

From: (b)(6), (b)(7)(C) (...

Sent: Wednesday, June 01, 2011 10:56 AM

To: Alcantar, Nancy

Subject: FW: OPA - San Francisco NPR Affiliate on Secure Communities

Importance: High

From: (b)(6), (b)(7)(C)

Sent: Tuesday, May 31, 2011 12:50 PM

To: (b)(6), (b)(7)(C); (b)

Subject: OPA - San Francisco NPR Affiliate on Secure Communities

Importance: High

ISSUE: (b)(6), (b)(7)(c) a reporter for Bay Area NPR affiliate KQED, is doing a story for this afternoon on Secure Communities. The story will examine a variety of issues surrounding the initiative, including the San Francisco County Sheriff's vow not to honor some ICE detainers and the legislation passed by the California Assembly last week that sponsors claim would allow counties to opt out of the program. Below are the reporter's specific questions, and the responses WRO PAO is proposing to provide. The reporter is on deadline for today. All of the language in the responses has been previously provided to other media outlets to address these specific issues. PAO will advise that all of the information being provided is on background, with the exception of the response to question "2," which may be attributed to PAO (b)(c...) as it has been previously.

RESPONSES:

1. Sheriff Hennessey said he is doing this in because David Venturella "informed the [Sheriff's] department that an Immigration Detainer (Form I-27) is a REQUEST for an agency to maintain custody of an alien...An immigration detainer does not impose a legal mandate to hold a person in custody." Does ICE consider this new policy in San Francisco lawful?

A detainer serves as a notice to federal, state and local law enforcement agencies of ICE's intent to assume custody of an individual who is in the custody of a law enforcement agency. Detainers are critical to ICE achieving its mission to identify and remove criminal aliens and others who have no legal right to remain in the United States. Individuals arrested for misdemeanors may ultimately be identified as recidivist offenders with multiple prior arrests, in addition to being in violation of U.S. immigration law. Likewise, these individuals may have been deported before or have outstanding orders of removal.

By issuing a detainer, ICE requests that a law enforcement agency notify ICE before releasing an alien and maintain custody of the subject for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays, to allow ICE to assume custody. This request flows from federal regulations at 8 C.F.R. § 287.7, providing that, "[u]pon a determination by the Department to issue a detainer for an alien not otherwise detained by a criminal justice agency, such agency shall maintain custody of the alien." ICE anticipates that law enforcement agencies will comply with the detainer.

2. What is ICE's official position on the Sheriff's new policy?

The Sheriff's decision to stop honoring immigration detainers placed on certain deportable aliens booked into the San Francisco County Jail is unfortunate. The identification and removal of many criminal aliens would not be possible without the cooperation of our state and local law enforcement partners. ICE detainers are an effective tool to ensure that individuals arrested on criminal charges, who are also in violation of U.S. immigration law, are not released back into the community to potentially commit more

crimes.

3. How many illegal immigrants have been put in ICE custody from San Francisco since the Secure Communities program began? How many had criminal records, including felonies or multiple misdemeanors?

From June 8, 2010, when Secure Communities was activated in San Francisco County, through March 31, it has resulted in a total of 731 deportable aliens being turned over to ICE in that jurisdiction. Of those individuals, nearly 40 percent (283) had significant criminal histories - that is prior convictions for felonies or at least three misdemeanors.

4. How many illegal immigrants removed or returned through Secure Communities had criminal convictions? How many are non-criminal immigration violators?

From June 8, 2010, when Secure Communities was activated in San Francisco County, through March 31, a total of 278 aliens identified by Secure Communities in San Francisco County have been repatriated. Of those individuals, 152 had prior criminal convictions, including 52 whose criminal histories included convictions for serious or violent crimes. The remaining 126 were non-criminal immigration violators – including individuals who had been previously removed, immigration fugitives, aliens who entered the U.S. without inspection, visa violators and visa overstays.

5. How does ICE respond to the legislation passed last week in the CA House (and still needs Senate approval) which would allow counties to opt out of Secure Communities?

