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The Subcommittee on Immigration Policy and Enforcement
House of Representatives
B-353 Rayburn House Office Building
Washington, DC 20515

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**Re: Statement from the Southern California Chapter of the
American Immigration Lawyers Association in
Opposition to Secure Communities**

Dear Chairman Gallegly, Ranking Member Lofgren & Members of the
Subcommittee:

TREASURER

Cynthia Lucas

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The Southern California Chapter of the American Immigration Lawyers Association (AILA) urges that DHS suspend Secure Communities and/or Congress suspend funding until meaningful reforms are made. Secure Communities was touted as a program that would make neighborhoods safer by removing serious criminals from the streets. Yet, nearly 60 percent of those deported under the program were either convicted of only minor offenses or not even convicted at all. In fact, what has actually transpired is a dangerous erosion of public trust, an unnecessary diversion of federal funds from immigration enforcement priorities, and failure by DHS to adequately address concerns regarding racial profiling.

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I. AREAS OF CONCERN

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1. Secure Communities Erodes Public Trust

Secure Communities erodes public trust in several ways. First, DHS' stated objectives in promoting Secure Communities was to identify and deport those who pose a risk to public safety or national security. However, when nearly 60 percent of those actually deported are neither dangerous nor a risk to national security, their stated objective is being compromised. Second, Secure Communities actually hinders public safety by deterring witnesses to crime and others from working with law enforcement. Indisputably, law enforcement works best when it's engaged with the community. Indeed, crimes go unreported and victims go unprotected when entire communities fear the police. Third,

prominent members of Congress have called publicly for an independent investigation of DHS for allegedly misleading the public and local government officials about how Secure Communities functions and whether states and localities have any ability to terminate the program. Our Chapter is concerned that if Secure Communities continues, as presently implemented, these problems will only be exacerbated.

2. Secure Communities Diverts Federal Resources Away from Enforcement Priorities

Although Secure Communities ostensibly targets “criminal aliens,” it in fact affects everyone who is brought into a jail—whether or not they were arrested for a serious crime. Paradoxically, it ignores that immigration checks should only apply to persons who have been *convicted* of a crime and been judged to be a danger to the public. As has been applied, Secure Communities means more jail time for non-citizen defendants because, when there is a “hit” on a DHS immigration database, the local jail is asked to hold the individual until the conclusion of criminal proceedings for ICE. This results in a growing cost that is absorbed by the corresponding town or county. As such, Secure Communities has invited extensive participation from state and local law enforcement agencies in the enforcement of federal immigration law. Not only does this impermissibly confuse the federal government’s responsibility for enforcing the immigration laws, but adversely impacts local law enforcement and the communities they are charged to protect. By pursuing enforcement action in such cases, ICE resources are being diverted away from the agency’s priorities. Such blatant disregard for the stated purposes of Secure Communities cannot be ignored.

3. DHS Has Not Addressed Concerns About Racial Profiling and Other Civil Rights Abuses

Since the inception of Secure Communities in 2008, several groups and individuals have voiced concerns over racial profiling and biased policing when local law enforcement is involved with immigration enforcement. The DHS task force has recommended strengthening accountability mechanisms and remedies for the prevention of civil rights and civil liberties violations. In addition DHS has announced that it would provide quarterly statistical analysis to identify jurisdictions where racial profiling might be occurring, as well as a series of videos to train local law enforcement. To date, however, no quarterly statistics have been released and no additional trainings created. Moreover, Secure Communities remains in full force in jurisdictions currently being investigated by the Department of Justice. DHS has failed to address seriously concerns about racial profiling and biased policing with respect to Secure Communities. While DHS has issued memorandum regarding when it will exercise prosecutorial discretion in accord with its enforcement priorities, this does not alleviate the diversion of federal resources from immigration enforcement priorities, nor does it alleviate the already overburdened state and local governments. Moreover, it created unnecessary suffering to countless families ensnared in this flawed program. Unless major, meaningful changes are made

to this program, Secure Communities will continue to add to the problems of our immigration system, and prosecutorial discretion – no matter how generously it is granted – will not change this.

II. MEANINGFUL REFORM

If Secure Communities intends to live up to its name and its stated purpose to Congress and the American people, then the program should be suspended immediately, or federal funding withheld until the following safeguards are in place:

- Implementation of systematic mechanisms to ensure that Secure Communities actually targets those who pose a risk to public safety or national security.
- Clarification by DHS that immigration law violators and individuals who are convicted of or charged with misdemeanor offenses are not enforcement priorities unless there are other indicia that they pose a serious risk to public safety or national security. Convictions for felony crimes are an indication that the person may pose a risk to public safety, but enforcement personnel should carefully examine the facts in each case to determine whether the individual actually poses such risk. Suspending Secure Communities and other DHS programs that invite state and local law enforcement collaboration in any state or locality where DOJ has initiated an investigation or litigation over concerns about racial profiling or civil rights abuses. Provide meaningful opportunities to hear from immigrants and U.S. citizens who have been directly impacted by Secure Communities and similar enforcement programs.

Once again, the Southern California AILA Chapter calls upon DHS to implement these changes to the flawed Secure Communities program and to suspend the program until these major reforms can be made.

Your consideration is greatly appreciated,

AILA Southern California Executive Committee

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James Y. Pack, Vice Chair
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