt to survive or flee violence. Officials often use excessive force and coercion against LGBTQ people at the scene of arrest, including threats of deportation. Once in jail, prison, or immigration detention, LGBTQ people experience rampant and sometimes fatal sexual, physical, and emotional abuse, mirroring the abuse many face from partners, employers, and neighbors outside.
- **Police/ICE collaboration programs scapegoat LGBTQ immigrant communities and all marginalized groups of people by labeling them as "criminals."** LGBTQ communities like all marginalized communities face higher rates of poverty, violence, and unemployment. By labeling these communities "criminals," S-Comm and other

similar programs undermine the ability of communities and policymakers to create long-term solutions to these critical issues.

- **Deporting and increasing surveillance of people does not create safety.** Removing people from their homes and communities breaks apart biological and chosen family, drains resources, and creates a culture of fear. In addition to anticipating anti-LGBTQ bias, the fear of being referred to ICE can discourage LGBTQ immigrants from accessing supportive services. Many LGBTQ people face strained relationships with their biological families, and depend on others in their community for support. S-Comm and other similar programs tear at the fabric of these life-saving networks. True safety comes from whole, fully-resourced communities where everyone has the support they need to thrive.
- **Complex problems require complex solutions.** Programs like S-Comm distort and exacerbate the real problems communities face. For example, LGBTQ people often immigrate to the U.S. because of persecution and discrimination in their countries of origin. Upon finding similar discrimination in this country, LGBTQ people often turn to criminalized and underground economies to survive or are profiled or subjected to selective enforcement for minor offenses based on their sexual or gender non-conformity, leading to criminal charges and a greater risk of deportation under S-Comm and other similar programs. Instead of punishing people for their survival, we would be wise to address the underlying lack of economic and educational opportunity, destructive economic policies, and intergenerational legacies of trauma and bias that truly jeopardize our communities.

For these reasons and more, we invite LGBTQ leaders, organizations, and elected officials to join in this critical opportunity to defend the dignity and well-being of our most vulnerable community members and urge President Obama to immediately eliminate S-Comm and all police/ICE collaboration.

Please see the [2010 National Report on Anti-LGBT Hate Violence](#) for stories and statistics documenting LGBTQ interactions with law enforcement. If you or someone you know would like to share your experience being impacted by S-Comm or challenging the program, please contact morgan@cuav.org or (415) 777-5500 x318.

GROWING LIST OF ENDORSERS:

3rd Space, Phoenix, AZ
 AIDS Legal Council of Chicago, Chicago, IL
 Ali Forney Center, New York, NY
 An American Rainbow Foundation, Boulder, Co
 API Equality - Northern California, San Francisco, CA
 Asian & Pacific Islander Institute on Domestic Violence, San Francisco, CA
 Astraea Lesbians Foundation for Justice, New York, NY
 Audre Lorde Project, New York, NY
 Beloit College DREAMers, Beoit, WI
 Best Practices Policy Project, Washington, DC
 Black and Pink, National Office in Boston, MA

Black and Proud, Baton Rouge, LA
 BreakOUT!, New Orleans, LA
 Brown Boi Project, Oakland, CA
 Capital City Alliance, Baton Rouge, LA
 Center for Constitutional Rights (CCR), New York, NY
 COLAGE, National Office in San Francisco, CA
 Colorado Anti-Violence Program (CAVP), Denver, CO
 Corcoran College of Art and Design, Washington, DC
 Community United Against Violence (CUAV), San Francisco, CA
 Desiree Alliance, National
 Different Avenues, Washington D.C.
 El/La Program Para TransLatinas, San Francisco, CA
 Equality Louisiana, Baton Rouge, LA
 FIERCE, New York City, NY
 Gay Asian Pacific Islander Men of New York (GAPIMNY), New York, NY
 Gay-Straight Alliance Network, San Francisco, CA
 Gendercast, Seattle, WA
 GetEQUAL, National
 Gender JUST, Chicago, IL
 GRIOT Circle Inc., Brooklyn, NY
 Harvey Milk LGBT Democratic Club, San Francisco, CA
 HAVOQ/San Francisco Pride at Work, San Francisco, CA
 Latino Commission on AIDS, New York, NY
 Lavender Youth Recreation & Information Center (LYRIC), San Francisco, CA
 The LGBTQ Project of the Office of Multicultural Affairs at Louisiana State University, Baton Rouge, LA
 Louisiana Trans Advocates, Baton Rouge, LA
 Make the Road New York, New York City & Suffolk County
 Mangos With Chili, Oakland, CA
 Massachusetts Transgender Political Coalition (MTPC), Boston, MA
 National Center for Lesbian Rights (NCLR), National Office in San Francisco, CA
 National Coalition of Anti-Violence Programs (NCAVP), National Office in New York, NY
 The National Gay and Lesbian Task Force, National Office in Washington D.C.
 The Network/La Red, Boston, MA
 One Colorado, Colorado State
 Our Family Coalition, San Francisco Bay Area, CA
 Our4Immigration, National Based in San Francisco, CA
 OUTlaw of Louisiana State University, Baton Rouge, LA
 Out Now, Springfield, MA
 Peter Cicchino Youth Project, New York, NY

Positive Force, Washington, DC
 Queer Asian Women & Transgender Support Program of Asian Women's Shelter, San Francisco, CA
 Queer Latina Network, Santa Cruz, CA
 Queer Women of Color Media Arts Project (QWOCMAP), San Francisco, CA
 Queers for Economic Justice, New York, NY
 Rev. Dr. Michael Tino, Mount Kisco, NY
 Rev. Lynn Gardner, Auburn, CA
 San Francisco Trans March, San Francisco, CA
 Sex Workers Action New York (SWANK), New York, NY
 Sex Workers Outreach Project (SWOP) Denver, Denver, CO
 Sex Workers Outreach Project (SWOP) NYC, New York, NY
 Sex Workers Project of the Urban Justice Center, New York, NY
 Southerners On New Ground (SONG), Southern Regional
 Spectrum LGBT Center, Marin County, CA
 Streetwise & Safe (SAS), New York, NY
 Sylvia Rivera Law Project (SRLP), New York, NY
 Thrive Social Justice, Oakland, CA
 Transformative Alliances LLC, Denver, CO
 Transgender, Gender Variant, & Intersex Justice Project (TGJJP), San Francisco, CA
 Transgender Individuals Living Their Truth, Inc. (TILTT), Atlanta, GA
 Transgender Law Center (TLC), Statewide Office in San Francisco, CA
 Trikone Northwest, Seattle, WA
 Trinity Place Shelter, New York, NY
 Women Organized to Make Abuse Nonexistent (WOMAN Inc.), San Francisco, CA
 Women Organizing Women of Louisiana State University, Baton Rouge, LA
 Women With a Vision, Inc., New Orleans, LA
 Women's Health and Justice Initiative, New Orleans, LA

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Enlace Comunitario

The Honorable Zoe Lofgren
 Ranking Member, Subcommittee on Immigration Policy and Enforcement
 U.S. House of Representatives

November 28, 2011

Dear Honorable Zoe Lofgren,

As an organization that serves domestic violence victims, Enlace Comunitario is concerned about the effect Secure Communities (SComm) is having on the immigrant women and children we help. Programs such as Secure Communities that have been implemented by the U.S. Immigration and Customs Enforcement (ICE) over the past few years have resulted in the unprecedented entanglement of the state and local criminal justice systems with federal immigration enforcement. As a result, many of the immigrant domestic violence survivors we now see are too afraid to report the crimes they've suffered to law enforcement and many others are too afraid to even seek services. Despite the Administration's efforts to ameliorate this problem through an ICE memorandum on prosecutorial discretion, it is not clear how effectively these goals are being implemented and the fears of accessing safety and justice for victims of crime are growing, not diminishing.

Enlace Comunitario is a recognized non-profit organization that has been providing domestic violence services to Spanish-speaking victims since 2000. We have provided case management, individual and group counseling, life skills classes, and civil legal services to thousands of victims of domestic violence and their children. Additionally, we have referred hundreds of U-visa and VAWA eligible clients to Catholic Charities and the New Mexico Immigrant Law Center to submit applications for VAWA and U-Visas. Our staff has trained hundreds of service providers, law enforcement officials, attorneys, and community-based organizations on domestic violence. Moreover, our program has received grant funding from the Office on Violence Against Women (OVW) of the U.S. Department of Justice and has received national recognition as a premiere domestic violence services and prevention organization.

Research shows that perpetrators often use immigration status as a tool of power and control over their victims. Like other victims of domestic violence and sexual assault, immigrant survivors should be able to trust their local police to help them when they report crimes. SComm, however, has eliminated that trust when local police are viewed instead as a branch of federal immigration enforcement. Numerous stories and media articles have demonstrated how public safety is undermined when a victim of domestic violence or sexual assault calls the police for

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Enlace Comunitario

help and subsequently finds that she has been arrested and placed in deportation proceedings.

Dual arrests unfortunately occur frequently in domestic violence cases involving immigrants, particularly if the victim has limited English proficiency. In such cases, even if prosecutors move forward in only prosecuting the abuser and the victim is later released without charges, under SComm the victim may find that she has an ICE detainer and has been put in deportation proceedings nonetheless, as has happened in numerous occasions.

Although Secure Communities purports to target and remove only serious criminal offenders, the reality is that many people who are arrested and subjected to this program are not dangerous criminals, and include victims of domestic violence and sexual assault who are wrongfully arrested or are arrested for minor violations that come to light when they seek help. Not only does this have a detrimental impact on the survivor and her children but, as word spreads, such incidents undermine community policing and result in silencing other victims who are too afraid to seek help.