As a matter of policy, ICE does not comment on proposed legislation. However, regarding the broader issue of local jurisdictions electing to "opt out" of the program, Secure Communities is mandatory in that, once the system is activated in a given jurisdiction, the fingerprints the state and local jurisdiction submit to the FBI to be checked against the Department of Justice's biometric system for criminal history records are automatically sent to DHS's biometric system to check against its immigration and law enforcement records. The U.S. government has determined that a jurisdiction cannot choose to have the fingerprints it submits to the federal government processed only for criminal history checks. Further, jurisdictions cannot demand that the identifications that result from DHS's processing of the fingerprints not be shared with local ICE field offices in that jurisdiction. The local ICE field office, and not the state or local law enforcement agency, determines what immigration enforcement action, if any, is appropriate. In that sense, a state or local jurisdiction may not "opt out" of Secure Communities.

(b)(6), (b)(7)(C)

Western Regional Communications Director/Spokesperson U.S. Immigration and Customs Enforcement (ICE)

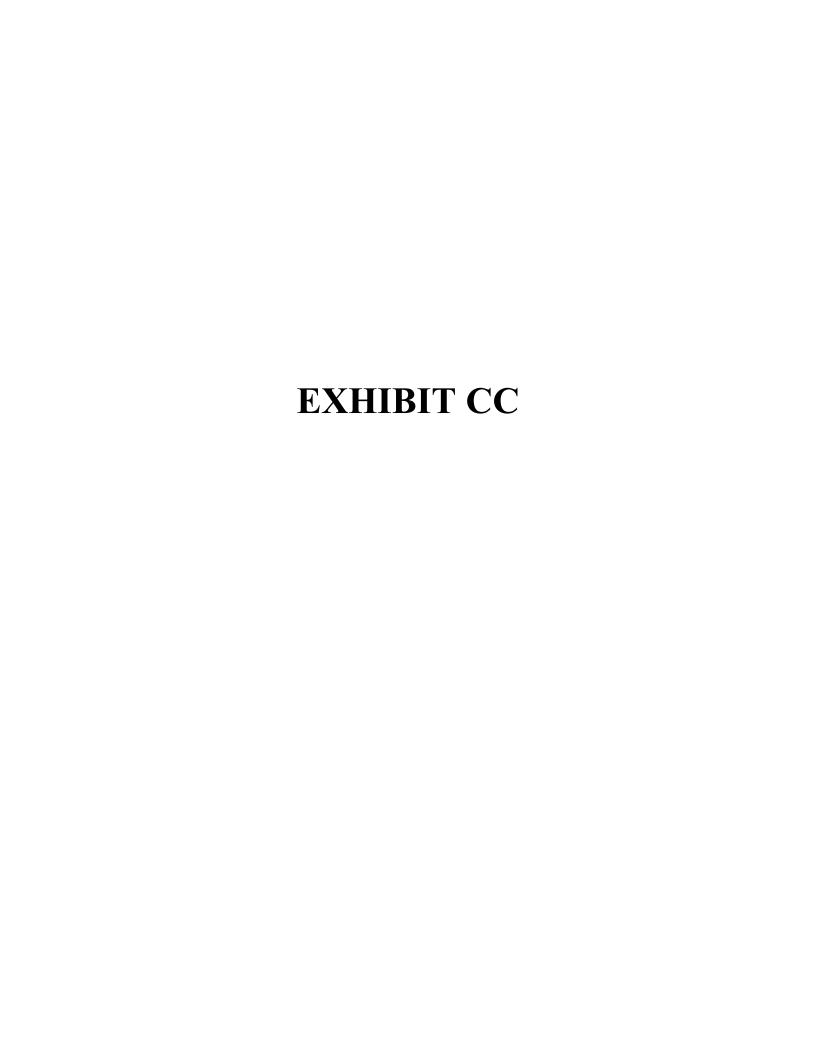
Phone: (b)(6), (b)(7)(C)

