



**SENATE
STATE OF COLORADO
DENVER**

June 20, 2011

The Honorable Governor John Hickenlooper
136 State Capitol
Denver, CO 80203-1792

Re: The Secure Communities Program

Dear Governor Hickenlooper:

As members of the Colorado State Assembly, we write to express our concerns regarding Colorado's participation in the Secure Communities (SCOMM) Memorandum of Agreement (MOA) with Immigration and Customs Enforcement (ICE). While we agree with the program's stated goal of identifying and removing persons convicted of dangerous or violent crimes, we do not believe that the program has been tailored to meet this end. Misrepresentations by ICE regarding the program's scope, issues relating to the agency's legal authority to mandate participation, and the program's adverse effect on local policing, have all given rise to concerns about potential unintended consequences resulting in civil rights violations throughout the country. Moreover, Secure Communities has recently become so tainted with controversy that the Department of Homeland Security (DHS) Officer of the Inspector General (OIG) has announced an accelerated review of the program. For these reasons, we urge you to suspend the current MOA with ICE unless and until the agency is cleared of any wrongdoing by the OIG and until the program is more narrowly tailored to meet its stated goals.

Over the last several weeks, the Governors of Illinois and New York have rescinded or suspended their state's participation in SCOMM. In doing so, they joined Massachusetts, Minnesota, Washington State, and Washington D.C. – among other states – in declining to enter into any SCOMM MOA agreement. Additionally, the Congressional Hispanic Caucus, the Congressional Progressive Caucus, and many individual Members of Congress have made public requests for a moratorium until the OIG has completed its investigation. Finally, legislation has been introduced in both California and Illinois to substantively modify the program, and many

local governments have sought to opt-out due to concerns about the negative impact SCOMM may have on their communities.

The problems relating to the scope of the program are evident in statistics released by ICE pursuant to Freedom of Information Act litigation. Contrary to its stated goal, national statistics indicate that nearly 80 percent of people deported through SCOMM have not been convicted of any criminal offense or were contacted for lower level offenses. These figures indicate that the program functions as more of a deportation dragnet rather than a well designed public safety initiative. While we would support an immigration enforcement program that removes persons convicted of dangerous and violent crimes from our communities, SCOMM appears to facilitate unjust deportations that separate children from parents and indiscriminately destroys families.

We are also concerned about the misrepresentations made by ICE regarding SCOMM in its discussions with state and local governments. Documents produced by litigation in federal court show a disturbing pattern of misinformation about program technology, functionality, and the ability of state and local governments to opt-out of participation. This lack of disclosure on the part of ICE is particularly troubling in light of the significant time and energy invested by the previous administration to address the concerns of Colorado residents. The agency's tactics have also raised concerns throughout the country that have culminated in an accelerated investigation by the OIG. We believe that any participation in the program, let alone any further expansion, is inappropriate during the pendency of this investigation, and should only be considered if ICE is cleared of all wrongdoing and the program is found to meet its stated goals.

Finally, as many law enforcement and elected leaders recognize, SCOMM undermines overall community policing efforts by making noncitizens fearful that any contact with local law enforcement may result in potential deportation, thereby decreasing the likelihood that immigrant victims and witnesses to crime will seek protection. Additionally, an overbroad SCOMM regime undermines civil liberties and raises concerns about bias-based policing, frustrating the hard work that state and local officials have undertaken to protect due process, redress racial profiling, and build trust. Furthermore, SCOMM imposes unknown costs to state and local governments without their input or consent – costs which have yet to be quantified and are likely to be borne almost exclusively by local jurisdictions.

We are firmly committed to crafting sound public policy for the State of Colorado that reflects our commitment to civil rights, open government, and accountability. However, we do not feel that SCOMM meets any of these ends as currently administered, and we therefore believe that continued participation by any jurisdiction in Colorado is inappropriate at this time. We look forward to working with you to immediately suspend our state's participation in SCOMM until the OIG conducts a full review of the program, ICE is cleared of all wrongdoing, and the program is aligned to meet its stated goals.

Respectfully,

Irene Aguilar
Senator Irene Aguilar

[Signature]
Senator John Morse

Lucia Guzman
Senator Lucia Guzman

Pat Steadman
Senator Pat Steadman

Crisanta Duran
Representative Crisanta Duran

Betty Boyd
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Senator Morgan Carroll

Rollie Heath
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DEB GARDNER
REP. DEB GARDNER

Lees Court
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Joyce Foster (in)
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