

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

----- X
NATIONAL DAY LABORER ORGANIZING
NETWORK, et al.,

Plaintiffs,

- v -

UNITED STATES IMMIGRATION AND CUSTOMS
ENFORCEMENT, et al.,

Defendants.
----- X

No. 10 Civ. 3488 (SAS)

**DECLARATION OF
SARAH URIBE**

DECLARATION OF SARAH URIBE

I, Sarahi Uribe, pursuant to 28 U.S.C. § 1746 and subject to the penalties of perjury,
declare that the following is true and correct:

1. I am the National Campaign Coordinator for the National Day Laborer Organizing Network (“NDLON”), a Plaintiff in the above-captioned matter. Access to current information about government operations is central to the advancement of NDLON’s mission to improve the lives of day laborers in the United States by unifying and strengthening its member organizations to protect and expand their civil, labor, and human rights.
2. In my position at NDLON, I help coordinate the national Uncover the Truth Campaign. The central purpose of the campaign is to demand government accountability on the Immigration and Customs Enforcement (“ICE”) Secure Communities program in order to use the information to reverse and stop the program’s harmful impacts on day laborers and public safety in general.

3. As part of the Uncover the Truth campaign, NDLOM disseminates the information we obtain about Secure Communities to the public and communicates with state, local, and congressional decision-makers who must grapple with public policy positions on Secure Communities.
4. I make the statements in this declarations based on my personal knowledge, my communications with individuals in activated jurisdictions, colleagues and state and local officials around the country, and my review of numerous documents uncovered in this litigation.
5. Since around February 2010, my position has led to communication with state, local, and congressional decision-makers and advocates around the country about the ability (or inability) of different jurisdictions to opt-out of participating in Secure Communities.
6. At first, advocates and local elected officials believed the program was voluntary based on the few documents publicly available. Confusion later emerged through newspaper reports and vague and inconsistent statements from ICE officials.
7. For a few months before October 2010, state and local jurisdictions did not know whether and how to opt-out of participation in Secure Communities. At the heart of the question was whether ICE had the requisite power to limit a jurisdiction's ability to opt out of the program. For example, the San Mateo County Board of Supervisors (SMCBS) wrote to the ICE Director of Secure Communities, John Morton, and specifically asked for the agency's position on whether a local jurisdiction could opt out and, if applicable, for the legal justification for the position that it could not. *See* Uribe Ex. A (Ltr. from R. Gordon to J. Morton, July 21, 2010). Other jurisdictions and members of Congress also sent inquiries to ICE related to the opt-out question. There was much confusion regarding

state and local governments' ability or inability to opt out of the Secure Communities program and the legal authority for the agency's decision.

8. On August 11, 2010, the Plaintiffs in this lawsuit posted a briefing guide for records released by ICE in which we raised concerns over the public confusion surrounding jurisdictions' ability to opt out of the Secure Communities program.
9. In response, on or around August 17, 2010, ICE posted a document in which it explained (for the first time) how a jurisdiction would go about opting out of Secure Communities. *See ICE, Secure Communities, Setting the Record Straight*, Aug. 17, 2010, available at: <http://www.nilc.org/immlawpolicy/LocalLaw/ice-scomm-setting-record-straight-2010-08-17.pdf>). It stated: "[i]f a jurisdiction does not wish to activate [Secure Communities], it must formally notify its state identification bureau and ICE in writing by email, letter, or facsimile. Upon receipt of the 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 or removing the jurisdiction from the deployment program." *Id.*
10. The same information was sent to the Santa Clara County Board of Supervisors (SCBS). *See* Uribe Ex. B (Ltr. to M. Marquez from J. Morton).
11. As a result of the information provided for the first time in "Setting the Record Straight" other jurisdictions wrote ICE again to reiterate requests to opt out. *See e.g.*, Uribe Ex. C (Ltr. from B. McDonnellan to J. Morton, 10/7/10); Uribe Ex. D (Ltr. from M. Hennessy to M. Rapp, D. Venturella & E. Brown, 8/31/10); *See also* Uribe Ex. A
12. Then, before any meetings were held, the public learned of the possibility that jurisdictions would not be able to opt-out of Secure Communities through an anonymous

quote in an October 1, 2010 article in the Washington Post. *See* Shankar Vedantam, *No Opt-Out for Immigration Enforcement*, The Washington Post (Oct. 1, 2010), available at <http://www.washingtonpost.com/wpdyncontent/article/2010/09/30/AR2010093007268.htm>). Confirmation by Janet Napolitano, Director of Department of Homeland Security (DHS), followed approximately one week later.

