
MEMORANDUM OF SUPPORT

Date: May 4, 2023

To: All Assembly Members, New York State Assembly; All Senators, New York State Senate; Governor Kathy Hochul

From: The Surveillance Technology Oversight Project (S.T.O.P)

Re: Surveillance Technology Oversight Project Memorandum in Support of A.5686 Reyes/S.987 Gounardes, the New York For All Act

The Surveillance Technology Oversight Project is a community-based civil rights group that litigates and advocates against discriminatory surveillance. We write in support of Assembly Bill A.5686/Senate Bill S.987, which would protect New Yorkers from federal immigration enforcement.

New York has long been emblematic of American immigration, The Statue of Liberty standing as a global symbol of inclusion. In more recent years, amid unprecedented attacks on undocumented communities, our State promised to be a “sanctuary.”¹ But all too often, we are a sanctuary in name only, with our State and local government agencies supporting Immigration and Customs Enforcement (ICE) and Customs and Border Protection’s (CBP) assault on immigrant families.² Our own State and local governments are putting thousands of New Yorkers at risk of deportation and separation from their families.

In New York City Council Hearing earlier this year, the City’s Department of Corrections revealed that it violated the City’s detainer laws and fostered an anti-immigrant sentiment. An email from a DOC Captain to ICE included the hashtag #teamsendthemback.³ We need our lawmakers to send a strong message that we will fulfill our promise to be a sanctuary state.

S.T.O.P. supports the New York For All Act (A.5686/S.987), ensuring that State and local officials do not work with ICE and CBP to target immigrant and mixed-status families. This long overdue legislation would protect hundreds of thousands of New Yorkers by ensuring that local

¹ New York Times Editorial Board, Proud to be a Sanctuary City, N.Y. Times (Dec. 18, 2016), <https://www.nytimes.com/2016/12/18/opinion/proud-to-be-a-sanctuary-city.html> (The Governor promised to defend undocumented immigrants); New York Attorney General: State Will not Cooperate with Trump-Ordered ICE Raids, PIX 11 (June 21, 2019), <https://pix11.com/news/local-news/manhattan/ny-ag-state-will-not-cooperate-with-pres-trump-ordered-ice-raids/>.

² U.S. Immigration and Customs Enforcement and Rensselaer County Sheriff’s Office, Memorandum of Agreement, 287(g) Jail Enforcement Model (June 2020), https://www.ice.gov/doclib/287gMOA/287g_JEM_RensselaerCoNY_06-10-2020.pdf.

³ The Office of Congresswoman Grace Meng, Meng Demands Answers About Communication Between NYC Department Of Correction And U.S. Immigration And Customs Enforcement On Information Sharing (Feb. 27, 2023), <https://meng.house.gov/media-center/press-releases/meng-demands-answers-about-communication-between-nyc-department-of>.

agencies don't waste tax dollars on policies that betray our State's commitments to immigrant communities.

Passing the New York For All Act is critical. Over decades, the federal government enacted policies rife with anti-immigrant sentiment.⁴ The Trump Administration vastly increased immigration enforcement after unforgivably calling immigrants “killers and rapists.”⁵ Trump is out of office, but many of his immigration policies remain. For instance, the Biden Administration deported thousands of people during its first year⁶ and could not preside over meaningful immigration reform.⁷ The State can address this failure of national policy by passing New York For All.

This legislation prohibits local governments from using public resources to facilitate immigration enforcement, prevents government agencies from sharing New Yorker's sensitive information with ICE and CBP, and bans immigration authorities from entering private government property without a warrant.

These provisions keep New York's surveillance network out of federal hands by preventing local collaboration with immigration authorities. Virtually nothing stops New York governments from deploying any spy tech they desire.⁸ They can share this technology with ICE and CBP—giving them granular information on all New Yorkers.⁹ Immigration authorities watch immigrants as they go about their daily lives, identifying them on facial recognition cameras near their child's school or tracking them using cellphone data when they go to the grocery store.¹⁰ Then, the federal

⁴ American Immigration Lawyers Association, Immigration Enforcement off Target (Aug. 18, 2011), <https://www.aila.org/File/Related/11081609.pdf>.

