



May 3, 2021

The Honorable Alejandro Mayorkas
Secretary of the Department of Homeland Security

Via email

**RE: Customs and Border Protection and Immigration and Customs Enforcement
Collaboration with Michigan Law Enforcement**

The Honorable Mayorkas,

We, the undersigned immigrant justice and civil rights groups of the Michigan Coalition for Immigrant and Refugee Rights (MCIRR), congratulate you on your recent confirmation as secretary of the U.S. Department of Homeland Security (DHS). Under your leadership, DHS has the opportunity to transform into an agency that furthers our shared vision of the United States as a “country of welcome.”¹

Among your initial reforms, we urge you to prioritize ending Immigration and Customs Enforcement (ICE) collaboration programs and practices that entangle state and local agencies in federal immigration enforcement, including Secure Communities and ICE detainers. We also urge you to address the harms that U.S. Border Patrol is causing in Michigan. Border Patrol’s practices have led to widescale racial profiling and target long-term Michigan residents and it is in part possible because local and state law enforcement are deeply entangled with Border Patrol. For four years, the Trump administration made these types of collaboration programs a centerpiece of its anti-immigrant, fear-based agenda. Ending these programs and practices would signal to our communities that under your leadership, DHS will decisively break from this xenophobic legacy.

We write to share our experiences with these programs in Michigan and illustrate why ending them is imperative as a matter of public safety and welfare. These collaboration programs spread fear and anxiety in our communities, making immigrants and their family members afraid to access public services, protection, and assistance from local government agencies that they justifiably fear are working with federal immigration agencies to track and deport immigrants.

¹ “Biden’s Secretary of Homeland Security Nominee Alejandro Mayorkas Delivers Remarks,” NBC News, Nov. 24, 2020, https://www.youtube.com/watch?v=I_AoZBR0I_d2k&ab_channel=NBCNews.

The American Public Health Association, in a statement opposing Secure Communities, explained: “Immigrants’ health is indirectly undermined by fear of seeking medical care, or relief from domestic abuse, sexual assault, stress and trauma.”² COVID-19 pandemic has placed these concerns in sharp relief, as immigrants and their family members fear that they may be asked to provide identifying information during testing, treatment and vaccinations that could be shared with ICE and lead to their deportation.³ Combatting this fear is even more necessary considering that immigrants and refugees fulfill essential positions within our battered economy. The majority of Michigan’s agricultural workers are immigrants or refugees while countless others keep the meat processing industry afloat.⁴ It is thus essential for both our economy and the public health of all Michiganders that these workers and their families feel comfortable accessing testing and vaccination services without the fear of being detained.

Moreover, ICE collaboration programs make people experiencing domestic violence, sexual abuse, and human trafficking far less likely to seek urgently needed police protection and local services, out of fear of deportation and separation from their children.⁵ For example, one Michigan woman, Nancy, was deported to Mexico with her four U.S. citizen children after reporting her rape at the hands of her former partner.⁶ She applied for a U-Visa but was left waiting years for a decision. Meanwhile, ICE decided she was a priority for deportation due to a prior misdemeanor conviction and a reentry charge. Nancy sought to keep herself, her children, and her community safe from a violent individual, but instead, she was the one harmed when she sought protection. While Nancy’s story is heartbreaking, it is unfortunately not unique. Instead, many victims of domestic violence, sexual abuse, and human trafficking must decide between continuing to suffer at the hands of their abusers or suffering at the hands of an abusive immigration system.

Sheriffs, police chiefs and prosecutors are some of the leading critics of these programs because they make people less likely to seek police protection, report crimes and serve as witnesses.⁷ That is why the 2015 report of the President’s Task Force on 21st Century Policing concluded

² American Public Health Association, “Opposing the DHS-ICE Secure Communities Program”, Policy Number: 20128, Oct. 30, 2012, <https://www.apha.org/policies-and-advocacy/public-health-policy-statements/policy-database/2014/07/18/11/24/opposing-the-dhs-ice-secure-communities-program> (internal citations omitted).