13. After the October 2010 announcement that localities could not opt out of Secure Communities, ICE held meetings about Secure Communities with the elected officials who sought to opt out of the program in Arlington, Virginia and San Francisco and Santa Clara, California on November 5, 8, and 9, respectively. ICE also briefed and held meetings with congressional representatives about Secure Communities around that time.
14. At these meetings, ICE officials explained ICE's position about participation in the program. ICE made clear their position that participation in the program was required by law regardless of localities' request to opt-out.
15. For example, in a meeting held November 8, 2010 in San Francisco and attended by top ICE officials affiliated with the Secure Communities program, ICE officials informed San Francisco Sheriff Michael Hennessey and his staff that the basis for ICE's mandatory position was the culmination of a number of statutes, and that mandatory participation in Secure Communities was mandated, among other reasons, by Congress through appropriations for Secure Communities. The Assistant Director of Secure Communities David Venturella was one of the officials who attended the meeting.
16. The Assistant Director of Secure Communities, David Venturella participated in a roundtable discussion on November 18, 2010 at the Woodrow Wilson International Center for Scholars in Washington, D.C., where he made a similar representation about


ICE's position on local jurisdiction's ability to opt-out.

17. Since October and November 2010, ICE officials have continued to claim that the mandatory nature of Secure Communities is justified by law in their communications with advocates and government actors. ICE officials have cited 8 U.S.C. § 1722, the Patriot Act, Appropriations Bills, the 9-11 Commission, and other sources of support for their position.
18. For example, recently, on August 5, 2011, I participated in a conference call organized by DHS to announce the rescission of the Secure Communities Memorandums of Agreement with the states and the continuation of Secure Communities as a mandatory program for which no Memorandum of Agreement was necessary.
19. An email invitation for the call was issued by the ICE Office of State, Local and Tribal Coordination to the ICE Working Group, a group of non-government organizations that meets with ICE to discuss immigration enforcement issues. Approximately one hundred group members and advocates participated in the call.
20. During the conference call, John Sandweg, Counselor to the Secretary in DHS, was asked about the legal authority for mandating participation in Secure Communities.
21. Mr. Sandweg, who initially could not recall the statute providing legal authority, later said that lawyers had looked at it, and that 8 U.S.C § 1722 provided the authority for the implementation of mandatory participation in the Secure Communities program. Additionally, he stated that 8 U.S.C § 1722 mandates the sharing of criminal history information between the FBI and ICE because criminal history information is relevant to a person's deportability.
22. This litigation has assisted elected officials negotiate with the federal government on a

more level playing field. Dozens of advocates and elected officials around the country await the disclosure of the "October 2 Memo" to determine the next steps for their campaigns and efforts to limit the unfair and harsh impact Secure Communities has and will have in their jurisdictions.

23. Attached as Uribe Ex. A is a true and correct copy of a Letter dated July 21, 2010, from Richard S. Gordon, President of the San Mateo County Board of Supervisors, to Director John Morton, Immigration and Customs Enforcement.
24. Attached as Uribe Ex. B is a true and correct copy of a Letter from Director John Morton, Immigration and Customs Enforcement, to Miguel Marquez, Santa Clara County Counsel.
25. Attached as Uribe Ex. C is a true and correct copy of a Letter dated October 7, 2010 from Barbara M. Donnellan, Arlington County Manager, to Director John Morton, Immigration and Customs Enforcement.
26. Attached as Uribe Ex. D is a true and correct copy of a Letter dated August 31, 2010 from Sheriff Michael Hennessey, City and County of San Francisco, to Attorney General Edmund G. Brown, California Department of Justice, Executive Director David Venturella, Office of Secure Communities, and Deputy Director Marc A. Rapp, Office of Secure Communities.

Dated: Washington, D.C,
September 12, 2011



Sarahi Uribe