

U.S. Department of Homeland Security
Homeland Security Advisory Council
Public Conference Call
September 22, 2011
Meeting Minutes

Attendees: Judge William Webster – Chair
Chief Bill Bratton – Vice Chair
Chuck Wexler
John Magaw
Manny Diaz
Mohamed Elibiary
Jeff Moss
Nathaniel Young
Lydia Thomas
Leroy Baca
Becca Sharp, Homeland Security Advisory Council, Executive Director
Mike Miron, Homeland Security Advisory Council, Acting Executive Director

Coordinator: Welcome. Thank you, everyone, for standing by. All participants now are in a listen-only mode throughout today's presentation. Today's conference is also being recorded. If you have any objections, you may disconnect. Now I'll turn the meeting over to Becca Sharp. Ma'am, you may begin when ready.

Becca Sharp: Thank you very much. I am Becca Sharp, director of the Homeland Security Advisory Council (HSAC) at the Department of Homeland Security (DHS). Welcome to the call today. I'm going to turn the floor immediately over to our chair, Judge William Webster. Judge?

Judge Webster: Thank you very much, Becca Sharp. Good afternoon. This is William Webster, chairman of HSAC and I hereby convene this meeting.

This is a public meeting of the Council and we appreciate those members of the public, the government and the media who have joined us today. I'd also like to welcome the members of the Homeland Security Advisory Council and members of the Task Force on Secure Communities (TFSC), sometimes referred to as TFSC, who are on the call today.

Our purpose today is to review and approve the final draft of the TFSC. First off, I'd like to thank the members of the HSAC's Task Force on Secure Communities for their efforts in putting forth these findings and recommendations.

I'd also like to thank the chair of the Task Force, Chuck Wexler, from whom you will hear shortly.

I believe at this stage we're ready for the report of the Task Force and I'll turn the meeting over to Chuck Wexler. Chuck?

Chuck Wexler: Thank you, Judge Webster and thank you all for being on this call. I'm going to take about 20 to 25 minutes to summarize the report. Actually, I'm going to be reading highlights from the report.

The reason I'll be reading and not summarizing in my own words is that the Task Force worked long and hard and negotiated the key language and I want to make sure I state our findings and recommendations exactly the way the Task Force members agree to them.

For those listening who may not have seen the report, the full text is available online at the HSAC Web site. I'd also like to mention that most or all of the Task Force members are listening in on this call and three members, (David

Martin, Laura Lichter and Wendy Wayne), will be available to answer any questions that HSAC members may have.

The Task Force on Secure Communities is a subcommittee of the Homeland Security Advisory Council that was created in June 2011 at the request of Secretary Janet Napolitano.

The task force, which was asked to consider how immigration and customs enforcement may improve the Secured Communities program, is a broad-based panel made up of local and state law enforcement and Homeland Security officials, attorneys with expertise in immigration practice and criminal law, labor union officials, who represent federal immigration enforcement workers, academics and social service agency leaders and others.

I'd like to recognize now the Task Force members, all of whom donated their own time to serve on this panel. The Task Force members are: (O. Cooper), partner at (Barry, Appleton and Lidon); (Adrian Garcia), Sheriff of Harris County, Texas; (Doug Gillespie), Sheriff of the Los Vegas Metropolitan Police Department; (Robert Glades), Executive Director of the Chicago Fire Foundation; (Ben Johnson), Executive Director of the American Immigration Council; (Andrew Loland), Homeland Security Advisor to Maryland Governor Martin O'Malley; (Laura Lichter), partner (Lichter and Associates); (David Martin), professor of law at the University of Virginia; (Charles Ramsey), Commissioner of Police in Philadelphia; (Lupe Valdez), Sheriff Dallas County, Texas; (Roberto Vilez-Senor), Chief of Police in Tucson, Arizona; (Wendy Wayne), Director of the Immigration Impact Unit Committee for Public Council Service; and Sister (Rosemary Welsh), Executive Director of the Mercy Ministries Outreach.

I should also note that we had five Task Force members who participated in various meetings and conference call but who resigned on the last day before we submitted our report to HSAC.

To complete its mission, the Task Force met three times in Washington, D.C. and held numerous conference calls to discuss issues related to Secure Communities and to review several drafts of our report.

At its meeting, the Task Force also heard from a broad range of subject matter experts, state officials, other stakeholders via conference calls, in-person presentations and considered statements submitted to the Task Force via public email mailbox.

