



Secure Communities: A Comprehensive Plan to Identify and Remove Criminal Aliens

Strategic Plan

July 21, 2009



Homeland
Security

*U.S. Immigration and Customs
Enforcement*

Message from the Assistant Secretary



U.S. Immigration and Customs Enforcement (ICE) is committed to protecting national security and upholding public safety by targeting criminal networks and terrorist organizations that seek to exploit vulnerabilities in our immigration system, in our financial networks, along our border, at federal facilities and elsewhere in order to do harm to the United States. As a Department of Homeland Security (DHS) agency, ICE fully supports the Department's goal of protecting our nation from dangerous people. Under Secretary Napolitano's guidance and leadership, ICE looks forward to leveraging the Secure Communities: A Comprehensive Plan to Identify and Remove Criminal Aliens (Secure Communities) program to enhance collaboration among U.S. law enforcement agencies to protect the people of the United States from criminal aliens that pose the greatest threat to our communities.

The Secure Communities program is improving information sharing and promoting stronger partnerships between federal, state, tribal and local law enforcement agencies. By enhancing the exchange of information among law enforcement agencies and others, the Secure Communities program advances the ICE mission to enforce immigration and customs laws, protect federal buildings and other key assets, and provide law enforcement support in times of national emergency.

John Morton
Assistant Secretary
U.S. Immigration and Customs Enforcement

Message from the Acting Director



I am proud to present the ICE Secure Communities: A Comprehensive Plan to Identify and Remove Criminal Aliens (Secure Communities) updated Strategic Plan. This plan was developed in response to the public need for safer communities throughout the United States and reflects the mandates outlined in the Secure Communities Charter. Our mission – to improve the public safety for the American people – guides our strategy and will be our definitive measure of success.

Secure Communities has been deliberate in its strategic approach. First, we work in partnership with other federal, state, tribal, and local law enforcement agencies (LEAs) to efficiently leverage information and resources. Second, we focus on achieving the greatest impact by prioritizing efforts and resources to address the greatest threats to community safety. Third, we take a comprehensive look at the entire criminal alien enforcement process by implementing, supporting, and encouraging a wide range of linked actions with our partners.

We promote data-driven innovation. We use cutting edge technology to identify criminal aliens, share information rapidly, and manage our resources to ensure efficient and effective removals. Through advanced modeling and performance management, we ensure the efficacy of our innovation.

The intent of this document is to provide Congress and the American public with a clear understanding of our commitment and approach to improving public safety. We plan to update this living document as a formal part of our integrated planning and performance management processes, incorporating new information, guidance, and lessons learned on a regular basis. In this spirit, this Strategic Plan presents our overall strategy for results, evaluation, and accountability.

Marc A. Rapp
Acting Director
Secure Communities

Executive Summary

Secure Communities: A Comprehensive Plan to Identify and Remove Criminal Aliens (Secure Communities) is working with ICE senior leadership and offices, as well as the broader law enforcement community, to better identify criminal aliens, prioritize enforcement actions on those posing the greatest threat to public safety, and transform the entire criminal alien enforcement process. Through improved technology, continual data analysis, and timely information sharing with a broad range of law enforcement agency (LEA) partners, we are helping to protect communities across the country. This document outlines our goals, objectives, and our strategic approach to accomplishing them.

Mission

The Secure Communities program seeks to improve public safety by implementing a comprehensive, integrated approach to identify and remove criminal aliens from the United States. We coordinate with the Office of the Assistant Secretary and other ICE offices to implement all ICE planning, operational, technical, and fiscal activities devoted to transforming, modernizing, and optimizing the criminal alien enforcement process.

Goals and Objectives

1. **IDENTIFY** criminal aliens through modernized information sharing

1.1 Biometric Identification – Deploy a biometric identification system nationally

1.2 Integrated Record Check – Conduct integrated DHS/DOJ record checks on all arrested and incarcerated persons, and on criminals previously released from custody

1.3 Timely Response – Provide results of record checks to law enforcement agency partners promptly

2. **PRIORITIZE** enforcement actions to ensure apprehension and removal of dangerous criminal aliens

2.1 Threat-Based Approach – Prioritize criminal aliens for enforcement action based on their threat to public safety

2.2 Removal – Prioritize removal efforts on highest-threat category of removable criminal aliens

3. *TRANSFORM* criminal alien enforcement processes and systems to achieve lasting results

3.1 Process Efficiency – Reduce time spent in ICE custody by criminal aliens

3.2 Optimize Capacity – Optimize ICE capacity for bed space, transportation, and staffing

3.3 Strengthen Capabilities – Strengthen analytical, planning and performance management capabilities to increase accountability and transparency

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Introduction

Criminal aliens pose a threat to security in our communities. Secure Communities: A Comprehensive Plan to Identify and Remove Criminal Aliens (Secure Communities) is a major initiative to significantly reduce the criminal alien population in the United States and transform criminal alien enforcement. Using new technologies and approaches, we are sharing more accurate and timely information across ICE and with our LEA partners to identify and remove deportable criminal aliens. To maximize our impact, we are prioritizing enforcement actions to focus on those individuals posing the greatest threat to public safety. With the active engagement of many stakeholders, we will transform current approaches, technologies, organizational cultures, and some policies to achieve these goals.

