

## Board of Supervisors



# COUNTY OF SAN MATEO

COUNTY GOVERNMENT CENTER • REDWOOD CITY • CALIFORNIA 94063-1655  
WEB PAGE ADDRESS: <http://www.co.sanmateo.ca.us>

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COUNTY MANAGER  
CLERK OF THE BOARD

(650) 363-4653

FAX: (650) 599-1027

July 21, 2010

Assistant Secretary John Morton  
Immigration and Customs Enforcement  
500 12<sup>th</sup> St, SW  
Washington, DC 20536

*Re: Secure Communities*

Dear Assistant Secretary Morton:

On May 25, 2010, ICE implemented its Secure Communities program in San Mateo County. Under the program, fingerprints of persons booked into our County jails, which are forwarded to the California Department of Justice and to the FBI for criminal screening purposes, are now also shared with ICE, which uses the fingerprint data to identify persons held in local jails who may have outstanding immigration violations. This program, as you are likely aware, has proven to be controversial with many local communities, which are concerned with the adverse impact that this program will have on the efforts of local governments to develop and strengthen relationships with growing immigrant communities. Of particular concern is the belief that there is no method by which a local community can opt out of the Secure Communities program. Further, as a county faced with unprecedented fiscal challenges resulting from the recent economic crisis, we are concerned about the additional expense that the County will bear in housing persons who are placed on an immigration hold as a result of the program. I am writing on behalf of, and at the direction of, the San Mateo County Board of Supervisors to request the position of Immigration and Custom Enforcement on the question of whether counties have the ability to opt out of the Secure Communities program.

We are aware that the Secure Communities program is implemented in the State of California through a Memorandum of Agreement (MOA) entered into in May 2009. Our counsel has reviewed the MOA, and advises that its provisions do not require participation by local entities such as the County of San Mateo. We are also in receipt of a copy of a letter sent by ICE to the California Department of Justice, dated January 23, 2009, which contemplates that a signed Statement of Intent will be required from a county before the Secure Communities program is deployed in that county. These documents strongly suggest that counties should have the opportunity to opt out of the Secure Communities program, if that is their choice.

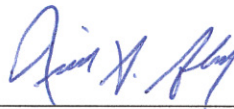
Unfortunately, uncertainty as to the position of ICE on the ability of local governments to opt out has led to confusion as to whether the authority to opt out exists, and it is for this reason that we write to seek clarification of the position of the agency.

We have also sent a letter to the Attorney General for the State of California, a copy of which is enclosed, requesting that he reverse a decision denying the request of the City and County of San Francisco to opt out of the Secure Communities program.

On behalf of the San Mateo County Board of Supervisors, I respectfully request that you advise as to the position of ICE on the authority of a local governmental entity to opt out of the Secure Communities program. If your position is that there is no ability to opt out, I request that you advise as to the authority that requires local governments to participate.

Thank you for your attention to this matter.

Very truly yours,



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Richard S. Gordon, President  
San Mateo County Board of Supervisors

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July 21, 2010

Edmund G. Brown, Jr.  
Attorney General, State of California  
1300 "I" Street  
Sacramento, CA 95814-2919

*Re: Secure Communities*

Dear Attorney General Brown:

In May of this year, San Francisco Sheriff Michael Hennessey asked for your assistance in opting out of Secure Communities, the automated fingerprint screening program conducted by Immigration and Customs Enforcement (ICE). In your written response to Sheriff Hennessey, dated May 25, 2010, you stated your belief that the Secure Communities program "serves both public safety and the interest of justice" and, on that basis, you denied Sheriff Hennessey's request. In accordance with the deployment schedule implemented by your office in cooperation with ICE, the Secure Communities program became operative in San Mateo County on May 25, 2010. By this letter, the San Mateo County Board of Supervisors respectfully asks you to reconsider the position you took in your response to Sheriff Hennessey's request, and to allow individual counties to opt out of the ICE automated fingerprint screening program.

Our concerns with the Secure Communities Program are two-fold. First, and foremost, the program comes at the expense of, and threatens to undermine, relationships developed by County government with growing local immigrant populations which it both serves and depends on. Our County, and the cities in our County, depend heavily on community volunteers, including classroom helpers, youth athletic coaches, and child advocates, and the need is particularly acute in the case of immigrant populations as they seek to assimilate into the community at large. These community volunteers are routinely fingerprinted for purposes of screening out persons with disqualifying criminal backgrounds. While our Sheriff has stated that fingerprints taken of those participating in these important community programs are not forwarded to the ICE database, there is nonetheless skepticism among the affected population, and fear that if fingerprints are taken they will inevitably be run through the ICE database. A further concern is that on occasion, victims of crimes, especially crimes involving domestic violence, may be arrested by mistake because the perpetrator accuses the victim, and the

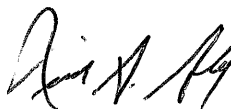
circumstances of the offense are not always plainly evident. While the victim is usually released quickly, fingerprints may have already been taken and sent to the State database, which then forwards the prints to ICE. All of these concerns contribute to a feeling of distrust of government, and have a chilling effect on the relationships between immigrant communities and the local government which serves these communities.

A second, and not insignificant, concern is the very real possibility that implementation of the program will result in greater costs to the County in instituting holds which may, or may not, ultimately result in detainees being transferred to a federal facility. As you are only too well aware, government at all levels are feeling the effects of an unprecedented financial crisis, which will get worse before it gets better. The Secure Communities program, while it might streamline and make more efficient operations at the State and federal level, will likely mean more cost to the County, requiring diversion of funds needed for other, critical programs.

We are aware that the Secure Communities program is implemented in this State through a Memorandum of Agreement (MOA). Our counsel has reviewed the MOA, and advises that its terms do not require participation by local entities. We are also in receipt of a copy of a letter sent by ICE to the State Department of Justice, dated January 23, 2010, which contemplates that a signed Statement of Intent will be required from a county before the Secure Communities program is deployed in that county. These documents strongly suggest that counties should have the opportunity to opt out of the Secure Communities program, if that is their choice.

At this point, we are not requesting that you allow San Mateo County to opt out of the Secure Communities program. For the reasons outlined above, however, we would ask that you reconsider your previous position and allow individual counties to opt out of the program if that is their choice, so that this County and others may weigh the benefits of participating in the program against the detriment it will cause.

Very truly yours,



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Richard S. Gordon, President  
San Mateo County Board of Supervisors