



**ICE**

Secure  
Communities

# Setting the Record Straight

The Center for Constitutional Rights (CCR), National Day Laborers' Organizing Network (NDLON) and the Kathryn O. Greenberg Immigration Justice Clinic of the Benjamin N. Cardozo School of Law have publicly made several false claims about U.S. Immigration and Customs Enforcement's (ICE) Secure Communities strategy. The following document sets the record straight with factual information about Secure Communities.

**CLAIM:** "While ICE officials have declared their intention to expand [Secure Communities] into every jurisdiction in the country by 2013, information about the nascent program has been scarce, and the development of operational details has been shrouded in secrecy."<sup>1</sup>

**FACT:** ICE is committed to transparent and accountable immigration enforcement and continues to inform the public, non-governmental organizations, law enforcement agencies and other stakeholders about the Secure Communities strategy. ICE makes information about Secure Communities available in various ways, including the following:

- regular posting of information to the Secure Communities website ([www.ice.gov/secure\\_communities](http://www.ice.gov/secure_communities)),
- posting information to the ICE FOIA website (<http://www.ice.gov/foia/readingroom.html>),
- distributing press releases to media regularly about Secure Communities and posting them on the ICE website ([www.ICE.gov](http://www.ICE.gov)) (already issued more than 65 releases),
- regularly meeting with non-governmental organizations to answer questions and maintain a dialogue about ICE's immigration enforcement efforts including Secure Communities,
- participating in events to answer questions and inform the public about Secure Communities, such as the immigration-related conferences, roundtable events hosted by members of Congress to better inform their constituents, law enforcement organizations, community meetings and others, and
- reporting quarterly to Congress on the strategy's progress and results.

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<sup>1</sup> "Groups Call 'Secure Communities' Program a Racial Profiling Dragnet That Undermines Community Policing and Public Safety," CCR, NDLON, Cardozo School of Law, August 10, 2010.

Additionally, with more than 3,000 jurisdictions and more than 30,000 booking locations, ICE is activating this capability incrementally, focusing first on areas ICE determines to be high-risk.<sup>2</sup> ICE, in collaboration with its federal, state, tribal and local partners, creates the deployment plans that best achieve the mission, strongly considering the pressing needs and the availability of resources at all levels. To date, ICE has briefed approximately 700 jurisdictions across 49 states and one U.S. territory.

A map of current and planned activations is available on the Secure Communities website, [www.ice.gov/secure\\_communities](http://www.ice.gov/secure_communities), as well as a list of activated jurisdictions. Planned activations are subject to change at any time. ICE plans to be able to respond to leads generated through the biometric information sharing capability nationwide by 2013.

<b>CLAIM:</b> “[Secure Communities] coerces states and localities into widespread routine civil immigration enforcement, while misrepresenting the scope of the program and the burden on local law enforcement and communities.” <sup>3</sup>
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**FACT:** This is false. ICE does not coerce states and localities into participation in Secure Communities, nor does it coerce states and localities into “widespread routine civil immigration enforcement.” ICE does not delegate immigration enforcement authority to local law enforcement under Secure Communities, and participation requires no change to law enforcement’s daily operations. Further, ICE conducts outreach in advance of activating the biometric information sharing capability to ensure state and local law enforcement are provided the opportunity to understand the scope of the program. Prior to activation, the state identification bureau officials<sup>4</sup> meet with Secure Communities to discuss, in detail, the Secure Communities strategy and how the biometric information sharing capability will be used in their communities. Questions and concerns about the Secure Communities strategy are addressed at that time and in subsequent and on-going communication. Additionally, as plans for the capability to be activated in a local jurisdiction are made enabling the Department of Homeland Security (DHS) to receive those fingerprints transmitted from the state to the FBI, ICE also briefs local law enforcement officers in each jurisdiction to ensure comprehensive awareness about Secure Communities. ICE is committed to transparency and openness about how the Secure Communities strategy works.