Our multi-faceted, multi-agency approach brings together expertise and commitment from all parts of ICE, other federal, state, tribal, and local LEAs, and other key stakeholders. Within DHS, our partners include U.S. Citizenship and Immigration Services (CIS), U.S. Customs and Border Protection (CBP), and the National Protection & Programs Directorate (NPPD). Other key federal partners include the Department of Justice (DOJ) and the Department of State (DOS). In addition, state, local, and tribal LEAs are critical to our success. The Secure Communities strategy requires ICE and these stakeholders to coordinate efforts at each step in the enforcement process.

This Strategic Plan is a living document. Planning and refinement continue as projects are implemented and results are analyzed. We will continue to enhance the program by implementing best practices, improving management structure, leveraging technical resources, achieving economies of scale, managing limited resources, and achieving the best possible results for our nation.

Strategic Goal 1: IDENTIFY criminal aliens through modernized information sharing

1.1 Biometric Identification – Deploy a biometric identification system nationally

Measure: *Percent of the U.S. criminal alien population covered by the biometric identification system*

1.2 Integrated Record Check – Conduct integrated record checks on all arrested and incarcerated persons, and on criminals previously released from custody

Measures: *Number of charged or convicted aliens identified through integrated record checks*

Number of aliens charged or convicted of a Level 1¹ offense identified through integrated record checks

1.3 Timely Response – Provide results of record checks to law enforcement agency partners promptly

Measure: Percent of submissions receiving timely responses

Our Challenge

Determining the identity and immigration status of individuals convicted of a crime has long been a difficult issue for ICE. There are a large number of criminal aliens incarcerated across the country, and many still reside in communities after release from federal, state, and local custody. The traditional processes of identification are labor-intensive, time-consuming, and are often limited by the accuracy of the biographic information obtained from the suspect. Exacerbating the problem is the fact that criminal history records and immigration records are held by different organizations in systems that have not been easily linked.

As a result, information on the total size, locations, and characteristics of the criminal alien population are based on estimates. The use of aliases and other false biographic data by a number of criminal aliens has made reliance on traditional processes insufficient for identifying this elusive population. Continued use of biographic processes will ultimately result in missed identification of some criminal aliens subject to removal. Incomplete identification puts our communities at unnecessary risk, given the biometric technology available today.

Strategic Approach

Our approach stresses the use of technology to improve accuracy and increase speed in identification, and to facilitate broader information-sharing with LEAs.

First, we are deploying linked systems that enable LEAs to initiate an integrated check of criminal history and immigration status for individuals charged with or convicted of a crime through a single submission of fingerprints as part of their normal criminal arrest/booking process. This system – actually a linkage between existing systems – leverages the DOJ Federal Bureau of Investigation’s (FBI’s) Integrated Automated Fingerprint Identification System (IAFIS) and the DHS United States Visitor and Immigrant Status Indicator Technology’s (US-VISIT’s) Automated Biometric Identification System (IDENT). The use of biometric identifiers (primarily fingerprints) avoids many problems inherent with the use of biographic information to check immigration status. The integration of information from criminal history and immigration records checks enables ICE and their law enforcement partners to prioritize which individuals should be transferred to ICE custody to initiate removal processing, rather than being released.

As noted in Appendix B: Program Schedule, the national deployment of this system is proceeding in phases. Having completed an initial deployment phase, we are now initiating risk-

¹ See Appendix A for the description of Level 1 crimes, listed by Federal Bureau of Investigation National Crimes Information Center (NCIC) codes.

based deployment to cover increasing percentages of the estimated criminal alien population. As the deployment proceeds, we will broaden the use of the integrated system for those in custody of local LEAs, including inmates of federal, state, local, and tribal institutions and individuals on probation and parole, among others.

Second, we are strengthening ICE's ability to conduct immigration status determinations on a timely basis. At present, determinations are conducted by the ICE Law Enforcement Support Center (LESC), through a largely manual check of records in multiple systems. As an immediate step, Secure Communities is supporting increased capacity to handle the expected growth in the number of status checks. To implement a longer-term solution, Secure Communities is supporting increased automation of records retrieval, categorization of criminal histories into priority levels, and tracking activities.