³ See Marco della Cava, Daniel Gonzalez and Rebecca Plevin, “As COVID-19 vaccine rolls out, undocumented immigrants fear deportation after seeking dose,” USA Today, Dec. 20, 2020, <https://www.usatoday.com/story/news/nation/2020/12/19/covid-19-vaccine-undocumented-immigrants-fear-getting-dose/3941484001/>; Tori Bedford, “Fear of Deportation Prompts Undocumented Immigrants to Resist COVID-19 Vaccine,” WGBH News, Jan. 5, 2021 <https://www.wgbh.org/news/local-news/2021/01/05/fear-of-deportation-prompts-undocumented-immigrants-to-resist-covid-19-vaccine>; Michael Herzenberg, “How Fear of Deportation Compounds COVID-19 Infection Rates and Compromises Recovery for Undocumented Immigrants,” Spectrum News NY1, Aug. 25, 2020, <https://www.nyl.com/nyc/all-boroughs/news/2020/08/25/how-fear-compounds-covid-19-infection-rates-and-compromises-recovery-for-undocumented-immigrants>.

⁴ Christian Martinez, “Food, Agricultural Workers Prioritized For Vaccine, Including Some Refugees, Migrants in Michigan,” March 3, 2021, https://www.lansingstatejournal.com/story/news/2021/03/03/vaccine-priority-food-chain-workers-helps-some-refugees-migrants/6835641002/?fbclid=IwAR134ODPxf06sG3HJvLhBqAX_vnh-cJOI2O61uQK.yYwzfdCHSIP7PuIx4mc.

⁵ See Kathryn Finley, “Access to Justice in a Climate of Fear: New Hurdles and Barriers for Survivors of Human Trafficking and Sexual Violence,” Center for Migration Studies, Jan. 29, 2019 https://cmsnv.org/publications/finley-climate-of-fear/#_ftn8.

⁶ Isabela Dias, “She Helped Convict Her Rapist. ICE Deported Her Anyway.” The Nation, April 1, 2019, <https://www.thenation.com/article/archive/u-visa-immigration-ice-uscis/>.

⁷ See, e.g., Nat’l Imm. Law Ctr., Local Law Enforcement Leaders Oppose Mandates to Engage in Immigration Enforcement (August 2013), <https://bit.ly/2J929st> (dozens of law enforcement leaders criticizing police-ICE entanglement).

that “whenever possible, state and local law enforcement should not be involved in immigration enforcement.”⁸ Washtenaw County Sheriff Jerry Clayton made headlines in 2019 after declaring that his officers would not question individuals on their immigration status because “immigration enforcement falls under federal jurisdiction.”⁹ Furthermore, he maintains that when immigrants feel safe, everyone in the community feels safer.¹⁰ Meanwhile, some local law enforcement officials have already acted to limit their own officers' communication with ICE after realizing the harms this cooperation leads to. For example, Michigan’s Grand Rapids Police Department faced massive backlash after arresting Jilmar Ramos-Gomez, a U.S. citizen, former U.S. marine, and Grand Rapids resident.¹¹ Following his arrest, the GRPD officers inquired about his immigration status with ICE, which led to him being wrongfully detained by ICE for three days despite being a U.S. citizen. The GRPD has since instituted a new policy regarding foreign nationals which “requires officers to get approval from the police chief or a deputy chief before working with federal immigration authorities, unless there is an emergency that poses an immediate danger to the public safety or federal agents.”¹² While this policy is a step in the right direction, policies such as this are needed in every city across our state.

Programs that entangle local police also divert local resources and strain local budgets at a time when they are already under stress due to the pandemic and its economic impacts. Local agencies are reimbursed for only a small fraction of the costs of detention pursuant to ICE detainers.¹³ For example, between 2008 and 2010, Los Angeles County spent more than \$60 million to detain people at ICE’s request.¹⁴ Local governments also bear the burden of financial liability for constitutional violations arising from these programs, as numerous cases and settlements in recent years show.¹⁵

Although the 287(g) program and detainers are voluntary, states like Texas and Florida have passed “anti-sanctuary” laws requiring local police to participate in federal immigration enforcement. These laws “have caused local police agencies to adopt policies that in many cases contradict their public safety and community policing priorities.”¹⁶ As Art Acevedo, chief of

⁸ Final Report of the President’s Task Force on 21st Century Policing, Recommendation 1.9 and 1.91 Action Item, May 2015, https://cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf.

