

Updated October 1, 2010

SECURE COMMUNITIES A Fact Sheet

While the implementation by Immigration and Customs Enforcement (ICE) of the state/local partnership agreements known as the 287(g) program has been a source of great controversy, it is far from the only tool ICE uses to engage state and local law enforcement in immigration control. Most notably, the Secure Communities Program, which launched in March 2008, has been held out as a simplified model for state and local cooperation with federal immigration enforcement. This fact sheet lays out the basics of Secure Communities program, how it works, key areas of concern and recommendations on how to improve the program.

What is Secure Communities?

[Secure Communities](#) is a DHS program designed to identify immigrants in U.S. jails who are deportable under immigration law. Under Secure Communities, participating jails submit arrestees' fingerprints not only to criminal databases, but to immigration databases as well; allowing ICE access to information on individuals held in jails. Unlike other ICE-local partnerships, Secure Communities gives ICE a technological, not physical, presence in prisons and jails. No Memoranda of Agreement (MOAs) with local law-enforcement agencies are required, and no local law-enforcement agents are deputized to enforce immigration laws through Secure Communities.

As of October 2010, Secure Communities is available in [more than 650 jurisdictions in 32 states](#). ICE plans to have a Secure Communities presence in every state by 2011, and plans to implement Secure Communities in each of the 3,100 state and local jails across the country by 2013.

How does Secure Communities work?

When an individual is booked into a jail, his or her [fingerprints are checked](#) against the U.S. Visitor and Immigrant Status Indicator Technology Program (US-VISIT), and the Automated Biometric Identification System (IDENT), in addition to the other databases that are generally checked following an arrest. This fingerprint check allows state and local law enforcement and ICE automatically and immediately to search the databases for an individual's criminal and immigration history.

If there is a database "hit," meaning that the arrested person is matched to a record indicating an immigration violation, ICE and the local law-enforcement authorities are automatically notified. ICE then evaluates each case to determine the individual's immigration status and take appropriate enforcement action. In most cases, ICE will issue a detainer against the jailed individual. A [detainer](#) is a request from ICE to the arresting agency to notify ICE before it releases the noncitizen so that ICE has the opportunity to decide whether the individual should be transferred to federal custody rather than released.

What are the Concerns about Secure Communities?

Identification and prioritization. ICE claims to base action on an individual hit on the following priority order:

- **Level 1** – Individuals who have been convicted of major drug offenses and violent offenses such as murder, manslaughter, rape, robbery, and kidnapping;
- **Level 2** – Individuals who have been convicted of minor drug offenses and property offenses such as burglary, larceny, fraud, and money laundering; and
- **Level 3** – Individuals who have been convicted of other offenses.

ICE has stated that Secure Communities is focused on dangerous “Level 1” criminals, but there is concern about whether or not such prioritization is taking place. [According to ICE](#), since October 2008, only 15% of all “hits” have identified individuals charged or convicted of Level 1 crimes. From October 1, 2009 through August 31, 2010, ICE received 219,844 “hits,” of which 184,736 were for persons charged or convicted of Level 2 or 3 crimes. Of the 41,929 immigrants deported as a result of a Secure Communities hit in that time period, 21,202 were convicted with Level 2 or 3 crimes, and 11,060 had no criminal conviction. The number of detainers on individuals charged or convicted of Level 1 crimes is far exceeded by detainers on those with Level 2 and 3 crimes. Furthermore, Secure Communities identifies immigrants charged with criminal offenses in addition to those with criminal convictions.

Opting out. There has been much conflicting information about whether local jurisdictions may opt-out of Secure Communities. After several jurisdictions attempted to opt-out and were told they were unable to do so, on August 17, 2010, ICE released a memo entitled, [“Setting the Record Straight”](#) setting forth an opt-out policy. DHS Secretary Janet Napolitano confirmed this process to in a September 7, 2010 letter to Congresswoman Zoe Lofgren. However, an October 1, 2010 article in the [Washington Post](#) quotes a senior ICE official and claims that opting out of Secure Communities “is not a realistic possibility, and never was.” Thus it is still not clear whether Secure Communities is a voluntary program or not.

Obstacles to community policing. Unlike the 287(g) program, Secure Communities does not require an MOA between ICE and the local jail, sheriff, or police department. Nonetheless, there are still concerns about local police being seen as immigration agents. If ICE maintains a presence—even a technological presence—in a local jail, the public will likely associate the local law-enforcement agency with immigration enforcement.

Unnecessary or Prolonged Detention. The existence of a Secure Community detainer may limit an individual’s ability to access a lawyer, fight criminal charges, or get out of jail on bail.

Profiling and pretextual arrests. While Secure Communities is a technological identification program through which all persons arrested are fingerprinted and checked against the various databases, there is a concern that police officers working in areas that have Secure Communities in their local jails may have an incentive, or at least the ability, to make arrests based on race or ethnicity, or to make pretextual arrests of persons they suspect to be in violation of immigration laws, in order to have them run through immigration databases once they are jailed.

Lack of complaint mechanisms. Given the wide range of concerns about Secure Communities, it is essential that there be a complaint or redress procedure for individuals who believe they have been erroneously identified by DHS databases or who believe a DHS detainer has been issued in error. Currently there is no clear complaint procedure for persons who believe they have been victims of an error.

Lack of Oversight and Transparency. Various reports have found that ICE has an uneven track record in terms of supervising its local partnerships. As with other programs, there are concerns about the level of oversight and transparency associated with Secure Communities.

Lack of Data. Much more data about Secure Communities and the individuals it identifies is necessary. Without accurate data, it is difficult, if not impossible, to determine how Secure Communities is being implemented or how effective it is.