Where the biometric-based identification system is unavailable or insufficient, interviews of suspected aliens charged with or convicted of a crime will be necessary. These interviews must be conducted on a timely basis to ensure that criminal aliens are identified and appropriate enforcement actions are taken. To maximize ICE's ability to conduct these interviews when and where needed, Secure Communities is supporting deployment of video conferencing (VTC) to connect ICE personnel with select state and local LEA sites, based on traffic volumes.

Third, we are implementing steps to ensure that the results of the identification and record check process are provided promptly to the LEA partners and to local ICE field offices. This critical information sharing ensures that LEAs have the necessary information to hold criminal aliens for ICE processing and enforcement action. Secure Communities is supporting development of ICE response capability on a 24x7 basis, corresponding to the real-time needs of its LEA partners.

Anticipated Results

Through the deployment and use of the biometric-based identification systems, all persons booked into custody will be automatically checked for their immigration status as well as prior criminal history. This will lead to a substantial increase in the number of criminal aliens identified. This increased capability to share information will shorten response time and reduce the risk that an LEA will release a dangerous and removable criminal alien into the community. In addition to achieving greater results and better efficiency, ICE will receive the data needed to analyze the size, characteristics, and geographic distribution of the criminal alien population across the country; these results will inform future strategic decisions.

Strategic Goal 2: PRIORITIZE enforcement actions to ensure apprehension & removal of dangerous criminal aliens

2.1 Threat-Based Approach – Prioritize criminal aliens for enforcement action based on their threat to public safety

*Measures: Criminal alien arrests as a percent of total alien arrests
Arrests of criminal aliens convicted of a Level 1 offense as a percent of criminal alien arrests*

2.2 Removal – Prioritize removal efforts on highest-threat category of removable criminal aliens

*Measures: Criminal alien removals as a percentage of total alien removals
Criminal aliens convicted of a Level 1 offense removed as a percent of total criminal alien removals*

Our Challenge

The size of the alien population subject to immigration enforcement actions exceeds ICE’s current capacity. Due to these resource constraints, ICE is limited to conducting enforcement actions only against a subset of potential subjects. There is a need to effectively integrate priorities at the national program level and across programs. Currently, in some situations, various programs compete for the same limited resources. A comprehensive approach to prioritize criminal alien enforcement is needed to ensure coordination, leverage limited resources, and better protect public safety.

Strategic Approach

In accordance with its Congressional mandate, the Secure Communities mission is to strengthen criminal alien enforcement across program and organizational lines. To maximize the program’s impact on public safety, we adopted the approach of prioritizing enforcement actions on the basis of the threat each criminal alien poses to the public, by assessing the individual’s prior criminal history.² In other words, we seek to focus enforcement on the most dangerous criminals.

Secure Communities is working collaboratively to ensure that this priority is incorporated into specific program priorities throughout ICE, and then is implemented through appropriate policies, procedures, and performance targets. For example, the Criminal Alien Program (CAP) will prioritize issuing detainers and taking custody of criminal aliens charged with or convicted of a Level 1 offense (Appendix A: National Crimes Information Center (NCIC) Uniform Offense Classification by Level). Similar priorities will be implemented for apprehensions of at-large aliens, along with other policy considerations. Secure Communities will support strategic and tactical techniques to locate and prioritize enforcement actions on the criminal alien population.

To ensure that threat-based prioritization is carried beyond the apprehension stage all the way through the removal process, Secure Communities is supporting the development of information

² Individual assessments are conducted as part of the identification and record check process performed by the LESC. Crimes are categorized into three levels based on National Crimes Information Center (NCIC) high-level codes. Appendix A provides a list of NCIC codes by level.

systems to establish case management and tracking capacities from booking by the LEA all the way through ICE removal. Secure Communities will also collaborate with the DOJ Executive Office for Immigration Review (EOIR) to ensure better shared tracking of immigration proceedings for these dangerous criminal aliens, and to ensure maximum ICE support for the process.

Further, Secure Communities will support this focus even after removal, by sharing information about individual removals and working with partner agencies and foreign counterparts to implement efforts that ensure that aliens previously removed from the United States do not illegally re-enter. This includes providing information regarding persons encountered after removal to the relevant U.S. Attorney for potential prosecution.

Anticipated Results

By focusing enforcement actions on the most dangerous criminal aliens, we expect that a higher number of aliens from this top category will be apprehended and removed, and they will comprise a larger percentage of results in each of the related programs. Greater information-sharing and closer coordination with other partners should lead to more efficient operations and improved support for proceedings and prosecutions of criminal aliens who return after removal.