Further, the activation of the biometric information sharing capability is implemented at little to no cost to or burden on local law enforcement. Secure

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<sup>2</sup> ICE used modeling techniques to determine jurisdictions with the highest projected criminal alien population, based on various data sources, including but not limited to: U.S. Census Data of Foreign Born Populations, FBI Violent Crime statistics and ICE Detention and Removal data.

<sup>3</sup> “Briefing Guide to ‘Secure Communities’ – ICE’s Controversial Immigration Enforcement Program New Statistics and Information Reveal Disturbing Trends and Leave Crucial Questions Unanswered,” CCR, NDLON and Cardozo School of Law, August 2010, pg. 1.

<sup>4</sup> State identification bureaus are responsible for submitting fingerprints to the federal government on behalf of local law enforcement agencies.

Communities leverages existing biometric technology used by state and local law enforcement to identify criminal aliens during the booking process. There is no cost or need for law enforcement officers' time because local law enforcement's daily operations do not change. CCR cites comments from a law enforcement officer in Florida *before* Secure Communities was activated to support its claim that Secure Communities is time-consuming.<sup>5</sup> These comments actually underscore the need for changes to the process of identifying criminal aliens, which Secure Communities addresses by streamlining criminal alien identification through biometric information sharing. This eliminates the need for law enforcement to contact ICE about potential non-U.S. citizens in their custody—thereby reducing the amount of time they would spend contacting ICE and asking them to check if a subject is in the country illegally.

Additionally, by removing criminal aliens more efficiently and effectively, ICE is reducing the possibility that these individuals will commit additional crimes in U.S. communities—thereby, reducing long-term costs to local law enforcement.

CLAIM: “Documents raise crucial questions about racial profiling and constitutional violations covered up by [Secure Communities]. [...] Nationwide, an average of 26 percent of all [Secure Communities] deportations are of non-criminals. [...] In Maricopa County, Arizona, however, ICE categorizes more than half (54 percent) of people deported through [Secure Communities] as non-criminals. [...] [In Travis County, Texas,] 82 percent of [Secure Communities] deportations are of non-criminals.”<sup>6</sup>

FACT: To date, ICE has not received any formal complaints or allegations of racial profiling as a result of IDENT/IAFIS interoperability activation. The biometric information sharing capability—IDENT/IAFIS interoperability—used through the Secure Communities strategy **reduces the possibility for allegations of racial or ethnic profiling** because, unlike the current system, it relies on biometric—not biographic—information. Biometrics (in this case, fingerprints) are unique and virtually impossible to forge. Further, the fingerprints of every person criminally booked into local law enforcement custody are submitted through IDENT/IAFIS interoperability. Additionally, ICE's use of IDENT/IAFIS interoperability does not change local law enforcement's daily operations, including what types of crimes warrant arrest or fingerprint submissions. This is enhanced by ICE's prioritization efforts which focus ICE resources against the greatest threats—criminal aliens. While ICE prioritizes the removal of convicted criminal aliens, the agency retains the authority to take immigration enforcement action toward any alien who is subject to removal, including non-criminal aliens.

<sup>5</sup> CCR program guide cites a memo From Lieutenant Michael Barry, Martin County Sheriff's Office to Major Steve Chase on February 28, 2009. The memo is dated more than 1 year before the activation of Secure Communities in Martin County, Fla., which took place on June 22, 2010.

<sup>6</sup> “Briefing Guide to ‘Secure Communities’ – ICE’s Controversial Immigration Enforcement Program New Statistics and Information Reveal Disturbing Trends and Leave Crucial Questions Unanswered,” CCR, NDLO and Cardozo School of Law, August 2010, pg. 3–4.

Existing processes are in place at the local, state and federal levels to report allegations of racial profiling or abuse occurring in local law enforcement agencies. DHS is serious about responding to reported allegations of racial profiling, due process violations or other violations of civil rights or civil liberties relating to the use of IDENT/IAFIS interoperability. As such, the DHS Office of Civil Rights and Civil Liberties has expanded the existing complaint process to include Secure Communities. The complaint process can be found on the Secure Communities website at [http://www.ice.gov/secure\\_communities/complaint\\_process.htm](http://www.ice.gov/secure_communities/complaint_process.htm).