Although we appreciate ICE's efforts to try to identify and triage out domestic violence and sexual assault survivors, immigrant crime survivors are even less likely to trust ICE, the agency charged with deporting them and their families. If survivors of crime must rely on ICE to identify them, our local criminal justice systems are failing in their responsibility to uphold public safety.

This is not just a problem for immigrant victims and for those of us who work with them. Those who harm immigrant women and children know that SComm is an effective tool for instilling fear and coercing silence. When whole communities fear participating in our justice system this undermines public safety for everyone and makes our communities less secure.

Local and state law enforcement agencies must be allowed to choose not to participate in SComm until these problems are solved. Moreover, we encourage you and the Administration to find ways other than SComm to achieve your goals without eroding our society's commitment to protecting the safety of all victims of crime and our communities at large.

Thank you for considering our comments.

Sincerely,
 Enlace Comunitario



November 25, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

Gamaliel is a grassroots network of non-partisan, faith-based organizations in 18 U.S. states, that organizes to empower ordinary people to effectively participate in the political, environmental, social and economic decisions affecting their lives. Gamaliel's diverse members apply their faith and values to the pursuit of equal opportunity for all, shared abundance, and stronger, more prosperous communities.

"When a stranger resides with you in your land, you shall not oppress the stranger. The stranger who resides with you shall be to you as the citizen among you; you shall love the stranger as yourself, for you were strangers in the land of Egypt. I am the Lord your God." – Leviticus 19:33-34

America's people of faith have witnessed how our country's broken immigration system has separated countless families and compromised the dignity of millions of decent people. Consequently, Gamaliel launched our Civil Rights of Immigrants campaign to work for smart and fair policies that affect immigrants locally and to enact Comprehensive Immigration Reform nationally.

We oppose the Secure Communities Program because it is ineffective, threatens the safety of our communities, runs counter to American principles of fairness and justice and has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. This program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration.

Most Sincerely,

Ana Garcia-Ashley, Executive Director



GAMALIEL

1111 Wood Street, Suite 400, Chicago, Illinois
773.329.1111 | www.gamaliel.org



**Statement for the Record
House Committee on the Judiciary
Subcommittee on Immigration Policy and Enforcement**

Hearing on "Is Secure Communities Keeping our Communities Secure?"

November 30, 2011

The National Immigration Forum upholds America's tradition as a nation of immigrants. The Forum advocates for the value of immigrants and immigration to the nation, building support for public policies that reunite families, recognize the importance of immigration to our economy and communities, protect refugees, encourage newcomers to become Americans and promote equal protection under the law.

We are submitting our views about the Department of Homeland Security's "Secure Communities" program and its negative consequences for our nation's communities.

This summer, the National Immigration Forum participated as a member of the DHS Task Force on Secure Communities. The Task Force was charged with issuing recommendations on ways to improve the program, including mitigating damage to community policing practices. Driven by deep misgivings with the Secure Communities program, we engaged in the Task Force process to produce meaningful and necessary reforms to a program that is speeding towards national deployment despite glaring and fundamental flaws.

Because we felt the recommendations in the Task Force's final report did not remedy flaws in the program's operations, we did not endorse it and tendered our resignation from the Task Force.

Paramount among our concerns with Secure Communities is the program's negative impact on public safety. This negative impact is the result of the practice in some communities of arresting certain individuals who might not ordinarily be arrested so that an immigration check can be made on the individual. There are insufficient mechanisms to hold participating law enforcement agencies accountable. Abuse of the system has led to a decline in trust in participating law enforcement agencies. Communities become less safe, as victims and witnesses of crime retreat from law enforcement out of fear of immigration consequences for cooperating with the police.

More fundamentally, individuals charged with civil immigration violations should not be the target of a program funded and marketed as a way to identify threats to public safety and national security. Additionally, local decisions about how and if to participate in Secure Communities should be honored.

Secure Communities contradicts the National Immigration Forum's principles for sensible immigration reform. Until the Department of Homeland Security can assure the public that critical problems with Secure Communities have been remedied, the program should be suspended. Continuing to operate and expand a flawed program jeopardizes not only the civil rights and dignity of individuals swept in to Secure Communities, but also the community safety that the program was allegedly designed to safeguard.

The Subcommittee on Immigration Policy and Enforcement
 House of Representatives
 B-353 Rayburn House Office Building
 Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

Central to all faith traditions are the principles of the common good, human dignity and love for one's neighbor. In many of our sacred texts the value of welcoming the stranger is an explicit mandate and primary tenet of our faith as in the Abrahamic traditions where it reads the below:

*"You shall not wrong a stranger or oppress him, for you were strangers in the land of Egypt."
 (Exodus 22:21).*

However, U.S. immigration enforcement policies have only become harsher and more inhumane in recent years. Immigrant communities are increasingly targeted, profiled, apprehended, detained and deported, creating an environment of increasing fear. Secure Communities allows ICE to identify, process, and remove immigrants incarcerated in federal, state, and local jails. This leads further criminalization of migrants wherein minor violations, often traffic stops, turns into an investigation of citizenship status where many are therein detained. Furthermore, low-priority non-violent offenders or even citizens are being funneled into this program needlessly separating hundreds of thousands of families. This is done in the face of Department of Homeland Security's own task force report that concluded that S-Comm sows mistrust of police and makes communities less safe.

In a speech ICE Director John Morton gave to the International Association of Chiefs of Police on October 25, 2011 he boasted of the total 396,9606 individuals deported, the largest in the agencies history¹, but what about the 180,208 individuals who had been neither convicted nor arrested for any criminal offense? They are funneled into an unjust deportation system without rights to due process. Tragically, many of those removed in this category were U.S. residents of many years. Many of them are parents, wives and husbands whose families are left broken in the wake of an unmerciful policy.

"They treat you like the worst of criminals when in reality you have done nothing besides drive your car to work in order to survive. You do this without a license because the system does not allow it."- Fernando, Arizona

Programs such as Secure Communities create an atmosphere of xenophobia that has proven detrimental for the all immigrant and refugee communities, regardless of their documentation status. As people of faith we are called by a moral imperative to take an

¹ <http://www.ice.gov/doclib/news/library/speeches/111028morton.pdf>

² <http://altopolimigra.com/s-comm-shadow-report/>

ethical stance for just policies and speak out against these enforcement practices hurting so many through separation of families, breaking apart whole communities and takes advantage of marginalized communities for political gain.

Our faith now calls us to be part of changing this unjust policy and ask that Secure Communities be permanently halted and recommend the following:

- 1) The Secure Communities program should be ended.
- 2) The Department of Justice Office of Inspector General should begin an investigation into the FBI's role in Secure Communities.
- 3) Criticism of Secure Communities should be applied to inform changes to other ICE ACCESS programs, and the entanglement of local criminal law enforcement and federal civil immigration functions should be stopped and reversed.
- 4) States and localities should not be compelled to participate in immigration enforcement programs, including the forwarding of fingerprints and other biometric information to the Department of Homeland Security

We cannot build strong communities if they're being torn apart. Instead we ask for a more viable solution of working towards a humane comprehensive immigration reform that can provide a pathway to citizenship for so many deserving members of our society.

Sincerely,

Rev. Mark Kuether
The Congregational United Church of Christ
Detroit Lakes, Minnesota

Gideon Aronoff
President & CEO
Hebrew Immigrant Aid Society

Rev. John Guttermann
Interfaith Coalition on Immigration
Minnesota

Br. Michael Gosch, CSV
Provincial Council of the
Clerics of St Viator

Rev. Randy Mayer
Good Shepherd UCC
Sahuarita, Arizona

Rev. Dr. John C. Dorhauer
Conference Minister
Southwest Conference
United Church of Christ

Erol Kekic
Church World Service
Immigration and Refugee Program

Rev. Dr. Teresa Roberts
Community Presbyterian Church
Rochester, MN

Annette Allain
Provincial Coordinator
Little Sisters of the Assumption

Vic Rosenthal
Executive Director
Jewish Community Action
St. Paul, MN

The Rev. Dr. Lyda Pierce
United Methodist Clergy
Yakima, WA 98908

Sister Maryann Mueller
Justice and Peace Coordinator
Felician Sisters of North America

Pr. Rick Kremer
Gloria Dei Lutheran Church
Providence, Rhode Island

Roxanne Smith
St Joseph the Worker Church
Maple Grove, MN

Patricia Decker
United Church of Christ
Montana

Reverend Alison Harrington
Pastor, Southside Presbyterian Church
PC(USA)

Stephen Schaitberger
Priest, The Episcopal Church
Minnesota

Jennifer Rock
New Sanctuary Movement
Philadelphia, PA

Margarita McLarty
Board Member, Montana Women For...
Livingston, Montana

Rev. Deborah Fox
Episcopal Campus Ministry
Raleigh, NC

Connie Aligada
Saint Paul, MN

Michelle Melcher Knight, MSW
Columban Center for Advocacy
and Outreach, Silver Spring

Sister Miriam Mitchell, S.H.Sp., MPS
General Superior
Convent of the Holy Spirit &
Mary Immaculate
San Antonio, Texas 78203

David Vásquez, Campus Pastor
Luther College
Decorah, IA

Ceil Roeger, OP
Promoter of Justice, Peace
and Care of Creation
Dominican Sisters
Houston, TX

Beth Poteet, MSW
New Sanctuary Movement
Portland, OR

The Rev. Donna Gleaves
Episcopal Diocese
Montana

Betty Jo Braun
Le Sueur, MN

Joy Nelson
Holy Trinity Lutheran Church
Minneapolis, MN

Gail Anderson,
Monticello, MN

Wachen Anderson
St. Paul, MN

Juventino Meza
NAVIGATE, MN

Rev. Paula R. Bidle
Minneapolis, MN

Pat Farrell, OSF
Sisters of St. Francis of Dubuque
Immigration and Refugee Services
Iowa

Lyn Clark Pegg
Duluth, MN

Kimberly Anderson, Director
Casa Guadalupe
St. Paul Minnesota

Sister Maryann Mueller
Justice and Peace Coordinator
Felician Sisters of North America

Mike Blevins
Executive Director
NE Iowa Peace & Justice Center, Inc.