Strategic Goal 3: TRANSFORM criminal alien enforcement processes and systems to achieve lasting results

3.1 Process Efficiency – Reduce time spent in ICE custody by criminal aliens

Measure: *Average time spent in ICE custody by criminal aliens*

3.2 Optimize Capacity – Optimize ICE capacity for bed space, transportation, and staffing

Measures: *Percent of ICE-funded beds that are occupied by criminal aliens*
 Percent of eligible detainees in Alternatives to Detention program

3.3 Strengthen Capabilities – Strengthen accountability, planning and performance management, and analytical capabilities

Measures: *Number of programs participating in integrated performance reviews*
 Percent of criminal alien programs achieving priority targets

Our Challenge

Criminal alien enforcement is a complex and dynamic process, with numerous steps involving, in some cases, multiple ICE programs and other participants, including other departments and

levels of government. To properly manage this complexity, and track results, the entire community requires efficient and well integrated information technology. Numerous improvement efforts, in order to be effective, will require that all affected parts of the process are factored in, and integrated. By addressing the risk of fragmented approaches, ICE can better ensure the ongoing development of more efficient processes.

Our challenge is to provide reliable data, develop comprehensive frameworks, and integrate planning and performance management capabilities to deliver improved management and results. Analyzing the potential effects of changes in enforcement policy and priorities to determine their likely impacts on ICE capacity and resource needs is also challenging. High-level performance measures need to focus more on results and impact, and less on workload, inputs, and outputs. Moreover, performance targets for the overall process and the participating units must be coordinated, clearly linked to priorities, and used to drive performance and ensure accountability.

Strategic Approach

Secure Communities has been given responsibility to coordinate and improve the entire criminal alien enforcement process, in collaboration with a broad range of partners within ICE and among other stakeholders. With this mandate, we are developing and implementing a comprehensive approach to transforming the process and system, to deliver both short-term and long-lasting results.

First, we are developing and supporting a set of business process improvements, intended to make the overall process much more efficient as well as more effective in protecting public safety. For example, we will work closely with EOIR to expand the use of VTC for immigration hearings, which will provide cost savings while generating final orders for more criminal aliens during their incarceration. We will increase the use of stipulated orders of removal to expedite the cases of aliens who have no available relief from removal and who want to expeditiously return to their home country.

We will use an aggressive case management and reporting system to maintain focus on processing cases expeditiously. We will support expansion of an electronic travel document (eTD) management system. We will maximize coordinated efforts to obtain final orders of removal and travel documents while criminal aliens are serving their prison sentences. In addition, we will collaborate with the Department of State and our foreign counterparts to overcome issues and barriers to removal posed by foreign governments. These business process improvements will leverage ICE's implementation of modernized information systems to support detention and removal. Together, these changes will reduce the time criminal aliens spend in ICE custody.

Second, Secure Communities seeks to optimize ICE's capacity of detention beds, transportation, and staffing. As noted previously, we are emphasizing that available resources be prioritized and directed first on apprehension and removal of the most dangerous criminal aliens. This prioritization will directly affect the use of detention facilities, as well as other resources. To further encourage the best use of available detention space, ICE is extending the Alternatives to Detention program to non-criminal, low-flight-risk aliens. Taking non-criminal aliens out of ICE

detention facilities, while they await removal, will allow a greater proportion of detention space to be used for criminal aliens.

We are also developing a linked set of modeling and simulation techniques that will provide an integrated picture of the end-to-end criminal alien enforcement process. The resulting models will assist ICE in analyzing the needs for detention beds, transportation, and staffing under various scenarios, understanding the system-wide impacts of specific actions, identifying risks and trade-offs, and supporting investment decisions to optimize overall capacity.

Third, Secure Communities seeks to strengthen analytical and planning capabilities to ensure greater understanding, transparency, and accountability, and as the basis for program and operational decision making and reporting.

We are developing the first Concept of Operations (CONOPS) that covers the entire lifecycle of criminal alien enforcement. The CONOPS outlines the current and future states of the overall process and identifies major gaps that must be addressed. This enables each procedural and system change to be understood as a contributor to the transformation of the entire process.

To promote transparency and accountability of all programs participating in Secure Communities, we are working collaboratively with our partners to develop a performance management approach that identifies critical performance, cost, and schedule measures and milestones. These measures will be defined, appropriate targets established, and each measure will be reported and analyzed to address weaknesses and seize opportunities. As the new measures are developed and adopted, current measures will be revised or augmented. Secure Communities will regularly conduct integrated performance review sessions with program partners, to encourage joint problem-solving and mutual accountability.

