

December 30, 2010

Mayor-Elect Angel Taveras
Transition Office
c/o 127 Dorrance Street, 2nd Floor
Providence, RI 02903

Dear Mayor-Elect Taveras:

As you are aware, one of the most contentious issues facing the immigrant community in Rhode Island, and particularly in Providence, involves attempts to have local and state police enforce federal immigration law. Mayors and police chiefs from many large urban areas from across the country have recognized the danger of such collaboration. It not only establishes an aura of fear and mistrust between the immigrant and police communities, it is actually counter-productive to public safety when witnesses and victims of crime fear contacting the police.

In that regard, our groups eagerly anticipate Governor-Elect Chafee's planned rescission of Governor Carcieri's executive order on immigration. However, we are deeply concerned that a separate program, being promoted by the incoming Attorney General and supported by Mr. Chafee, could have an even more damaging effect on the immigrant community. We are therefore writing to urge you to take all the steps you can to keep Providence from participating in that program. We refer to the so-called Secure Communities program ("S-Comm").

Because there is some confusion about S-Comm, we wanted to share with you some background about it and offer a few recommendations that we hope you and the police department will consider if and when it gets implemented in Rhode Island.

* The *Providence Journal* cited a spokesperson for Mr. Chafee as saying that the program is not problematic because somebody must have a prior arrest, conviction or been deported to appear on the federal database. This is not true. The Department of Homeland Security's immigration database, through which these fingerprints are run, contains records for any non-citizen who has previously come into contact with DHS. This includes visa applicants, lawful visa holders, and Lawful Permanent Residents (LPRs, or "green card holders"). All these individuals are at risk under the S-Comm program if they are arrested for any offense, however minor. *In fact, nationwide, approximately 26% of all those deported under S-Comm from 2008 to 2010 had no criminal convictions.* While it is true that those individuals who have unlawfully entered the country – and thus have not had contact with DHS – will not be at risk because their fingerprints will not be in the database, that only further highlights the program's unfortunate impact on those individuals who are in fact documented immigrants, such as LPRs.

* The *Providence Journal* article also referred to Rhode Island being "just one of 17 states nationwide that has yet to implement the cross-checking program." This is somewhat misleading. While it is true that 33 states or so have MOAs with ICE authorizing participation in

S-Comm, *in only six states is the program run statewide*, as is envisioned for Rhode Island. See <http://www.ice.gov/about/offices/enforcement-removal-operations/secure-communities>. Rather, in most states where agreements have been reached, ICE has implemented S-Comm only in particular communities in the state. Thus, the proposal for our state is much more encompassing than almost anywhere else.

* Most relevant for your purposes, Attorney General-Elect Kilmartin has been quoted as saying that local police departments in Rhode Island can opt out of participation. Unfortunately, there is reason to believe that this is incorrect. Although the federal government initially made pronouncements that participation in S-Comm was optional for communities, Secretary Napolitano and other federal officials have more recently stated just the opposite. As the enclosed recent article from the *Washington Post* indicates, communities across the country that have sought to opt out of the program have apparently been rebuffed. However, it is our understanding that the MOA of at least one state, New York, codifies the voluntary nature of the program for local police departments. We believe it is important for the City of Providence to send a clear message to the Attorney General and to ICE that it wishes to opt out of participation.

In many ways, S-Comm is much more troublesome than 287(g) agreements since it will impact any person who is arrested for any reason. It does not matter if the person has been wrongly arrested, arrested on a pretext, or would have normally been released without charges. As a result, just as with 287(g), many immigrant crime victims and witnesses may be afraid to report crimes to the local police for fear of triggering deportation of family members or others they know, if not of themselves. The dynamics of domestic violence situations present perhaps the quintessential example of the counter-productive nature of programs like this: some victims of domestic violence will think twice before calling police if their partner is undocumented. Indeed, as another recent *Washington Post* article documents, victims of domestic violence themselves may find themselves deported for reporting their partner's conduct. See <http://www.washingtonpost.com/wp-dyn/content/article/2010/11/01/AR2010110103073.html> (also enclosed). Similarly, the many undocumented immigrants without a driver's license will fear the consequences of a minor traffic stop anytime they are on the road. The deleterious consequences in the immigrant community that inevitably flow from a program like this go on and on, which is why opting out of S-Comm is so critical.

To the extent that a police department ultimately is prevented from opting out of S-Comm, we believe there are some other actions that the City and Police Department can take to mitigate the harm that S-Comm will otherwise create. Those options include limiting the situations when fingerprints obtained by your police department are forwarded along to the state for matching in the S-Comm databases, and adopting policies restricting the circumstances when the police department agrees to act on detainer requests issued by ICE. We would be happy to talk with you in more detail about those options. In the interim, though, we strongly encourage you to take Attorney General-Elect Kilmartin up on his offer and advise him that the City of Providence wishes to opt out of participation in S-Comm.

Thank you for your attention to our concerns, and we look forward to your response.

Sincerely,

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Enclosures