

THE ALL-IN-ONE GUIDE TO

# DEFEATING ICE HOLD REQUESTS

(a.k.a. Immigration Detainers)

# APPENDIX 2

Sample requests for information



# ALL IN ONE GUIDE TO DEFEATING ICE HOLDS

**APPENDIX 2 :      Sample requests for information to police, jails,  
and ICE under state and federal freedom  
of information act laws.**

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**To: Jessica Jacobs**  
**From: Paromita Shah**  
**Re: Questions for DOC and DC MPD on immigration enforcement, detainers and local cooperation**  
**Date: November 3, 2011**

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### **Questions to the Department of Corrections (DOC)**

1. How does the Department of Corrections (DOC) record immigration detainers within their records keeping system? Please describe the coding used in DOC.
2. Please provide a copy of any detainer practices or protocols utilized by DOC. For example, does DOC require that a copy of an ICE detainer form (I-247) remain in the inmate's file or record? Does DOC provide a copy of the ICE detainer to the inmate and/or his/her counsel of record?
3. The immigration detainer activates when the person would "otherwise be released by the criminal justice agency." This means the detainer would be activated at the time the inmate is ordered released by the court, posts bond, the charges are dismissed, or the person completes a sentence. If ICE does not take the person into custody within 48 hours after the detainer is activated, DOC is liable for unlawful custody. (To be in ICE custody, ICE must issue certain custody documents or a charging document called a "Notice to Appear.") In order to ensure that the 48 hour rule is followed, does DOC collect information regarding:
  - a. When the detainer is lodged,
  - b. The actual detainer form, I-247
  - c. For what offense(s) the detainer is issued
  - d. When it is triggered,
  - e. When it expires, and
  - f. The date of the noncitizen's transfer to ICE custody.
4. Please provide a list of everyone who has been held on an immigration detainer in 2010 using the parameters provided in Question 3(a) – 3(f).
5. In response to previous requests on these issues, DOC has referred to Intergovernmental Agreement 160-00-0016 and suggested that ICE automatically assumes custody of individuals in DOC custody 48 hours after they would otherwise be released. However, the law clearly requires a physical transference of custody or the issuance of certain custody documents or charging documents by ICE for this transfer to occur. Has DOC been relying on this Intergovernmental Agreement to assume that individuals under ICE detainers have been taken into ICE custody, without any further action by ICE? If so, is the agency considering training and a change in protocol to address this error?

6. Will DC provide trainings to their officers on detainers and how they operate?
7. Does DOC record the inmate's offense for each detainer that is lodged?
8. Does DOC inform ICE if inmates suspected to be noncitizens are transferred or released?
9. Does DOC allow ICE access to DC inmates? How frequently do ICE agents visit DOC facilities? What DOC protocols and practices do ICE agents follow to speak to DC inmates?
10. Do ICE agents have access to DOC inmate files, use DOC computers or request assistance from DOC personnel when trying to interview DC inmates? Are ICE agents allowed in the detention classification area?
11. Please provide a copy of any and all agreements that DOC has with Department of Homeland Security, Immigration and Customs Enforcement, Customs and Border Patrol or Marshall Services?
12. How does DOC identify noncitizens? What do they rely on to ascertain the inmate is a noncitizen? Is there any other DC agency that provides them with that information?
13. Does DOC routinely provide ICE with a list of all foreign-born inmates? If so, how does DOC ascertain which inmates are foreign born?
14. Is it true that fingerprints of juveniles transferred to adult court are sent to ICE, even without a conviction? How will DOC ensure that they comply with confidentiality issues presented in juvenile cases?
15. Does the Criminal Alien Program operate in DOC?

### **Questions for DC MPD**

1. According to a FOIA document obtained during litigation over the implementation of Secure Communities, DC MPD has already agreed to certain immigration detainer protocols. Please release those detainer protocols. Does DC MPD comply with oral detainers, or oral requests to hold individuals? Does it require that a written form I-247 is in the arrestee's file?
2. Please share any agreements, informal or formal agreements, you have with ICE or the DHS.
3. Please share how DC MPD identifies suspected noncitizens in your custody. 2

4. Please confirm in writing that you have rescinded Police Circular, CIR-03-12.
5. Please describe the types of access DC MPD allows ICE agents to arrestees in their custody. For example, does DC MPD allow ICE agents to interview arrestees when they are in the precinct?



April 6, 2010

**Via U.S. Mail**

Sheriff John McGinness  
Sacramento County Sheriff's Department  
711 G Street  
Sacramento, CA 95814

Re: Public Records Request for Documents Related to Immigration Enforcement and  
Unlicensed Drivers

Dear Sheriff McGinness:

We have received complaints from community members that the Sacramento County Sheriff's Department ("Department") practices disproportionately affect the Latino immigrant community in the Sacramento area. Pursuant to the California Public Records Act (Government Code § 6250, *et seq.*), we request copies of the following records regarding the Department's practices affecting immigrant community members including traffic stops, checkpoints, vehicle impoundments, and any and all collaboration with Immigration and Customs Enforcement ("ICE").

Records covered by this request include, but are not limited to: internal and external correspondence (including email), memoranda, drafts, notes, outlines, policies, procedures, regulations, directives, instructions, orders, bulletins, pamphlets or brochures, scripts, handouts, training manuals, guidances, guidelines, data, technical manuals, technical specifications, analyses, evaluations, reports, summaries, writings, logs and other written records or records by any other means, including but not limited to records kept on computers, computer source and object code, electronic communications, computer disks, CD-Rom, video tapes or digital video disks. We intend the request to include all records with an effective date or dated within the last five years that fall within the following descriptions:

1. All records, reports, evaluations, summaries, analyses, statistical breakdowns, regardless of source, referring or relating to the **current policies and practices** of the Department **related to the citizenship or immigration status, national origin, or place of birth of individuals held in the Department's custody**. This request includes, but is not limited to, records that establish or explain rules, criteria, procedures or guidelines for inquiry, and other documents regarding:

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NANCY PEMBERTON, CHAIRPERSON | M. QUINN DELANEY, LINDA LYE, PHILIP MONRAD, VICE CHAIRPERSONS | DICK GROSBOLL, SECRETARY/TREASURER  
ABDI SOLTANI, EXECUTIVE DIRECTOR | CHERI BRYANT, DEVELOPMENT DIRECTOR | LAURA SAPONARA, COMMUNICATIONS DIRECTOR | ALAN SCHLOSSER, LEGAL DIRECTOR  
MARGARET C. CROSBY, ELIZABETH GILL, JULIA HARUMI MASS, MICHAEL RISHER, JORY STEELE, STAFF ATTORNEYS | NATASHA MINSKER, NICOLE A. OZER, DIANA TATE VERMEIRE, POLICY DIRECTORS  
STEPHEN V. BOMSE, GENERAL COUNSEL



- a. Questioning and/or verification of an inmate's citizenship or immigration status by an officer or employee of the Department;
  - b. Questioning and/or verification of an inmate's national origin or place of birth by an officer or employee of the Department;
  - c. All referrals to and/or communications with ICE regarding inmates in the custody of the Department;
  - d. Use or requests for issuance of immigration detainers by the Department, the time periods inmates are held under immigration detainers and the number of immigration detainers received by the Department;
  - e. Designation of particular employees' job duties with respect to immigration enforcement, verification of an inmate's immigration status or national origin and/or communication with ICE officials;
  - f. Adherence to consular notifications requirements; and
  - g. Training materials relating to any of the above.
2. All records, reports, evaluations, summaries, analyses, statistical breakdowns, regardless of source, referring or related to **coordinated practices, agreements, or policies of the Department and/ or its jails and detention facilities and/ or ICE** related to the immigration status, national origin, or place of birth of detainees and inmates including but not limited to the following:
- a. Presence of ICE officials in the jails or other holding facilities, including formal and informal agreements made between the Department's officers and ICE officials to interview individuals under the Department's custody;
  - b. Implementation or application of Secure Communities system;
  - c. Implementation or application of Criminal Alien Program;
  - d. Number and time of visits made by ICE officials in the Department's jail or detention facilities;
  - e. Sharing of information regarding suspects' or inmates' immigration status, national origin, or place of birth;
  - f. Sharing of the Department's incident reports, booking records, and other records regarding individuals suspected of being foreign born or unauthorized to be in the United States; and
  - g. Transfer of individuals from the Department to another agency's custody, including ICE custody.
3. All records referring or related to funding requested, pending or received under the **State Criminal Alien Assistance Program** ("SCAAP"), including but not limited to the amount of funding received in the last five years, the number of hours recorded and salary expenditures of correctional officers reported for SCAAP funding, and any applications and/ or forms submitted or prepared for the purpose of receiving SCAAP funding or other

related sources of funding from the Department of Homeland Security, ICE, and/ or other state and federal government agencies.

4. All records, reports, evaluations, summaries, analyses, statistical breakdowns, regardless of the source, referring or relating to the Department's policies, practices and activities of **individuals contacted by Department personnel in the field** with respect to their citizenship or immigration status, national origin, place of birth and/or other related proxies for immigration status, such as the lack of an identification card or driver's licenses, including but not limited to the following:
  - a. Questioning individuals about their citizenship, immigration status, national origin or place of birth in the field;
  - b. Contacting, stopping, arresting, interrogating, or detaining individuals based upon their suspected immigration status, national origin, place of birth, and/or related proxies for immigration status;
  - c. Contacting, stopping, arresting, interrogating, or detaining individuals to verify their identification or driver's license;
  - d. Use and/or acceptance of municipal, foreign, or other forms of identification;
  - e. All formal or informal agreements with ICE officers to participate, collaborate, share information, and/or assist in roving patrols, the apprehension of suspects, the creation and implementation of vehicle checkpoints and/or all other related field work;
  - f. Occasions in the last five years in which the Department has engaged in joint law enforcement activities with ICE, including providing back-up for ICE enforcement activities; and
  - g. Use of the National Crime Information Center (NCIC) and/ or other databases for purposes of checking for immigration holds, removal orders or other related warrants that may have been placed on an individual.
  
5. All records, reports, evaluations, summaries, analyses, statistical breakdowns, regardless of the source referring or relating to the Department's policies, practices and activities relating to **vehicle impoundment and/or storage** under Vehicle Code Section 12500, Vehicle Code Section 14602.6 or any other provision of the law, including but not limited to the following:
  - a. Policies, procedures or guidelines for the impoundment or storage of vehicles;
  - b. Data indicating the number of vehicles impounded or stored, the number and types of citations issued, the duration of the impoundment or storage;
  - c. Data indicating the number of vehicles retrieved from impound lots, the resulting fees for vehicles towed pursuant, and the number of vehicles subjected to forfeiture for failure to pay fees or retrieve in time;



- d. Data disaggregated by race and/or the geographic location of the impoundment and/or storage; and
  - e. Records referring or relating to bids, contracts and any formal or informal agreements made by the Sacramento County and /or the Department with towing and impoundment companies.
6. All records referring or relating to the Department's policies and practices with respect to driver's license, sobriety or other **vehicle checkpoints**, including but not limited to all records relating to:
- a. "Avoid the 13" DUI Enforcement Campaign or other checkpoints campaigns;
  - b. Rules, criteria, procedures or guidelines for when, where, and how such checkpoints will be conducted;
  - c. Notices provided to the public of any checkpoint including but not limited to photographs or copies of any signs placed along the streets leading up to them.
  - d. State or federal funding and grant applications, including rules, criteria, procedures or guidelines implemented as a result of the Department having received funding.
  - e. Formal and informal agreements the Department has, may have or has considered having with the California Highway Patrol or with any other federal, state, or local agency regarding the operation of vehicle checkpoints.