Diane Haines
Mayflower United Church of Christ

Catherine McNamee
St. Louis, MO

Porfirio Martinez
Our Lady of Guadalupe Church

Anita Varley
Bozeman, MT

Rev. Aundrea Alexander, J.D.
National Coordinator-Office of
American Baptist Home Mission Societies

Rev. Joanne Sylvander
United Church of Christ



November 30, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The Center for Community Change, a national racial and social justice organization with a long history of working on immigration reform, is writing to express our opposition to the Secure Communities Program. Secure Communities is ineffective, undermines the safety of our communities, runs counter to American principles of fairness and justice and it has put local communities, especially people of color, at risk. Further, we question the Department of Homeland Security's (DHS) representation of the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. We work with immigrant communities across the country and the experience on the ground reflects a different story. One of Secure Communities incentivizing racial profiling and silencing of immigrants in danger due to domestic violence and victims of crime.

We recommend the following action to better protect the rights of immigrants in our communities:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Sincerely,

Deepak Bhargava
Executive Director

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
The Committee on the Judiciary
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

We the undersigned organizations, constituting the California Table of the Reform Immigration for American (R4A) Campaign, write you to express our utmost concern regarding the Department of Homeland Security (DHS) Immigration and Customs Enforcement (ICE) program known as "Secure Communities" (S-Comm).

We oppose S-Comm because it is ineffective, threatens the safety of our communities, runs counter to American principles of fairness and justice and has been deceitfully imposed on our state as well as our cities and counties. DHS and ICE, together with the FBI, have misrepresented the Secure Communities program as both voluntary and targeted at the "worst of the worst" to the American public, law enforcement agencies, state and local governments, and Members of Congress who have appropriated funding for its breakneck implementation and rollout.

S-Comm is effectively turning our local police officers into immigration agents. Here in California, many agencies like the Los Angeles Police Department and the San Francisco Sheriff's Department have for decades pursued philosophies of community policing that are now being undermined by S-Comm. When community members perceive neighborhood police as an extension of ICE, crimes go unreported and we all – irrespective of immigration status - suffer.

Moreover, S-Comm actually creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests. So rather than being "race neutral" as claimed by ICE, it leverages prevailing practices of local police in order to reach higher deportation levels. So whether an officer intends it or not, an arrest for a minor offense like e.g. ice cream vending on a sidewalk (illegal in the City of Los Angeles) can now lead to detention and deportation. This is what is now happening to Blandina Perez from the San Fernando Valley, who risks being torn from her US citizen son because she was trying to bring bread to the table. All of our communities are hearing stories like this – and this is simply wrong.

To safeguard our communities and the protection of our rights we recommend that:

- *The "Secure Communities" program should be terminated.*
- *The problems associated with Secure Communities should be applied to inform changes to other ICF ACCESS programs, e.g. the 287(g) and the Criminal Alien programs; and the entanglement of local criminal law enforcement and federal civil immigration functions should be stopped and reversed.*
- *States and localities should not be compelled to participate in immigration enforcement programs, including the forwarding of fingerprints and other biometric information to DHS.*
- *The Department of Justice Office of Inspector General should begin an investigation into the FBI's role in Secure Communities.*

Thank you for your time and consideration

Sincerely and on behalf of California Table Members

CHIRLA, Coalition for Humane Immigrant Rights of Los Angeles, Los Angeles
SIREN, Service Immigrant Resource and Education Network - San Jose

ALA (Asian Law Alliance) - San Jose
Asian Law Caucus – San Francisco
Episcopal Diocese of California, Migration & Immigration Task Force - Redwood City
Immigration Task Force of the United Methodist Church, California-Pacific Conference - Los Angeles
Immigrant Legal Resource Center, San Francisco
JFI (Justice for Immigrants Coalition of Inland Southern California) – San Bernardino
Korean Resource Center - Los Angeles
Libreria del Pueblo, Inc. - San Bernardino
LA Voice - Los Angeles
Missionaries of St. Charles, Scalabrinians - San Fernando Valley
National Farm Worker Ministry - Los Angeles
Our Lady of the Holy Rosary Catholic Church - Van Nuys
People Improving Communities through Organizing, PICO California
Sacred Heart Community Service- San Jose
PUEBLO (People United for Economic Justice Building Leadership) – Santa Barbara
SCADA (Southern California Chapter for the Americans for Democratic Action) – Los Angeles
SEIU Service Employees International United Service Workers West - California
SVAIR (Silicon Valley Alliance for Immigration Reform) – San Jose
San Diego South County Immigration Task Force - San Diego
Silicon Valley De-Bug - Santa Clara
Betsy Wolf-Graves, Board Member, Santa Clara Valley Chapter, ACLU

CARDOZO LAW

BENJAMIN N. CARDOZO SCHOOL OF LAW • YESHIVA UNIVERSITY

KATHERINE O. GREENBERG
IMMIGRATION JUSTICE CLINIC

Peter L. Markowitz
Associate Clinical Professor of Law
Director

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Visiting Assistant Clinical Professor of Law

Sonia Lin
Clinical Teaching Fellow

(212) 790-0895
FAX (212) 790-0256

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee

We write to call for the termination of the Secure Communities program. The Kathryn O. Greenberg Immigration Justice Clinic of the Benjamin N. Cardozo School of Law is a plaintiff in a Freedom of Information Act (FOIA) lawsuit seeking records related to the Secure Communities program. Other plaintiffs in the lawsuit are the National Day Laborer Organizing Network and the Center for Constitutional Rights. Through this litigation, known as *National Day Laborer Organizing Network et al. v. U.S. Immigration and Customs Enforcement et al.*, No. 10 Civ. 3488 (S.D.N.Y. filed April 27, 2010), we have received data and internal government documents that had not previously been disclosed to the public. We oppose the Secure Communities program because it is ineffective, threatens the safety of our communities, runs counter to American principles of fairness and justice, and because it has been unilaterally imposed on unwilling communities throughout the United States.

This letter focuses on misrepresentations made by the Department of Homeland Security (DHS) and Immigration and Customs Enforcement (ICE) about Secure Communities that have been revealed through the FOIA litigation. The documents we have recovered show that, since the program's inception, DHS and ICE have made misleading, inconsistent, and false statements to state and local officials throughout the country about whether states and localities are able to opt-out of participation in Secure Communities and have ignored requests from state and local officials to end or limit their jurisdictions' participation in the program.

ICE officials have admitted to using "different language for different purposes" when it came to discussing mandatory participation in the program.¹ ICE's early plan, from 2009, appears to have been to claim publicly that opt-out was an option, but only "[u]ntil such time as

¹ Internal ICE email, dated June 23, 2010, ICE FOIA 10-2674.0004154-0004156, available at <http://uncoverthetruth.org/wp-content/uploads/ICE-FOIA-10-2674.0004154-0004156.pdf>.

localities begin to push back on participation.”² This is indeed what transpired. After localities such as Arlington, Virginia, Santa Clara, California, Washington D.C., and San Francisco, California sought to opt-out of the program in 2010, DHS announced in October 2010 that localities could not opt-out of the program. Three states – Illinois, New York, and Massachusetts – then sought to limit or end their participation in Secure Communities, only to have their positions ignored by DHS and ICE. On August 5, 2011, DHS and ICE declared that the 44 memorandums of agreements (MOAs) that had been painstakingly negotiated and signed with the states were unilaterally rescinded as unnecessary for the implementation of Secure Communities. Based on this record, it is no wonder that the judge presiding over the FOIA litigation concluded that “there is ample evidence that ICE and DHS have gone out of their way to mislead the public about Secure Communities” and whether participation in the program is mandatory or voluntary.³

The documents received pursuant to our FOIA request have also shown how the issue of whether states and localities can opt-out of the program has caused confusion and dissention amongst officials within ICE, DHS, and the Federal Bureau of Investigation (FBI). In May of this year, a high-level FBI official expressed doubts about Secure Communities’ effect on the FBI’s relationship with states and localities and described the FBI’s position in the controversy about mandatory Secure Communities as “being stuck in the middle of a nuclear war.” The official expressed concern that mandatory imposition of Secure Communities could cause the FBI’s information-sharing model with states and localities to “implode.”⁴

States and localities have ample reason to question the impact of Secure Communities on their communities and seek opt-out. The program has prompted widespread concern about its impact on community policing efforts, increased racial profiling, family separation caused by deportation, the due process rights of individuals caught in a troubled deportation system, privacy, and the wrongful apprehension of United States citizens. A recent report using data obtained as a result of this litigation provides alarming statistics about these concerns.⁵ However, Secure Communities continues to be rapidly deployed across our country without adequate oversight or consent of state and local governments. To safeguard our communities and the protection of our rights, we recommend that the Subcommittee call on DHS to terminate the Secure Communities program in all jurisdictions. States and localities that have sought to opt-out of the program should be removed from the program immediately.

