

Freedom of Information Act Request on Secure Communities

The National Day Laborer Organization (NDLON), the Center for Constitutional Rights (CCR), and the Immigration Justice Clinic of the Benjamin N. Cardozo School of Law filed a request under the Freedom of Information Act, 5 U.S.C. § 552 (FOIA), for information pertaining to U.S. Immigration and Customs Enforcement's (ICE) new Secure Communities program. To read the request, go to <http://ccrjustice.org/ourcases/current-cases/freedom-information-act-request-secure-communities>.

The program, launched in March 2008, further involves state and local entities in the enforcement of federal immigration law. Secure Communities institutes a mechanism to run fingerprints through various databases when individuals are arrested – even for minor charges or if charges are dismissed. These checks are performed on presumptively innocent arrestees prior to conviction, raising serious doubts as to the program's true objectives. Although ICE presents Secure Communities as an innocuous information sharing program, it seems designed to function as a dragnet to funnel even more people into the already mismanaged ICE detention and removal system. According to the Department of Homeland Security (DHS), Secure Communities has been implemented in at least 95 jurisdictions. However, no regulations have been promulgated and little information is available about the program in the public domain. The limited information that has been released is vague and seems to indicate that ICE is not executing its stated enforcement priorities.

Purpose of the Request

The American public has a strong interest in understanding the role of law enforcement in our communities. Secure Communities raises issues of immediate concern for local communities, including but not limited to: community policing, public safety, racial profiling, and constitutional violations in immigration detention. The requested information will shed light on Secure Communities' procedures and help assess the program's impact on states, localities, and immigrant communities. With the program set to expand nationwide by 2013 this information will assist communities in determining whether their local interests are served by the Secure Communities program.

Requested Information

The FOIA request covers materials necessary to provide the public with comprehensive information on the Secure Communities program, including:

- Policies, Procedures, and Objectives
- Fiscal Impact
- Data and Statistical Information
- Individual Records
- Communications
- Secure Communities Assessment Records

POLICIES, PROCEDURES AND OBJECTIVES

Despite ICE's congressionally sanctioned goal of prioritizing "dangerous criminal aliens," the Secure Communities program is overly inclusive—and in fact targets individuals who have never been convicted of any crime. The information sought in the "Policies, Procedures, and Objectives" section is critical to explaining the role of Secure Communities in the broader ICE detention and removal system and how it furthers ICE's mission. Policies and procedures relating to Secure Communities inquiries, responses, detainers, and racial profiling will shed light on the program's daily operations. Since Secure Communities is not simply an initiative of the federal government but rather one that involves state and local jurisdictions, the content of

any agreements between these entities is vital to understanding the impact and limits of the program. Access to training and explanatory materials developed for state and local law enforcement will be helpful to residents assessing whether Secure Communities makes sense for their jurisdiction.

FISCAL IMPACT

In order to best make informed decisions about whether to participate in Secure Communities, local jurisdictions need access to financial records related to the implementation of Secure Communities, including costs, reimbursements, monetary agreements, and financial incentives of participation. Documentation on the broader fiscal impact of Secure Communities, including intergovernmental service agreements, contracts with private entities, and the federal costs of Secure Communities, is important to allow taxpayers and voters to understand the program's reach and evaluate whether it effectively uses taxpayer dollars.

DATA AND STATISTICAL INFORMATION

Although Secure Communities has been implemented in 95 jurisdictions in at least 11 states, little data or statistical information is publicly available to measure the program's success or impact on immigrant rights. The program's effectiveness in prioritizing "dangerous criminal aliens" can be best measured by comparing data and statistical records on the crimes committed by individuals identified by DHS before and since the implementation of Secure Communities. The release of any records related to the number of U.S. citizens wrongly identified, detained, or even removed in conjunction with Secure Communities is essential for understanding the unintended consequences of the program.

INDIVIDUAL RECORDS

Reliable statistical information is essential to properly assess the impact and scope of Secure Communities. However, there may be important data and statistics regarding the processing of individuals identified by the program that ICE is not gathering at all. Therefore, the request seeks records of individuals subjected to Secure Communities in order to assess their treatment throughout the detention and removal process. Review of these records – including warrants, custody determinations, and information on immigration bonds – will permit an independent analysis that will help establish a better understanding of the program's effect on our communities.

COMMUNICATIONS

The little information that has been released about Secure Communities has been vague, uninformative, and sometimes erroneous. In some cases, documentation that was once publicly available on the DHS website is no longer available. A complete record of these statements, press releases, and speeches, along with any documentation related to Secure Communities' public relations, is important to clarify ICE's own vision of the program.

ASSESSMENT RECORDS

Finally, the public should have access to any internal assessments of the program by DHS/ICE, whether on the national or local level, to the extent that such evaluations of the program's impact and effectiveness are in fact being made.

For more information on this FOIA request or Secure Communities, please contact Bridget Kessler at (212) 790-0213.