



**U.S. Immigration
and Customs
Enforcement**

January 23, 2009

Ms. Linda Denly
Bureau of Criminal Identification and Information
Department of Justice
4949 Broadway, Room G-116
Sacramento, CA 95820

Re: ICE Secure Communities Memorandum of Agreement (MOA)

Dear Ms. Denly:

In March 2008, the U.S. Department of Homeland Security (DHS), Immigration and Customs Enforcement (ICE) developed a program, called Secure Communities, to improve community safety by identifying, detaining, and removing all aliens convicted of serious crimes who are held in state or local correctional facilities. This program, which has been approved and funded by Congress, will enhance immigration enforcement by using biometric technology to more accurately identify criminal aliens and apply risk-based methodologies to more efficiently remove high-risk convicted aliens.

After an initial pilot, ICE is beginning to deploy Secure Communities to jurisdictions across the United States. Several important steps precede deployment to local Law Enforcement Agencies (LEAs) in California. Specifically, access to the Secure Communities Program is predicated at the state level on a signed MOA between ICE and the State Identification Bureau (SIB) executive. Deployment at the county and local level requires a signed Statement of Intent (SOI) by participating agencies that oversee booking locations to ensure those agencies understand and adhere to the principles set forth in the MOA and a set of Standard Operation Procedures.

The purpose of the MOA is to define the responsibilities of ICE and the SIB regarding implementation of Secure Communities. ICE requests that you review and sign the enclosed Secure Communities MOA on behalf of your agency and return the signed copy to me. Once signed by you, the ICE Assistant Secretary will sign and return an original agreement to you for your records. We welcome your questions and comments on this important program and invite you to communicate with us should you have concerns, by contacting my Deputy Director, Marc Rapp, at [REDACTED] b6. Thank you for your cooperation and I look forward to working closely with you to ensure the success of Secure Communities.

Sincerely,

A handwritten signature in blue ink that reads "David J. Venturella".

David J. Venturella
Executive Director, Secure Communities

Enclosure: MOA

MEMORANDUM OF AGREEMENT

BETWEEN

DEPARTMENT OF HOMELAND SECURITY
IMMIGRATION AND CUSTOMS ENFORCEMENT

And

CALIFORNIA DEPARTMENT OF JUSTICE
BUREAU OF CRIMINAL IDENTIFICATION AND INFORMATION

PURPOSE

The purpose of this Memorandum of Agreement (MOA) is to set forth the responsibilities of the Department of Homeland Security (DHS) Immigration and Customs Enforcement (ICE) and the State Identification Bureau (SIB) regarding implementation of the ICE Secure Communities (SC) program. SC is a comprehensive ICE initiative that utilizes advanced biometric and communications technology to share information among law enforcement agencies to identify, detain, and remove from the United States aliens who have been convicted of serious offenses.

AUTHORITY

Immigration and Nationality Act (INA) provisions regarding identification, detention, arrest, and removal of aliens (INA §236(c), §236(d), §236(e), §237(a)(2), §238, §287(a)(5)(B)); and the INA provision regarding liaison with internal security officers and data exchange (INA §105); FY2008 DHS Appropriations Act (Pub. L. No 110-161, 121 Stat. 1844, 2365 (2007)).

THE GOALS OF SECURE COMMUNITIES

ICE is committed to improving community safety by transforming the way the federal government cooperates with state and local law enforcement agencies to identify, detain, and remove aliens who have been convicted of and incarcerated for a priority Level 1 offense and who are therefore amenable to removal. SC will apply a risk-based methodology to focus resources. This is accomplished by using advanced technology to improve information sharing among law enforcement agencies, leading to the removal of high-risk convicted aliens.

- A. ICE has identified four strategic goals which form the basis of the SC program:
 - i. **Strategic Goal 1:** Identify and process all criminal aliens amenable for removal while in federal, state, and local custody;

- ii. **Strategic Goal 2:** Enhance current detention strategies to ensure no removable alien is released into the community due to a lack of detention space or an appropriate alternative to detention;
- iii. **Strategic Goal 3:** Implement removal initiatives that shorten the time aliens remain in ICE custody prior to removal, thereby maximizing the use of detention resources and reducing cost; and
- iv. **Strategic Goal 4:** Maximize cost effectiveness and long-term success through deterrence and reduced recidivism.

B. ICE will employ a risk-based approach in order to identify qualifying aliens convicted of serious crimes and incarcerated in jails and prisons throughout the United States who are eligible for removal based on the severity of their offenses. The risk basis for determining the threat to community safety relies on a 3-level hierarchy of aggravated felonies and other serious crimes. Appendix A contains a description of the state and federal criminal offenses comprising Levels 1, 2, and 3.