Secure Communities will continue to report cost and performance data via spend plans and quarterly reports, and is building processes and systems to effectively track, monitor, and report all cost, schedule, and performance data in a timely manner.

Anticipated Results

By implementing numerous improvements to the overall criminal alien enforcement process, we expect the average duration of criminal alien detention to be significantly reduced. Through this reduction, the prioritization of enforcement, and increased use of alternative settings for non-criminal detainees, we expect that increased numbers of criminal alien cases can be handled within a given amount of bed space. This will help offset the larger volume of criminal aliens apprehended as a result of better identification and focused enforcement.

By modeling the overall process and assets, continuously analyzing emerging data, and examining the likely impacts of changes to policy, procedures, or external conditions, we expect to provide a clearer basis for determining ICE's needs for detention space (including the amount, type, and location), transportation, and staffing for related functions. Similarly, the emphasis on stronger analysis and integrated planning will enable well-justified decisions on programs and investments.

Finally, establishing clear project milestones and performance measures, actively managing them, and conducting integrated reviews with program partners will encourage attention to the overall goals, achieve better results, and promote accountability.

Plan Implementation and Evaluation

Following adoption of this Strategic Plan, the Secure Communities program will develop an overall implementation plan to meet its goals and objectives.³ To drive the success of this plan, Secure Communities has put in place mechanisms to ensure appropriate governance, active and regular information sharing and reporting, and integrated budget and performance management. These mechanisms include the following:

Governance – Secure Communities has established an Executive Steering Committee (ESC) that meets regularly to discuss, review, and approve program-wide initiatives and performance. The ESC has reviewed and approved the Secure Communities Strategic Goals and Objectives presented in this plan. Membership includes senior leadership from across ICE.

Collaboration and Performance Management – Secure Communities has established a portfolio management program, with staff aligned to specific portfolios of projects supported by Secure Communities and implemented by other programs. Regular meetings between the liaisons and the project staff will ensure the development and approval of implementation plans, as well as regular performance monitoring and improvement. As part of the portfolio management team, budget and performance management personnel will support ICE project staff in timely reviewing, updating, and managing of budget and performance plans and data.

Reporting – Secure Communities will continue reporting progress toward achieving its goals and objectives on a quarterly, annual, and as-needed basis to Component and Department leadership, members of Congress, and other key stakeholders. Financial results will continue to be reported in quarterly Congressional Status Reports and annual spending plans. At the program level, Secure Communities will review budget and performance data in internal, ESC-level, and bi-weekly status meetings with senior leadership. At the project level, and as an integral part of the portfolio management approach, Secure Communities will continue working with ICE leadership and project staff to develop and review budget and implementation milestones, as well as project-specific performance measures that link to the Secure Communities Strategic Goals and Objectives. To better coordinate and oversee cost and performance assessments, Secure Communities is building processes and systems to track, monitor, and report cost, schedule, and performance data in an integrated fashion.

By engaging the law enforcement community and other partners in a comprehensive performance management approach that includes regular and formalized internal and external discussions and reviews, as well as open and active information sharing, Secure Communities

³ See Appendix B for a high-level description of program milestones.

will help ICE transform criminal alien enforcement. This transformation will be integrated from beginning to end, informed through active partner participation and the application of advanced analytical techniques, and increasingly effective and efficient as new and upgraded approaches and systems come on line to deliver lasting results.

Appendix A: National Crimes Information Center (NCIC) Uniform Offense Classification by Level

Level 1 Crimes (NCIC Code)	Level 2 Crimes (NCIC Code)	Level 3 Crimes (NCIC Code)
Homicide (0901-0999)	Arson (2001-2099)	Sovereignty (0101-199)
Kidnapping (1001-1099)	Burglary (2201-2299)	Military (0201-0299)
Sexual Assault (1101-1199)	Larceny (2301-2399)	Immigration (0301-0399)
Robbery (1201-1299)	Stolen Vehicles (2401-2499)	Extortion (2102-2199)
Assault (1301-1399)	Forgery (2501-2599)	Damage Property (2901-2903)
Threats (1601, 1602)	Fraud (2601-2699)	Family Offenses (3801, 3804-3899)
Extortion –Threat to Injure Person (2101)	Embezzlement (2701-2799)	Gambling (3901-3999)
Sex Offenses (3601-3699)	Stolen Property (2801-2899)	Commercialized Sex Offenses (4001-4099)
Cruelty Toward Child, Wife (3802, 3803)	Damage Property w/Explosive (2904-2906)	Liquor (4101-4199)
Resisting an Officer (4801)	Traffic Offenses (5402-5499)	Obstructing the Police (4802-4899)
Weapon (5201-5299)	Smuggling (5801-5899)	Bribery (5101-5199)
Hit and Run (5401)	Money Laundering (6300)	Health and Safety (5501-5599)
Drugs (Sentence > 1 year)	Property Crimes (7199)	Civil Rights (5699)
	Drugs (Sentence < 1 year)	Invasion of Privacy (5701-5799)
		Elections Laws (5999)
		Conservation (6201-6299)
		Public Order Crimes (7399)