² Internal ICE email dated Aug. 26, 2009, ICE FOIA 10-2674.001831, available at <http://uncoverthetruth.org/wp-content/uploads/ICE-FOIA-10-2674.001831-32.pdf>.

³ *Nat’l Day Laborer Org. Network v. U.S. Immigration & Customs Enforcement Agency*, No. 10 Civ. 3488 (SAS), 2011 WL 2693655 at *9 (S.D.N.Y. July 11, 2011) (comparing inconsistent statements made by DHS and ICE officials regarding opt-out).

⁴ Internal FBI Email, dated May 10, 2011, FBI-SC-FPL-00487-488, available at <http://uncoverthetruth.org/featured/new-fbi-documents-released-11-10-11/>.

⁵ Aarti Kohli, Peter Markowitz, and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.berkeley.edu/files/secure_communities_by_the_numbers.pdf.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to be 'Sonia Lin', written over a horizontal line.

Sonia Lin, Esq.
Sarah Amin, Law Student
Caroline Fuchs, Law Student
Liz Seaver, Law Student



AFRICAN SERVICES
COMMITTEE

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

African Services Committee is the leading African organization providing critical services to African and Caribbean immigrants in the areas of health, housing, ESL classes and legal assistance to list a few. We strive to provide adequate space for our clients where they safely and conveniently access to the services they need. Our end goal is to help them reach full potential so that they can make a meaningful contribution while smoothly integrate in the American society. Secure Communities Program is a serious hindrance to our efforts towards that goal.

We oppose the Secure Communities Program because it negatively impacts the ability of CBOs to properly provide services for their community members. Moreover, it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. The Department of Homeland Security (DHS) has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels.
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective protections are put into place to prevent racial profiling or other civil and human rights violations.
- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Sincerely,

Kim Nichols, Co-Executive Director

¹ See Aarni Kobil, Peter T. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and The Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at https://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf.



**House Committee on the Judiciary
Subcommittee on Immigration Policy and Enforcement**

**November 30, 2011 Hearing:
"Is Secure Communities Keeping Our Communities Secure?"
Written Statement for the Record
The Advocates for Human Rights**

The Advocates for Human Rights commends the House Committee on the Judiciary for conducting this hearing concerning the impact on survivors of domestic violence, sexual assault, and other crimes of the Department of Homeland Security's program known as "Secure Communities." We submit this written statement for the record to draw the Committee's attention to the importance of ensuring human rights protections to all victims of crime in the United States, regardless of their immigration status.

The Advocates for Human Rights is a non-governmental, 501(c)(3) organization dedicated to the promotion and protection of internationally recognized human rights. With the help of hundreds of volunteers each year, The Advocates investigates and exposes human rights violations; represents immigrants and refugees in our community who are victims of human rights abuses; trains and assists groups that protect human rights; and works through education and advocacy to engage the public, policy makers and children about human rights. The Advocates holds Special Consultative Status with the United Nations and is recognized as a global leader in the movement for the human rights of women.

Immigration and Customs Enforcement's "Secure Communities" and related immigration enforcement programs jeopardize the safety of immigrant victims of domestic violence, sexual assault, sex trafficking, and other crimes by undermining the ability of crime victims to seek law enforcement protection. They violate crime victims' basic human rights to safety and security of the person and to due process and equal protection of the law. We urge strong oversight of this and related programs' impact on crime victims and the dismantling of any program which threatens public safety by undermining the ability of all victims of crime to seek law enforcement protection.

Fear of deportation impedes an effective government response to domestic violence, sex trafficking, sexual assault, and other crime. Fear of deportation too often prevents immigrants from seeking protection or services from any government institution. While undocumented women particularly fear deportation, even in cases where women have legal immigration status complex forms in an unfamiliar language, inadequate information when entering the United States, and deliberate isolation by the perpetrator can result in confusion, fear, and vulnerability to whatever an abuser may tell his partner. Perpetrators often lie to their victims, using the fear of

deportation as another weapon of abuse. They often deceive victims about their status or tell her that if she calls the police, they will separate her from her children. A perpetrator may threaten that he will keep the children and have his partner deported. Fear of removal is so great that many immigrant women do not report violence to anyone including family, friends or neighbors for fear that someone will call the police.

The police departments of major cities understand the need to build community trust and ensure that immigrants and refugees who are victims of crime turn to the police for help. Many have undertaken practices that attempt to assure victims and witnesses that if they report a crime to the police, they will not be interrogated, arrested, or detained for civil immigration status violations if they have not themselves committed a crime. Programs such as “Secure Communities” directly undermine these community policing efforts and, ultimately, undermine the greater safety of our communities.

Public safety involves far more than deportation of undocumented immigrants. Public safety involves a careful balance of the need both to enforce federal immigration laws and to ensure that everyone in our communities has meaningful access to safety and security.



29 November 2011

The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Esteemed Members of the Subcommittee:

Presente.org is a national organization that exists to amplify the political voice of Latino communities. With the active support of more than 30,000 of our members, we write you to state unequivocally our strong opposition to the Secure Communities (S-COMM) program. S-COMM needs to be terminated now. Concerns with the program are many, but the fundamental problems with the program lie in three areas: (1) S-COMM encourages racial profiling, (2) S-COMM threatens public safety, and (3) S-COMM has been forced on our communities, against the will of some localities, and without concern for local input.

Most concerning to the members of Presente.org is how S-COMM appears to encourage the racial profiling of Latinos. Of the 2,816 members of Presente.org that wrote us with statements opposing S-COMM, many echoed Beatrice Ascencio of Rosemead, California, who wrote: "Stop the racial profiling, discrimination, and persecution of innocent people." These concerns over racial profiling are backed up by a recent report written by the Warren Institute at the University of California, Berkeley, which states, "Latinos comprise 93% of individuals arrested through Secure Communities though they only comprise 77% of the undocumented population in the United States."

As troubling to Presente's members and to the larger Latino community is the way S-COMM destroys the trust between immigrant communities and local law enforcement. This trust constitutes the foundation of any community policing strategy. If members of immigrant communities don't feel safe going to the police, then that makes all of us less safe. Presente.org member, Teresa Clark, of Seattle, Washington, expressed the sentiments of many when she wrote, "When law enforcement breaks trust with some in our communities, none of us are safe."

Presente.org was moved to take action because of the third concern about S-COMM: how the program is imposed by the federal government onto many of our local communities, despite strong opposition. This unacceptable situation led to Presente.org members like Libby Goldstein of Philadelphia, Pennsylvania, to write in saying: "What has happened to our democracy?"

Local police resources should not be usurped by the federal government in a way that encourages racial profiling, erodes trust in local law enforcement and ignores local input.

We ask the members of the Subcommittee on Immigration Policy and Enforcement do everything possible to end this program immediately.

Presente.org is a national organization dedicated to empowering Latinos and our allies. Our group has led campaigns around various national issues, including the removal of Lou Dobbs from CNN, the nomination of Judge Sonia Sotomayor, and the Trail of DREAMs campaign, in which four immigrant youth walked from Miami to Washington DC as part of their efforts to call attention to the plight of undocumented students. Our over 250,000 members are overwhelmingly against harmful enforcement policies like S-COMM. Thank you for your consideration.

Sincerely,

Favianna Rodriguez
Interim Executive Director of Presente.org



National Day Laborer Organizing Network
Red Nacional de Jornaleros

675 S. Park View St., Ste B
 Los Angeles, CA 90057

www.ndlon.org

Tel: (213) 380-2783
 Fax: (213) 353-1544

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
 House of Representatives
 B-353 Rayburn House Office Building
 Washington, DC 20515

Dear Chairman Gallely, Ranking Member Lofgren, and Members of the Subcommittee:

We write to express our opposition to Immigration and Customs Enforcement's failed "Secure Communities" deportation program. The National Day Laborer Organizing Network (NDLON) is a non-profit organization that works to improve the lives of day laborers in the United States. NDLON has 37 member organizations throughout the country. NDLON fosters safer more humane environments for day laborers, both men and women, to earn a living, contribute to society, and integrate into the community. NDLON is a plaintiff in *National Day Laborer Organizing Network et al. v. U.S. Immigration and Customs Enforcement et al.*, No. 10 Civ. 3488 (S.D.N.Y. filed April 27, 2010), a Freedom of Information Act lawsuit that has sought to uncover the truth about Secure Communities.

NDLON opposes the Secure Communities program because it threatens public safety and civil rights while tearing families apart, and because it has been shrouded in secrecy and deception since its inception. These concerns are laid out in detail in the enclosed report, *Restoring Community: A National Community Advisory Report on ICE's Failed 'Secure Communities' Program*. We urge the Subcommittee to read and consider this report in assessing the Secure Communities program.

Restoring Community was prepared by NDLON and a coalition of national and community-based organizations that have witnessed the impacts of Secure Communities on our members and communities. The report includes: first-hand accounts from local law enforcement officials explaining how Secure Communities threatens public safety; analysis from national advocacy groups outlining racial profiling concerns raised by Secure Communities; a review of the lies and deception with which ICE presented Secure Communities to states, localities, and the public; and stories of individuals caught up in the Secure Communities dragnet.