Please respond to this request within ten days, either by providing the requested information or by providing a written response setting forth the legal argument on which you rely in failing to disclose each document.<sup>1</sup>

Because the ACLU is a nonprofit organization, we request that you waive any fees that would be normally applicable to a Public Records Act request.<sup>2</sup> If necessary, we will reimburse you for reasonable copying costs not to exceed \$50. If we can provide any clarification that will help identify responsive documents or focus this request, or if you have any questions regarding this request, please contact Amalia Greenberg Delgado at [agreenberg@aclunc.org](mailto:agreenberg@aclunc.org). Thank you in advance for your timely cooperation.

Sincerely,



Amalia Greenberg Delgado  
Attorney

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<sup>1</sup> Gov't. Code § 6255.

<sup>2</sup> See *North County Parents Organization v. Department of Education*, 23 Cal.App.4th 144 (1994).



FOIA Office  
U.S. Immigration and Customs Enforcement  
800 North Capitol St., NW  
5th Floor, Suite 585  
Washington, DC 20536  
ICE-FOIA@ice.dhs.gov  
FAX: 202-732-0660

April 17, 2012

VIA FACSIMILE AND ELECTRONIC MAIL

**RE: Freedom of Information Act Request Regarding Individuals Placed into Removal Proceedings as a Result of Contact with State and Local Law Enforcement Officers in Georgia**

Dear ICE FOIA Unit,

This is a request under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552 on behalf of the Georgia Latino Alliance for Human Rights (GLAHR), the National Day Laborer Organizing Network (NDLON), and the American Civil Liberties Union Foundation of Georgia (ACLU of Georgia) for information regarding individuals placed into removal proceedings as a result of contact with state and local law enforcement agencies in the state of Georgia. We ask that you please direct this request to all appropriate offices and departments within the agency, including, but not limited to, the Atlanta Field Office of Enforcement and Removal Operations.

#### **A. PURPOSE OF REQUEST**

The purpose of this request is to obtain information for the public about individuals placed into removal proceedings as a result of contact with state and local law enforcement agencies in the state of Georgia. This information will enable the public to monitor the growing collaboration between Georgia’s state and local police and federal immigration officials.

Over the past several years, Georgia law enforcement officials have become involved in immigration enforcement efforts to an unprecedented degree. To date, five jurisdictions in Georgia have signed 287(g) Agreements, under which local officers may perform certain functions of federal immigration officials. As of December 2011, the entire state of Georgia has been activated in the “Secure Communities” program. On May 13, 2011, Governor Deal signed into law HB 87, which directs state and local law enforcement officials to conduct routine

immigration status investigations and generally makes the enforcement of federal civil immigration law a matter of primary concern for state and local police.<sup>1</sup>

The effects of this unprecedented degree of local police involvement in immigration enforcement are as yet unknown. Initial reports document disturbing instances of racial profiling and other constitutional violations.<sup>2</sup> Available statistics indicate that a large percentage of individuals transferred to ICE from Georgia law enforcement officials have never been convicted of a crime, raising the question whether there was a legitimate basis for their arrest.<sup>3</sup> The information sought in this request will enable public oversight and monitoring of Georgia's experiment with immigration law enforcement.

## **B. DOCUMENTS REQUESTED**

1. Copies of Form I-213 ("Record of Deportable/Inadmissible Alien") for each individual transferred to ICE following an arrest by state or local law enforcement officials in Georgia between February 13, 2007 and the present. This includes, but is not limited to, all Form I-213s issued between February 13, 2007 and the present for which the location of arrest is in Georgia, the Method of Location/Apprehension is coded OA ("Other Agency"), and the Narrative section mentions a Georgia state or local law enforcement agency.
2. Any data or statistics regarding individuals transferred to ICE following an arrest by state or local law enforcement officials in Georgia between February 13, 2007 and the present. This includes, but is not limited to, data or statistics breaking down these individuals by criminal history, priority "level", race, and/or country of origin.
3. All communications between ICE and Georgia state and local law enforcement agencies between February 13, 2007 and the present on the following topics:
  - The transfer of an individual/individuals from the state or law enforcement agency to ICE
  - Claims of US citizenship by individuals subject to immigration detainers
  - Complaints related to immigration detainers
  - The 48-hour limitation on detention pursuant to an immigration detainer, and any claims that an individual has been detained beyond that limit
  - Crime victims and witnesses
  - Racial profiling
  - "HB 87" (the Illegal Immigration Reform and Enforcement Act of 2011)
4. Copies of all immigration detainers (Form I-247) issued by ICE to a Georgia law enforcement entity on or after January 1, 2011, as well as the records reflecting the following information:

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<sup>1</sup> Some sections of HB 87 have been preliminary enjoined as a result of a lawsuit brought by the ACLU and other organizations on behalf of GLAHR and other plaintiffs. *See GLAHR, et. al., v. Deal*, No. 1:11-CV-1804-TWT, Order (N.D. Ga. June 27, 2011).

<sup>2</sup> *See, e.g.,* ACLU OF GEORGIA, THE PERSISTENCE OF RACIAL PROFILING IN GWINNETT: TIME FOR ACCOUNTABILITY, TRANSPARENCY, AND AN END TO 287(G) (March 2010); ACLU FOUNDATION OF GEORGIA, TERROR AND ISOLATION IN COBB COUNTY: HOW UNCHECKED POLICE POWER UNDER 287(G) HAS TORN FAMILIES APART AND THREATENED PUBLIC SAFETY (Oct. 2009). 9

<sup>3</sup> *See* Secure Communities Nationwide Interoperability Statistics through February 29, 2012, *available at* [http://www.ice.gov/doclib/foia/sc-stats/nationwide\\_interoperability\\_stats-fy2012-to-date.pdf](http://www.ice.gov/doclib/foia/sc-stats/nationwide_interoperability_stats-fy2012-to-date.pdf).

- The date on which the detainer was issued
- The date, if any, on which the detainer was cancelled or lifted, as well as the reason the detainer was cancelled or lifted
- The offense code, if any, and any records describing the meaning of the offense code
- The date (if any) that the subject of the detainer was taken into ICE custody
- The receiving agency, jail, or police department to whom the detainer was sent
- The nationality and/or country of origin of the subject of the detainer

### **C. THE REQUESTERS**

GLAHR is a statewide organization that was created to educate and organize Latinos in their own communities regarding laws and customs with the purpose of obtaining community participation in making decisions to take action in defense of their civil rights, and empower low-income Latinos without regard to their immigration status.