- i. This approach will build on the ICE Criminal Alien Program (CAP), which is currently in use in all federal and state prisons.
- ii. The SC risk-based approach relies on the classification of aliens convicted of serious crimes into three levels, starting with those who present the greatest threat:

Level 1: Individuals who have been convicted of major drug offenses and violent crimes such as murder, manslaughter, rape, robbery, and kidnapping;

Level 2: Individuals who have been convicted of minor drug and property offenses such as burglary, larceny, fraud, and money laundering; and

Level 3: Individuals who have been convicted of other offenses.

- iii. At the present time, ICE is committed to identifying and processing for removal of convicted and incarcerated Level 1 aliens. Detention of Level 2 and Level 3 aliens is discretionary and will be evaluated by ICE as each situation demands. At no time shall this MOA be construed to limit ICE discretion in managing detention resources.

C. To facilitate the goals of SC, ICE is partnering with DHS components including U.S. Citizenship and Immigration Services (USCIS), Customs and Border Protection (CBP) and the United States Visitor and Immigrant Status Indicator Technology (US-VISIT) Program. ICE federal

interagency partners include the Bureau of Prisons, Executive Office of Immigration Review, Executive Office of United States Attorneys, Department of State, Department of Justice (DOJ), U.S. Marshals Service, and the Federal Bureau of Investigation (FBI) Criminal Justice Information Services (CJIS) Division. Appendix B contains acronyms frequently used in the SC program.

STATE IDENTIFICATION BUREAU (SIB) RESPONSIBILITIES

- A. The State Identification Bureau (SIB) will electronically submit fingerprints of arrested individuals who are being booked to FBI CJIS, for a search via the FBI Integrated Automated Fingerprint Identification System (IAFIS).
- B. CJIS transmits the search results in a joint Immigration Alien Response (IAR)/IDENT Data Response (IDR) to the SIB. The SIB will in turn relay that message to the local law enforcement agency (LEA) that submitted the fingerprints unless the SIB does not have the technical capability to relay the IAR/IDR message or there is a decision not to forward it.
- C. For purposes of the SC program, state and local law enforcement agencies will not be responsible for determining a subject's immigration status.

ICE RESPONSIBILITIES

ICE will assign priority to the processing of aliens convicted of Level 1 crimes. For those aliens, ICE will detain and seek to remove the individual after the completion of the individual's sentence. For those aliens who may have been convicted in the past and are now being arrested for a non-Level 1 offense, ICE will initiate steps to take such individuals into custody for removal based on their prior Level 1 conviction.

- A. Once fingerprint information is received by IAFIS, it will be cross-checked against the DHS US-VISIT Automated Biometric Identification System (IDENT).
- B. Cases with a matching IDENT record will be forwarded to the Law Enforcement Service Center (LESC) to conduct an immigration status determination.
- C. Following identification of a Level 1 alien who is found to be subject to removal, ICE will take the alien into custody after completion of the individual's sentence and proceed to institute removal proceedings.

- D. ICE will rely on establishing in the field a “24/7” Interoperability response capability and may utilize video conferencing (VTC) to streamline the process of identifying and processing the removal of eligible aliens.

PERIOD OF AGREEMENT

This MOA shall be effective upon signing by both parties and will remain in effect until terminated by either party in accordance with Section VIII.

DISPUTE RESOLUTION

The parties agree that, should any disagreements arise as a result of this MOA, the first attempt at resolution shall occur at the program office level with the area(s) of disagreement reduced to writing and submitted to the appropriate program office POC. If a resolution cannot be reached at this level, the disagreement will be raised to the next level in accordance with component procedures.

MODIFICATIONS AND TERMINATION

This MOA may be modified at any time by mutual written consent of both parties.

This MOA will remain in effect from the date of signing until it is terminated by either party. Either party, upon 30 days written notice to the other party, may terminate the MOA at any time. A termination notice shall be delivered personally or by certified or registered mail and termination shall take effect 30 days after receipt of such notice.

Either party, upon written or oral notice to the other party, may temporarily suspend activities under this MOA when resource constraints or competing priorities necessitate. Notice of termination or suspension by ICE shall be given to the SIB point of contact (POC). Notice of termination or suspension by the SIB shall be given to the ICE POC. The temporary suspension of activities will take effect immediately upon receipt of such notice.

COSTS AND EXPENDITURES

Parties to this MOA are responsible for their own costs associated with carrying out activities under this MOA. Nothing in this MOA is intended to imply that either Congress or state or local legislatures will appropriate funding for activities under this MOA.

RELEASE OF INFORMATION TO THE MEDIA AND OTHER THIRD PARTIES

The SIB may, at its discretion, communicate the substance of this MOA to law enforcement professional organizations expressing an interest in the law enforcement activities to be engaged in under this MOA. Only after all both parties have signed it is it the practice of ICE to provide a copy of this MOA to requesting media outlets. Local law enforcement agencies are authorized to do the same. However, the release of statistical information regarding the SC program should be coordinated with the ICE Public Affairs Office POC identified in Appendix C.