Given the inherently flawed nature of the Secure Communities program and the high level of controversy and deception surrounding the program, we offer the following recommendations:

- The Secure Communities Program should be ended
- The current Department of Homeland Security Office of Inspector General audit of Secure Communities should be completed, and the Department of Justice Office of Inspector General should begin an investigation into the FBI's role in Secure Communities

- Criticism of Secure Communities should be applied to inform changes to other ICE ACCESS programs, and the entanglement of local criminal law enforcement and federal civil immigration functions should be stopped and reversed
- States and localities should not be compelled to participate in immigration enforcement programs, including the forwarding of fingerprints and other biometric information to the Department of Homeland Security.

Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read 'JKP', is centered below the closing.

Jessica Karp
Staff Attorney
National Day Laborer Organizing Network



NAKASEC
 NATIONAL KOREAN AMERICAN SERVICE & EDUCATION CONSORTIUM
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November 29, 2011

The Subcommittee on Immigration Policy and Enforcement
 House of Representatives
 B-353 Rayburn House Office Building
 Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

The National Korean American Service & Education Consortium (NAKASEC) and its affiliates the Korean Resource Center (KRC) in Los Angeles and the Korean American Resource & Cultural Center (KRCC) in Chicago write to express our concern and opposition to the Department of Homeland Security (DHS) Immigration and Customs Enforcement (ICE) program known as "Secure Communities."

By way of background, NAKASEC was founded in 1994 by community based organizations with the purpose of projecting a national progressive voice on major civil rights and immigrant rights issues and promoting the full participation of Korean Americans with the greater goal of building a national movement for social change.

We oppose the Secure Communities Program because it is ineffective, it threatens the safety of our communities, it runs counter to American principles of fairness and justice and it has been deceitfully imposed on our country's local communities. By designating local law enforcement with federal immigration enforcement duties, Secure Communities erodes years of community policing work pursued by law enforcement agencies across the country.

Furthermore, DHS has misrepresented the Secure Communities program to the American public, law enforcement agencies, state and local governments, and Members of Congress. The Secure Communities Program creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pre-textual arrests.¹

To safeguard our communities and the protection of our rights we recommend that:

- Congress pass the End Racial Profiling Act which would ban profiling based on race, religion, ethnicity and national origin at the federal, state and local levels
- Congress eliminate funding for the Secure Communities Initiative and other programs that use state and local law enforcement agencies to conduct immigration enforcement, until and unless meaningful and effective

¹ See: Aarti Kohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Case Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at http://www.law.harvard.edu/files/Secure_Communities_by_file_Numbers.pdf

protections are put into place to prevent racial profiling or other civil and human rights violations.

- The Subcommittee should urge DHS to terminate Secure Communities in jurisdictions that have chosen to opt out of the program and suspend Secure Communities in jurisdictions with a documented record of racial profiling or where DOJ is actively investigating a pattern or practice of discriminatory policing.

Thank you for your time and consideration

Sincerely,

The National Korean American Service & Education Consortium
Korean American Resource & Cultural Center
Korean Resource Center



**CASA DE MISERICORDIA
MERCY MINISTRIES
OF LAREDO**

**LAMAR BRUNI-VERGARA
EDUCATION CENTER**

November 30, 2011

Dear Members of the House Judiciary Committee:

As an organization that serves domestic violence survivors, Casa de Misericordia of Laredo, Texas is concerned about the effect Secure Communities is having on the immigrant women and children we help. Programs such as Secure Communities that have been implemented by the U.S. Immigration and Customs Enforcement (ICE) over the past few years have resulted in the unprecedented entanglement of the state and local criminal justice systems with federal immigration enforcement. As a result, many of the immigrant domestic violence survivors we now see are too afraid to report the crimes they've suffered to law enforcement and many others are too afraid to even seek services. Despite the Administration's efforts to ameliorate this problem through an ICE memorandum on prosecutorial discretion, it is not clear how effectively these goals are being implemented and the fears of accessing safety and justice for victims of crime are growing, not diminishing.

Casa De Misericordia is a shelter for victims of domestic violence in Laredo, Texas. The vision of Casa De Misericordia is that battered victims, despite all they have endured, can reclaim their lives by receiving comprehensive, holistic services, and consistent long-term support. It is our mission to empower victims and their children and to hold the batterer accountable.

Research shows that perpetrators often use immigration status as a tool of power and control over their victims. Like other victims of domestic violence, immigrant survivors should be able to trust their local police to help them when they report crimes. SComm, however, has eliminated that trust when local police are viewed instead as a branch of federal immigration enforcement. Numerous stories and media articles have demonstrated how public safety is undermined when a victim of domestic violence or sexual assault calls the police for help and subsequently finds that she has been arrested and placed in deportation proceedings.

Dual arrests unfortunately occur frequently in domestic violence cases involving immigrants, particularly if the victim has limited English proficiency. In such cases, even if prosecutors move forward in only prosecuting the abuser and the victim is later released without charges, under SComm the victim may find that she has an ICE detainer and has been put in deportation proceedings nonetheless, as has happened in numerous occasions.

Although Secure Communities purports to target and remove only serious criminal offenders, the reality is that many people who are arrested and subjected to this practice are not dangerous criminals, and include victims of domestic violence who are wrongfully arrested or are arrested for minor violations that come to light when they seek help. Not only does this have a detrimental impact on the survivor and her children but, as word spreads, such incidents undermine community policing and result in silencing other victims who are too afraid to seek help.

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A member of the Sisters of Mercy Health System
and Mercy Ministries of Laredo



**CASA DE MISERICORDIA
MERCY MINISTRIES
OF LAREDO**

**LAMAR BRUNI-VERGARA
EDUCATION CENTER**

Although we appreciate ICE's efforts to try to identify and triage our domestic violence and sexual assault survivors, immigrant crime survivors are even less likely to trust ICE, the agency charged with deporting them and their families. If survivors of crime must rely on ICE to identify them, our local criminal justice systems are failing in their responsibility to uphold public safety.

We are very fortunate that our shelter has a great relationship with local forms of law enforcement, including ICE and Border Patrol. We do not hesitate to pick up the phone and contact them when a concern arises, and they respond very positively to us. They too have expressed a concern that victims of domestic violence are not calling us because of the immigration issue.

This is not just a problem for immigrant victims and for those of us who work with them. Those who harm immigrant women and children know that SComm is an effective tool for instilling fear and coercing silence. When whole communities fear participating in our justice system this undermines public safety for everyone and makes our communities less secure.

Local and state law enforcement agencies must be allowed to choose not to participate in SComm until these problems are solved. Moreover, we encourage you and the Administration to find ways other than SComm to achieve your goals without eroding our society's commitment to protecting the safety of all victims of crime and our communities at large.

I was fortunate to serve on the Task Force on Secure Communities that submitted in September of 2011 our findings and recommendations to the Department of Homeland Security Advisory Council and are still waiting to hear a response.

Thank you for considering our comments.

Sincerely,

Sister Rosemary Welsh, RSM
Casa de Misericordia
Executive Director

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CARECEN

CENTRAL AMERICAN RESOURCE CENTER / CENTRO DE RECURSOS CENTROAMERICANOS

November 28, 2011

Dear Zoe Logfren:

As an organization that serves survivors of domestic violence and sexual assault, the Central American Resource Center of Los Angeles (CARECEN) is concerned about the effect Secure Communities (SComm) is having on the immigrant women and children we help. Programs such as Secure Communities that have been implemented by the U.S. Immigration and Customs Enforcement (ICE) over the past few years have resulted in the unprecedented entanglement of the state and local criminal justice systems with federal immigration enforcement. As a result, many of the immigrant domestic violence and sexual assault survivors we now see are too afraid to report the crimes they've suffered to law enforcement and many others are too afraid to even seek services. Despite the Administration's efforts to ameliorate this problem through an ICE memorandum on prosecutorial discretion, it is not clear how effectively these goals are being implemented and the fears of accessing safety and justice for victims of crime are growing, not diminishing.

CARECEN was founded in 1983 by Salvadoran refugees and other human rights activists in order to provide support to the Central American community in Los Angeles. Since its inception, CARECEN has provided immigration legal services for Central American and other immigrants, most recently, focusing on immigration remedies for survivors of domestic violence and other violent crimes. Particularly, CARECEN specializes on the U Visa, an immigration visa that was designed to encourage immigrants to cooperate with law enforcement in criminal investigations. Through this work, in recent years CARECEN has worked with thousands of survivors of domestic violence and other crimes.

Research shows that perpetrators often use immigration status as a tool of power and control over their victims. Like other victims of domestic violence and sexual assault, immigrant survivors should be able to trust their local police to help them when they report crimes. SComm, however, has eliminated that trust when local police are viewed instead as a branch of federal immigration enforcement. Numerous stories and media articles have demonstrated how public safety is undermined when a victim of domestic violence or sexual assault calls the police for help and subsequently finds that she has been arrested and placed in deportation proceedings.

Dual arrests unfortunately occur frequently in domestic violence cases involving immigrants, particularly if the victim has limited English proficiency. In such cases, even if prosecutors move forward in only prosecuting the abuser and the victim is later released without charges, under SComm the victim may find that she has an ICE detainer and has been put in deportation proceedings nonetheless, as has happened in numerous occasions.

Recently, a domestic violence victim in Los Angeles, Isaura Garcia called the police to report her abuser and was herself arrested by the Los Angeles Sheriff's Department, as the responding officers felt they could not determine the dominant aggressor at the scene of the crime. Although it was eventually determined that Ms. Garcia was acting in self-defense and she was not charged with domestic violence, she was passed on to ICE for removal. The Spanish-language media reported this arrest, which terrified countless numbers of domestic violence victims and will surely lead to greater fear of reporting crime and cooperating with law enforcement. This directly counteracts the purpose of the U Visa, which was to encourage cooperation between law enforcement and immigrant communities.

