

What is Secure Communities and How It Affects You

1. What is Secure Communities?

Secure Communities" is a national immigration program that targets noncitizens who are arrested by the police. A local law enforcement authority must agree to implement Secure Communities. It is one of the fastest growing immigration enforcement programs in the country.

2. Do police or local government need to sign an agreement with ICE to sign on to Secure Communities?

Not anymore. ICE unilaterally rescinded all Secure Communities MOAs in August 2011. They claim Secure Communities will be mandatory and online everywhere by 2013. It is not clear whether states can negotiate modified "Secure Communities" programs in their states.

3. How does Secure Communities work?

If you are arrested by police, your fingerprints are taken and forwarded to ICE. The fingerprints are crosschecked with immigration and FBI databases. ICE evaluates each fingerprint scan to see what enforcement action, if any, will be taken against you. Enforcement actions can include arrest by ICE, transfer to ICE custody and/or initiation of removal proceedings.

4. What offenses will trigger Secure Communities?

Every offense (unless your community has worked out a separate agreement). For example, disorderly conduct, assault, trespassing, vandalism, and joyriding are some charges that will be run through the Secure Communities system.

5. When will my fingerprints be forwarded to ICE?

After arrest when you are being booked in the police station. . During booking, the police will interview you, collect detailed biographical information, scan your fingerprints, and take photographs.

6. Will ICE have my fingerprints if my arrest is dismissed or ruled unlawful?

Because your fingerprints are forwarded during booking, ICE will have your fingerprint data even if the charges are dismissed or ruled unlawful.

7. What if the charges are dropped entirely or dropped to a lower offense?

ICE will have your fingerprints because they were transferred when you were booked for your original offense.

8. What if I'm a victim of domestic violence and the police arrests both me and my batterer, but the charges against me are later dropped?

If you are charged with an offense that is not on the list of exemptions, ICE will retain your fingerprints even after the charges are dropped, because they will have been transferred at the time of your arrest and booking. Currently, there is no way to retract fingerprint data once they are forwarded to ICE, even if the charges are ultimately dropped or the arrest was unjustified.

9. How does this affect minors?

ICE did not exclude fingerprints of minors from Secure Communities; practices vary from place to place.

10. What does ICE do after they have my fingerprints?

ICE evaluates each case to see what enforcement action will be taken. Enforcement actions can include arrest by ICE, transfer to ICE custody and/or initiation of removal proceedings. If the database match is inconclusive, ICE agents may attempt to interview you by phone, video or in-person to determine whether you are a noncitizen. After you are booked, ICE agents may ask police to help them collect information

about you so that can determine if you are a noncitizen. You should ask your police department whether they have decided to grant these ICE requests.

Generally, ICE uses a "detainer" to track you within the criminal justice system. A detainer is an ICE form (Form I-247) requesting the police or jail to hold you for an extra 48 hours after your criminal case has resolved or you have been ordered released from jail so that ICE can pick you up. Ask police officers, jail officials, or your criminal defense attorney for a copy of an ICE detainer. If a police or jail holds you longer than 48 hours after your criminal case has ended, then they are holding you illegally. File a complaint with a jail or police. You can file a lawsuit against them.

11. Who is most at risk under the Secure Communities program?

Everyone. People with prior deportation orders, any noncitizen with a criminal conviction or those who have violated the terms of any visa are at very high risk.

Undocumented individuals who entered the country without inspection arguably will not have any fingerprint information in the DHS database although ICE may still decide to interview them.

12. Does this mean that the police or my city is collaborating with ICE?

Yes. Although Secure Communities program is a technology program, ICE must rely on local enforcement agents and jails to collect or forward information about your immigration status that was acquired during booking. This means if the Secure Communities database hit isn't clear, ICE will check-in with your local police or jail to see if they can get more information about your alienage.

13. Is this community policing?

Many police departments view this program as part of their community policing program. ICE asks local enforcement authorities to include it as a community policing initiative. However, many groups believe SC undermines police's community policing policies because it represents collaboration with ICE. Local law enforcement agencies and police chiefs have rejected collaboration between ICE because it erodes public trust. It is already extremely challenging for local law enforcement to work with immigrant communities because of distrust and fear of deportation; this program will further strain these fears. When community members fear law enforcement, everyone is less safe.

14. The local government says Secure Communities is designed to target serious criminals. Does it do so?

Statistically the Department of Homeland Security's own data indicates that the majority of individuals identified through SC were charged with low level offenses. Additionally, the program forwards fingerprints at arrest, not at conviction. (This means that fingerprints are forwarded before the person has been convicted of any crime.)

15. What should I do if ICE tries to interview me while I am in police custody or in jail?

You do not have to speak with ICE agents nor do you have sign any papers. You do not have to answer questions about immigration status. State that you are remaining silent until you speak with your attorney. Make sure you tell your criminal defense lawyer or public defender that ICE has tried to contact you and ask them to evaluate the immigration consequences of any possible plea deal or conviction. Request a copy of the detainer from your criminal defense attorney, police officers or the jail.

16. What if I feel I was targeted for arrest because of my ethnicity or race or experienced other civil rights abuses by police in the name of immigration enforcement?

Contact your local immigrants rights organization or the local ACLU. Write a description as soon as you can after the event, and collect information from witnesses, if any. If you remember the names or badge numbers of the jail or police officers who abused you.