NDLON is a national network of 42 member organizations that works to improve the lives of day laborers in the United States. To this end, NDLON works to unify and strengthen its member organizations to be more strategic and effective in their efforts to develop leadership, mobilize, and organize day laborers in order to protect and expand their civil, labor and human rights. NDLON fosters safer more humane environments for day laborers, both men and women, to earn a living, contribute to society, and integrate into the community.

The ACLU of Georgia is the Georgia affiliate of the national ACLU. Its mission is to advance the cause of civil liberties in Georgia, with emphasis on the rights of free speech, free press, free assembly, freedom of religion, due process of law and to take all legitimate action in the furtherance of such purposes without political partisanship.

### **D. FEE WAIVER**

The requesters are entitled to a waiver of all costs because disclosure of the records sought “is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). Requesters are also entitled to a waiver of all costs because they are representatives of the news media. 6 C.F.R. § 5.11(d)(1).

The records sought here will significantly contribute to public understanding of collaboration between Georgia state and local police and ICE. Moreover, as nonprofit, nonpartisan organizations, GLAHR, NDLON and the ACLU of Georgia are well situated to disseminate the information gained from this request to the general public.

GLAHR plans to disseminate information obtained as a result of this FOIA by means of its daily live radio programming, heard in Atlanta on AM Radio 1310 and throughout the world online by way of the GLAHR website, [www.glahr.org](http://www.glahr.org).

In addition, in accordance with their general practice, NDLON and the ACLU of Georgia plan to disseminate records disclosed as a result of this FOIA request to the public. Both NDLON and the ACLU of Georgia routinely obtain information about government activity

(including through FOIA requests), analyze that information, and widely publish and disseminate that information to the press and to the public in a variety of ways.<sup>4</sup>

For example, the ACLU of Georgia publishes a biweekly electronic newsletter, which is distributed to subscribers (both ACLU members and non-members) by e-mail.<sup>5</sup> The ACLU of Georgia also publishes, analyzes, and disseminates information through its heavily visited website, [www.acluga.org](http://www.acluga.org). The website addresses civil rights and civil liberties issues in depth, provides features on civil rights and civil liberties issues in the news, and contains many thousands of documents relating to the issues the ACLU focuses upon. The website includes features on information obtained through the FOIA.<sup>6</sup> In addition, the ACLU of Georgia also regularly publishes books, “Know Your Rights” materials, fact sheets, and educational brochures and pamphlets designed to educate the public about civil liberties issues and government policies that implicate civil rights and liberties.<sup>7</sup>

Finally, public records disclosed as a result of this FOIA request will also be published, analyzed, and disseminated on the websites of GLAHR, NDLO, and the ACLU of Georgia. These websites reach wide, diverse audiences, and are visited by many thousands of visitors each month.

## E. EXPEDITED PROCESSING

Expedited processing of this request is necessary both because there is a “compelling need” for the information, 5 U.S.C. § 552(a)(6)(E)(i)(I), and because there is “[a]n urgency to inform the public about an actual or alleged federal government activity” and, as described above, the request is “made by a person primarily engaged in disseminating information.” 6 C.F.R. § 5.5.

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<sup>4</sup> For examples of analysis, publication, and dissemination of information by the ACLU of Georgia, *see, e.g.*, AZADEH SHAHSHAHANI, ACLU OF GEORGIA, THE PERSISTENCE OF RACIAL PROFILING IN GWINNETT, TIME FOR ACCOUNTABILITY, TRANSPARENCY, AND AN END TO 287(G), Mar. 2010, *available at* <http://www.acluga.org/gwinnettracialreportfinal.pdf> (describing incidents of racial profiling that have occurred under the auspices of Gwinnett County’s 287(g) agreement); ALEXANDRA STANCZYK, ACLU OF GEORGIA, BEST PRACTICES FOR DISMANTLING THE SCHOOL TO PRISON PIPELINE, Aug. 8, 2007, *available at* <http://www.acluga.org/docs/schooltoprison.pdf> (describing trends in public education and juvenile justice disproportionately affecting people of color that result in high incarceration rates among youths).

For examples of analysis, publication and dissemination of information by NDLO, *see, e.g.*, [www.uncoverthetruth.org](http://www.uncoverthetruth.org); RESTORING COMMUNITY: A NATIONAL COMMUNITY ADVISORY REPORT ON ICE’S FAILED ‘SECURE COMMUNITIES’ PROGRAM, *available at* <http://altopolimigra.com/s-comm-shadow-report/>.

<sup>5</sup> Archived copies of the newsletter can be viewed here: <http://archive.constantcontact.com/fs022/1102424221285/archive/1102688938336.html>. The electronic newsletter is also posted on the ACLU of Georgia’s website, [www.acluga.org](http://www.acluga.org), and Facebook page, [www.facebook.com/pages/ACLU-of-Georgia/116855228000](http://www.facebook.com/pages/ACLU-of-Georgia/116855228000).

<sup>6</sup> *See, e.g.*, Press Release, ACLU Sues Pentagon for Documents on Peace Groups, June 14, 2006, *available at* <http://www.acluga.org/docs/docket/SpyFiles/PentagonSpyFileNatlPressRelease.pdf> (describing FOIA request for documents relating to surveillance of domestic groups and activists involved in protests). *See also* Press Release, ACLU Intervenes In Georgia Voting Rights Act Challenge, July 7, 2010, *available at* <http://www.acluga.org/news/2010/07/07/aclu-intervenes-in-georgia-voting-rights-act-challenge/> (describing the intervention of the ACLU of Georgia in a challenge to Georgia state voting practices under Section 5 of the Voting Rights Act).

<sup>7</sup> *See, e.g.*, ACLU OF GEORGIA, GET YOUR VOTE BACK, *available at* <http://www.acluga.org/voting.rights.html> (providing information on how to register to vote following conviction for a felony).