Task Force convened at four information gathering sessions in Dallas, Los Angeles, Chicago and Arlington. In attendance, we had over 200 people in Dallas, 300 to 400 in Los Angeles, Arlington and 500 in Chicago.

With few exceptions that are noted, our report reflects the consensus view of the Task Force. It should be noted that individual Task Force members see some of the issues covered in this report differently.

Our report is the result of a good deal of give and take in an effort to find common ground. We found a strong consensus view within the Task Force and in communities across the nation that it is appropriate for Immigration and Customs Enforcement (ICE) to continue to take enforcement action against serious criminal offenders who are subject to deportation.

But because there are circumstances in which Secure Communities results in the removal of persons who are minor offenders or who have never been convicted of a crime and because statements by ICE have left much confusion

about the full reach of the enforcement priorities, many jurisdictions are concerned about the impact of the Secure Communities and community policing.

We recommend specific steps that would help build trust in the program. Many Task Force members would go further, including recommending suspension of the program until major changes are made, even recommending termination of what they believe is a fundamentally flawed program.

Other members believe that reforms are necessary but the program, nonetheless, must continue to function. ICE must recognize that it does not work in a vacuum, that its enforcement actions impact other agencies and that the relationships with their communities may be negative.

The Task Force findings and recommendations are organized in five categories; number one, misunderstandings regarding the Secure Communities program and the role of local law enforcement agencies; number two, perceived inconsistencies between Secure Communities' stated goals and outcomes; number three, minor traffic offenders, offenses and misdemeanors; number four, unintended consequences of Secure Communities on communities; number five, the question of whether to suspend Secure Communities.

Our overall recommendations include the following. ICE must clarify the goals and objectives of the Secure Communities program as well as the parameters and functioning of the program and accurately relate this information to participating jurisdictions to future participating jurisdictions and the communities they serve.

ICE must improve the transparency of the program. ICE should clarify that civil immigration law violators and individuals who are convicted of or charged with misdemeanors or other minor offenses are not top enforcement priorities unless there are other indications that they pose a serious risk to public safety or national security.

DHS must exercise its prosecutorial discretion in all its immigration enforcement endeavors in line with stated enforcement priorities and take systematic steps to train and monitor field officers and attorneys as they implement DHS policies on prosecutorial discretion.

And DHS must strengthen accountability mechanisms, including remedies for civil rights and civil liberties violations.

Now, I would like to get into the recommendations in a bit more detail. First, there have been misunderstandings regarding the Secure Communities program and the role of local law enforcement agencies.

There has been much confusion about the Secure Communities program and the role of state and local police and sheriff's departments caused, in part, by brochures and other documents issued by DHS in the past that advertise Secure Communities as a program designed to remove serious violent offenders from the streets.

According to ICE, Secure Communities only entails the sharing of information between local law enforcement, the Federal Bureau of Investigation (FBI), DHS and any sub immigration enforcement is not part of Secure Communities but, instead, is the result of an independent determination by ICE enforcement and removal operations.

However, much of the criticism of the program relates to enforcement activities before and after the information sharing which defines the process. While ICE might distinguish between the sharing of information between the FBI and ICE and the subsequent detention or removal of an individual, the distinction is lost on stakeholders.

Secure Communities is commonly perceived as this entire process which begins with an arrest by a local law enforcement agency and ends in deportation.

To the community at large, and especially immigrant communities, local law enforcement agencies may be viewed as immigrant agents, regardless of the actual role they play in the process. Some local law enforcement agencies and state government officials are uncomfortable with being perceived as a pass route to ICE via Secure Communities.

From a practical standpoint, local police have no choice but to take the first step of forwarding arrestees' fingerprints to the FBI in order to obtain information that is critically important for crime fighting purposes such as data on outstanding arrest warrants in another jurisdiction.

The sharing of information between local law enforcement agencies and the FBI is essential to effective policing. A secure community was presented as a program that targets serious criminals but that has been called into question. Based on what they were told, many state and local officials believed they were joining a program targeting serious offenders. However, the impact of Secure Communities has not been limited to convicted criminals, dangerous and violent offenders or threats to public safety and national security.

There have been missteps in launching and expanding Secure Communities. DHS and ICE have acknowledged that a poorly managed roll out of Secure Communities coupled with incorrect statements from DHS and ICE represented unilateral policy changes that have created confusion among state and local government and law enforcement officials.