Appendix B: Program Schedule

Strategic Goal	2009	2010	2011 and beyond
Identify criminal aliens through information sharing	<ul style="list-style-type: none"> • Deploy biometric identification to cover 30% of the criminal alien population • Support integrated record checks to identify criminal aliens in federal, state and local custody • Expand VTC for status determinations • Stabilize information sharing capabilities 	<ul style="list-style-type: none"> • Deploy biometric identification to cover 60% of the criminal alien population • Maintain integrated record checks for criminal aliens in custody • Expand integrated record checks to include the at-large population • Maintain VTC for status determinations • Modernize status determinations 	<ul style="list-style-type: none"> • Expand biometric identification to cover 95% of the criminal alien population • Optimize the biometric identification system • Maintain integrated record checks for criminal aliens in custody and at-large • Maintain automated status determinations and use of VTC for status determinations • Optimize information sharing capabilities
Prioritize enforcement actions to ensure apprehension and removal of dangerous criminal aliens	<ul style="list-style-type: none"> • Support prioritization of enforcement actions for existing criminal alien enforcement projects • Strengthen deterrence mechanisms for recidivism 	<ul style="list-style-type: none"> • Expand prioritized enforcement projects • Assess and improve deterrence mechanisms for recidivism 	<ul style="list-style-type: none"> • Optimize prioritized enforcement actions • Support deterrence mechanisms for recidivism
Transform criminal alien enforcement processes and systems to achieve lasting results	<ul style="list-style-type: none"> • Stabilize existing process and systems transformations • Assess and track capacity • Determine end state (CONOPS) • Develop Implementation Plan • Define performance measures and set targets 	<ul style="list-style-type: none"> • Modernize existing processes and systems • Optimize capacity • Implement new processes and system • Deploy implementation plan • Manage and improve performance 	<ul style="list-style-type: none"> • Optimize processes and systems • Optimize capacity • Optimize performance

Appendix C: Acronyms and Abbreviations

Acronym/ Abbreviation	Full Text
CAP	Criminal Alien Program
CBP	Customs and Border Protection
CIS	Citizenship and Immigration Services
CJIS	Criminal Justice Information Services
CONOPS	Concept of Operations
DHS	Department of Homeland Security
DOJ	Department of Justice
DOS	Department of State
DRO	Detention and Removal Operations
EOIR	Executive Office for Immigration Review
ESC	Executive Steering Committee
FBI	Federal Bureau of Investigation
FY	Fiscal Year
IAFIS	Integrated Automated Fingerprint Identification System
ICE	Immigration and Customs Enforcement
IDENT	Automated Biometric Identification System
IT	Information Technology
LEA	Law Enforcement Agency
LESC	Law Enforcement Support Center
NCIC	National Crime Information Center
NPPD	National Protection & Programs Directorate
U.S.	United States
US-VISIT	United States Visitor and Immigrant Status Indicator Technology
VTC	Video Conferencing

MEMORANDUM OF AGREEMENT

BETWEEN

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

And

[STATE IDENTIFICATION BUREAU]

I. 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 Secure Communities (SC) initiative related to biometric interoperability. SC is a comprehensive ICE initiative that focuses on the identification and removal of aliens who are convicted of a serious criminal offense and are subject to removal, including the utilization of advanced biometric and communications technology to share information among law enforcement agencies (LEAs) to identify, detain and remove from the United States aliens who have been convicted of a serious criminal offense and are subject to removal.

II. AUTHORITY

Immigration and Nationality Act (INA) provisions regarding identification, detention, arrest and removal of aliens (8 USC §1226(c); 8 USC §1226(d); 8 USC §1226(e); 8 USC §1227(a) (2); and 8 USC §1228); the INA provision regarding liaison activities with internal security officers and data exchange (8 USC §1105); and FY 2008 DHS Appropriations Act (Pub. L. No. 110-161, 121 Stat. 1844, 2365 (2007)).

III. THE GOALS OF SECURE COMMUNITIES

ICE is committed to improving community safety by transforming the manner in which the federal government cooperates with state and local LEAs to identify, detain and remove aliens convicted of a serious criminal offense. ICE utilizes advanced technology to improve information sharing among LEAs and will apply a risk-based methodology to focus resources.

