



# U.S. Immigration and Customs Enforcement

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**STATEMENT**

**OF**

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**U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT  
DEPARTMENT OF HOMELAND SECURITY**

**REGARDING A HEARING ON**

**“PRIORITIES ENFORCING IMMIGRATION LAW”**

**BEFORE THE**

**HOUSE APPROPRIATIONS COMMITTEE  
SUBCOMMITTEE ON HOMELAND SECURITY**

**Thursday, April 2, 2009**

**10:00 a.m.**

**Washington, D.C.**

Thank you, Chairman Price, for the opportunity to appear before this distinguished Subcommittee. I am David Venturella, the Executive Director for the Secure Communities Program, at Immigration and Customs Enforcement (ICE). On behalf of Secretary Janet Napolitano and Acting Assistant Secretary John Torres, I would like to thank you for the opportunity to discuss ICE's efforts to identify and remove criminal aliens.

I want to express my gratitude to the Committee for the resources it has provided, and in particular, Chairman Price, for your strong support of our efforts to identify and track criminal aliens. To implement the Committee's requirement in the Fiscal Year (FY) 2008 Department of Homeland Security (DHS) Appropriation Act for ICE to "improve and modernize efforts to identify aliens convicted of a crime, sentenced to imprisonment, and who may be deportable, and remove them from the United States once they are judged deportable," ICE submitted a strategic plan, "Secure Communities: A Comprehensive Plan to Identify and Remove Criminal Aliens (Secure Communities/CIRCA)," to you on March 24, 2008. Then, in FY 2009, at the Committee's direction and with resources that the Committee provided, ICE expanded the program for deportable criminal aliens, regardless of whether they are in custody or at-large.

Secretary Napolitano has made the identification and removal of criminal aliens a top priority for ICE. As part of her overall review of immigration and border security efforts, on January 30, she issued an action directive to examine the broad range of the Department's authorities and efforts on immigration and border security, including how the Department works with state and local partners and how the Department pursues criminal and fugitive aliens. She specifically asked ICE to examine how it might accelerate Secure Communities/CIRCA program's deployment.

We are reviewing how we can do just that, including studying how current ICE staffing can be dedicated to support deployment, the possible acceleration of key acquisitions to ensure adequate infrastructure to support the increased number of identified criminal aliens, and the acceleration of the technology rollout.

Our Secure Communities/CIRCA plan is a comprehensive effort to increase national security and community safety by identifying, processing, and removing deportable criminal aliens, beginning with those who pose the greatest known risk to public safety.

It has four strategic goals:

- Identify and process all criminal aliens amenable for removal while in federal, state, and local custody;
- Enhance current detention strategies to ensure no removable criminal alien is released into the community due to a lack of detention space or an appropriate alternative to detention;
- Implement removal initiatives that shorten the time criminal aliens remain in ICE custody prior to removal, thereby maximizing the use of detention resources and reducing cost; and
- Maximize cost effectiveness and long term success through deterrence and reduced recidivism of criminal aliens returning to the United States.

To achieve these goals, we must improve our information sharing with federal, state, local, and tribal law enforcement. Our efforts build upon the success that ICE has already seen in its other interactions with these law enforcement agencies such as ICE's effort to identify incarcerated criminal aliens by its physical presence at federal, state, and local institutions, the Criminal Alien Program (CAP), and the 287(g) program, where ICE delegates the authority to enforce immigration law to trained state and local law enforcement.

Through Secure Communities/CIRCA, ICE will be able to accurately and quickly IDENTIFY criminal aliens in federal, state, and local custody and those at-large in our communities; PRIORITIZE enforcement actions to ensure apprehension and removal of dangerous criminal aliens; and TRANSFORM criminal alien enforcement processes and systems to achieve lasting results and enhance ICE's homeland security mission.