The memorandum of agreement signed by ICE and state identification bureaus has created additional confusion. Finally, Secure Communities is just one of several DHS enforcement programs that may be operating in a jurisdiction.

Other programs include: 287, G Program and the Criminal Alien Program. The general public and local law enforcement agencies may not always be aware that DHS is operating these different programs in their communities and local agencies in the public may not fully understand the similarities and differences among these programs.

In many jurisdictions, the Task Force hearings reveal that any immigration enforcement action that is seen as disproportionate or unwarranted such as steps to remove a traffic law violator who has lived in the country since infancy is likely to be attributed to Secure Communities.

So the Task Force developed several recommendations to help clear up these misunderstandings. First, DHS and ICE should increase transparency and should clarify what the Secure Communities is and how it works as well as clarifying the role of state and local jurisdictions and Secure Communities.

The Task Force believes that it is a good time for DHS to consider several steps aimed at rebuilding trust in Secure Communities so that it will receive stronger support from the public, from the ICE employees who implement it

on a daily basis and from local governments and local officials who are seen fairly or unfairly as the gateway to immigration enforcements.

These steps include: devising oversight and management mechanisms to ensure that DHS's stated priorities are adhered to in the field and that prosecutorial discretion produces the appropriate focus of serious offenders, not only in Secure Communities but in all DHS enforcement programs.

Establishing a more comprehensive system for monitoring the implementation of Secure Communities; consolidating existing policy documents into a single document that defines Secure Communities and other DHS enforcement programs in clear, understandable language; conducting a nationwide educational campaign to bring information to the public; and providing state and local communities with useful statistics on a monthly basis regarding the persons identified through Secure Communities and other DHS enforcement programs who are being subjected to removal from the United States for lesser enforcement actions and the reasons why those persons were chosen for enforcement actions.

Now, I'd like to focus on perceived inconsistencies between Secure Communities' stated goals and outcomes. Secure Communities has sometimes been presented as a program intended to focus on the most dangerous and violent offenders.

The Task Force's public hearings, other hearings, news media accounts have produced many stories of deportations of persons who have violated no law other than civil immigration violation and who do not apparently fall into ICE's other categories of priorities for enforcement.

The apparent disconnect between DHS documents and the actual operations of Secure Communities is a key reason for opposition to the program in a number of cities, counties and states.

Thus, the Task Force is urging DHS to ensure systematic exercise of prosecutorial discretion in all cases by its enforcement personnel. In accordance with existing DHS policy statements, DHS should consider the totality of the circumstances in reviewing individual cases and in deciding whether to take enforcement actions, including whether to issue detainers, take individuals into custody, initiate removal proceedings or proceed to deportation.

It should be noted that there is nothing unusual about DHS' use of prosecutorial discretion and immigration enforcement. Such discretion is a normal and essential part of the everyday activities of law enforcement agencies and prosecutors' offices at the local, state and federal levels.

DHS should train and support its own personnel in exercising discretion and should consult with the field and ICE's own subject matter experts in developing policies.

This should include issuing more detailed guidance, checklists and worksheets for use by frontline officers in deciding what is appropriate enforcement action, establishing, monitoring and quality control procedures, taking steps to assure that officers and attorneys who reasonably exercise their prosecutorial discretion in accordance with agency guidance will be supported by their supervisors and DHS leadership if the decision becomes controversial.

Next, I'll address the question of how to handle immigrants who are arrested by local law enforcement for minor traffic offenses and misdemeanors. The

Task Force found that immigration enforcement against traffic offenders and others arrested for minor offenses poses the greatest risk of undermining community policing.

Accordingly, the Task Force recommends that ICE should withhold enforcement action based solely on minor traffic (accidents) and should consider alterations including conditional detainers for other minor offenses.

On the first point, minor traffic offenses, the Task Force recommends that absent information that an individual falls into a higher category of enforcement priorities set forth in Director Morton's March 2nd memorandum or poses a national security and public safety risk, ICE should not issue detainers or issue removal proceedings on persons identified through Secure Communities based on arrests for minor traffic offenses.

Importantly, the category of minor traffic offenses should not include driving under the influence, hit and run or reckless driving resulting in injury to persons or other violations that have the potential of causing serious injury or harm to the public.

On the question of other minor misdemeanors, the Task Force recommends that ICE should consider extending such treatment to include other minor misdemeanors. If ICE decides not to accept this recommendation, it should issue conditional detainers on persons who are arrested for such misdemeanors.