To accomplish this goal, ICE leverages business and technical agreements between the DHS United States Visitor and Immigrant Status Indicator Technology (US-VISIT) Program's Automated Biometric Identification System (IDENT) and the Federal Bureau of Investigation's (FBI) Criminal Justice Information Services (CJIS) Division Integrated

Automated Fingerprint Identification System (IAFIS). The combined biometric and communications technology is known as IDENT/IAFIS Interoperability.

For the purpose of SC, the SIB and the state and local LEAs will continue to operate pursuant to the FBI CJIS Division's established policies and agreements. This MOA does not affect a state's existing relationship with the FBI CJIS Division. Rather, the MOA builds on and enhances that relationship. Neither the SIB nor any state or local LEA that is subject to this MOA will be responsible for determining an individual's immigration status or whether a particular conviction renders an individual removable pursuant to the INA.

- A. The SC initiative focuses on three objectives:
 - i. Identify aliens in federal, state and local custody charged with or convicted of a serious criminal offense who are subject to removal and those aliens who have prior convictions for serious criminal offenses and are subject to removal who are currently at large;
 - ii. Prioritize enforcement actions to ensure apprehension and removal of aliens convicted of serious criminal offenses; and,
 - iii. Transform criminal alien enforcement processes and systems to achieve lasting results.

- B. ICE will employ a risk-based approach to identify aliens charged with or convicted of a serious criminal offense 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 three-level hierarchy of aggravated felonies and other serious offenses. Appendix A contains a description of the state and federal criminal offenses that comprise 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 classifies aliens convicted of a criminal offense into three levels, starting with those who present the greatest threat:

Level 1: Individuals who have been convicted of major drug offenses, national security crimes, 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. ICE is committed to identifying aliens convicted of serious criminal offenses who are subject to removal in all three category levels, with a priority assigned on the basis of risk to individuals convicted of Level 1 offenses. ICE continues to exercise discretion through its field offices in taking enforcement action in cases of aliens convicted of Level 2 and 3 offenses as each situation demands. At no time shall this MOA be construed to limit the discretion of ICE 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 US-VISIT Program. ICE federal interagency partners include the Department of State, Department of Justice (DOJ), Bureau of Prisons, Executive Office for Immigration Review, Executive Office of United States Attorneys, U.S. Marshals Service and FBI CJIS Division. Appendix B contains acronyms and abbreviations frequently used in the SC initiative.

IV. STATE IDENTIFICATION BUREAU (SIB) RESPONSIBILITIES

- A. The SIB responsibility under this MOA begins when the LEA submits a Criminal Answer Required (CAR) request, as appropriate according to CJIS procedure, to SIB of the state in which the individual is being booked. SIB will then electronically send the fingerprints to the FBI CJIS Division. Receipt of the CAR will initiate a search of both IAFIS and US-VISIT IDENT. However, National Fingerprint File (NFF) states send fingerprints to the FBI CJIS Division only at the time of the initial arrest. Second or subsequent criminal bookings in the NFF states result in a Criminal Print Ident (CPI) file maintenance message to the FBI CJIS Division. In the case of a subsequent arrest for a National Fingerprint File (NFF) state, SIB will forward a CPI file maintenance message instead of a CAR to FBI CJIS Division. There is no change in IAFIS processing.
- B. If there is a match in IDENT, CJIS transmits the search results in a joint IDENT Data Response (IDR) and Immigration Alien Response (IAR) to the SIB. The SIB will in turn relay that response to the local LEA unless the SIB does not have the technical capability to do so. A “no match IDR” will be generated when a match is not found in IDENT.

V. ICE RESPONSIBILITIES

ICE will prioritize the processing of aliens convicted of Level 1 offenses. ICE will detain and seek to remove Level 1 offenders after the completion of the

individual's sentence. For those aliens who have prior Level 1 convictions that are discovered during the booking process, ICE will initiate steps to take such individuals into custody for removal based on their prior Level 1 conviction(s) as well as current charges, once the charges have been adjudicated.

- A. Once fingerprint information is received by IAFIS, it will be cross-checked against the DHS US-VISIT IDENT system.
- B. Upon receipt of an Immigration Alien Query (IAQ) from the FBI CJIS Division that there has been a match with the subject's fingerprint in IDENT, ICE Law Enforcement Support Center (LESC) will conduct an immigration status determination.
- C. When an alien is identified as having prior Level 1 convictions and is subject to removal or is currently charged with a Level 1 offense and is subject to removal, ICE will take the alien into custody after completion of the individual's sentence or when released from local custody and will institute removal proceedings, as necessary.
- D. ICE will rely on establishing in the field a "24/7" IDENT/IAFIS Interoperability response capability and may utilize video conferencing (VTC) to streamline the process of identifying and removing aliens convicted of a serious criminal offense.