⁹ Priya Mann, “Washtenaw County Deputies Won't Ask Immigrants about Their Status,” WDIV (ClickOnDetroit, September 9, 2019), <https://www.clickondetroit.com/news/2019/09/09/washtenaw-county-deputies-wont-ask-immigrants-about-their-status/>.

¹⁰ Meredith Bruckner, “Washtenaw County Sheriff Signs National Letter to Immigrant Communities,” WDIV (ClickOnDetroit, September 9, 2019), <https://www.clickondetroit.com/all-about-ann-arbor/2019/09/09/washtenaw-county-sheriff-signs-national-letter-to-immigrant-communities/>.

¹¹ Hicks, Justin P. “Grand Rapids Police Unveil Policy for Dealing with ICE Months after Controversial Detainment.” MLive, August 23, 2019. <https://www.mlive.com/news/grand-rapids/2019/08/grand-rapids-police-unveil-policy-for-dealing-with-ice-months-after-controversial-detainment.html>.

¹² Ibid.

¹³ See Niskanen Center, “287(g) Agreements: A Costly Choice for Localities,” Oct. 19, 2020, <https://www.niskanencenter.org/287g-agreements-a-costly-choice-for-localities/> (calculating more than \$2,000 per detainer, based on the average length of stay in jail for individuals transferred to ICE custody compared to individuals released, at a cost of \$113/day).

¹⁴ See UC Irvine School of Law, “Misplaced Priorities: The Failure of Secure Communities in Los Angeles County,” https://www.law.uci.edu/academics/real-life-learning/clinics/MisplacedPriorities_aguilasocho-rodwin-ashar.pdf.

¹⁵ See ACLU, “Recent ICE Detainer Damages Cases,” <https://www.aclu.org/fact-sheet/recent-ice-detainer-damages-cases>.

¹⁶ Police Executive Research Forum, “Local Police Perspectives on State Immigration Policies,” July 2014, https://www.policeforum.org/assets/docs/Free_Online_Documents/Immigration/local%20police%20perspectives%20on%20state%20immigration%20policies.pdf.

police in Houston, Texas, explained, Texas' law has undermined efforts to combat transnational cartels: "[T]he passage of this legislation has undoubtedly made the immigrant communities less willing to talk to us. Without the cooperation of all our residents, we are less effective locally and internationally, allowing the cartels to operate with impunity."¹⁷ Years of evidence show that in addition to diverting police resources, ICE collaboration programs do not decrease local crime rates.¹⁸

The negative impact of these programs extends beyond police and medical services. Studies show that these collaboration programs drive down labor force participation, which can have serious impacts on local industry.¹⁹ As of 2018, immigrants make up "one in ten of [Michigan's] healthcare practitioners, technologists, and technicians"²⁰ and as of 2020, they make up a majority of its farmworkers.²¹ Despite the ways immigrants contribute greatly to our economy, collaboration programs can make them and their families afraid to apply for public benefits--such as the Supplemental Nutrition Assistance Program--causing immediate and long-term damage to the health of immigrant and U.S. citizen children.²²

While there are currently no 287(g) programs within our state, Michigan faces unique issues as a border state. A recent report released by the American Civil Liberties Union of Michigan highlights the harms caused by Border Patrol's entanglement with our local and state law enforcement agencies. As it stands, Border Patrol "claim the authority to conduct warrantless vehicle searches within 100 miles of any international border or waterway."²³ They maintain that the entire state of Michigan falls within this 100-mile zone since they consider each of the Great Lakes as an international waterway, including Lake Michigan even though it does not share a shoreline with Canada. "As a result of its expansive interpretation of what constitutes the 100-mile zone, Border Patrol claims that no place in Michigan is beyond its reach.

This expansive interpretation has resulted in Border Patrol agents using Michigan as their own unrestricted hunting grounds with little evidence that the agency is following its mandated

¹⁷ Statement of Art Acevedo for the Record, Chief of Police, City of Houston, Texas, Senate Committee on the Judiciary, Subcommittee on Border Security and Immigration, Dec. 11, 2018,

<https://leitf.org/wp-content/uploads/2018/12/Statement-of-Art-Acevedo-Senate-Committee-on-the-Judiciary-Subcommit....pdf>

¹⁸ For a summary of studies concerning Secure Communities and crime rates, see Alex Nowrasteh, "Trump Executive Order Reestablishes 'Secure Communities,'" Jan. 25, 2017, <https://www.cato.org/blog/trump-executive-order-reestablishes-secure-communities>. See also Nick Miroff, "Study finds no crime increase in cities that adopted 'sanctuary' policies, despite Trump claims," Washington Post, Oct. 21, 2020, https://www.washingtonpost.com/national/sanctuary-city-study-immigration-crime/2020/10/21/5810d13a-12fa-11eb-82af-864652063d61_story.html.