CCR's data regarding non-criminal alien removals is outdated.<sup>7</sup> Current data indicates the opposite of their assertion, showing that in fact ICE is increasing its focus on criminal aliens. In just one year (from June 2009 to June 2010), the criminal alien population in detention has increased from **47 to 57 percent** of the total alien population in detention. Additionally, during the same timeframe criminal alien removals have increased from **34 to 50 percent** of the total aliens removed. Additionally, the majority of non-criminal aliens removed through Secure Communities had prior immigration violations, which demonstrates a blatant disregard for immigration law and jeopardizes the integrity of our immigration system. The following chart correctly reflects the current percentage (as of July 31, 2010) of non-criminal alien removals in comparison to what CCR reported. In all cases, the number of non-criminal alien removals are lower than what was reported, further demonstrating a continued ICE-wide focus on the removal of convicted criminal aliens.

State	County	Activation Date	CCR Assertion <sup>8</sup>	Actual Non-Criminal Alien Removal Percentage July 2010 <sup>9</sup>	Difference
TX	Travis	6/16/09	82%	31%	-51%
FL	St. Lucie	2/18/09	79%	50%	-29%
AZ	Yavapai	1/16/09	74%	45%	-29%
TX	Tarrant	8/18/09	73%	44%	-29%
FL	Broward	8/25/09	71%	54%	-17%

<sup>7</sup> The statistical information initially provided as a result of the group's FOIA request was from April 2010, and as with all ICE statistical reports, it reflects data as of the date it was pulled. Updated information through July 2010 is now available, which includes updated conviction information for all previously reported removals and new removals. Additionally, a recent manual data audit, conducted from May to June 2010, revealed thousands of cases where removed aliens had been designated as non-criminal when, in fact, the alien had a criminal conviction at the time of removal; affected records have been corrected to include the appropriate criminal convictions, and accordingly, ICE's statistical information has also been updated.

<sup>8</sup> Data from "Briefing Guide to 'Secure Communities' – ICE's Controversial Immigration Enforcement Program New Statistics and Information Reveal Disturbing Trends and Leave Crucial Questions Unanswered," CCR, NDLO and Cardozo School of Law, August 2010, pg. 4.

<sup>9</sup> Data from "Updated Interoperability Statistics – By Conviction – July 2010," ICE FOIA Reading Room. <http://www.ice.gov/foia/readingroom.htm>

State	County	Activation Date	CCR Assertion <sup>8</sup>	Actual Non-Criminal Alien Removal Percentage July 2010 <sup>9</sup>	Difference
MA	Suffolk	11/5/08	68%	54%	-14%
FL	Miami-Dade	2/24/09	66%	47%	-19%
FL	Hillsborough	2/24/09	66%	36%	-30%
AZ	Pima	11/17/09	65%	51%	-14%
NC	Wake	11/12/08	64%	36%	-28%
TX	Collin	1/21/09	63%	39%	-24%
CA	San Diego	5/26/09	63%	21%	-42%
CA	Santa Barbara	1/5/10	58%	33%	-25%
TX	Webb	6/16/09	56%	53%	-3%
CA	Ventura	7/22/09	56%	35%	-21%
TX	Dallas	11/12/08	56%	31%	-25%
AZ	Maricopa	1/16/09	54%	27%	-27%

**CLAIM:** “[Secure Communities] is an immigration dragnet not a program focused on ‘high threat’ individuals as ICE has told local police departments.”<sup>10</sup>

**FACT:** As of July 2010, ICE had removed more than 10,800 criminal aliens convicted of the most serious offenses—Level 1 crimes.

