

June 29, 2011

Honorable John W. Hickenlooper
Governor of Colorado
136 State Capitol
Denver, CO 80203-1792

RE: Opposition to "Secure Communities" (SCOMM)

Dear Governor Hickenlooper:

On behalf of the Colorado Chapter of the American Immigration Lawyers Association (AILA Colorado), we write to urge you to suspend the Secure Communities (SCOMM) Memorandum of Agreement (MOA) currently in place between Colorado and the Department of Homeland Security (DHS).

SCOMM is a primary enforcement program of a deeply problematic national immigration policy. Although intended to assist in the apprehension and deportation of violent criminals, the unintended effects of SCOMM include overburdening state and local law enforcement agencies, detaining and deporting noncriminal immigrants, separating families, and damaging relationships between law enforcement and immigrant communities, which undermines community policing and makes our communities less secure.

Based on the recent evidence and our collective experience and expertise as immigration law practitioners, it is our firm conviction that the program is critically flawed for the following reasons:

● **SCOMM imposes *unfunded* mandates on state and local governments.** SCOMM creates a *de facto* shift of immigration enforcement duties – *and the costs associated with them* – to state and local governments. Local law enforcement are tasked with preserving public safety, and should not be utilized for federal immigration enforcement, or meeting DHS' annual deportation quota of 400,000 people. By way of its misrepresentations and lack of disclosure regarding SCOMM to policy makers in Colorado and around the country, DHS has in effect commandeered local resources to contort the criminal justice system into a mass deportation dragnet. Furthermore, there likely will be a dramatic increase in the number of people held in county jails on immigration detainers for low level offenses, who would otherwise post bond. These detention costs will be borne almost exclusively by local jurisdictions rather than by DHS.

● **SCOMM does *not* focus on persons convicted of dangerous or violent crimes, as represented by DHS.** Although DHS represented SCOMM to states like Colorado as a program focusing on persons *convicted of dangerous or violent crimes*, the statistics compiled nationally reveal that the implementation of the SCOMM program is contrary to the stated purpose. Nationally, SCOMM pulls in large percentages of noncitizens who have no prior criminal record or only minor

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law enforcement contacts, such as traffic offenses. SCOMM has tangible human consequences, as children are often permanently separated from parents and loved ones disappear into the immigration detention regime.

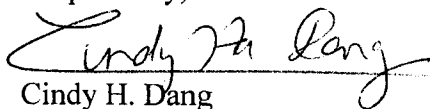
● **SCOMM makes Colorado less safe and undermines community policing goals.** SCOMM undermines law enforcement goals, as noncitizen victims of crime are more hesitant to report crimes and cooperate with law enforcement due to fear of detention and deportation. As a result, our communities are made less safe for everyone. Moreover, such manipulation of local law enforcement resources by DHS further perpetuates these dragnet enforcement programs at the expense of the hard earned relationships developed between law enforcement and immigrant communities.

● **AILA Colorado is deeply concerned by the misrepresentation and lack of disclosure engaged in by DHS regarding SCOMM over the last year;** a pattern of which has been well documented in the correspondence between DHS and members of Congress, state elected officials, and the public, and which has led to the announcement of an investigation of SCOMM by the DHS Office of the Inspector General (OIG) in May of this year. This issue is particularly concerning in light of the issues raised by stakeholders in Colorado to the previous administration from May of 2010 through January of 2011. While state policy makers engaged in study and negotiations around SCOMM in good faith, the same cannot be said for DHS and its representations about program scope and technological capabilities, statistical data about the program impacts, or the ability of state and local jurisdictions to opt out of participation. This raises serious concerns that critical information was withheld from the previous administration that would have counseled Governor Ritter to abstain from the program. Due to our experience in this field, AILA Colorado wrote to Governor Ritter on June 21, 2010, urging him to refrain from entering into the MOA due to questions about the scope of the program compared to its stated objectives, as well as concerns regarding civil liberties, program accountability and other issues. Unfortunately, nearly a year later, the evidence regarding the program – largely disgorged only as the result of litigation in federal court rather than through open disclosure by DHS – indicate these concerns to have been well founded.

AILA Colorado recognizes that as Governor of Colorado, you must balance significant and competing policy interests in order to promote public safety for all communities. In light of the recent call for a moratorium and investigation of SCOMM by the Congress Member Zoe Lofgren, the Congressional Hispanic Caucus, the Congressional Progressive Caucus, and other members of Congress – along with principled decisions by the Governors of Illinois and New York to rescind or suspend their SCOMM involvement pending the results of the OIG investigation – we trust you recognize the serious concerns raised by SCOMM in Colorado. This seems particularly important in light of our community's well articulated and documented concerns about participation in the program. Therefore, AILA Colorado urges you to suspend Colorado's MOA and participation in the SCOMM program pending the results and recommendations of the federal OIG investigation. In addition, we urge you to appoint a commission to conduct an independent study of the affect of SCOMM on Coloradans and Colorado's resources.

We appreciate your consideration of the deep concerns that AILA Colorado has regarding SCOMM and we would like to offer our assistance as a resource for more information regarding SCOMM and other immigration issues.

Respectfully,



Cindy H. Dang
Chapter Chair

American Immigration Lawyers Association-Colorado Chapter (AILA Colorado)