**IDENTIFY:**

To identify all criminal aliens in federal, state, and local custody as well as those aliens not in custody, ICE is using fingerprint biometric identification technology in a new and powerful way. Specifically, we are using the United States Visitor and Immigrant Status Indicator Technology Program (US-VISIT) Automated Biometric Identification System (IDENT) and the Federal Bureau of Investigation (FBI) Criminal Justice Information Services Division's Integrated Automated Fingerprint Identification System (IAFIS) databases to provide state and local law enforcement with the ability to search a subject's criminal history and immigration identify information automatically.

Let me begin by explaining the current process. Currently, when individuals are arrested and booked at a local jail (regardless of their immigration status), they are fingerprinted. Those fingerprints are then run against the FBI criminal database and the results of that search are returned to the local law enforcement agency. If a state or local law enforcement agency wants to conduct a comprehensive check of immigration status, it must contact DHS separately. Those immigration checks are then performed manually by DHS personnel.

Under the Secure Communities/CIRCA program, that same fingerprint information will be automatically checked against the DHS immigration biometric database (IDENT) and then the results of that search will be shared with local law enforcement and the local ICE office.

State and local law enforcement and ICE can use this technology to identify criminal aliens biometrically as opposed to the current name-based identification. Biometric identification will save time, significantly improve the accuracy of criminal alien identification, and allow ICE and state and local law enforcement to identify criminal aliens early in the criminal justice process. This will provide huge benefits to state and local law enforcement.

First, the automatic database searches will become part of the regular criminal booking process, following any arrest by state or local law enforcement. Secondly, these searches will require minimal additional effort or expense for the state or local enforcement, and will cut down on the amount of time that state or local law enforcement agencies spend waiting for the manual DHS check of immigration status. These automatic searches should also minimize claims of ethnic or racial profiling with immigration enforcement since the fingerprints of all persons arrested and booked will be processed through the system, regardless of race, nationality, or ethnicity.

There are also benefits for ICE. We will be able to confirm identity more accurately and faster. Through the use of biometrics, ICE law enforcement personnel will no longer have to sift through extensive lists of encountered individuals to identify those with common names or multiple aliases to determine which immigration records relate to each query. Manual queries

are cumbersome, may not produce a definitive answer, and take ICE enforcement personnel a much longer time to process.

ICE will also be able to identify a larger number of criminal aliens by moving identification earlier in the criminal justice process. Currently, we identify the majority of those aliens through CAP after they have already been incarcerated. Under CAP, teams of ICE personnel work with local law enforcement agencies to identify and remove incarcerated criminal aliens in state and local prisons and jails. In some cases, criminals with a violent criminal history and who have been previously removed from the United States might be arrested on minor charges but never incarcerated and thus, avoided detection by ICE. Alternatively, criminal aliens with violent criminal histories (that would make them subject to removal) might avoid incarceration, even when convicted, as a part of a plea agreement, and never be screened by a CAP team.

Through SC/CIRCA, each of ICE's Detention and Removal Operations (DRO) field offices will be notified of any potential immigration match from these automatic database checks and can take action quickly even if the dangerous criminal alien is no longer in custody. Let me illustrate the importance of this enhancement with an example. Recently in Phoenix, Arizona an individual was booked for a minor crime and subsequently released on bail. Because the biometric identification feature of SC/CIRCA had been deployed to that booking facility, the person's fingerprints were automatically sent to DHS for an immigration query. The query revealed that the individual, though released on bail, was an associate of the Los Compitas Mesa gang. He had previous convictions for aggravated assault with a deadly weapon, endangerment, and gang-related threatening and intimidation. It also indicated that he had been deported three

years ago after serving more than seven years in an Arizona Department of Corrections prison and was in the United States illegally. This information was automatically sent to the Phoenix ICE Detention and Removal office, who took immediate action, located the individual and took him into immigration custody within hours. Under the old system, that person would still be on the streets of Phoenix.