⁵ Ryan Gajewski, Donald Trump to CNN: “Killers and Rapists” are Crossing the Border, The Hollywood Reporter, (June 28, 2015), <https://www.hollywoodreporter.com/news/politics-news/donald-trump-cnn-killers-rapists-805595/#!>; Lydia Wheeler, Trump Ramps up Scrutiny of Legal Immigrants, The Hill (July 22, 2018), <https://thehill.com/homenews/administration/398116-trump-ramps-up-scrutiny-of-legal-immigrants>.

⁶ Michel D. Shear, et. al., Biden Pushes Deterrent Immigration Policies After Promising “Humane” Approach, N.Y. Times (Sept. 22, 2021), <https://www.nytimes.com/2021/09/22/us/politics/biden-immigration-border-haitians.html>.

⁷ Julian Resendiz, Biden Takes Flak From Right and Left for “Failed” Immigration Policies During First Year in Office, Border Report (Jan. 19, 2022), <https://www.borderreport.com/hot-topics/immigration/biden-takes-flak-from-right-and-left-for-failed-immigration-policies-during-first-year-in-office/>.

⁸ Surveillance City, NYPD can use more than 15,000 cameras to track people using facial recognition in Manhattan, Bronx and Brooklyn, Amnesty International (June 3, 2021), <https://www.amnesty.org/en/latest/news/2021/06/scale-new-york-police-facial-recognition-revealed/>.

⁹ National Immigration Law Center, Untangling the Immigration Enforcement Web (September 17, 2017), <https://www.nilc.org/wp-content/uploads/2017/09/Untangling-Immigration-Enforcement-Web-2017-09.pdf>; U.S. Department of Homeland Security, Privacy Impact Assessment for Ice use of Facial Recognition Services (May 13, 2020), <https://www.dhs.gov/sites/default/files/publications/privacy-pia-ice-frs-054-may2020.pdf>.

¹⁰ Jon Brodtkin, CBP's Warrantless use of Cell Phone Location Data is Under Investigation, Ars Technica, Dec. 3, 2020), <https://arstechnica.com/tech-policy/2020/12/cbps-warrantless-use-of-cell-phone-location-data-is-under-investigation/>; Aaron Boyd, ICE Outlines How Investigators Rely on Third-Party Facial Recognition Services, NextGov (June 2, 2020), <https://www.nextgov.com/emerging-tech/2020/06/ice-outlines-how-investigators-rely-third-party-facial-recognition-services/165846/>.

government uses this information to facilitate arrests, deportations, and family separations. We must stop allowing the federal government to co-opt New York's technology to target its own people.

Aside from limiting federal access to local surveillance networks, New York For All also reduces the likelihood that the federal government will repurpose State data to effectuate immigration raids. It does this by prohibiting agencies from entering New Yorkers' immigration status into a government database unless absolutely necessary. Repurposing data was common during the Trump Administration. The President required the Department of Health and Human Services to share its data with ICE, which it then used to deport immigrants.¹¹ Biden ended this practice, but we need a law limiting State agencies' discretion to collect immigration data and share it with the federal government. Without it, we will only continue the status quo.

New Yorkers shouldn't fear that their State will rip away their families for no reason other than their immigration status. The federal government has neglected to act, and even supported discrimination by pursuing an anti-immigration agenda. However, this legislation gives State lawmakers the chance to make New York a fair and inclusive place. We urge the legislature to pass New York For All.

¹¹ Jesus Rodriguez, Ending the Misuse of Immigrants' Data, Brennan Center (May 20,2021), <https://www.brennancenter.org/our-work/analysis-opinion/ending-misuse-immigrants-data>.