



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

ANDREW M. CUOMO
GOVERNOR

April 25, 2018

Thomas D. Homan
Deputy Director and Senior Official
Performing the Duties of the Director
for U.S. Immigration and Customs Enforcement
U.S Immigration and Customs Enforcement
500 12th St., SW
Washington, D.C. 20536

Dear Deputy Director Homan:

Recent enforcement actions by Immigration and Customs Enforcement (“ICE”) agents operating in New York State raise significant legal and public safety concerns. The tactics deployed by agents under your leadership have become increasingly reckless and reflect a serious disregard for the rule of law. As reflected in news reports and individual accounts, the irresponsible, and in many cases, illegal conduct of members of your agency is eroding trust in the foundations of our communities, threatening the sanctity of our public institutions, and unnecessarily stoking terror among law-abiding residents under the guise of promoting homeland security and public safety. As Governor of the State, it is my duty to protect its residents from threats to their safety and well-being and ensure the proper functioning of its institutions in furtherance of our democracy. I cannot tolerate the blatant disrespect for our laws that agents in your employ continue to display.

Your agency’s aggressive claims of upholding the rule of law belie the fact that the pattern of conduct and blatant constitutional violations committed by both agents in the field and regional leadership actually reflect a readiness to sink to lawlessness. My administration has received numerous first-hand accounts of conduct that raises serious constitutional concerns, the very law your agency is sworn to protect and defend. The accounts below are but a sample of stories which clearly demonstrate that you have no interest in protecting New York communities, keeping our homeland safe, or operating in a manner that reflects our values and fosters confidence in our public institutions.

Last week's arrest by ICE agents of a dairy farmer in Rome, NY, working hard to support his young family, is a relevant example of the kind of egregious and unconstitutional conduct in which your agents routinely engage. On the morning of April 18th, farmer John Collins heard a commotion on his property. Upon investigation, he discovered plain-clothed ICE agents aggressively questioning one of his farm workers while pushing him up against a window. Concerned for his employee and aware that the man's young children who had been waiting for the school bus were now watching their father being assaulted, Mr. Collins approached your agents to determine what was happening on his privately owned property and to video what was taking place with his cellphone. He was handcuffed and his cellphone was thrown on the ground. Your agents did not have a warrant to enter Mr. Collins's property nor did they identify themselves or their purpose for being there. They handcuffed him and threatened to arrest him for properly exercising his constitutional rights.

Likewise, the actions of your agents in Staten Island have seriously undermined the safety and health of several communities. There have been reports that agents have engaged in collateral sweeps – showing up at a residence to purportedly arrest an individual, discovering that the individual was not present at the home, and arresting other individuals without identifying themselves or producing warrants. Families are terrified to send their children to school, attend medical visits, or go to work. And, because your agents misidentify themselves using tactics that suggest that they are actually local police, immigrant communities are more terrified than ever to engage with local law enforcement to report crime, seek assistance, and assist in criminal investigations.

Equally concerning is the practice of apparently targeting immigrants who have publicly disagreed with your agency's practices and have built and lead communities who bear the brunt of the harm caused by them. The targeting of political dissent is a direct strike at the core of our democracy. Organizations across our state provide critical support and services to immigrant communities, including legal representation in immigration court, English language classes, and support for accessing critical services like housing, healthcare, and education. They play a critical role in ensuring that we continue to grow as a state and increase opportunities for all New Yorkers. And they provide spaces where immigrants and nonimmigrants alike exercise the most sacred of our values, thinking and speaking freely with their families and communities without fear of retribution from the government. Evidence that agents in New York engaged in this kind of enforcement of our leaders is reprehensible and an affront to our values.

The pattern of conduct described above falls far beyond the boundaries of reasonableness and stands in contravention to the daily efforts of our state and local law enforcement to maintain safe and welcoming communities. The persistent failure of your agents to properly identify themselves or produce required documentation to conduct lawful searches and arrests is illegal and creates significant risk of harm to all New Yorkers, including law enforcement who have also been left unaware of your activities within the communities they are entrusted to protect. ICE agents should provide notice to state and local law enforcement in advance of conducting operations within their communities. Open lines of communication with these law enforcement professionals should be a constant as it is critical to ensuring the wellbeing of everyone working to uphold public safety.

In New York, the guarantees of the Constitution actually mean something. They protect private property owners operating businesses and protect the safety of their families and employees. They protect our communities and institutions so that our residents feel safe taking their children to school, sick family members to the hospital, or contacting local law enforcement for help when they need it. And they protect the marketplace of ideas, the cornerstone of our democracy, so that all New Yorkers can think and speak freely without fear that opinions and ideas that differ from those espoused by your administration will not make them targets for your politically motivated arrests and deportations. Your actions run counter to your stated mission, and to Federal and State law. As such, you must cease and desist in this pattern of conduct immediately, direct your agents operating in New York to follow the clear constitutional requirements attendant to searches and arrests, stop illegally targeting individuals based on their constitutionally protected speech, and properly engage state and local law enforcement when performing any enforcement action within the State of New York. If you fail to do so, I will explore and pursue all available legal recourse, taking any such action that is necessary to protect the rights and safety of all New Yorkers

Sincerely,

A handwritten signature in black ink, appearing to read "Andrew M. Cuomo". The signature is stylized with a large, prominent "A" at the beginning and a long, sweeping underline.

ANDREW M. CUOMO