www.ice.gov



From: b6, b7c Sent: Monday, June 20, 2011 2:01 PM To: b6, b7c b6, b7c Subject: FW: ICE OPA: AP questions on Secure Communities Deployment in Yakima County, WA Importance: High See below... not sure where this leaves us. I'll keep you posted. mailto: b6, b7c b6. b7c Sent: Monday, June 20, 2011 10:25 AM **To:** Gibson, Beth N; b6, b7c b6, b7c b6, b6, b7c c; Gibson, Beth N; Mead, Gary; Homan, Thomas; b6, b7 Cc: b6. b7c Subject: RE: ICE OPA: AP questions on Secure Communities Deployment in Yakima County, WA This is the right frame – let's clean up the rest of the answers to be in line with this – or we could simply offer a single statement in regards to his, this being the frame with what SC is/why we believe in it/the policy changes. From: Gibson, Beth N [mailto: **Sent:** Monday, June 20, 2011 1:11 PM To: b6. b7c b6, b6, b7c c; Gibson, Beth N; Mead, Gary; Homan, Thomas; b6, b7c Cc: Subject: RE: ICE OPA: AP questions on Secure Communities Deployment in Yakima County, WA Perhaps let's go with: The decision to activate Secure Communities in a jurisdiction rests with the federal government. No MOAs are required to activate the federal information sharing technology. From: *b6, b7c* mailto: b6, b7c Sent: Monday, June 20, 2011 12:57 PM To: b6, b6, b7c c; Gibson, Beth N; Mead, Gary; Homan, Thomas; b6, b7c Cc: Subject: Re: ICE OPA: AP questions on Secure Communities Deployment in Yakima County, WA And do we have a sense of what local electeds and LE will say about the program when asked? **Thanks** b6, b7c From: b6, b7c mailto: **Sent**: Monday, June 20, 2011 12:53 PM b6. b7c To: b6, b7c b6, b7c h6 h7c b6, b7c b6, lb6, b7cc; Gibson, Beth N; Mead, Gary; Homan, Thomas; b6, b7c b6, b7c

8/10/2011



From: b6, b7c b6, b7c

Sent: Wednesday, July 13, 2011 10:18 AM

To: b6, b7c b6, b...

Subject: Fw: Question about "secure communities"

Here is the response I got

From: b6, b7c

To: b6, b7c

Sent: Wed Jul 13 07:11:36 2011

Subject: FW: Question about "secure communities"

Here you go. Please let me know if this works. If you need anything else, please let me know.

Thanks,



From: b6 b6, b7c

Sent: Wednesday, July 13, 2011 10:01 AM

To: b6, b7c b6, b b6, b7c; Greenberg, Randi L

Cc: *b6, b7c*

Subject: RE: Question about "secure communities"

2013 is the date that was reported to Congress when the program was first started. The 2013 date came from the 9/11 commission report which requires federal agencies to have information sharing capability in place by the end of FY 2013.



b6, b... b6, b7c

Secure Communities

PCN

Work b6, b7c

Mobile b6, b7c

From: Gurule, Jon M

Sent: Wednesday, July 13, 2011 9:57 AM **To:** *b6, b7c b6, b7c b6, b7c b6, b7c b6, b7c*

Subject: FW: Question about "secure communities"

Does anyone know? I know that Sec Napolitano has stated that it's mandatory by 2013, but is that a goal, or is there some congressional language or agreement out there? Any help would be much appreciated.

Thanks,

b6, b7c

From: Gurule, Jon M

Sent: Tuesday, July 12, 2011 6:38 PM **To:** Giles, b6, b7c P; MACIAS, ADRIAN **Cc:** b6, b7c S; b6, b7c

Subject: RE: Question about "secure communities"

of the presentations I've done). I know that we have all been stating that it will be operational by 2013, but I'll have to do some more research and I'll get back to you.

