

# Suffolk NYCLU

The Honorable Steve Levy  
H. Lee Dennison Building  
100 Veterans Memorial Highway  
Hauppauge, NY 11788-0099

December 9, 2004

Dear Mr. Levy:

It has come to our attention that you are considering a Memorandum of Understanding (MOU) between the Bureau of Immigration and Customs Enforcement (BICE) and Suffolk County.

It is our understanding that the proposed MOU will provide for the training of up to eight Suffolk-based probation and customs officers in the use of unspecified federal databases. It is also our understanding that local officers will use the database to check for alleged immigration violations by those who have been convicted of committing "serious crimes." If an individual appears to be in violation of Federal immigration laws, they will be detained by ICE after completion of their criminal sentence.

Although we appreciate your willingness to consider different approaches to the original suggestion to deputize Suffolk County police officers to enforce federal immigration laws, we oppose this proposal. As far as a local municipality is to be concerned, a free man is a free man, regardless of immigration status. Suffolk County can not become an intermediary in immigration affairs by using an individual's immigration status to determine the conditions of his release.

This federalist argument is not only theoretical. Immigration law is highly complex, requiring years of education and training. A ten-week course is not enough to ensure that a Suffolk County Police Officer can correctly identify immigrants who have obtained refugee status, for example. There is great discretion and interpretation involved in the work of ICE officials. By conferring a similar authority to a local corrections officer inexperienced and lightly trained in complex immigration law, the resulting confusion would force some immigrants to prove and reprove their status, while others would be forced to return to a potentially fatal situation in their native country if the word of a Suffolk officer is accepted by BICE officers.

As justification for a MOU, we have heard arguments made that there is an increased danger in releasing immigrants upon completion of their sentence. However, a recent study by the conservative Manhattan Institute has shown that immigrants are no more likely to commit offenses than those who are native born. Furthermore, according to the Center for Immigration Studies and the former Immigration and Naturalization Service (INS), there is a lower recidivism rate for immigrants. Of the 35,318 criminal aliens INS released from custody (but who were not deported) during October 1994 and May 1999 there were 11,605 who went on to commit new crimes. This recidivism (repeat offender) rate of 37 percent was well below the 66 percent figure for the U.S. criminal population for the comparable period. Thus, in the county's interest, there is no greater need to further detain immigrants.

There is no compelling interest for Suffolk County to become involved in immigration enforcement. If such a proposal is accepted against our advice, then there must not be a vague or low-level definition of "serious crimes," (such as those of "moral turpitude"). If the bar is set so low that it can be tripped by even a minor offense, Suffolk County police officers would become de facto immigration agents; the mechanisms for deportation would begin when they simply showed up for their beat. Not only would Suffolk be creating a system that leads to racial profiling and confers unauthorized immigration agent status on police officers, but the problem that led to the reconsideration of deputization would return: the immigrant community would flee, rather than seek, the protection of Suffolk County police officers.

Furthermore, with such an MOU, Suffolk must prepare for the serious privacy concerns that will arise from access to the proposed databases. This proposal would provide BICE with information on a potentially large number of Suffolk residents – not just immigrants, but all who have been convicted of certain crimes. Suffolk must ensure that it receive satisfactory answers to questions of how this information would be used, how long it would be kept for, how privacy would be secured, and how harassment and unauthorized checks would be curtailed. These assurances would need to be given by both BICE to Suffolk County and Suffolk County to its residents. The public must be assured that the vast amount of information data contained in the databases will not be abused and that non-germane data is not made available to either federal or local parties. It is for all these reasons and more that Suffolk might want to reconsider the burden of adding immigration complexities, federal databases, and privacy concerns to its already large host of responsibilities.

Everyone, on all sides of the political spectrum, believes that there are issues in immigration law requiring resolution. And for that reason, we lobby our federal officials to express our views on federal policy. No matter how frustrated we become with their pace and decisions, immigration is not a matter for a local municipality. We strongly urge you to not enter into a constitutionally questionable MOU; that you not treat those who have served their time differently based on a matter beyond the concern of a local government; and that you leave immigration to the experts in the federal government. Failing that, we urge you to ensure that the information in the databases is kept secure

and private, and that they only be utilized on those who have committed what is truly a serious crime.

Thank you for your consideration and for your service on behalf of Suffolk County.

Sincerely,

Jared Feuer

DELIVERED VIA FAX