The public has a pressing interest in obtaining information about the effects of Georgia's unprecedented level of participation in immigration enforcement. Currently, little is known about how the increasing collaboration between Georgia police and ICE is affecting police work in Georgia. Similarly, little is known about how Georgia's increasing involvement in immigration enforcement is affecting federal immigration enforcement efforts. Information responsive to this request will shed light on these questions of significant public concern.

## F. CERTIFICATION

The Requesters certify that the above information is true and correct to the best of the Requesters' knowledge. *See* 6 C.F.R. § 5.5(d)(3).

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If this request is denied in whole or in part, we ask that you justify all redactions by reference to specific FOIA exemptions. Please specify the search that was undertaken to locate records responsive to this request. We expect you to release all segregable portions of otherwise exempt material. We reserve the right to appeal a decision to withhold any information or to deny expedited processing or a waiver of fees.

We look forward to your response to our request for expedited processing within ten (10) business days, as required under 5 U.S.C. § 552(a)(6)(E)(ii)(I). Should our request for expedited processing be denied, we expect to receive your response to this request within twenty (20) business days, as required under 5 U.S.C. § 552(a)(6)(A)(I).

If you have any questions regarding the processing of this request, please contact Jessica Karp at 213-380-2214, [jkarp@ndlon.org](mailto:jkarp@ndlon.org), or Azadeh Shahshahani at 404-574-0851, [ashahshani@acluga.org](mailto:ashahshani@acluga.org).

If any records are available in electronic form, please furnish them in electronic form. Please furnish all responsive Records to:

Azadeh Shahshahani  
ACLU of Georgia  
1900 The Exchange SE, Suite 425  
Atlanta, GA 30339

Sincerely,



Jessica Karp  
Staff Attorney  
National Day Laborer  
Organizing Network



Adelina Nicholls  
Executive Director  
Georgia Latino Alliance  
for Human Rights



Azadeh Shahshahani  
National Security/Immigrants' Rights  
Project Director  
ACLU Foundation of Georgia

[ Date ]

[ Custodian's Name ]  
[ County Name ] Sheriff's Office  
[ Address ]

Dear [ Custodian's Name ],

We write to submit a public records request pursuant to Oregon's open records law, Or. Rev. Stat. §§ 192.410 – 192.524. We would like to request a fee waiver or reduction of fees in consideration of the fact that the documents sought for disclosure primarily benefits the public. ORS 192.440.

Specifically, we request access to and a copy of the following documents from the period January 1, 2005 to present:

1. All documents, including intra-agency communications, whether in written or electronic form, that describe any process and/or procedure and/or documentation by which any employee of the XX County Sheriff's Office identifies persons of interest who will be contacted or referred for contact by ICE or CBP authorities, whether at time of arrest, in jail, in court or elsewhere, and procedures for doing so.
2. Any additional policies and procedures, including intra-agency communications, whether in written or electronic form, of the XX County Sheriff's Office relating to immigration enforcement, and/or providing guidance to officers regarding inquiries about immigration status, and/or addressing communication, cooperation and/or collaboration with immigration authorities (ICE and/or CBP).
3. Any and all communications (including emails) between XX County Sheriff's Office and the Bureau of Justice Assistance (BJA), including, but not limited to reimbursement applications submitted pursuant to the State Criminal Alien Assistance Program (SCAAP) Please provide an explanation of how annual amounts requested for reimbursement applications are determined, specifically how your jurisdiction determines the requisite "undocumented aliens" status for otherwise eligible detainees for whom you seek reimbursement.
4. Any and all memoranda, agreements, contracts, communications (including emails) between employees of the XX County Sheriff's Office and the Immigration and Customs Enforcement Agency (ICE) of the Department of Homeland Security (DHS) or the former Immigration and Naturalization Service relating to the Criminal Alien Program, Secure Communities program or any other ICE enforcement action or program, including but not limited to any contracts stipulating the reimbursement paid by ICE for costs to the county 13

for incurred due to detention of immigrants with ICE/immigration detainers placed on them.

5. Any and all records regarding cooperation, agreements, memoranda and statements, and communications between the XXX Sheriff's department and the DHS agencies and subagencies (e.g. ICE, Customs and Border Patrol (CBP), including any and all Intergovernmental Service Agreements (IGSAs) between your office and DHS and/or any of its subagencies.
6. A list of all meetings between the Sheriff's Office and representatives from ICE, BJA, or DHS, including meeting dates, participants, agendas and notes from the meetings.
7. The fixed per diem costs of inmate housing in the XXXX. If this number varies, please provide the monthly average cost for the specified period..
8. The total annual number of people with ICE detainers placed on them for the specified period, and the total number of inmate days, broken down by year.
9. Your office's financial statements, which include the following documents:
  - a. An itemized explanation of revenue received from the Federal government or its agencies.
  - b. Any charges, reimbursements or invoices associated with detaining inmates held under a temporary ICE detainer.
  - c. Any charges billed to or invoiced to ICE, BJA, or DHS for detention and/or transportation services. Please include any reimbursements received from ICE, BJA or DHS for the above-named services
10. A record of all booking and detainee records made or maintained or collected by your office for the specified period, which include:
  - a. Name of detainee
  - b. Date of arrest
  - c. Legal basis for arrest
  - d. Nationality of each person arrested
  - e. Race of each person arrested
  - f. Gender of each person arrested



- g. Date of detainee's release (or expected release) from your office's custody
  - h. Date of temporary ICE detainer, or when I-247 was filed (if applicable)
  - i. Date of detainee's transfer to ICE custody (if applicable).
- .
11. The average length of pre-trial stay for inmates (not including those held on ICE detainees), broken down by month and year beginning January 1, 2004, broken down by original charge:
    - a. no charge more severe than a [LOWEST LEVEL CLASSIFICATION] misdemeanor
    - b. no charge more severe than a [NEXT LOWEST LEVEL CLASSIFICATION] misdemeanor
    - c. no charge more severe than a [NEXT LOWEST LEVEL CLASSIFICATION (if applicable)] misdemeanor
    - d. Felony.
  
  12. The average length of pre-trial stay for inmates (not including those held on ICE detainees), broken down by month and year beginning January 1, 2004, broken down by original charge:
    - a. no charge more severe than a [LOWEST LEVEL CLASSIFICATION] misdemeanor
    - b. no charge more severe than a [NEXT LOWEST LEVEL] misdemeanor
    - c. no charge more severe than a [NEXT LOWEST LEVEL CLASSIFICATION (if applicable)] misdemeanor
    - d. Felony.
  
  13. Records indicating the number of detention personnel who are able to communicate in the Spanish language or any other language, other than English.
  
  14. Records indicating the total number of XX County Sheriff detention personnel.

If you choose to deny this request, please provide a written explanation for the denial including a reference to the specific statutory exemption(s) upon which you rely. Also, please provide all segregable portions of otherwise exempt material. As provided by Oregon law, XX organization will treat a failure to respond within ten (10) days as an effective denial of my request. O.R.S. 192.465. At that time, we will pursue other legal remedies in order to obtain access to the requested records.

We are requesting that the fees for searching and reproduction of the requested documents be waived since these documents are being requested by the nonprofit agency XX to serve the public

interest and will not be used for commercial gain. XX is requesting these documents to better understand and inform the public regarding the relationship between XX County law enforcement officials and the federal agencies tasked with enforcing immigration law. The limited information made public to date has not illuminated the public understanding of the relationship between XX County law enforcement agencies and the federal government.

If your agency does not maintain these public records, please advise us as to who does and include the proper custodian's name and address.

If possible, XX (organization requesting information) prefers to receive all data in electronic format, with the data in an excel database worksheet, any word documents may be provided in .pdf format. If you have questions regarding this request, feel free to contact \_\_\_\_\_ (name and contact information).

Thank you for your assistance.

Sincerely,

[ Name ]  
[ Member Organization ]  
[ Address ]  
[ Phone Number ]



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September 9, 2011

U.S. Immigration and Customs Enforcement  
Freedom of Information Act Office  
500 12th Street SW, Stop 5009  
Washington, D.C. 20536-5009

To Whom It May Concern:

This is a request under the Freedom of Information Act, 5 U.S.C. Sec. 552 (“FOIA”), on behalf of the National Immigration Law Center and the Coalition for Humane Immigrant Rights of Los Angeles, for information regarding the implementation of Immigration and Customs Enforcement’s ACCESS programs in Los Angeles County.

Purpose of Request

The purpose of this request is to obtain information for the public about collaboration between Immigration and Customs Enforcement (ICE) and the Los Angeles County Sheriff’s Department (LASD) and Los Angeles Police Department (LAPD) on matters of federal immigration enforcement. The role of the LASD and LAPD in immigration enforcement has been the subject of increasing public controversy in Los Angeles. The controversy echoes a debate on the proper role of local police in immigration enforcement that is taking place across the state and the country. The information requested herein is necessary to ensure that the debate in Los Angeles on this pressing and important issue is an informed one. Your prompt compliance is requested in order to vindicate the public’s right to be part of “an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption, and to hold the governors accountable to the governed.” *NLRB v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1979).

Request

We request the following Records.<sup>1</sup> Unless otherwise indicated, the relevant time period for this request is January 1, 2005 through the present.

**A. Polices and Procedures**

1) *General Records on all ICE ACCESS Programs in Los Angeles*

Policies, operating procedures, rules, internal policy guidance, training materials, and legal opinions or memoranda provided to the Los Angeles Sheriff’s Department

<sup>1</sup> The term “records” as used herein includes but is not limited to all records or communications preserved in electronic or written form, including but not limited to correspondence, documents, data, videotapes, audio tapes, faxes, files, e-mails, guidance, guidelines, evaluations, instructions, analyses, memoranda, agreements, notes, orders, policies, procedures, protocols, reports, rules, technical manuals, technical specifications, training manuals, or studies.

(LASD) or the Los Angeles Police Department (LAPD) referencing Secure Communities, the 287(g) Program, the Criminal Alien Program, and/or other ICE ACCESS programs in effect in the city and county of Los Angeles County.<sup>2</sup>

2) *Secure Communities Records*

- a. Implementation—Records regarding the implementation or “activation” of Secure Communities in Los Angeles, including<sup>3</sup> internal communications, communications with the LASD and/or LAPD referencing such implementation/activation.
- b. Inquiry and Response Procedures—Policies, operating procedures, rules, internal policy guidance and training materials provided to the LASD and/or LAPD regarding Secure Communities’ Inquiry and Response Procedures, including the processing of Immigration Alien Responses and IDENT Data Responses.<sup>4</sup>
- c. Prioritization—Policies, operating procedures, rules, internal policy guidance, training materials and memoranda provided to the LASD and/or LAPD referencing enforcement priorities in the Secure Communities program, including but not limited to the Secure Communities “levels” and “offense categories.”<sup>5</sup>

3) *287g Program*

- a. Renewal—Records regarding the negotiations for and the signing of the renewed 287(g) Memorandum of Agreement (the MOA) between ICE and the County of Los Angeles on October 12, 2010, including internal communications and communications with the LASD.
- b. Post-Conviction—Records referencing a requirement that LASD 287(g) deputized officers<sup>6</sup> conduct immigration interviews on a post-conviction basis only. Such records should include any policies, operating procedures, rules, internal policy guidance, and training materials discussing the post-conviction requirement.

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<sup>2</sup> ICE ACCESS Programs are ICE initiatives to collaborate with local law enforcement agencies on matters of federal immigration enforcement. They include: Asset Forfeiture/Equitable Sharing; Border Enforcement Security Task Force (BEST); the Criminal Alien Program; Customs Cross-Designation (Title 19); Document and Benefit Fraud Task Forces; Fugitive Operations; Intellectual Property Rights (IPR) Center; Law Enforcement Support Center (LESC); Operation Community Shield; Operation Firewall; Operation Predator; Rapid REPAT, Secure Communities, and the 287(g) program. *See* ICE ACCESS at <http://www.ice.gov/access/>.

<sup>3</sup> As used throughout this request, the word “including” means “including, but not limited to.”

<sup>4</sup> An Immigration Alien Response is ICE’s determination of a subject’s immigration status. An IDENT data response is a compilation of biographical information on a subject, which is drawn from Department of Homeland Security (DHS) databases. Whenever a fingerprint submitted by LACSD produces a “match” in DHS databases, the FBI should forward an Immigration Alien Response and an IDENT data response to the California Department of Justice Bureau of Criminal Identification and Information, which should then forward both to the LACSD. *See* Secure Communities Standard Operating Procedures at 4-5 [Appendix A].

<sup>5</sup> *See id.* at 9 (describing levels and offense categories).

<sup>6</sup> “287(g) deputized officer” means any LACSD officer authorized to perform immigration functions pursuant to LA County’s 287(g) Memorandum of Agreement. *See* 287(g) Memorandum of Agreement [Appendix B].

- c. Interview Selection Process—Records related to the selection of individuals for interview by LASD 287(g) deputized officers. Such records should include policies, operating procedures, rules, internal policy guidance, and training materials relating to how individuals are selected for interview.
- d. Interviews—Records related to the timing and content of immigration interviews conducted by LASD 287(g) deputized officers, including guidance for 287(g) deputized officers and policies governing interviews.
- e. Training Materials—Records provided to LASD officers through the 287(g) training program, also known as the “Immigration Authority Delegation Program (IADP).”<sup>7</sup> Such Records should include materials provided during the initial training as well as materials provided during later follow-up trainings.
- f. Program Reviews—Records distributed at review and assessment meetings between the ICE Field Office Director and LASD personnel, including individual participants’ evaluations, media coverage, and statistical information on immigration enforcement activity in the Los Angeles Field Office area of responsibility.<sup>8</sup>
- g. IDENT/ENFORCE Audit—Records related to the review and auditing of entries and records made by LASD officers in the IDENT/ENFORCE computer system.<sup>9</sup> Such records should include communications between ICE and LASD regarding errors as well as plans to correct, modify, and prevent the recurrence of errors.

#### 4) *Criminal Alien Program (CAP)*<sup>10</sup>

- a. Interview Selection Process—Records related to the selection of individuals for immigration interviews by CAP officers operating in jails run by the LASD and/or LAPD. Such records should include policies, operating procedures, rules, internal policy guidance, and training materials relating to how individuals are selected for interview.
- b. Interviews—Records related to the timing and content of immigration interviews by CAP officers operating in jails run by the LASD and/or LAPD.

#### 5) *Immigration Detainers*<sup>11</sup>

- a. Records containing guidance, procedures, or standards provided to LASD and/or LAPD regarding responses to and compliance or non-compliance with the federal Form I-247, “Immigration Detainer - Notice of Action.”

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<sup>7</sup> See *id.* at 17-18 (describing training program).

<sup>8</sup> See *id.* at 9 (mandating and describing program reviews).

<sup>9</sup> See *id.* at 20 (mandating and describing review and audit process).

<sup>10</sup> CAP is an ICE ACCESS Program, *see supra* note 1, designed to identify, process, and remove “criminal aliens” found in state or local jails. See <http://www.ice.gov/criminal-alien-program/>.

<sup>11</sup> “Immigration Detainers” include all I-247 Forms as well as any other requests to hold an individual upon completion of his or her criminal proceedings, or to notify ICE of his or her release, in order that he or she may be transferred to or investigated by ICE.

- b. Records containing guidance, procedures, or standards provided to LASD and/or LAPD regarding the issuance of immigration detainers by 287(g) deputized officers, including a copy of the immigration detainer form typically issued by 287(g) deputized officers in Los Angeles County, with any identifying information redacted.
- c. Records containing guidance, procedures, or standards provided to LASD and/or LAPD regarding the notification of detained individuals and their attorneys upon the placement of an immigration detainer.
- d. Records provided to LASD and/or LAPD referencing the impact of immigration detainers on criminal bond procedures or decisions.
- e. Records provided to LASD and/or LAPD explaining the process for challenging or lifting an immigration detainer.
- f. A copy of the Form I-247 Immigration Detainer – Notice of Action form typically sent by ICE to LASD and/or LAPD, with any identifying information redacted.

## **B. Data and Statistical Information**

Records containing data or statistics relating to the following in Los Angeles County: Criminal Alien Program, the 287(g) Program, the Secure Communities Program, and the detention of individuals on Immigration Detainers. Such records should *not* include documents from individual files, such as I-213s, I-862 or I-247s for specific individuals. Such records should include:

### 1) Overall Statistics

Records that contain data or statistical information on the total number of individuals in the custody of the LASD and/or LAPD who received Immigration Detainers and/or were transferred to ICE under the Criminal Alien Program, the 287(g) Program, and/or Secure Communities. These records should be provided in the aggregate as well as by any available sub-categories.

### 2) Immigration Alien Responses (IARs) and IDENT Data Responses (IDRs)

Records that contain data or statistical information on Immigration Alien Responses, IDENT Data Responses, and “no match” messages received by LASD and/or LAPD during the period from the activation of Secure Communities through the present, or any sub-period thereof.<sup>12</sup> These should also include Records that contain data drawn from such Immigration Alien Responses, IDENT Data Responses, and “no match” messages, including any analysis or breakdown thereof.

### 3) Form I-213, Record of Deportable/Inadmissible Alien

Records that contain data or statistical information on Form I-213's issued by LASD 287(g) deputized officers from the initiation of LASD's 287(g) agreement through the present, or any subperiod thereof. These should include data on the number of

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<sup>12</sup> Under Secure Communities, LACSD should receive Immigration Alien Responses and IDENT data responses whenever an arrestee's fingerprints are run through DHS databases and a match for the fingerprints is found. LACSD should receive “no match” messages whenever no match is found. *See supra* note 4; Secure Communities Standard Operating Procedures at 4-5.

such forms issued. These should also include any Records that contain data drawn from such I-213s, including any analysis or breakdown thereof.