¹⁹ See Chloe East, "Secure Communities: Broad Impacts of Increased Immigration Enforcement," Jan. 13, 2020, <https://econofact.org/secure-communities-broad-impacts-of-increased-immigration-enforcement>.

²⁰ "Immigrants in Michigan," American Immigration Council, August 7, 2020, <https://www.americanimmigrationcouncil.org/research/immigrants-in-michigan>.

²¹ Christian Martinez, "Food, Agricultural Workers Prioritized FOR Vaccine, Including Some Refugees, Migrants in Michigan," March 3, 2021, https://www.lansingstatejournal.com/story/news/2021/03/03/vaccine-priority-food-chain-workers-helps-some-refugees-migrants/6835641002/?fbclid=IwAR134ODPxf06sG3HJvLhBqAX_vnh-cJOI2O61uQKyYwzfdcHSIP7PuIx4mc.

²² See Marcella Alsan and Crystal Yang, "Fear and the Safety net: Evidence from Secure Communities," National Bureau of Economic Research, July 2019, <https://www.nber.org/papers/w24731>.

²³ ACLU of Michigan, *The Border's Long Shadow: How Border Patrol Uses Racial Profiling and Local and State Police to Target and Instill Fear in Michigan's Immigrant Communities* (April 2021).

mission. The report indicates that “only 1.3% of cases in the Border Patrol’s records involved people attempting to enter the United States unlawfully from Canada.”²⁴

Furthermore, collaboration programs, such as those between Border Patrol and Michigan’s local and state police departments, have led to human rights violations and abuses. Being in the business of immigration enforcement incentivizes local police to make pretextual arrests on state or local criminal grounds. For example, “nearly half (48.6%) of Border Patrol apprehensions” in Michigan “began with a state or local law enforcement agency initiating a traffic stop.”²⁵ Additionally, this collaboration emboldens law enforcement officers across the state to use immigration enforcement as a means of threatening and harassing people in immigrant communities. The report revealed that “85% of noncitizens apprehended by Border Patrol” were Latin American even though people of Latin American origin comprise just 16.8% of the state’s foreign-born population. This is even more striking, given the fact that the report revealed that the vast majority of people Border Patrol arrested entering without authorization or attempting to enter without authorization to the U.S. from Canada (more than 70%) were either citizens of Canada or originally from a European nation.

In other words, non-citizen Latin Americans are being apprehended by Border Patrol agents at alarmingly high rates even though the majority of people arrested for entering or attempting to enter the U.S.-Canada border are Canadian or European nationals. Border Patrol’s racist and unjust practices are further evidenced through its use of “complexion codes.” For example, “more than 96% of those apprehended” “are recorded as being ‘Black,’ ‘Dark Brown,’ ‘Dark,’ ‘Light Brown,’ ‘Medium Brown,’ ‘Medium,’ or ‘Yellow.’” Tellingly, only 3.7% of those arrested have a complexion recorded as “Fair” or “Light.” These blatant examples of racial profiling are not anomalies, but instead byproducts of the collaboration between our local, state, and federal law enforcement agencies that empower officials while hindering the safety, health, and stability of our communities.

We urge the new administration to heed lessons from the Obama administration, when DHS issued enforcement priorities and limited reforms to ICE collaboration programs. ICE and some local law enforcement agencies colluded to flout these enforcement priorities. As long as both ICE and Border Patrol collaboration programs continue to exist in some form—and notwithstanding the intentions of the new administration--law enforcement officers are likely to continue exploiting them to engage in racial profiling and harassment.

²⁴ Id.

²⁵ Id.

We urge you to act decisively to end these programs and practices and look forward to engaging with you on a new path forward. Thank you for your attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'E. Alvarez', written in a cursive style.

Eva Alvarez on behalf of the MCIRR Steering Committee.