

centerforconstitutionalrights  
on the front lines for social justice

November 29, 2011

The Subcommittee on Immigration Policy and Enforcement  
House of Representatives  
B-353 Rayburn House Office Building  
Washington, DC 20515

Dear Chairman Gallegly, Ranking Member Lofgren, and Members of the Subcommittee:

On behalf of the Center for Constitutional Rights, I write to urge termination of the Secure Communities program. The Center for Constitutional Rights (CCR) is a non-profit legal and educational organization committed to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. CCR's work in the United States promotes racial, gender and economic justice.

CCR is committed to increased public and government scrutiny over Secure Communities. This program was implemented under a shroud of secrecy, with little information available in the public record for the first two years of its operation. The information made publically available over the last two years has been altered to fit political considerations and messaging protocols rather than the concerns of families, policy makers and communities nationwide.

For the past year and a half, CCR, along with our co-counsel, have litigated a Freedom of Information Act lawsuit<sup>1</sup> against the Department of Homeland Security (DHS), Immigration Customs Enforcement (ICE), Federal Bureau of Investigations (FBI) and the Executive Office for Immigration Review (EOIR). The documents and raw data produced through this lawsuit have shown gross misrepresentations of the Secure Communities program to the American public, local law enforcement, state governments, and Members of Congress. In her July 11, 2011 Opinion and Order requiring release of a number of key documents, United States District Judge Shira Schiendlin wrote: “[t]here is ample evidence that ICE and DHS have gone out of their way to mislead the public about Secure Communities.”<sup>2</sup> Indeed, the agencies still resist the call for greater transparency and accountability by fighting to keep secret a memorandum dated October 2, 2010, which will shed light on the agencies’ purported legal justification for mandating Secure Communities upon unwilling local jurisdictions.

Civil rights advocates have not been the only voices calling for a change in Secure Communities. Critics of the program include elected officials and local police. The *New York Times* recently called Secure Communities a “discredited dragnet that makes every cop a potential immigration

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<sup>1</sup> For more information on the lawsuit *NDLON v. ICE*, et al., visit our website at: <http://ccrjustice.org/secure-communities>

<sup>2</sup> *NDLON v. ICE*, et al., 10-cv-3488, July 11, 2011 Opinion and Order, at 32.

agent.”<sup>3</sup> These are not unfounded concerns. Last year, Maryland resident Maria Bolanos called the police for help during a domestic dispute and was arrested by local authorities because they often arrest both parties. As a result of the Secure Communities program, she now has a deportation order.<sup>4</sup> Numerous such episodes have driven law enforcement officials such as San Francisco Sheriff Michael Hennessey to state that the program violates the “hard-earned trust” between immigrant communities and police.<sup>5</sup>

CCR is particularly concerned with the ways in which Secure Communities creates an incentive for participating state and local law enforcement agents to engage in racial profiling and pretextual arrests. For example, CCR is currently litigating a class action lawsuit challenging the constitutionality of the New York City Police Department’s (NYPD) “stop-and-frisk” practice, which has led to hundreds of thousands of suspicion-less and race-based stops of Black and Latino New Yorkers.<sup>6</sup> In addition, police departments in Newark, New Jersey, Seattle, Washington, New Orleans, Louisiana and Maricopa County, Arizona, among others, are now under investigation by the Department of Justice for racially discriminatory policies.<sup>7</sup> The combination of discriminatory police practices like “stop-and-frisk” with faulty ICE programs like Secure Communities greatly increases the chances an immigrant will end up with an ICE detainer and in removal proceedings due to an unlawful police encounter. Secure Communities creates a shield for rogue police departments and bad cops.<sup>8</sup>

Most of all, Secure Communities tears apart families and neighborhoods of hard-working immigrants in cities and towns across the country. The governors of Illinois, New York, and Massachusetts have all taken public stands against Secure Communities. Governor Andrew Cuomo of New York, for instance, said the program could negatively impact families, immigrant communities and law enforcement in the state.

Congress has before it federal agencies that continue rapid deployment of Secure Communities despite an outcry against the program and formal requests by states and localities to end or limit participation in the program.<sup>9</sup> We request that the Subcommittee urge DHS to immediately terminate Secure Communities in all jurisdictions, starting with those that have requested to opt out of the program and jurisdictions with a record of racial profiling or where the Department of Justice is actively investigating a pattern or practice of discriminatory policing. In addition, we request that the Subcommittee urge DHS to issue a moratorium on future deployment of Secure Communities to any new jurisdictions until the program is thoroughly investigated.

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<sup>3</sup> Editorial, “An Incremental Change,” *New York Times*, November 18, 2011.

<sup>4</sup> “Domestic Violence Survivor Confronts Secure Communities Director,” *Deportation Nation*, November 11, 2010. Available at: <http://www.deportationnation.org/2010/11/domestic-violence-survivor-confronts-secure-communities-director/>

<sup>5</sup> Michael Hennessey, “Secure Communities destroys public trust,” *San Francisco Chronicle*, May 1, 2011.

<sup>6</sup> More information on CCR’s case *Floyd v. City of New York*, is available at: <http://ccrjustice.org/floyd>.

<sup>7</sup> A total of 18 police departments are currently under investigation by the Department of Justice Civil Rights Division. Kevin Gray, “Justice Department Opens Probe of Miami Police,” *Reuters*, November 17, 2011.

<sup>8</sup> See AartiKohli, Peter L. Markowitz and Lisa Chavez, *Secure Communities by the Numbers: An Analysis of Demographics and Due Process*, The Chief Justice Earl Warren Institute on Law and Social Policy, October 2011, available at [http://www.law.berkeley.edu/files/Secure\\_Communities\\_by\\_the\\_Numbers.pdf](http://www.law.berkeley.edu/files/Secure_Communities_by_the_Numbers.pdf).

<sup>9</sup> Kirk Semple, “Cuomo Ends State’s Role in Checking Immigrants,” *New York Times*, June 1, 2011.

Additionally, we ask Congress to eliminate funding for Secure Communities in the near future, as well as for other programs that use state and local law enforcement agencies to conduct immigration enforcement, such as the Criminal Alien Program (CAP), 287(g), and other ICE ACCESS (Agreements of Cooperation in Communities to Enhance Safety and Security) programs.

Deportations in our country have reached astounding and unprecedented levels. The Center for Constitutional Rights believes that the rights and protections guaranteed by the U.S. Constitution (and international human rights treaties the United States has signed onto) must extend to everyone in the country regardless of their race, national origin, or immigration status.

We look to you to stand with immigrant communities and end the Secure Communities program.

Thank you for your time and consideration. If you have any questions or concerns, please contact Sunita Patel at (212)614-6439 or [spatel@ccrjustice.org](mailto:spatel@ccrjustice.org).

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Baher Azmy". The signature is fluid and cursive, with a prominent vertical stroke at the end.

Baher Azmy  
Legal Director  
Center for Constitutional Rights