On average people in the United States commit fewer serious crimes than lesser crimes (Level 2 and 3 crimes). Therefore, there will always be more Level 2 and 3 criminal aliens identified and removed by ICE. Further, some aliens are arrested for Level 2 or 3 crimes but have prior Level 1 convictions. By identifying aliens upon arrest, ICE agents have adequate time to review each criminal alien’s case, including prior convictions, and prioritize immigration enforcement action against those convicted of the most serious crimes. CCR’s assertion implies that subjects arrested for lesser crimes have no criminal record, which is often not the case. In fact, here’s an example of a criminal alien in Fairfax County who was arrested for a Level 3 crime but had prior Level 1 convictions:

- A suspect was arrested and convicted for soliciting a prostitute (Level 3). During booking, ICE used the federal biometric information sharing capability to verify his identity. Cross-checking criminal and immigration records revealed that he had entered the country legally as a foreign national and had subsequently been convicted of Level 1 crimes, including

<sup>10</sup> “Briefing Guide to ‘Secure Communities’ – ICE’s Controversial Immigration Enforcement Program New Statistics and Information Reveal Disturbing Trends and Leave Crucial Questions Unanswered,” CCR, NDLO and Cardozo School of Law, August 2010, pg. 1–2.

felony drug possession, second degree assault, felony robbery and first degree attempted armed robbery. He had encountered law enforcement 13 times under multiple aliases and been denied U.S. citizenship. ICE is processing him to be removed as a Level 1 offender from the U.S. upon completion of his sentence.

An additional factor that CCR's flawed assertions do not take into account is that Level 1 offenses carry longer sentences. This leaves resources available to initiate immigration enforcement action against criminal aliens convicted of Level 2 and 3 offenses, while the more serious criminals serve their time before being removed as Level 1 offenders. Because the first Secure Communities activation was less than 2 years ago—and a majority of jurisdictions have been active for less than a year—many criminal aliens convicted of serious offenses are still incarcerated and yet to be removed, while those convicted of lesser offenses have served their time and were processed through the system for removal. While ICE prioritizes the removal of convicted criminal aliens, as resources permit, the agency retains the authority to take immigration enforcement action toward any alien who is subject to removal, including non-criminal aliens.

The shift in focus on criminal aliens is demonstrated through the following statistics. In just one year (from June 2009 to June 2010), the criminal alien population in detention has increased from **47 to 57 percent** of the total alien population in detention. Additionally, during the same timeframe criminal alien removals have increased from **34 to 50 percent** of the total aliens removed.

<p>CLAIM: “Widespread confusion persists about how jurisdictions can choose not to participate in [Secure Communities] due to concern about how the program will impact community policing initiatives and public safety.”<sup>11</sup></p>
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FACT: As part of the Secure Communities activation process, ICE conducts outreach to local jurisdictions, including providing information about the biometric information sharing capability, explaining the benefits of this capability, when they are scheduled for activation, and addressing any concerns they may have.

If a jurisdiction does not wish to activate on its scheduled date in the Secure Communities deployment plan, it must formally notify its state identification bureau and ICE in writing (email, letter or facsimile). Upon receipt of that information, ICE will request a meeting with federal partners, the jurisdiction, and the state to discuss any issues and come to a resolution, which may include adjusting the jurisdiction's activation date in or removing the jurisdiction from the deployment plan.

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<sup>11</sup> “Briefing Guide to ‘Secure Communities’ – ICE’s Controversial Immigration Enforcement Program New Statistics and Information Reveal Disturbing Trends and Leave Crucial Questions Unanswered,” CCR, NDLO and Cardozo School of Law, August 2010, pg. 3.

Additionally, Secure Communities does not negatively affect community policing initiatives and public safety. First, the biometric information sharing capability only identifies those arrested for committing crimes, not individuals reporting crimes or victims of crimes. Therefore, members of the community who have witnessed or have been subject to crimes should not be concerned about reporting them. In fact ICE is committed to ensuring accurate information is available to dispel misconceptions about who is being identified through Secure Communities. Second, Secure Communities is helping remove individuals who pose a threat to community safety—criminals. ICE officials initiate prioritized immigration enforcement action, beginning with the most serious offenders first. Identifying and removing criminal aliens from the United States increases public safety. Secure Communities has received nationwide support from state and local law enforcement agencies and associations, including the National Sheriffs' Association and Major County Sheriffs' Association, for the role it plays in promoting community safety.