VI. 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 the Section (below): MODIFICATIONS AND TERMINATION.

VII. 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 point of contact (POC). If a resolution cannot be reached at this level, the disagreement will be raised to the agency level in accordance with component procedures.

VIII. 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 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.

Use of IDENT/IAFIS for the purposes of racial and/or ethnic profiling or other activity in violation of the Fourth Amendment of the United States Constitution is not permitted and may result in the suspension of the local jurisdiction engaged in the improper activity. ICE reserves the right to take appropriate remedial action if necessary.

IX. 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.

X. RELEASE OF INFORMATION TO THE MEDIA AND OTHER THIRD PARTIES

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. It is ICE practice to provide a copy of this MOA to requesting media outlets only after both parties have signed the MOA. Local LEAs are authorized to do the same. However, the release of statistical information regarding the SC initiative will be coordinated with the ICE Public Affairs Office POC identified in Appendix D.

SIB hereby agrees, to the extent authorized by law, 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 C.

XI. SUMMARY OF ICE AND STATE LAW ENFORCEMENT AGENCY RESPONSIBILITIES

This MOA does not, nor is it intended to, nor shall be construed 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: _____

Date: _____

Marc A. Rapp
Acting Director, Secure Communities
Immigration and Customs Enforcement

Executive
State Identification Bureau

APPENDIX A

Secure Communities Levels and Offense Categories by NCIC Code

Level 1 Crimes (NCIC Code)	Level 2 Crimes (NCIC Code)	Level 3 Crimes (NCIC Code)
National Security* (0101-0199, 1602, 5204-5299)	Arson (2001-2099)	Military (0201, 2099)
Homicide (0901-0999)	Burglary (2201-2299)	Immigration (0301-0399)
Kidnapping (1001-1099)	Larceny (2301-2399)	Extortion (2102-2199)
Sexual Assault (1101-1199)	Stolen Vehicles (2401-2411, 2499)	Damage Property (2901-2903)
Robbery (1201-1299)	Forgery (2501-2599)	Family Offenses (3801, 3804-3899)
Aggravated Assault (1301-1399)	Fraud (2601-2699)	Gambling (3901-3999)
Threats (1601)	Embezzlement (2701-2799)	Commercialized Sex Offenses (4001-4099)
Extortion –Threat to Injure Person (2101)	Stolen Property (2801-2899)	Liquor (4101-4199)
Sex Offenses (3601-3699)	Damage Property w/Explosive (2904-2906)	Obstructing the Police (4802-4899)
Cruelty Toward Child, Wife (3802, 3803)	Traffic Offenses (5402-5499)	Bribery (5101-5199)
Resisting an Officer (4801)	Smuggling (5801-5899)	Health and Safety (5501-5599)
Weapon (5201-5203)	Money Laundering (6300)	Civil Rights (5699)
Hit and Run (5401)	Property Crimes (7199)	Invasion of Privacy (5701-5799)
Drugs (Sentence >1 year)	Drugs (Sentence < 1 year)	Elections Laws (5999)
		Conservation (6201-6299)
		Public Order Crimes (7399)

***National Security** violations include the NCIC coded offenses of Sabotage, Sedition, Espionage and Treason (0101-0199); Terrorist Threats (1602); and Weapons, Arson/Incendiary Devices and Bombing offenses (5204-5299).

APPENDIX B

Acronyms and Abbreviations

Acronym/Abbreviation	Definition
CAP	Criminal Alien Program
CAR	Criminal Answer Required
CJIS	Criminal Justice Information Services
CPI	Criminal Print Identification
DHS	Department of Homeland Security
DOJ	Department of Justice
DRO	Detention and Removal Operations
FAQ	Frequently Asked Questions
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
OI	Office of Investigations
ORI	Originating Agency Identifier
POC	Point of Contact
SC	Secure Communities
SIB	State Identification Bureau
SOP	Standard Operating Procedures
US-VISIT	United States Visitor and Immigrant Status Indicator Technology

APPENDIX C

Points of Contact

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

For the SIB:

For ICE Detention and Removal Operations (DRO):

For ICE Office of Investigations (OI):

APPENDIX D

Public Information Points of Contact

Pursuant to Section X. of this MOA, RELEASE OF INFORMATION TO THE MEDIA AND OTHER THIRD PARTIES, the signatories will coordinate with the ICE Public Affairs Office regarding release of any information about Secure Communities and/or IDENT/IAFIS Interoperability and agree to coordinate appropriate release of subsequent information to the media regarding actions taken under this MOA. The points of contact for coordinating such activities are:

For the SIB:

For ICE: