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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 November 2009, Secure Communities is available in [81 jurisdictions in nine 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.

ICE reported that as of August 31, 2009, [82,890 fingerprint submissions](#) resulted in a database match. As a result of Secure Communities, ICE had issued 16,631 detainers.

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. A November 2009 [ICE press release](#) announced that, since its inception, Secure Communities had identified more than 111,000 criminal aliens in local custody, of which more than 11,000 were charged with or convicted of Level 1 crimes, while more than 100,000 had been convicted of Level 2 and 3 crimes. The number of detainees on Level 1 crimes is far exceeded by detainees on Level 2 and 3 crimes. Furthermore, Secure Communities identifies immigrants charged with criminal offenses in addition to those with criminal convictions.

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.

Recommendations

In light of what is known about Secure Communities—and the experience that immigration attorneys, civil-rights organizations, and other experts have had with similar ICE programs—IPC offers the following policy recommendations.

1. ICE must reinforce its commitment to prioritize those immigrants who have been convicted of egregious felony offenses, or who truly pose a threat to the community.
2. DHS should clarify that an immigration detainer is not the equivalent of a criminal arrest warrant or criminal detainer, and is simply a non-mandatory request that police maintain custody of an individual for a maximum of 48 hours to facilitate DHS's picking that person up. DHS should clarify that the local jail is not authorized to detain the subject for a period exceeding 48 hours, excluding weekends and holidays.
3. ICE should be required to issue reports to Congress on a regular basis, with statistics on the crimes for which identified non-citizens are arrested, the disposition of each underlying criminal case, and the nationality and ethnicity of identified non-citizens. Jurisdictions participating in Secure Communities should be required to report their arrest and identification statistics to ICE supervisors for oversight and management purposes.
4. Congress should request that the GAO or another neutral agency conduct an audit of the Secure Communities program. The report should contain an assessment of Secure Communities goals and objectives, performance measures, supervision and oversight, data tracking, and reporting mechanisms.
5. The public should receive consistent information about the operation of Secure Communities. Public outreach, community meetings, and information-sharing should be a central element of program implementation.
6. All jurisdictions participating in Secure Communities should receive training on civil rights and illegal racial or other profiling.
7. DHS must create and implement a strong complaint and redress mechanism for individuals who believe they have been wrongly arrested, detained, or otherwise mistreated under the Secure Communities program.
8. Before expanding Secure Communities to a jurisdiction, DHS should consider the direct and indirect effects that the program could have on public safety and community policing in that jurisdiction. Secure Communities should also ensure that any jurisdiction has the option to refuse to participate in the program, and that local authorities be given instructions for opting out.