Although Secure Communities purports to target and remove only serious criminal offenders, the reality is that many people who are arrested and subjected to this program are not dangerous criminals, and include victims of domestic violence and sexual assault who are wrongfully arrested or are arrested for minor violations that come to light when they seek help. Not only does this have a detrimental impact on the survivor and her children but, as word spreads, such incidents undermine community policing and result in silencing other victims who are too afraid to seek help.

Although we appreciate ICE's efforts to try to identify and triage out domestic violence and sexual assault survivors, immigrant crime survivors are even less likely to trust ICE, the agency charged with deporting them and their families. If survivors of crime must rely on ICE to identify them, our local criminal justice systems are failing in their responsibility to uphold public safety.

This is not just a problem for immigrant victims and for those of us who work with them. Those who harm immigrant women and children know that SComm is an effective tool for instilling fear and coercing silence. When whole communities fear participating in our justice system this undermines public safety for everyone and makes our communities less secure.

Local and state law enforcement agencies must be allowed to choose not to participate in SComm until these problems are solved. Moreover, we encourage you and the Administration to find ways other than SComm to achieve your goals without eroding our society's commitment to protecting the safety of all victims of crime and our communities at large.

Thank you for considering our comments.

Sincerely,

CARECEN-LA



The American Civil Liberties Union

Written Statement
For a Hearing on

"Is Secure Communities Keeping Our Communities Secure?"

**Submitted to the House Judiciary Subcommittee
on Immigration Policy and Enforcement**

November 30, 2011

ACLU Washington Legislative Office
Joanne Lin
Christopher Rickerd

ACLU Immigrants' Rights Project
Katherine Desormeau

I. Introduction

The ACLU is a nationwide, non-partisan organization of more than a half million members, countless additional activists and supporters, and 53 affiliates nationwide dedicated to enforcing the fundamental rights of the Constitution and laws of the United States. The Immigrants' Rights Project (IRP) of the ACLU engages in a nationwide program of litigation, advocacy, and public education to enforce and protect the constitutional and civil rights of immigrants. The Washington Legislative Office (WLO) represents the interests of the ACLU before Congress and the Executive Branch of the federal government. The ACLU submits this statement to express its concerns about the daily harms caused by Secure Communities ("S-Comm") to U.S. citizens, lawful permanent residents, temporary admitted visitors ranging from students to business executives, and undocumented persons who often have mixed status families with U.S. citizen children.

The Departments of Justice (DOJ) and Homeland Security (DHS) jointly operate S-Comm. Under S-Comm, the FBI, which DOJ oversees, sends the fingerprints of every arrested person – which it receives from states and localities for criminal purposes – to DHS for civil immigration enforcement purposes. S-Comm causes localities to expend their already-strained law enforcement resources on detaining low-level offenders who would otherwise be released; encourages racial profiling in jurisdictions that are being investigated by DOJ for discriminatory police practices; and recklessly endangers the fundamental prerequisite to effective policing: community trust. The Governors of Illinois, New York, and Massachusetts have asked unsuccessfully for DHS to end their states' involvement in S-Comm, citing the public safety problems S-Comm presents for state and local law enforcement agencies. S-Comm is under review by both the Government Accountability Office and the DHS Office of Inspector General to examine programmatic failings and official misrepresentations to members of Congress and governors.

In short, S-Comm is a failed program, with extensive statistical and qualitative documentation of its ill effects and well-founded state and local resistance to its intrusive dictates. It must be terminated immediately.

II. S-Comm fails to meet its own stated goals and has wasted taxpayers' money.

S-Comm originated in Congress's instructions attached to the 2008 budget, requiring that DHS "improve and modernize efforts to identify aliens convicted of a crime, sentenced to imprisonment, and who may be deportable, and remove them." Congress requested "a

methodology U.S. Immigration and Customs Enforcement will use to identify and prioritize for removal criminal aliens *convicted of violent crimes*.¹ In 2010, the annual House Homeland Security Appropriations report re-emphasized that ICE's priority should be the removal of aliens "convicted of serious crimes."² When S-Comm was originally implemented, it was to target "the worst of the worst,"³ and the ICE brochure on S-Comm continues to assert that ICE focuses its efforts on "the most dangerous and violent offenders."⁴

DHS's rhetoric, however, bears no relation to the realities of S-Comm's implementation. In May 2011, Illinois Governor Pat Quinn officially sought to withdraw his state's participation in S-Comm "[d]ue to the conflict between the stated purpose . . . and the implementation of the program." He noted that "by ICE's own measure, less than 20% of those who have been deported from Illinois under the program have ever been convicted of a serious crime. . . . [M]ore than 30% of those deported . . . have never been convicted of *any* crime, much less a serious one."⁵

These statistics are replicated around the country. As of October 31, 2011, 27% of those removed or returned under S-Comm were, in ICE's terms, non-criminals—that is, they had no record of any criminal conviction. An additional 31% had been convicted only of Level 3 (misdemeanor) offenses. These numbers are not appreciably improving. In FY 2011, the combined percentage of non-criminal and Level 3 removals or returns was still 55%, with the non-criminal portion at 26%.⁶ Despite DHS Secretary Napolitano's October 5, 2011, speech asserting that S-Comm is "track[ing] down criminals and gang members on our streets," DHS has not adhered to Congress's requirement that DHS prioritize violent convicted criminals.

¹ Consolidated Appropriations Act of 2008, Pub. L. No. 110-161, 110th Cong. (2008) (emphasis added).

² H.R. REP. 111-157, at 8 (2010), available at http://www.gpo.gov/cgi-bin/getdoc.cgi?dbname=111_cong_reports&docid=f:hr157111.pdf ("Since 2007, the Committee has emphasized how ICE should have no higher immigration enforcement priority than deporting those who have proved their intent to do harm and have been convicted of serious crimes.");

³ U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, ICE FISCAL YEAR 2008 ANNUAL REPORT 5 (2008).

⁴ U.S. Immigration and Customs Enforcement, "Secure Communities: A Modernized Approach to Identifying and Removing Criminal Aliens" (Jan. 2010), available at www.ice.gov/doclib/secure-communities/pdf/sc-brochure.pdf

⁵ Letter from Governor Quinn to ICE's Marc Rapp (May 4, 2011), available at <http://www.ice.dhs.gov/w-press/content/uploads/2011/05/quitquinn.pdf>

⁶ U.S. Immigration and Customs Enforcement, Secure Communities: IDENT/IAFIS Interoperability Monthly Statistics through September 30, 2011, available at http://www.ice.gov/doclib/foia/sc-stats/nationwide_interoperability_stats-fy2011-to-date.pdf

S-Comm has consumed \$750 million in Congressional funding over the past four years.⁷ The administration has asked for \$184 million in funding for FY 2012, an increase of 35% over the prior year. Yet the program continues to operate contrary to Congressional intent.

III. S-Comm promotes racial profiling.

Under S-Comm, any time an individual is arrested and booked into a local jail for any reason, his or her fingerprints are electronically run through ICE's database. The fingerprints allow ICE to identify people in state or local custody and to initiate deportation proceedings against them if ICE believes they may be removable. After a similar ICE jail screening program (the Criminal Alien Program or CAP) was initiated in Irving, Texas, the Warren Institute at the University of California, Berkeley, found strong evidence that local police, emboldened by the knowledge that the people they arrested would be brought to ICE's attention once they were booked into jail, engaged in racial profiling and pretextual arrests. The report concluded that there was a "marked rise in low-level arrests of Hispanics."⁸

Massachusetts Governor Deval Patrick highlighted racial profiling in explaining his opposition to S-Comm: while "[n]either the greater risk of ethnic profiling nor the overbreadth in impact will concern anyone who sees the immigration debate in abstract terms[,] . . . for someone who has been exposed to racial profiling or has comforted the citizen child of an undocumented mother coping with the fear of family separation, it is hard to be quite so detached."⁹ Research has established that "Latinos comprise 93% of individuals arrested through Secure Communities though they only comprise 77% of the undocumented population in the United States."¹⁰ Civil rights groups across the country have criticized S-Comm on this basis for encouraging pretextual arrests and racial profiling of immigrants.

Under S-Comm, ICE receives notification of a person's whereabouts at booking—before that person has been convicted of any wrongdoing, and in some cases even before the person has been formally charged. S-Comm, therefore, creates an incentive for state and local police to target immigrants for arrest for minor offenses—including, for example, driving with a broken taillight or driving with an expired tag—purely in order to bring them into the jail. Police

⁷ S.R. 112-74, Senate Appropriations Committee Report on the 2012 Department of Homeland Security Appropriations Bill (Sept. 7, 2011), 59, available at <http://www.gpo.gov/fdsys/pkg/CRPT-112rpt74/pdf/CRPT-112rpt74.pdf>

⁸ Trevor Gardner II and Aarti Kohli, The Chief Justice Earl Warren Institute on Race, Ethnicity & Diversity, "The C.A.P. Effect: Racial Profiling in the ICE Criminal Alien Program," September 2009, 1, 5, 8, available at http://www.law.berkeley.edu/files/policybrief_irving_FINAL.pdf

⁹ Brian Fraga, "Governor responds to Hodgson criticisms on immigration program," SouthCoast Today.com (June 11, 2011).

