



U.S. Immigration
and Customs
Enforcement

The Honorable Jack Markell
Governor of Delaware
Tatnall Building
William Penn Street, 2nd Floor
Dover, DE 19901

AUG 05 2011

Dear Governor Markell:

I write regarding the deployment of Secure Communities in your state. U.S. Immigration and Customs Enforcement (ICE) has long viewed state and local governments as being valuable partners that can serve a helpful role in assisting ICE in fulfilling its responsibilities with respect to immigration matters. Accordingly, we take concerns that have been raised with our immigration enforcement programs very seriously.

I seek to clarify an issue that has been the subject of substantial confusion: whether a memorandum of agreement (MOA) between ICE and a state is necessary to operate the program in that state. ICE has determined that an MOA is not required to activate or operate Secure Communities for any jurisdiction. Once a state or local law enforcement agency voluntarily submits fingerprint data to the federal government, no agreement with the state is legally necessary for one part of the federal government to share it with another part. For this reason, ICE has decided to terminate all existing Secure Communities MOAs.

This change will have no effect on the operation of Secure Communities in your state. ICE will continue to operate Secure Communities for jurisdictions where it is already deployed and will continue to activate the program for new jurisdictions. Of course, we will notify your office prior to the activation of any new jurisdictions for your state. We anticipate that all remaining jurisdictions will be activated by 2013.

I would also like to take this opportunity to highlight some recent improvements to the Secure Communities program. These improvements will better advance our shared goals when it comes to immigration enforcement, namely focusing ICE's limited resources on the removal of individuals who pose a threat to public safety or who have flagrantly violated the nation's immigration laws, and to do so in a way that respects civil rights and civil liberties.

First, we have issued a new memorandum designed to assist ICE agents, officers, and attorneys in ensuring that our limited resources are expended on individuals who meet ICE's enforcement priorities by encouraging the exercise of discretion in appropriate cases that fall outside these priorities. At the direction of the Secretary, we also issued a new policy specifically designed to protect victims of domestic violence and other crimes and to make

certain these crimes continue to be reported and prosecuted. These new memoranda will help ensure that ICE enforcement programs, including Secure Communities, are focused on individuals who fall within ICE's enforcement priorities—priorities that I am confident you share.

In addition, ICE and the Department of Homeland Security's (DHS) Office for Civil Rights and Civil Liberties (CRCL) announced plans for the enhanced civil rights monitoring of Secure Communities based on in-depth statistical analysis of the operation of the program. ICE and CRCL also implemented new training for state and local law enforcement, unveiled a new civil rights complaint process, and revised the detainer form ICE sends to state and local jurisdictions to emphasize the longstanding guidance that state and local authorities are not to detain an individual for more than 48 hours. These measures will help guarantee that Secure Communities is operated in a manner that is fully consistent with all applicable civil rights and civil liberties laws and policies.

Finally, a special task force of the Homeland Security Advisory Council has been created to provide, among other things, recommendations regarding ways ICE could implement changes to the manner in which Secure Communities addresses those arrested for minor traffic offenses. This task force will also explore whether other minor criminal offenses should be handled in a similar manner. These reforms will help better focus Secure Communities on those individuals that meet ICE's enforcement priorities.

Thank you for your attention to our immigration enforcement efforts. ICE welcomes your thoughts about how our immigration enforcement activities operate in Delaware. With these reforms to Secure Communities, I am confident that we can continue to build a productive relationship between ICE and Delaware.

Enclosed is a fact sheet that more fully describes these changes and responds to other questions about the program. If you have any questions or I can be of further assistance, please feel free to contact me at (202) 732-3000.

Sincerely yours,

A handwritten signature in black ink, appearing to read "John Morton", with a long horizontal flourish extending to the right.

John Morton
Director

Enclosure