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2138 RAYBURN HOUSE OFFICE BUILDING

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August 22, 2011

The Honorable Janet Napolitano
Secretary of Homeland Security
Department of Homeland Security
Washington, DC 20850

Dear Secretary Napolitano,

I write to request information about removable immigrants brought to the attention of Immigration and Customs Enforcement (ICE) via Secure Communities or other means but who are not removed.

Secure Communities relies on the existing federal information-sharing partnership between U.S. Immigration and Customs Enforcement (ICE) and the Federal Bureau of Investigation (FBI) to identify removable criminal immigrants. Under Secure Communities, the FBI automatically sends the fingerprints of individuals arrested by Federal, state, and local law enforcement officials to ICE to check against its immigration databases. ICE determines whether an individual is unlawfully present in the United States or otherwise removable due to a criminal conviction. ICE states that in determining whether to take custody of the immigrants and effect their removal, irrespective of whether the individuals was brought to ICE attention by Secure Communities, it prioritizes individuals who ICE believes present the most significant threats to public safety as determined by the severity of their crime, their criminal history, and other factors.

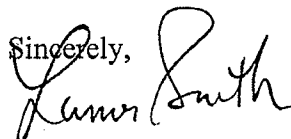
ICE unequivocally states that it does not remove all removable immigrants identified through Secure Communities or by other means. Specifically, data provided by ICE indicates that it has had 536,148 alien matches based on Secure Communities from 10/08 to 4/11 (approximately a period of 2.5 years). Of these matches, or hits, ICE indicates 226,694 aliens were taken into ICE custody. That means ICE booked 42 percent of such aliens into ICE custody. Within the same timeframe, data provided by ICE demonstrates 108,994 aliens were removed/returned. That means 47 percent of those booked have been removed or returned and 20 percent of all aliens with hits have been removed or returned.

According to ICE, the 56% of aliens whom ICE allowed Federal, state, and local law enforcement to release committed "low level" crimes. Yet, when asked what low-level crimes these aliens committed, ICE stated they did not specifically track that data. Is that true?

Also, I request that you provide me with a list of all the "low-level" criminal immigrants about whom ICE was notified whether notification was through Secure Communities or other means, but did not take custody of and declined to remove. Please provide me with the immigrant's FBI number. Also, provide this list to me by September 16, 2011.

It might be helpful for you to review INS's response to the Judiciary Committee subpoena of August 4, 1999. If you have any additional questions or concerns about this issue please contact Committee Counsel Dimple R. Shah at 202-226-1978. Thank you for your attention to this request.

Sincerely,

A handwritten signature in black ink that reads "Lamar Smith". The signature is written in a cursive style with a large initial "L".

Lamar Smith
Chairman

Cc: The Honorable John Conyers

U.S. Department of Homeland Security
500 12th Street, SW
Washington, D.C. 20536



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

The Honorable Lamar Smith
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

SEP 01 2011

Dear Chairman Smith:

Thank you for your August 22, 2011 letter to Janet Napolitano, Secretary of Homeland Security, regarding the Secure Communities program. You requested a list of all "low-level" criminal immigrants about whom U.S. Immigration and Customs Enforcement (ICE) was notified, whether notification was through Secure Communities or other means, but did not take custody of and declined to remove. You also requested that ICE provide you with these immigrants' Federal Bureau of Investigation (FBI) number. Your letter was referred to U.S. Immigration and Customs Enforcement (ICE), within the Department of Homeland Security, for response.

As Marc Rapp, Acting Assistant Director of Law Enforcement Systems, indicated to Dimple R. Shah, House Judiciary Committee Counsel, via telephone on August 25, 2011, ICE is retrieving the data you requested from all matches to the Automated Biometric Identification System provided by Secure Communities. ICE anticipates that it will take a minimum of two weeks to compile the requested data and provide the information to you. However, as Mr. Rapp indicated to Ms. Dimple during their telephone conversation, only the FBI can provide the identified immigrants' FBI numbers.

Thank you once again for contacting ICE. Please feel free to contact my office if you have any additional questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Elliot Williams".

Elliot Williams
Assistant Director for
Congressional Relations

cc: Department of Homeland Security,
Office of the Executive Secretariat

OCT 24 2011



Homeland
Security

The Honorable Lamar Smith
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

I am writing in response to your recent letter to Secretary Napolitano requesting information about removable aliens who have been brought to the attention of U.S. Immigration and Customs Enforcement (ICE) via Secure Communities or other means, but who have not been removed by the Department of Homeland Security (DHS).

Under the Secure Communities program, the Federal Bureau of Investigation (FBI) forwards biometric fingerprint submissions from a state or local booking location to ICE. ICE runs these fingerprint submissions through the DHS database, the Automated Biometric Identification System (IDENT). An alien "hit" or "match" indicates that the fingerprint submission matched against a biometric record in the IDENT database.

Not every Secure Communities hit relates to a removable alien. For instance, a naturalized U.S. citizen or lawful permanent resident may generate a "hit." In addition, a single individual can generate multiple "hits." An alien may be fingerprinted multiple times during the criminal justice process, or may be arrested and booked for different crimes in the same month. Consequently, these events could generate multiple fingerprint submissions and matches for the same person. As a result, the number of matches generated through Secure Communities does not correspond to the number of individuals identified through Secure Communities.

Furthermore, there are several reasons why aliens identified through Secure Communities would not be booked into ICE detention or processed for immigration proceedings. For instance, an alien may be currently incarcerated for a criminal offense (possibly for many years), and therefore would not be booked into ICE custody until he or she is released from prison. In that circumstance, even though the alien will ultimately be removed by ICE, his or her removal would not yet appear in the statistics related to Secure Communities as the removal cannot occur until the individual's criminal sentence is complete.

Through July 31, 2011, the FBI submitted 9,780,430 fingerprints to IDENT through Secure Communities. Of these fingerprint submissions, there were 629,811 non-unique matches

The Honorable Lamar Smith

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against a biometric in IDENT. Of these biometric matches, ICE has arrested or booked into custody 293,600 aliens and, through July 31, 2011, removed 126,705 aliens identified through the program. Additionally, ICE has placed a detainer on 19,076 aliens who have yet to be taken into ICE custody.

In your letter, you also asked whether ICE tracks data on the criminal charges of aliens who had not been booked into ICE detention or processed for removal. ICE does not track this data for those individuals for whom ICE has not initiated enforcement action.

Thank you again for your letter. DHS shares your interest in the detailed information regarding aliens encountered with no enforcement action, and continues to improve its systems and processes to be more efficient and effective with available resources. Should you need additional assistance, please do not hesitate to contact me at (202) 447-5890.

Respectfully,

A handwritten signature in black ink, appearing to read "Nelson Peacock", written in a cursive style.

Nelson Peacock
Assistant Secretary
Office of Legislative Affairs

cc: The Honorable John Conyers
Committee on the Judiciary