



## **Article 29: “Bylaw Regarding Sharing of Information with Federal Agencies”**

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### **What is the proposed Bylaw in Amherst?**

A Bylaw is on the Spring Town Meeting warrant that would invoke a standing federal regulation that would prevent the Department of Homeland Security’s (DHS) stated intention to **compel all municipalities to enforce federal immigration policy** through their police departments by the end of 2013. DHS intends to do this by implementing the controversial “Secure Communities” across the country (and has already begun in certain states). The proposed Bylaw is the first attempt in the nation to utilize existing federal regulations to prevent this from happening in the town of Amherst. We want to mitigate the damage this program will do before it is actually implemented.

### **Why do we want to restrict with whom the FBI shares information from Amherst?**

By the end of 2013, the Obama administration had indicated it will put the burden of federal immigration enforcement on the local municipalities, particularly our police departments. This will be done by compelling the FBI to perform an **immigration check** when a local police department sends a **criminal check** request on an individual. We want to restrict the FBI (by invoking a federal regulation) from performing this check with **immigration** (Immigration and Customs Enforcement, or ICE) so that our police department, and our community, does not have to bear the burden of performing this federal and highly problematic role.

### **What is “Secure Communities” / S-Comm?**

Secure Communities (S-Comm) is an Immigration and Customs Enforcement Agency (ICE) program designed to elicit collaboration between local police departments and ICE. Under S-Comm, anyone arrested by a police officer in a local police department will, at the time of booking, have their fingerprints run through federal immigration databases in addition to criminal databases. The stated goal of S-Comm is to deport the “most dangerous” undocumented persons; but in practice most of the people deported had no criminal record at the time of their arrest or had committed such minor offenses as traffic violations. In effect, S-Comm turns all local police departments into agents of both DHS and ICE.

Groups like the **Police Foundation**, the **Major Cities Chiefs Association** have criticized putting immigration enforcement on the backs of local police, and esteemed labor, immigrant, and civil rights organizations including the **ACLU** and **Human Rights Watch**, have criticized S-Comm. These critiques address cases of mismanagement, the huge percentage of deportees who are not convicted criminals, and levels of misinformation and secrecy around the voluntary or mandatory nature of the program, among other issues. As the New York Times reports, “Many lawmakers and police agencies say it erodes public safety by making immigrants, especially victims of domestic violence, afraid to report crimes. They worry about giving rogue officers a convenient tool for racial profiling.”

### **Would this limit the operations of the Amherst Police Department?**

**No** – this Bylaw **does not restrict the Amherst Police Department’s** (APD) ability to send information to local, state, and federal agencies and entities. It restricts what the Federal Bureau of Information (FBI) does with the information sent to it by the Amherst law enforcement. This Bylaw is meant to **prevent the FBI** from sharing our town’s information with immigration agencies [such as the Immigration and Customs Enforcement (ICE)], that would then direct APD to perform federal immigration enforcement. We want the APD to maintain its policy of not detaining alleged undocumented immigrants. This new burden on local police departments to conduct immigration enforcement is the crux of what is wrong with S-Comm.

## What cities, counties or states have decided to opt out?

Massachusetts, Illinois, and New York have already opted out of S-Comm. Governor Deval Patrick of Massachusetts opted out in June, stating that “we are reluctant to participate if the program [S-Comm] is mandatory and unwilling to participate if it is voluntary.”

Governor Patrick said that he was “**dubious of the Commonwealth taking on the federal role of immigration enforcement.**” His decision was also influenced by the concern expressed by citizens, advocates, and law enforcement officials who fear that S-Comm would result in racial profiling and a decrease in reporting crime in neighborhoods with a high immigrant population. He voiced a concern that it would “**deteriorate relationships with communities that have been carefully cultivated with years of hard work.**”

The governor of Illinois “cancel[led] Illinois’ participation in the program, known as Secure Communities, because of ‘a conflict’ between its stated purpose and its results. Although officials had said the program would deport immigrants who were convicted criminals, fewer than 20 percent of immigrants deported under the program had serious convictions.”

The City of Northampton, through a resolution written by and co-sponsored by **Northampton Police Chief Sienkiewicz**, opted-out of S-Comm on September 1, 2011 by an **unanimous vote**.

The City of Springfield **unanimously voted to opt-out** of S-Comm in the summer of 2011.

## Why don’t we pass a resolution, like the ones Northampton and Springfield did last year?

Northampton and Springfield passed non-binding resolutions that will not prevent S-Comm from being implemented in their cities. The discovery of this **valid, legal mechanism** to prevent S-Comm from taking hold did not occur until after both resolutions had passed. If Amherst passes this Bylaw, we believe Northampton and Springfield will follow.

## What’s wrong with S-Comm?

There are many criticism and problems with S-Comm. Among them are:

- Puts the role of enforcing immigration policy on local law enforcement
- Puts the financial burden of immigration enforcement on local municipalities
- Breaks down trust between community members and police
- Decreases public safety by degrading the “community policing” model
- Increases the likelihood of racial profiling
- Does not even come close to removing the “criminal” undocumented immigrant population:
  - Nationally, according to ICE statistics, 79% of people removed “lacked any criminal record or had been convicted only of minor offenses, including traffic violations.”
  - In Boston, MA, 54% of people removed were classified by ICE as “non-criminal,” meaning that they had no criminal record whatsoever.

## What’s this “28 C.F.R. Pt. 20”?

This is Title 28 (Judicial Administration), Part 20 (Criminal Justice Information Systems) of the Code of Federal Regulations. In short, this is federal law that dictates how the federal government is allowed to use information sent to it by municipalities. This Bylaw would simply use long-standing federal law to prevent this harmful program to coming to our community.

**For more information about Secure Communities, the related proposed Bylaw, and to get involved in the passage of this Bylaw, please contact:**

Jeff Napolitano, Director, American Friends Service Committee, call (413) 584-8975,  
email [jnapolitano@afsc.org](mailto:jnapolitano@afsc.org), or visit <http://preservingcivilrights.org>