From: 66, b7c

Sent: Tuesday, July 12, 2011 2:47 PM

To:

66, b7c

Subject: Fw: Question about "secure communities"



Below is the response I received from the Skagit County Sheriff. He has another question regarding if the program (SC) will be in every jurisdiction by 2013 is mandatory or a goal set forth by ICE. I know that we talk about this, but not sure if it is in writing on the website or not. How would HQ like us to address/answer this question?

Thank you

b6, b...

From: b6, b7c b6, b7c >

To: b6, b7c | gov>

Sent: Tue Jul 12 10:21:24 2011

Subject: RE: Question about "secure communities"

Thanks for your reply. I have went over carefully the Secure Communities website and am encouraged with what I read regarding some of the safeguards ICE is working on to address some civil rights concerns. That makes it much easier for me to address concerns posed to me by some local community members.

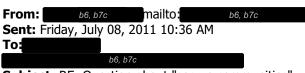
The one thing I was unable to find information on and perhaps you could help.

Is the idea that this program will be in place by 2013 all over the Country. Is that just a goal set by ICE? Is there some law that has been enacted to mandate this?

I have just heard that everyone will be online by 2013 and I would like to know if that is going to be a true mandate or if that is a lofty goal?

Thanks again.

b6, b7c Sheriff
Skagit County Sheriff's Office



Subject: RE: Question about "secure communities"

Sheriff b6, b7c

Once activated, a jurisdiction may subsequently choose to not receive the positive identifications ("hits") that result from processing the fingerprints through DHS' biometric system (that are also provided to the local ICE field office). In the past, this option has been mischaracterized as a mechanism for a jurisdiction to "opt out" of the program. In fact, a jurisdiction's decision not to receive this information does not affect whether the local ICE field office, which will continue to receive the hits, will or will not take enforcement action based on those results. The federal government solely determines what immigration enforcement action, if any, will be pursued.

By 2013, every jurisdiction in the nation will be online with Secure Communities. You can refer to our website (http://www.ice.gov/secure_communities/) for more information regarding Secure Communities. However, you can contact me directly about any additional questions or comments you might have.

Thank you



From: 66. 67c

Sent: Friday, July 08, 2011 7:00 AM

To: 66, 67c

Subject: RE: Question about "secure communities"

Good morning Sheriff,

Your inquiry has been forwarded it to my Supervisor Assistant Field Office Director, 66, 67c Giles. He will be responding to your question shortly.

Thank you,

h6 h7c

From: 66, 67c mailto: 66, 67c

Sent: Wednesday, July 06, 2011 4:32 PM

To: 66, 67c

Subject: Question about "secure communities"

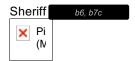
I met with a group of very concerned citizens regarding Skagit Counties involvement with this program. I recall when we met that I asked if Skagit County became involved and then at some point decided we wanted to "opt out" that we would simply have to tell the Washington State Patrol we no longer wanted our prints sent to Homeland Security and we would be out.

8/10/2011

I have been told the opting out is not an option and once you are in.....you are committed.

I need to to know for absolute.....cn I opt out if I choose and if I decide to opt out......how many hoops do I have to jump thru to do that?

Thanks in advance for your reply.



Skagit County Sheriff's Office 600 South Third Mount Vernon, WA 98273





From: b6, b7c b6, b7c

Sent: Thursday, July 14, 2011 12:06 PM

To: b6, b7c

Subject: RE: Question about "secure communities"

Absolutely.

b6, b7c
Deputy Director, Seattle Field Office,
ICE Enforcement & Removal Operations

From: 66, b7c

Sent: Thursday, July 14, 2011 8:56 AM

To: b6, b7c b6, b7c

Subject: FW: Question about "secure communities"

Just to make sure...

Is it ok to tell the Sheriff of Skagit county this information?

From: **b6, b7c**

Sent: Wednesday, July 13, 2011 7:12 AM

To: *b6, b7c*

Subject: FW: Question about "secure communities"

Here you go. Please let me know if this works. If you need anything else, please let me know.

Thanks,

b6,...