As of today, we have implemented automatic biometric identification at 48 sites in seven states, serving 2,100 booking locations. We estimate that this will produce approximately 1,104,000 million fingerprint submissions per year. From the first deployment of this technology in October 2008, through the end of February of this year, we have processed more than 117,000 fingerprint submissions, which have resulted in the identification of over 12,000 criminal aliens, 862 of whom to date have been identified as dangerous criminals, those charged or convicted of Level 1 offenses. Of this subset, 117 dangerous criminal aliens have already been removed from the United States, another 331 dangerous criminal aliens are currently in removal proceedings, and the remaining 414 are awaiting the outcome of removal proceedings.

Over time, we expect the number of identified dangerous criminal aliens to significantly increase as we make deployments to areas with denser populations of criminals. We deploy this technology based on risk, including the amount of criminal activity. For example, we have made the southwest border area a top priority because of the recent surge in criminal gang activity and drug related violence along the border. And while we have already deployed to many locations in that region, we will expedite the deployment to even more locations in those border communities as part of the Secretary's border security initiative.

We target our efforts at identifying criminal aliens as early as possible, such as during the booking process. However, we recognize that there are many dangerous criminal aliens already incarcerated or at large in our communities who should be identified and placed into immigration proceedings. As such, we will also deploy biometric identification in other phases of the enforcement process and with other existing ICE programs to identify dangerous criminal aliens currently incarcerated or at large. For example, we will soon begin a pilot program in Florida, where ICE will review the records of all individuals on parole or probation and run their fingerprints against the immigration biometric database.

However, we recognize that while using biometric identification technology is an efficient and effective method for identification, some criminal aliens' fingerprints are not in the biometric databases. If immigration and law enforcement authorities have never encountered and fingerprinted these individuals, their fingerprints are not in these systems. Since the vast majority of individuals who claim to be foreign nationals will be identified as aliens through IDENT's biometric identification technology, ICE will be able to effectively allocate its resources to ensure that ICE agents are able to conduct interviews of the other individuals, whose data is not in law enforcement or immigration databases, to determine whether individuals are aliens .

**PRIORITIZE :**

Our automation efforts and expansion of our capacity to identify criminal aliens will, in the near term, increase the number of known criminal aliens. To accommodate this increased volume, we



must continue to refine the way we prioritize enforcement actions. We have enhanced ICE's risk-based strategy that prioritizes the identification and removal of the criminal aliens who pose the greatest threat to our communities by developing classification levels for all criminal aliens based on the seriousness of their crimes and the totality of their criminal history. For example, the highest risk category includes those individuals who have been convicted of violent crimes such as murder, manslaughter, rape, robbery, and kidnapping or major drug offenses. This category is our highest priority and the main focus of our efforts.

As we deploy the biometric identification technology across the country, we will have the most complete data set related to criminal aliens to date. With this data, we will be able to predict and forecast the locations where we may encounter the greatest numbers of current and future criminal alien populations based on past experience and an examination of trends over time. . ICE can then allocate resources and services to ensure the most violent criminal aliens are detained and removed from the United States. To date, where we have deployed this technology, we have also deployed personnel, detention beds, and the transportation infrastructure to support the anticipated increase of identified criminal aliens. We will ensure that we allocate these resources in support of new deployments.

Once an alien is removed, we also want to make sure that the alien does not return. Therefore, an important component of SC/CIRCA is the prevention of the re-entry of criminal aliens. We are supporting Operation Repeat Offender, a program with the Department of Justice, including the United States Attorneys, to ensure federal prosecution of aliens who return illegally after removal. If convicted of these immigration charges, these criminal aliens serve their sentence in

federal custody. We are funding additional Violent Criminal Alien Sections (VCAS) in DRO Field Offices to prosecute recidivist criminal aliens. Under Operation Repeat Offender, VCAS officers screen recidivist criminal aliens that have been encountered for criminal prosecution under criminal statutes related to immigration. In the first quarter of FY 2009, this program resulted in the successful indictment of 1,028 criminal aliens, an 84 percent increase in total indictments as compared to the first quarter of FY 2008.