The SIB hereby agrees to coordinate with ICE regarding information to be released to the media regarding actions taken under this MOA. The POCs for ICE and the SIB for this purpose are identified in Appendix D.

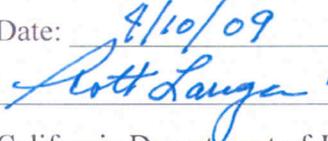
SUMMARY OF ICE AND STATE LAW ENFORCEMENT AGENCY RESPONSIBILITIES

This MOA does not, is not intended to, shall not be construed to, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any person in any matter, civil or criminal.

By signing this MOA, each party represents it is fully authorized to enter into this MOA, and accepts the terms, responsibilities, obligations, and limitations of this MOA.

Date: 5/8/09


John P. Torres
Acting Assistant Secretary
Immigration and Customs Enforcement

Date: 8/10/09


California Department of Justice
Bureau of Criminal Identification and
Information

APPENDIX A

Secure Communities Priority Levels and Offense Categories

Secure Communities Priority Levels	
Priority Level	Criminal Offense Category Description
Level 1	▪ Individuals who have been convicted of major drug offenses and violent offenses such as murder, manslaughter, rape, robbery, and kidnapping
Level 2	▪ Individuals who have been convicted of minor drug offenses and mainly property offenses such as burglary, larceny, fraud, and money laundering
Level 3	▪ Individuals who have been convicted of other offenses

APPENDIX B

Acronyms

Acronym	Definition
CJIS	Criminal Justice Information System
DHS	Department of Homeland Security
DOJ	Department of Justice
FBI	Federal Bureau of Investigation
IAFIS	Integrated Automated Fingerprint Identification System
IAQ	Immigration Alien Query
IAR	Immigration Alien Response
ICE	Immigration and Customs Enforcement
IDENT	US-VISIT Automated Biometric Identification System
IDR	IDENT Data Response
LEA	Law Enforcement Agency
LESC	Law Enforcement Support Center
MOA	Memorandum of Agreement
SC	Secure Communities
SOP	Standard Operating Procedures
SIB	State Identification Bureau
US-VISIT	United States Visitor and Immigrant Status Indicator Technology
VTC	Video Conferencing

APPENDIX C

Points of Contact

The ICE and SIB points of contact for purposes of implementation of this MOA are:

For the SIB:

Ms. Linda Denly
Bureau of Criminal Identification and Information
Division of California Justice Information Services
Department of Justice
4949 Broadway, Room G-116
Sacramento, CA 95820
(916) 227-3541
linda.denly@doj.ca.gov

For ICE Detention and Removal Operations (DRO):

Robin Baker
Field Office Director
Detention and Removal Operations
880 Front St
San Diego, CA 92101
(619) 557- [REDACTED]

[REDACTED]
b6

Nancy Alcantar
Field Office Director
Detention and Removal Operations
630 Sansome Street, Rm 590
San Francisco, CA 94111
(415) 844- [REDACTED]

[REDACTED]
b6

Brian DeMore
Field Office Director
Detention and Removal Operations
300 N. Los Angeles St., # 7631A
Los Angeles, CA 90012
(213) 830- [REDACTED]

[REDACTED]
b6

For ICE Office of Investigations (OI):

Miguel Unzueta
Special Agent in Charge
Office of Investigations
185 W F St
Suite 600
San Diego CA 92101
(619) 744- [REDACTED] b6

[REDACTED] b6

Robert Schoch
Special Agent in Charge
Office of Investigations
501 West Ocean Boulevard, Suite 7200
Long Beach, CA 90802-4213
(562) 624- [REDACTED] b6

[REDACTED] b6

Mark Wollman
Special Agent in Charge
Office of Investigations
1500 Broadway, 2nd Floor
Oakland, CA 94612
(510) 267- [REDACTED] b6

[REDACTED] b6

APPENDIX D

Public Information Points of Contact

Pursuant to the Section of this MOA, RELEASE OF INFORMATION TO THE MEDIA AND OTHER THIRD PARTIES, the signatories agree to first seek permission from the ICE Public Affairs Office regarding release of any information about the Secure Communities Program, and subsequently agree to coordinate appropriate release of information to the media regarding actions taken under this MOA. The points of contact for coordinating such activities are:

For the SIB:

Ms. Linda Denly
Bureau of Criminal Identification and Information
Division of California Justice Information Services
Department of Justice
4949 Broadway, Room G-116
Sacramento, CA 95820
(916) 227-3541
linda.denly@doj.ca.gov

For ICE:

Western Regional Office
Office of Public Affairs and Internal Communication
U.S. Immigration and Customs Enforcement
Sacramento, CA
(949) 360-3096

State of California
Department of Justice

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Secure Communities

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