From: b6 b6, b7c

Sent: Wednesday, July 13, 2011 10:01 AM

TO: b6, b7c

Subject: RE: Question about "secure communities"

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b6, b7c

b6, b... b6, b7c
Secure Communities
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Cc: b6 b6, b b6, b b6, b7c

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Thanks,

b6, b7c

From: *b6, b7c*

Sent: Tuesday, July 12, 2011 6:38 PM

To:

b6, b7c

Subject: RE: Question about "secure communities"

I can't state for certainty if this is an ICE goal or some sort of mandate (amazingly, it hasn't come up in any of the presentations I've done). I know that we have all been stating that it will be operational by 2013, but I'll have to do some more research and I'll get back to you.

From: b6, b7c

Sent: Tuesday, July 12, 2011 2:47 PM **To:** b6, b7c

Cc: Subject: Fw: Question about "secure communities"

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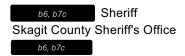
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To:

b6, b7c

Subject: RE: Question about "secure communities"

Sheriff b6, b7c

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Thank you,

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To: b6, b7c

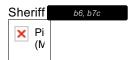
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b6, b7c I met with a group of very concerned citizens regarding Skagit Counties involvement with this program. I recall when we met that I asked if Skagit County became involved and then at some point decided we wanted to "opt out" that we would simply have to tell the Washington State Patrol we no longer wanted our prints sent to Homeland Security and we would be out.

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Skagit County Sheriff's Office 600 South Third Mount Vernon, WA 98273





IDENT/IAFIS Interoperability

- Congress enacted legislation to ensure that the Department of Justice's (DOJ) Integrated Automated Fingerprint.
 Identification System (IAFIS) and the Department of Homeland Security's (DHS) Automated Biometric Identification (IDENT) System are interoperable and the criminal and immigration information, contained therein, is accessible to and shared among other local, state, tribal, federal and international law enforcement agencies.
 - o The USA Patriot Act (Oct. 2001) required a "fully integrated means to share law enforcement and intelligence information."
 - o The Border Security Act, effective January 2002, accelerated Patriot Act deadlines and required an "interoperable electronic data system."
 - o DHS Appropriations Bill, FY2004 requires the DHS biometric infrastructure to be "fully interoperable" with the FBI IAFIS.
 - o DOJ Appropriations Bill, FY2005 cites congressional concern with the security gap created by the lack of IDENT/IAFIS interoperability.
- DOJ and DHS developed a fully integrated means to share law enforcement and immigration data via IDENT/IAFIS
 Interoperability.

Secure Communities

- Secure Communities (SC) is a comprehensive plan that utilizes the technology of IDENT/IAFIS Interoperability to
 optimize the way DHS identifies and removes criminal aliens.
- As of 5/11/2011, 1,286 state and local law enforcement jurisdictions in 42 states are participating.
- DHS Secretary Napolitano has stated that participation in SC is mandatory
- Illinois governor has just requested the active state law enforcement jurisdictions be turned off,
- The following outlines the process for those state and local jurisdictions participating in SC:
 - o Law enforcement agencies submit fingerprints to their State Identification Bureau (SIB) who forwards to the FBI's IAFIS per their regular process.
 - o IAFIS searches the criminal master file and returns a response to the law enforcement agency via the SIB per the regular process.
 - o IAFIS also generates a search against the DHS IDENT system.
 - o IDENT returns to the FBI an IDENT response (IDR) with any match information:
 - o FBI generates an Immigration Alien Query (IAQ) to the ICE Law Enforcement Support Center (LESC) for all matches from IDENT.
 - o The LESC responds to the FBI with an Immigration Alien Response (IAR) indicating the subject's immigration status and also contacts the local ICE office to coordinate any further DHS action.
 - o The FBI combines the IDR and IAR into one response and sends the response to the SIB who then provides the information to the law enforcement agency if they are technically capable of receiving the DHS responses.
- The described process applies to ALL Criminal Answer Required (CAR) transactions submitted to the FBI. This should effectively mitigate concerns of any targeting or profiling of specific populations.