**Transformation:**

We are also analyzing how increased ICE efforts will impact our partner agencies and departments along the entire criminal alien enforcement life cycle. ICE encounters these criminal aliens but so do other DHS components, other federal entities (including the Department of Justice (DOJ) and the State Department), state and local law enforcement, and foreign governments. For instance, our efforts will increase workload for the removal hearing process overseen by the Executive Office for Immigration Review (EOIR) at DOJ. In addition, we must work with the Department of State to resolve potential repatriation issues with the criminal alien's home country. As we tighten enforcement of criminal aliens through biometric identification within our borders, we expect that U.S. Customs and Border Protection (CBP), and particularly, the Border Patrol, may see a rise in criminal aliens attempting to re-entry the United States between ports of entry and we will ensure that we identify this threat so the CBP can put the appropriate infrastructure and resources in place to meet this potential workload increase.

We are developing models of the current and future state of the criminal alien enforcement life cycle to understand the full impact of a more effective biometric criminal alien identification process. We will use that analysis in making decisions about our detention and removal

activities and the allocation of our resources and in identifying additional efficiencies. We have already increased the effectiveness of the current process by improving how we forecast and manage our detention and removal activities. For example, we will automate bed space management, automate transportation management and track criminal aliens from time of acceptance into ICE custody through removal from the United States. ICE has also expanded the network of video teleconferencing sites to increase efficiency in the interview process for immigration status determinations, interviews by foreign consulate officials for the issuance of travel documents, to expedite immigration hearings by EOIR, and to help CAP teams identify incarcerated criminal aliens. ICE replaced its twenty-year old legacy mainframe detention and removal management system, which has also improved workforce productivity, and implemented a case management system to standardize and streamline all detained case management processes to reduce average ICE detention times.

ICE is also using several other tools to reduce detention time. We are expanding the ICE Rapid Repatriation (REPAT) program. This program allows criminal aliens who consent to removal to decrease their incarceration time here in the United States. The program is limited to aliens who are incarcerated in state prisons and who have been convicted of non-violent offenses. They may receive early conditional release if they have a final order of removal and agree not to return to the United States. Since the aliens have agreed to leave the United States, they do not need an immigration hearing and ICE can quickly remove the alien, minimizing the need for detention in our facilities upon release from state facilities. This program is now operational in 5 states and territories including Arizona, and we will be expanding this program soon. ICE understands that there have been concerns about the use of these types of agreements in the past, and will ensure

that appropriate safeguards are in place so that an alien who consents to a removal does so with a full and complete understanding of the agreement.

**Oversight:**

ICE will use \$1.4 billion in its FY 2009 resources for these key criminal alien initiatives. My office serves as the steward of all ICE funds used for criminal alien enforcement, monitoring and reporting quarterly to this Committee on expenditures and our performance and progress in deployment. While officers, beds, and transportation are the core resources of criminal alien enforcement, we recognize that technology and comprehensive system planning are crucial to using these core resources more effectively to remove dangerous criminal aliens in greater numbers.

Of the \$1.4 billion in FY 2009, ICE will use 43 percent (\$613 million) for detention, 30 percent (\$419 million) for the identification, 21 percent (\$298 million) for removal activities, five percent (\$70.5 million) for information technology, and one percent (\$11 million) for program oversight and management.

**Summary:**

In summary, Mr. Chairman, I believe we are taking the necessary steps to improve and modernize the way we identify criminal aliens, and remove them from the United States as soon as practicable. By working with our ICE partners including the Office of Detention and Removal Operations, Office of Investigations, Office of Chief Information Officer, Office of

Principal Legal Advisor and Acquisition Management, my office is doing this in a way that is prudent, fiscally sound and protects individual rights and liberties.

We appreciate the support of you, Mr. Chairman, and the Congress in our efforts to secure our communities. I would be pleased to answer any of your questions at this time.