The conditional detainer would become fully operational only if the person is actually convicted of the offense. In this sense, this would amount to a post conviction model.

Such a policy would discourage minor arrests undertaken only to channel non-citizens into the ICE system when the local jurisdiction has no real intention to expand its own prosecutorial and judicial resources on such a case.

It would, therefore, reduce the risk of racial profiling or other distortions of standard arrest procedures. A significant percentage of Task Force members further believe that ICE should not issue detainers or initiate removal proceedings on persons identified through Secure Communities based on arrests for any misdemeanors that do not pose a public safety or national security risk.

Other Task Force members believe that this proposal goes too far, in part because of variations in local laws that can result in significant offenses being classified as misdemeanors.

Importantly, the Task Force believes that fingerprint checks of arrestees should continue. Specifically, if the law enforcement agency chooses to send the fingerprints of persons arrested for minor traffic offenses or minor misdemeanors to the FBI, those fingerprints should continue to be checked against immigration databases.

The purpose of these checks is to reveal aliases and also to identify persons who have prior criminal convictions or other factors that indicate the person poses a serious risk to public safety or national security or who is designated within the higher immigration enforcement priorities such as persons who return to the United States without permission after prior removal.

Next, I'd like to discuss the unintended consequences of Secure Communities on community policing. The Task Force found that Secure Communities has had unintended local impacts.

Secure Communities and other federal enforcement removal programs do not operate in a vacuum. In many localities, police leaders have said that immigration enforcement policies are disrupting police community relationships that are important to public safety and national security.

Law enforcement experts have stated that trust that exists between police and immigrant communities can take years to develop and can remain tenuous despite the hard work of local law enforcement agencies.

Much of the fear within immigrant communities stems from concerns that immigrants are putting themselves or their family members in danger of deportation if they contact the authorities to report crimes as victims or witnesses.

The Task Force notes that Secure Communities was designed to minimize any such fear because it obtains information only on persons arrested and fingerprinted, not on others who may have contact with the police.

Important for state and local law enforcement to continue to be able to identify arrestees and to determine their criminal histories by submitting their fingerprints to the FBI.

It may also be important for state and local law enforcement agencies to receive back from ICE some information about the arrestees, for example, information the arrestee is on a terrorist watch list, information on aliases used by the arrestee or information that may be helpful in determining whether the arrestee is a member of a certain gang.

However, some law enforcement experts indicated that not all types of information about an individual's immigration status are relevant to a law enforcement agency's mission of ensuring public safety.

The Task Force also found that current complaint procedures are inadequate. Individuals in jurisdictions with Secure Communities who feel that they have been inappropriately profiled or subjected to other civil rights violations or abuse need to be able to report these complaints to the proper authorities.

In order for ICE's existing protections to have integrity, community members also need to believe that complaints will be taken seriously, that they will be investigated within a reasonable timeframe, that any investigation will be transparent and there will be significant consequences for civil rights violations.

Accordingly, the Task Force recommends that Secure Communities must be implemented in a way that supports community policing and sustains the trust of all elements of the community working with local law enforcement.

ICE should develop training programs and written materials for local law enforcement agencies and local communities to explain and clarify (to fewer) communities and DHS enforcement programs.

DHS must also be willing to adjust its enforcement programs to minimize the risk that they will adversely impact local law enforcement efforts. In addition, every effort must be made to ensure that crime victims and witnesses, particularly in domestic violence cases, are protected against unwarranted immigration enforcement actions, as outlined in Director Morton's June 17th memo.

In addition, the Task Force recommends that ICE tailor the information provided to local police. ICE personnel should work closely with participating law enforcement agencies to tailor the immigration information that returns to law enforcement agencies to transmit only relevant information.

Law enforcement agencies will then be able to define the information that they consider relevant to the criminal law enforcement objectives. The complaint process must be meaningful and accessible.

DHS enforcement programs should include a meaningful, confidential and accessible complaint process for individuals who feel they have received unfair treatment and there should be remedial measures to prevent abuse.

Finally, the task force urges ICE to consider establishing as a pilot initiative in a selected jurisdiction an independent panel to review specific cases. The panel should reflect the makeup of its jurisdiction. The panel members should have credibility with the stakeholders they represent.

This panel should have the authority to initiate reviews of any cases that are brought to the panel's attention or raise any concerns about how ICE is implementing prosecutorial discretion.

Next I would like to discuss an issue on which the Task Force did not reach consensus: the question of whether to suspend Secure Communities. Some Task Force members believe that DHS should suspend the expansion of Secure Communities to any new jurisdictions until DHS can consider the reforms recommended in this report and implement the recommendations it accepts.

Those Task Force members believe that it makes little sense to expand the program that many community leaders and elected officials consider deeply flawed, especially as to its impact on community policing and civil rights.

In addition, a number of Task Force members believe that DHS should suspend immigration enforcement actions against low-level offenders pending considerations and/or implementation reforms.

Finally, some Task Force members believe that the credibility of Secure Communities has been so severely damaged that it cannot be repaired and, therefore, should be terminated.

On the other hand, Task Force members who opposed any suspension or termination of Secure Communities adhere to a different view that "DHS needs to fix this airplane while it's flying" as one member expressed it.

A number of members noted that DHS has limited resources and must have some strategy for focusing on immigration enforcement and on certain immigration violators.

Members also stated that considering that other strategies such as workplace enforcement actions may result in greater levels of arbitrariness; Secure Communities offers a way to focus resources on those who have run afoul of the criminal justice system and, thus, a sensible approach.

And because Secure Communities has resulted in a deportation of many dangerous offenders who were in the United States illegally, many state and local law enforcement agencies and elected officials support Secure Communities.

Several members noted that there is a risk that any suspension of Secure Communities might result in the failure to detain or deport a person who later would commit a serious crime.

Finally, I'd like to summarize the Task Force's overall conclusions. Although Secure Communities has resulted in the identification and removal of many individuals posing a risk to public safety, serious concerns have been raised about the program, including its design, activation, implementation and unintended negative impacts on local communities.

The Task Force believes that ICE must take a more comprehensive approach to ensuring that Secure Communities is well understood by local law enforcement agencies and communities.

In order to achieve that, ICE must take a less technical approach to Secure Communities and recognize the entire process from arrest to deportation is inherently associated with the data sharing component of the program.

There is a strong consensus within the Task Force and across the nation that it is important that ICE continue to take enforcement action against serious offenders. Mixing individuals who have no criminal convictions or who have a low level of convictions with serious offenders is having the unintended consequence of undercutting the credibility of the entire Secure Communities program.

The systematic and professional use of prosecutorial discretion is the key to regaining public support and to making the best of limited resources. In order for the Secure Communities program to regain public trust and confidence, DHS must review these recommendations, and reintroduce the program in close cooperation with all communities and police leaders.

The Task Force recognizes DHS Secretary Janet Napolitano for taking this bold initiative to form the Task Force and thanks Mr. John Morton and the other DHS officials who made presentations to us and provided information we requested.

The Task Force urges DHS and ICE to continue soliciting views about Secure Communities from a wide range of stakeholders, especially from the state and local government officials who play a key role in Secure Communities.

We urge DHS and ICE to give serious consideration to these findings and develop a plan to implement the recommendations and we ask DHS to prepare a written response to our report.

This concludes my summary of the Task Force findings and recommendations, Judge Webster. Thank you.

Judge Webster: Thank you very much, Chuck. That was an excellent job of bringing us together on the content of the reports, the issues that were raised during the discussion, those that have been resolved by consensus and those that are still open.

Does any member of the HSAC wish to be recognized for comments or have any questions for Chuck Wexler.

Bill Bratton: This is Bill Bratton, Judge. I'd like to make a comment, if I may.

Judge Webster: Bill, I'm very glad that you made it in on the air. Our deputy chairman and vice chairman are onboard and if you have comments to make, Bill, please do so now.

Bill Bratton: Yes, I'd like to echo your thanks, Judge, to Chuck and the members for attempting to deal with this extraordinarily contentious and unfortunately divisive issue that has not been politically resolved in our country and is resulting in a lot of bureaucratic tensions and frustrations that were discussed in Chuck's report.

I want to thank him and his colleagues, both those that participated in the final report as well as those (who used) a lot of time, but at the last moment decided to step away because they could not support some or all of the findings.

I think that Chuck and his colleagues have done an admirable job of laying out and explaining the frustrations and circumstances of the issue and I fully support the recommendations that are included in the report.

As a former law enforcement official, the issue that Chuck referenced repeatedly in his remarks about prosecutorial discretion is at the heart of this issue. The idea is that unfortunately the early on explanations of what the intent of the program were to be were articulated in a way that allowed for a general understanding, instead, created unfortunately general confusion, including among the law enforcement community and, to be quite frank, somewhat confused me during my time as chief in Los Angeles.

But Chuck, I think, has been able to, with this report, lay out the issues and lay out a path forward. Not everybody is going to agree and that is clear. In the United States, we never get everybody united behind any one particular issue.

But I think Chuck has advanced the issue to a point where we can meet the concerns of the majority on both sides of the issue and those that are so

passionate about this that I'm not sure that any proposal would meet all their concerns.

But, Chuck, I think, has found some common ground for advocates from all sides of the issue to stand on and nobody gets a whole loaf here but everybody gets a piece of the loaf.

So, again, Chuck, thank you to you and your group. I think it's a report to be proud of and it adds to the discussion significantly and I do support the idea that a response from Homeland Security would be appropriate. Thank you.

Judge Webster: Thank you very much, Bill. Is there any other member of HSAC that wishes to be heard at this point in time?

Lee Baca: Thank you. Mr. Chair, I also echo what Chief Bratton said. I think that this is a tough issue but you can tell by the comprehensiveness of the oral report and by reviewing the report itself that a lot of work has been done.

Chuck Ramsey, is also a man of high integrity. I don't think anyone left anyone's thoughts out of the report that I'm aware of. But at the same time, even the Department of Homeland Security, particularly Mr. John Morton, acknowledges that there is a need for continual improvement.

And, of course, it's difficult in view of the fact that there are 19,000 police agencies that are local and you only have one Department of Homeland Security under the offices of the Secretary and I think that it's remarkable that we've done as well as we have given the issues that are remunerated in the report.

And I think that we have to bear in mind that our nation has to solve its problems as they emerge and not know all the problems in advance. But thank you very much for a great report.

Judge Webster: Thank you very much, Sheriff. Anyone else, please speak up if you would like to.

Mohamed Elibiary: Thank you very much. I just wanted to also echo a lot of the feedback that was just given by our colleagues but also say to Chuck and the Task Force members that I personally attended a couple of their meetings, joined in some of their conference calls, followed the processes they went through -- many different drafts in order to get it to this point -- as well as attended one of the public meetings.

And I found that the process was fairly conclusive, where a lot of different ideas including polar opposite versions were shared and everybody kind of was given an opportunity to share their perspective as the report kind of documented consensus opinions as well as diverging opinions.

I think we did a great job in HSAC and I would recognize Becca Sharp and (Mike) also for those public hearings. It's a little difficult sometimes to organize those but I think giving the public an opportunity to kind of share and give input into the process as well as submit comments throughout the process via the Web site was an excellent idea, too.

So, again, thank you, Chuck and the rest of the Task Force members for all the hard work you guys put in.

Judge Webster: Thank you, Mohamed. Again, does any other member wish to be heard at this time?

Manny Diaz: Thank you, Judge. I want to join everyone, first of all, in thanking the Secretary and the director for convening this group and recognizing that this was an issue that needed to be looked at and I didn't have the time, unfortunately, to stay with the Task Force throughout the process.

I originally was there but I explained to Chuck that my schedule didn't allow me to continue working. But I was there long enough to know really the incredible and difficult job that the Task Force was given and the absolutely, I think, heroic work that Chuck did to be inclusive, to bring everybody in, to get opinions from all sectors, all regions of this country.

And the report has a lot of good recommendations. So I think the conclusions are excellent. But my concern is this. I think that some of those recommendations are obviously going to take time and we're all on this phone call and this Task Force was formed because something wasn't working right.

And when you go through the report and you read about the concerns of our community policing issues and carving out small children and military veterans and what type of misdemeanor or minor offense is going to be carved out and then you recognize the concerns and fears of witnesses and victims of crime have, you begin to understand why there's a right or wrong.

There's clearly a perception that it is a hurt to the credibility, the trust and the transparency of the program. I'm not a believer that nationwide discretion is going to work because I think discretion should be applied differently. It may be applied differently in Florida than it is in Arizona or in New York or anywhere else.

We also read about the fact that we just don't have the resources to go after everybody. And, quite frankly, I think the only way to build trust in the program and the only way to fix it is to perhaps make a little stronger statement.

One of Chuck's and the Task Force's recommendation's is to withhold enforcement action on minor traffic offenses. I would kind of think I would look at it the other way around.

I would -- and I don't know what version it takes but I would support and probably only support some kind of an effort where there's some sort of suspension of this process except in the case of what we read in the report through public safety, national security threats, worst of the worst, most dangerous criminal offenders.

I think we should make a very clear statement that this is who we're really after and this is who we have the resources to go after. And we're not interested in victims of crimes, witnesses, or small children.

And I think we need to be a little stronger as we conclude this process in making that kind of a statement and that's what I would support in this, Judge.

Judge Webster: Thank you very much. Again, does anyone else wish to be heard? Well this has been a very interesting and thorough discussion. I can emphasize with the wishes of Manny Diaz and I think that the best approach, however, rather than to put this report on hold is to go ahead and take a view of whether or not it's a step forward.

I certainly agree that trust is the coin of the realm and that is what this is all about. The report seems to me to honestly reflect the fact that because of

misunderstandings and unintended consequences there has been some erosion in trust in the process of working on the issue of Secure Communities.

But it is an overall goal worthy of our best efforts and these recommendations clearly point in that direction. There may be some general modifications that we can try to deal with as we go forward and report back to Secretary Napolitano but I think that we have to take an overall view of this, not to mention the statutes and congressional wishes that address the problem and not simply put it on ice.

But these are well thought out recommendations and I appreciate the candid comments. This is one -- we've gone through many of these reports. I can't recall one that didn't -- that was as candid as this in addressing the concerns that surfaced and the importance of dealing with them. Focusing on major offenders and relieving the minds of citizens and those law enforcement officers who believe deeply in community oriented policing and are concerned that too much of the trivia is going to undercut that.

I think our report makes it very clear to Secretary Napolitano. I can assure you that if it is adopted, myself and others will do our best to make clear to her and to others the importance of addressing these concerns on a continuing basis and to make sure that ICE pays appropriate attention as well. Well, I think we're ready to...

John Magaw: I totally concur with your statement. This is a huge problem. You never solve a huge problem with one subcommittee and one report. But this is a huge step forward.

You know, if we waited until our space craft is what it is today we would have never walked on the moon first. I mean, we've got to start now and I think this is a great start.

Judge Webster: Thank you very much, John. All right, I think that we're ready now to take a vote to approve the Task Force on Secure Communities report through the Department of Homeland Security and the Secretary.

I ask that all members in favor of adopting the report please say aye.

Judge Webster: All members opposed, please say no.

Manny Diaz: No.

Judge Webster: All right, because on a voice vote I would have to say that the motion is carried. We will -- I will say that the vote is adopted with one participating member dissenting. And with that, I think...

Chuck Wexler: I want to thank everyone for their comments. But I also wanted to recognize the Task Force members. You know, I didn't know most of these folks. I did know some of them but we came together on a very difficult issue.

There was enormous pressure on each one of these Task Force members to resign. We would go all across the country. People would walk out on us and it was enormous pressure and I admire them for the tough stand that they took.

None of us got exactly what we wanted but at the end of the day, these 14 really brave people hung in there, and worked with each other to find common ground.

You know, we're not going to solve the immigration issue overnight but I have to say it's steps like this where we try to find some common ground to make a difference and that's what you're going to do.

You're going to -- you've got sit at the table. We worked really hard for four months.. You know Secretary Napolitano put together a very diverse group of people and they wanted honest opinion and we gave them honest opinion.

This was not a rubber stamp. And I admire those 14 people for hanging in there and I thank them very much. And Judge Webster, thank you for your leadership.

Judge Webster: Thank you, Chuck, and for all the good work that you have done in bringing this committee to an appropriate conclusion, knowing that there is work ahead but this is a very good beginning in my view.

Now, this is the time for adjournment and because it is a (FOIA) meeting, I normally give instructions which I can't find in my notes. Becca Sharp or (Mike), do either of you have the -- any call-in instructions for the public?

Mike Miron: Yes, I sure do, Judge. So this is the close of the meeting. Members of the public who would like to provide comments, and that includes the media who would like to provide comments, to the Homeland Security Advisory Council may do so in writing by writing to the Homeland Security Advisory Council U.S. Department of Homeland Security, 1100 Hampton Park Boulevard, Mail Stop 0850, Capital Heights, Maryland 20743 or by the way of email to HSAC@dhs.gov.

Those comments are appreciated and will be reflected in the meeting minutes. I declare -- and, Judge, I'll turn this over to you to declare the meeting concluded, sir.

Judge Webster: Thank you very much Mike. That concludes this public hearing. Thank you very much to all and meeting is adjourned.