"Opt Out" Confusion

- The term "opt out" has generated confusion. There have been 3 different uses for the term:
 - o Opt out of participation This is the use most generally used by those opposed to SC. DHS has stated that in this use of the term, there is no option.
 - Opt out of deployment plan This would be a request from a site to delay their participation. This definition is used by DHS in ICE's document "Setting the Record Straight".
 - Opt out of receiving the DHS responses Since the beginning of SC the FBI has worked with states and allowed them the option of not receiving the DHS information. DHS is still notified and SC is still active in these instances.

Attachment: California Attorney General letter to San Francisco Sheriff regarding Secure Communities.



From: Amy Loudermilk [mailto:aloudermilk@dccadv.org]

Sent: Wednesday, March 24, 2010 1:16 PM

To: Bromeland, Matthew (MPD)

Subject: Follow-up re: DV SCOMM Meeting

Hi Matt,

I want to thank you again for taking the time to sit down with us on Monday. It was a great opportunity to get clarification on some things as well as hear your thoughts about how to protect DV survivors while moving forward with the program.

I just wanted to check in to see if you could send the information you'd indicated about the various federal mandates (legislation, Executive Orders, Obama's budget statement, etc) that exist with respect to the Secure Communities program going nationwide by 2013.

Thanks again and I look forward to continuing to facilitate the partnership between MPD and the domestic violence community as this initiative advances.