¹⁰ Aarti Kohli, Peter Markowitz, and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics And Due Process*, S-6 (2011), available at http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf

understand that even if the arrest is baseless or if the person is later cleared of wrongdoing, S-Comm will bring that person to ICE's immediate attention for potential deportation even if local officials elect not to charge or prosecute. By targeting non-criminals, misdemeanants, and persons arrested but not convicted of criminal charges, S-Comm sends a clear message to local police that ICE will turn a blind eye to how arrestees came to be fingerprinted. Not surprisingly, then, some jurisdictions with a history of racially-motivated police misconduct have abnormally high numbers of non-criminals and low-level offenders among the people processed and removed through S-Comm.¹¹

Despite DHS's claim that "racial and/or ethnic profiling . . . is not permitted and may result in the suspension of the local jurisdiction,"¹² DHS has deployed S-Comm in jurisdictions around the country where local law enforcement agencies have been or are being investigated by DOJ's Civil Rights Division for discriminatory policing targeting Latinos or other people of color. For example, DHS continues to operate S-Comm in the New Orleans area even though the Civil Rights Division in spring 2011 announced, following a comprehensive investigation, that the New Orleans Police Department (NOPD) had engaged in patterns of misconduct that violate the Constitution and federal statutes. The DOJ report documented multiple instances of Latinos being stopped by NOPD officers for unknown reasons and then questioned about immigration status. Members of the New Orleans Latino community told DOJ that Latino drivers are pulled over at a higher rate than other drivers for minor traffic violations because officers assume from physical appearance that they are undocumented and therefore driving without a valid license.¹³ The DOJ report cites several specific incidents when Latino workers called to request police assistance after being victimized by crime, but were then questioned by NOPD officers about their immigration status and offered no support in pursuing a criminal case.

Yet DHS has continued to operate S-Comm in greater New Orleans, blithely ignoring DOJ findings of biased policing. In this context, it is unsurprising that in Orleans Parish, S-Comm's consequences have disproportionately fallen on non-criminals and people with minor convictions: 61% of all S-Comm removals have been non-criminals, and another 20% have been

¹¹ Nationwide, just over a quarter (26%) of all those deported under S-Comm from 2008 to 2010 had no criminal convictions. In Maricopa County, Arizona, however, more than half (54%) of all the people deported under S-Comm were non-criminals. And in Travis County, Texas, that percentage was 82%. NDLOM, Briefing Guide to Secure Communities, 3, available at <http://www.civilrights.org/wp-content/uploads/Secure-Communities-Fact-Sheet-Briefing-guide-8-2-2010-Production.pdf>

¹² DHS, Secure Communities Standard Operating Procedures: Distributed for Adoption by Participating County and Local Law Enforcement Agencies (undated), 3, available at http://cpiic.org/privacy/secure_communities/securecommunitiesops93009.pdf

¹³ United States Department of Justice, "Investigation of the New Orleans Police Department," Mar. 16, 2011, 63, available at http://www.justice.gov/crt/about/spi/nopd_report.pdf

convicted of misdemeanors.¹⁴ This combined rate of 81% far exceeds the national average, making New Orleans one of the worst-performing jurisdictions in the country when measured against S-Comm's Congressionally-mandated focus on the most dangerous and violent convicted criminals. DHS has taken no remedial steps regarding S-Comm in New Orleans in the wake of DOJ's report.

Similarly, in early 2011, DHS chose to activate S-Comm in Suffolk County, New York, even though DOJ initiated an investigation of the Suffolk County Police Department (SCPD) in 2009 to address community concerns about SCPD's policing practices with the Latino community. Many Latino crime *victims* in Suffolk County described how SCPD officers demanded to know their immigration status, rather than addressing the crimes they had come to report. In September 2011, DOJ sent a formal letter to SCPD, finding that SCPD's policy governing the collection and use of information regarding the immigration status of witnesses, victims, and suspects is subject to abuse by officers. DOJ also recommended that SCPD revise the use of roadblocks in Latino communities and prohibit identity checks and requests for citizenship documentation.¹⁵

New Orleans and Suffolk are just two of the many jurisdictions with records of discriminatory policing where DHS has persisted in operating S-Comm. Other jurisdictions include Maricopa County, Arizona (sued by DOJ); Alamance County, North Carolina (under DOJ investigation); Puerto Rico (extensive DOJ investigation followed by findings released in September 2011); and Alabama (sued by DOJ for passing HB 56 which, *inter alia*, mandates verification of immigration status by Alabama law enforcement).

Incentives for racial profiling of perceived immigrants come in many forms; two examples show how S-Comm abets this unconstitutional practice:

- A former Sheriff's deputy in McHenry County, Illinois, an S-Comm jurisdiction, recounted to the *Chicago Tribune* that, "In 2006, the department began posting monthly lists praising deputies with high ticket and arrest totals...prompting younger deputies to compete. Seipler said he was told in 2007 by one deputy that a place to make easy traffic arrests was a predominantly Hispanic apartment complex where, presumably, some residents were illegal immigrants who couldn't get driver's licenses...That didn't seem to square with the minority population of McHenry County, where the state says 7 percent

¹⁴ U.S. Immigration and Customs Enforcement, Secure Communities: IDENT/IAFIS Interoperability Monthly Statistics through September 30, 2011, available at http://www.ice.gov/doclib/foia/sc-stats/natio-wide_interoperability_stats-fy2011-to-date.pdf

¹⁵ See Suffolk County Police Department Technical Assistance Letter (Sept. 13, 2011), available at http://www.justice.gov/crt/about/spl/documents/suffolkPD_TA_2-13-11.pdf

of drivers are Hispanic... In those officers' zeal to snag unlicensed drivers, Seipier said, he feared they were violating the rights of licensed, law-abiding Hispanic citizens."¹⁶

- In West Virginia, S-Comm was activated in February 2009. Two months later, early on a Sunday morning, eleven people in three vehicles left Lobos, a popular Latin dance club in Inwood, a farming region. All departed the club with designated drivers and are of Hispanic heritage. One is the young mother of two U.S. citizen children (ages 5 months and 2 years). The vehicles, traveling separately, were stopped by the West Virginia State Police (WVSP) a mile from Lobos, purportedly for the following infractions: failure to stop at stop sign, crossing the centerline, and "side registration light" out. No drivers were issued traffic citations, but all eleven people were held on ICE detainers issued immediately and remotely by the Pittsburgh Field Office. The children were left for a month without their parents, who could not even contact them for three days. Those arrested were transferred to detention in York, PA, where deportation proceedings continue for six of them.

These arrests took place in a context where WVSP's Martinsburg detachment, which made the stops, has been documented to be twice as likely to stop Hispanic drivers as Caucasians.¹⁷ One arresting officer played Mexican music in his police car at the time. When the ACLU affiliates of West Virginia and Pennsylvania visited the Lobos arrest site six months later, one of the attorneys discovered that there was no stop sign where a state trooper said the infraction took place. The trooper then changed his statement in the deportation proceedings from saying that a stop sign was ignored to saying that there was a failure to stop at an intersection.

IV. S-Comm endangers crime victims and witnesses, including domestic violence survivors.

The law enforcement leaders who know best—police chiefs and sheriffs from diverse communities across the country—have spoken out against S-Comm's effects. As but one example, Los Angeles Police Department chief Charlie Beck said recently that S-Comm "tends to cause a divide. . . [T]here's a lack of trust, a lack of reporting, a lack of cooperation with

¹⁶ Joe Mahr and Robert McCoppin, "Study suggests racial mislabeling skews McHenry County sheriff data. Tribune analysis suggests sheriff's deputies underreported Hispanics in traffic stops." *Chicago Tribune* (Mar. 26, 2011).

¹⁷ See West Virginia Division of Justice and Community Services, WV Traffic Stop Study: 2009 Final Report, "Search Disparity Indices and Ratios for State Police Detachments," available at http://www.djcs.wv.gov/SAC/Documents/WVSAC_Traffic_statestopratios09.pdf

police. You know, I cannot prosecute crimes without witnesses.”¹⁸ New York Governor Andrew Cuomo, who formally sought to end his state’s participation on June 1, 2011, stated that S-Comm was “compromising public safety by deterring witnesses to crime and others from working with law enforcement.” Governor Cuomo’s decision was endorsed by the State Association of Chiefs of Police, the State Police Benevolent Association, and the State Sheriffs Association.¹⁹

In jurisdictions across the country, S-Comm has driven a wedge between local law enforcement and the communities they serve. Witnesses are afraid to come forward and report crimes or assist in investigations; crime victims are afraid to speak out. Perhaps the most damaging impact has fallen on domestic violence survivors. In many jurisdictions when police respond to a domestic violence call, their policy or practice is to arrest everyone on the scene—particularly where both parties have injuries, or where police cannot immediately determine who the primary aggressor is. As a result, immigrant victims of domestic violence who have sought police protection in S-Comm jurisdictions have ended up being placed in deportation proceedings, and in some cases deported.

For an extended period, ICE refused to acknowledge that a problem even existed with domestic violence victims. On June 17, 2011 the agency presented wholly inadequate cosmetic fixes to counter growing media and public attention to S-Comm’s flaws. ICE’s statement that agents and trial attorneys should exercise discretion not to deport crime victims and witnesses is cold comfort for those victims and witnesses who have already been deported, and does nothing to dispel the fear in immigrant communities that ICE lacks the expertise, field training, and factual omniscience to sort out complicated domestic violence scenarios such that innocent parties are not deported.

The following stories illustrate the problem and the inadequacy of leaving a solution to ICE’s discretion:

- Isaura Garcia, an immigrant in Los Angeles, endured three years of beatings from her boyfriend before calling 911 in Los Angeles. When the police arrived, they berated Isaura for speaking in Spanish and handcuffed her along with her assailant. Stunned, Isaura fainted. At the hospital, a doctor found bruises on her body and identified her as a domestic violence survivor. Because of S-Comm, however, Isaura was placed in deportation proceedings, which were rescinded only after the ACLU of Southern

¹⁸Leslie Berestein Rojas, “LAPD chief on Secure Communities: ‘It tends to cause a divide’,” *Multiamerican* (June 23, 2011), available at <http://multiamerican.scrib.org/2011/06/lapd-chief-on-secure-communities-it-tends-to-cause-a-divide/>.

¹⁹See generally America’s Voice, Public Safety on ICE: How Do You Police a Community That Won’t Talk to You? (Aug. 2011), available at http://amvoice.org/ice/669182c00231b0f405_kdm6b08bj.pdf.

California drew attention to her case. “I still don’t understand why I was arrested, but had I realized I could be arrested after calling 911 for help and deported, I never would have called,” she said. As reported in the *Los Angeles Times*, “[b]ecause police often arrest both parties in domestic disputes, her fingerprints were submitted to immigration officials; despite having no criminal record, she was flagged for deportation proceedings.”²⁰

- Veronica had a serious argument with her brother when he refused to let her leave a party with her daughter. Veronica called the police, who arrived and briefly questioned her before arresting her. They took her to jail, where they fingerprinted her and held her for three hours, releasing her upon discovering that she was legally in the country. Veronica reports that she would never call the police again.²¹
- Hun, a Japanese national, called 911 for help after being abused by her husband for years. When the police arrived, Hun could not speak English and defend herself when her husband accused her of instigating the fight. The police arrested Hun, and ICE, alerted to her presence, took custody of her and placed her in removal proceedings. While Hun was in ICE custody, her one-year-old child was placed in foster care.²²
- The 17-year-old sister of Maria Perez-Rivera from Lodi, California, called police after seeing Maria “with bruises and scratches on her face and body” caused by a repeat abuser. Although never charged with a crime, Maria was fingerprinted by police, identified by S-Comm, and deported two days later. Although Maria didn’t want her sister to call the police, her sister did so because she feared Maria “might have ended up in the hospital, or gotten killed.” After Maria’s arrest, her 2-year-old daughter Kimberly and her 3-month-old son Anthony were left in their grandmother’s care; their grandmother was forced to quit her job to look after the children. The *Sacramento Bee* reported that 2-year-old Kimberly “[e]very day . . . peeks around her apartment complex for her mom. If she hears police sirens, she runs inside.”²³
- Norma from San Francisco called the police for protection after a domestic violence incident. She was “found . . . sobbing, with a swollen lower lip.” As the *Los Angeles Times* reported, “[m]ore than once, Norma recalls, she yearned to dial 911 when her

²⁰ Lee Romney & Paloma Esquivel, *Noncriminals swept up in federal deportation program*, L.A. TIMES (Apr. 25, 2011), available at <http://articles.latimes.com/2011/apr/25/local/la-me-secure-communities-20110425>

²¹ ACLU OF NORTHERN CALIFORNIA, COSTS AND CONSEQUENCES: THE HIGH PRICE OF POLICING IMMIGRANT COMMUNITIES 9 (2011), available at http://www.aclunc.org/docs/criminal_justice/police_practices/costs_and_consequences.pdf

²² *Id.*

²³ Stephen Magagnini, *Deported Mexicans leave two small kids in Lodi*, SACRAMENTO BEE (Nov. 2, 2010).

partner hit her. But the undocumented mother of a U.S.-born toddler was too fearful of police and too broken of spirit to do so. In October, she finally worked up the courage to call police – and paid a steep price.”²⁴ The police arrested her and, because of S-Comm, she was taken into ICE custody. She was placed on electronic monitoring pending a deportation proceeding, despite never being charged with any crime.

V. S-Comm’s enforcement dragnet is ensnaring U.S. citizens.

The Warren Institute’s October 2011 report, *Secure Communities by the Numbers*, details the numerical toll that S-Comm has exacted on all who enter the immigration enforcement system as a result of its operations. The report found that S-Comm has resulted in the detention of a significant number of U.S. citizens. In addition, 39 percent of individuals apprehended through Secure Communities have a U.S. citizen spouse or child, “meaning that approximately 88,000 families with U.S. citizen members have been impacted by Secure Communities.”²⁵

Antonio Montejano was born in Los Angeles in 1971. On November 5, 2011, he and his family were at Sears in Santa Monica. They purchased several hundred dollars worth of merchandise and were continuing to shop when one of Antonio’s children asked if he could buy a \$10 bottle of perfume. Antonio agreed and placed the bottle in a bag of purchased merchandise, intending to pay for it on departure. His young children also took some chocolate candies in the store and began eating them. When Antonio saw this, he told his kids they shouldn’t have indulged and said he would have to pay for the candies. He put the wrappers in his pocket, but forgot about them when he checked out, at which time the store clerk found the perfume. Antonio immediately realized his mistake and offered unsuccessfully to pay for the items.

Arrested for petty theft, Antonio was informed by the police that he would be taken to the station for fingerprinting and then released in a few hours. But because of S-Comm, ICE issued a detainer on Antonio. As a result, he spent two days in the Santa Monica police station before pleading guilty to a civil infraction, a violation that does not even rise to a misdemeanor. He was then transferred to Los Angeles County custody. When Antonio was booked into the county jail, he was asked by a sheriff’s department clerk whether he was a U.S. citizen. He told the clerk that he was. Nevertheless, Antonio remained in custody despite repeatedly attesting to his citizenship.

²⁴ *Id.*

²⁵ Kohli, Markowitz, and Chavez, *supra*, 2.

Antonio was held for two days in the Inmate Reception Center, which is only a booking facility and not meant to house inmates. The facility does not have beds, only chairs. He was not provided any blankets and was forced to sleep on the floor. Antonio was finally released once the ACLU of Southern California intervened to get his ICE detainer lifted. He was freed after four days of unlawful detention.

S-Comm has led to a state of affairs in which the detention of a person born in the United States is an unexceptional occurrence. That is unacceptable. U.S. citizens should never spend time in ICE custody.

VI. DHS's proposed reforms have not been implemented and do not address S-Comm's inherent flaws.

Just as the promise of *post facto* discretion by DHS is inadequate to address the fear inspired by S-Comm, DHS's other purported "fixes" are illusory. Consider ICE's actions with respect to racial profiling. After more than a year of DHS denials that S-Comm was susceptible to racial profiling, ICE Director John Morton testified to Congress in March 2011: "I totally recognize the concern on racial profiling. We are instituting a whole series of analytical steps working with the Civil Rights Division [of DOJ], the OCRCL [Office for Civil Rights and Civil Liberties] at DHS, inviting them to literally be part of the analysis with us so that we can root out and identify any jurisdictions that are misusing Secure Communities."²⁶ Three months later, ICE announced that "[f]our times a year, beginning in June 2011, CRCL and ICE will examine Secure Communities data to identify law enforcement agencies that might be engaged in improper police practices."²⁷

No such data review has yet taken place, leaving it to nongovernmental analysts to investigate S-Comm's impact on people of color.²⁷ Furthermore, even if DHS does belatedly begin reviewing the data for every S-Comm jurisdiction (1,729 and counting), it is unclear what remedial action DHS would take when faced with evidence of racial profiling. OCRCL has no authority to investigate racial profiling by local law enforcement agencies. In addition, despite Director Morton's mention of DOJ's Civil Rights Division, DOJ has had no involvement in S-Comm oversight to date—a surprising gap given the FBI's central role in transmitting S-Comm fingerprints to DHS, in contravention of the Bureau's agreements with the states that own the fingerprints.²⁸ Moreover, the new training module developed by OCRCL for state and local law

²⁶ House Appropriations Subcommittee on Homeland Security, "Hearing on the Immigration and Customs Enforcement Budget," (Mar. 11, 2011).

²⁷ See Kohli, Markovitz, and Chavez, *supra*.

²⁸ See ACLU, "Sharing Prints: DOJ and FBI Must Take Responsibility for S-Comm Failures, Too," (Nov. 21, 2011), available at <http://www.aclu.org/blog/immigrants-rights/racial-justice/sharing-prints-doj-and-fbi-must-take-responsibility-s-comm>

enforcement agencies is optional, thereby making it highly unlikely that those local agencies with histories of racial profiling will ever participate. ICE's promised oversight thus remains thoroughly illusory five months after its announcement, and S-Comm's scale and structure make it impossible to place confidence in OCRCL's ability to detect, much less prevent, the program's abuses.

VII. Conclusion

By every metric, S-Comm is an irreparably flawed and damaging program. Lacking meaningful oversight and adrift from its congressionally-mandated priorities, S-Comm has led to confrontations with governors, county commissioners, city council members, law enforcement leaders, and victims' advocates who know better than ICE how to promote public safety in their communities. DHS's heavy-handed implementation of S-Comm has deeply damaged the cooperation that is essential to smart policing at a time when violent crime rates, across the country, are at the lowest levels in nearly 40 years.²⁹

It is incumbent on Congress to rein in this abusive and costly program, which has caused rampant constitutional and humanitarian violations. To rebuild damaged community trust and end the incentives for racial profiling, Congress must defund and end S-Comm.

²⁹ Richard A. Oppel, Jr., "Steady Decline in Major Crime Baffles Experts," *New York Times* (May 23, 2011).