Take care,

Amy

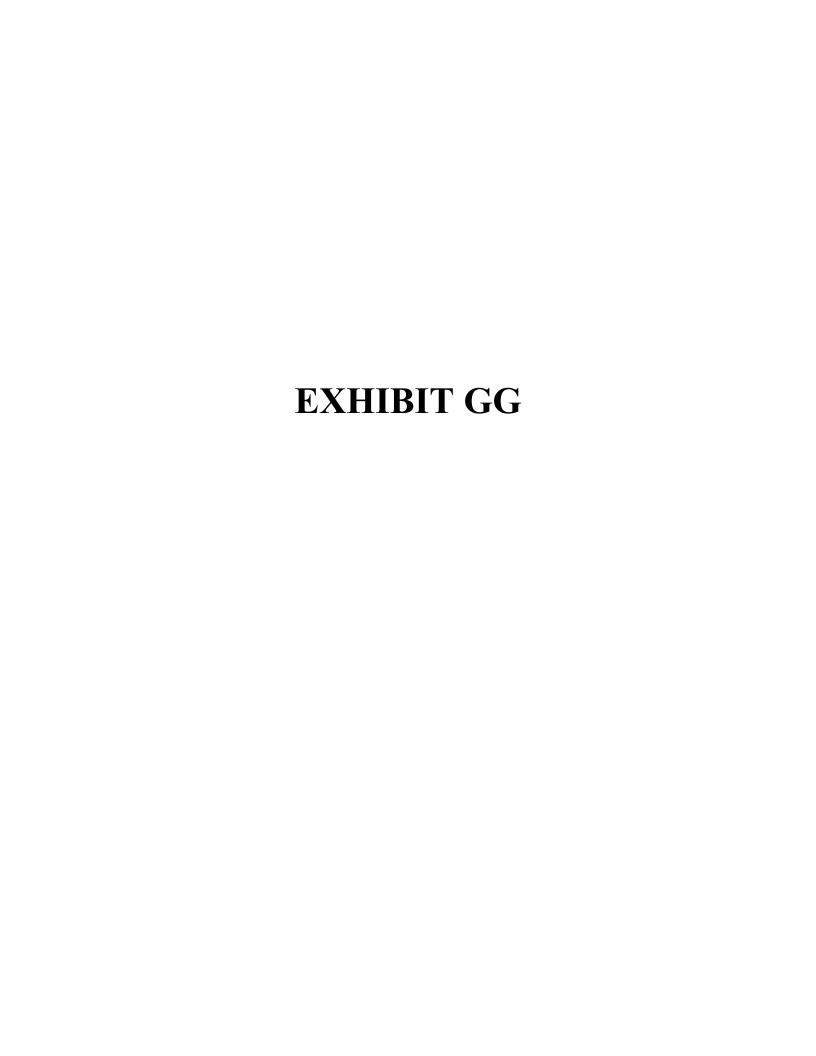
Amy Loudermilk, MSW

Senior Policy Specialist

DC Coalition Against Domestic Violence

202.299.1181 ext. 105

fax: 202.299.1193



From: Bromeland, Matthew (MPD) [mailto:matthew.bromeland@dc.gov]

Sent: Tuesday, March 30, 2010 9:35 AM

To: Amy Loudermilk

Subject: RE: Follow-up re: DV SCOMM Meeting

Amy,

Sorry for the delay in getting back to you. Just to clarify the federal mandate we spoke about, according to ICE and the FBI, there is no one specific mandate, but rather it is grounded in a multitude of information sharing initiatives. They shared with us the main ones listed below. Let me know if you have any questions.

Executive Order 13311 of July 29, 2003 - Homeland Security Information Sharing

Executive Order 13356 of August 27, 2004 – Strengthening the Sharing of Terrorism Information To Protect Americans

Executive Order 13388 of October 25, 2005 – Further Strengthening the sharing of Terrorism Information To Protect Americans

Homeland Security Presidential Directive (HSPD) – 2: Combating Terrorism Through Immigration Policies

2005 Homeland Security Appropriations Conference Report, Title II Security, Enforcement, and Investigations Border and Transportation Security, IDENT – IAFIS Interoperability, Report 108-774

Automated Biometric Identification System (IDENT) System of Records Notice (SORN), Federal Register: July 27, 2006 (Volume 71, Number 144)

Homeland Security Information Sharing Act, 6 United States Code (USC) 481

Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108-458, Section 1016

42 U.S.C. § 14616 National Crime Prevention and Privacy Compact

28 U.S.C. § 534

USA	PATRIOT	Act of 2001.	Public Law	107-56

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U.S. Department of Justice



United States Attorney Southern District of New York

86 Chambers Street, Third Floor New York, New York 10007

August 16, 2011

BY FACSIMILE (212) 805-7920

The Honorable Shira A. Scheindlin United States District Judge Daniel Patrick Moynihan United States Courthouse 500 Pearl Street New York, New York 10007

Re: National Day Laborer Organizing Network et al. v. United States Immigration

and Customs Enforcement Agency et al., No. 10 Civ. 3488 (SAS)

Dear Judge Scheindlin:

This Office represents defendants in the above-captioned Freedom of Information Act matter. We write respectfully to inform the Court that the Solicitor General has decided not to appeal any aspect of the Court's Opinion and Order dated July 11, 2011 (the "July 11 Order"). Accordingly, defendants complied with their disclosure obligations as set forth in the July 11 Order by producing documents to plaintiffs yesterday.

Respectfully,

PREET BHARARA

United States Attorney

By:

CHRISTOPHER CONNOLLY

JOSEPH N. CORDARO

CHRISTOPHER B. HARWOOD

Assistant United States Attorneys

Telephone: (212) 637-2761 / 2745 / 2728 Facsimile: (212) 637-2786 / 2686 / 2786

E-mail: christopher.connolly@usdoj.gov joseph.cordaro@usdoj.gov

christopher.harwood@usdoj.gov

cc: By Electronic Mail

Anthony J. Diana (adiana@mayerbrown.com)
Therese Craparo (tcraparo@mayerbrown.com)
Lisa R. Plush (lplush@mayerbrown.com)

Jeremy D. Schildcrout (jschildcrout@mayerbrown.com)

Bridget P. Kessler (bkessle1@yu.edu) Peter L. Markowitz (pmarkowi@yu.edu)

Sunita Patel (spatel@ccrjustice.org)
Gitanjali Gutierrez (ggutierrez@ccrjustice.org)