4) Form I-862, Notice to Appear

Records that contain data or statistical information on Form I-862's issued by LASD 287(g) deputized officers from the initiation of LASD's 287(g) agreement through the present, or any subperiod thereof. These should include data on the number of such forms issued. These should also include any Records that contain data drawn from such I-862s, including any analysis or breakdown thereof.

5) Immigration Detainers

Records that contain data or statistical information on Form I-247 Immigration Detainers lodged against individuals in the custody of the LASD and/or LAPD from January 2005 through the present, or any sub-period thereof. These should include records that contain data on the number of such forms issued. These should also include Records that contain data drawn from such I-247s, including any analysis or breakdown thereof.

6) Demographic Data

Records that contain data or statistical information on the race, nationality, ethnicity, sex, and/or place of birth of:

- a. Subjects of Form I-247 Immigration Detainers in Los Angeles County.
- b. Subjects of Secure Communities Immigration Alien Responses, IDENT data responses, and "no-match" messages in Los Angeles County.
- c. Individuals selected for interview by LASD 287(g) deputized officers
- d. Individuals issued Notices to Appear by LASD 287(g) deputized officers
- e. Individuals selected for interview through the Criminal Alien Program in Los Angeles County

7) Criminal History Data

Records that contain data or statistical information on arresting agencies, arresting charges, booking charges, ultimate disposition of charges, and/or criminal histories of:

- a. Subjects of Form I-247 Immigration Detainers in Los Angeles County
- b. Subjects of Secure Communities Immigration Alien Responses, IDENT data responses, and "no-match" messages in Los Angeles County
- c. Individuals selected for interview by LASD 287(g) deputized officers
- d. Individuals selected for interview through the Criminal Alien Program in Los Angeles County

8) U.S. Citizens

Records referencing any claims of U.S. citizenship by subjects of Immigration Detainers or Secure Communities Immigration Alien Response/IDENT data response “match” messages in Los Angeles County.

9) Revenue and Expense Information

- a. Any records related to expenses attributable to the 287(g) program in Los Angeles County that are born by the LASD, including:
  - i. Personnel expenses, including salaries and benefits, local transportation, and official issue material.<sup>13</sup>
  - ii. The cost of any necessary cabling and power upgrades, and/or installation and recurring costs associated with communication lines in order to run the program.<sup>14</sup>
  - iii. Any agreements to provide ICE with offices within participating LASD facilities.<sup>15</sup>
- b. Any records related to expenses attributable to Secure Communities in Los Angeles County that are born by LASD and/or LAPD, including:
  - i. Personnel expenses.
  - ii. The cost of any required technological or communication upgrades to run the program.
- c. Any records related to expenses attributable to the Criminal Alien Program in Los Angeles County that are born by LASD and/or LAPD, including:
  - i. Personnel expenses.
  - ii. Office space or materials provided by LASD or LAPD to assist ICE in implementing CAP.
- d. Any records related to costs born by LASD and/or LAPD related to holding individuals on immigration detainers who were identified under Secure Communities, 287(g), or CAP.
- e. Any records related to reimbursement from the federal government to the LASD and/or LAPD for the cost of holding individuals on immigration detainers who were identified under Secure Communities, 287(g), or CAP.
- f. Any and all State Criminal Alien Assistance Program applications submitted by the LASD or LAPD.

Fee Waiver

The Requesters are entitled to a waiver of all costs because the information sought “is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the [Requesters’] commercial interest.” 5 U.S.C. § 552(a)(4)(A)(iii); *see also* 6 C.F.R. § 5.11(k) (records furnished without charge if the information is in the public interest, and disclosure is not in the commercial interest of institution).

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<sup>13</sup> *See* 287(g) Memorandum of Agreement at 5.

<sup>14</sup> *See id.*

<sup>15</sup> *See id.*



The Requesters are non-profit organizations who have no commercial interest in this matter. As described below, ICE programs in Los Angeles are currently the subject of heightened controversy and interest. Despite this heightened interest, there is a paucity of information about how these programs are implemented in practice at LASD and LAPD facilities and about the costs, scope, and impact of these programs. This information requested herein will contribute significantly to the public understanding of these programs.

The Requesters will make any information that they receive as a result of this FOIA request available to the public, including the press, at no cost. Disclosure in this case therefore meets the statutory criteria, and a fee waiver would fulfill Congress' legislative intent in amending FOIA. See *Judicial Watch Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be 'liberally construed in favor of waivers of noncommercial requesters.'").

### **Expedited Processing**

Expedited processing of this request is required because there is a "compelling need" for the information. 5 U.S.C. § 552(a)(6)(E)(i)(I). A "compelling need" is established when there exists an "urgency to inform the public concerning actual or alleged Federal Government activity," when the requester is a "person primarily engaged in disseminating information," 28 C.F.R. § 16.5(d)(1)(iv), and also when there exists "a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence, 28 C.F.R. § 16.5(d)(1)(ii).

There is currently an "urgency to inform the public" concerning ICE ACCESS programs in Los Angeles. Moreover, the information requested herein is a "matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affected public confidence." 28 C.F.R. § 16.5(d)(1)(ii).

Nationally, Secure Communities is the subject of widespread controversy. On July 11, 2011, the Department of Homeland Security Office of Inspector General began a wide-ranging audit of the program. The investigation was requested by Congressmember Zoe Lofgren, who was concerned about the misrepresentations and "lies" with which ICE sold Secure Communities to reluctant states and localities.<sup>16</sup> Also on July 11, 2011, a newly established Secure Communities Advisory Task Force began its own review of the program. In addition, a Government Accountability Office investigation of Secure Communities is scheduled to begin shortly, and the House Republicans have announced their intent to hold hearings on the program. The media has followed this controversy closely and the editorial boards of all the country's major newspapers have weighed in on the debate.<sup>17</sup>

In Los Angeles, concerns about the local impact of Secure Communities and other ICE ACCESS are currently the subject of heated debate among local government officials, advocates, and the media. For example, on June 7, 2011 the Los Angeles City Council passed a resolution condemning Secure Communities; on

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<sup>16</sup> Lee Romney, *Congresswoman says federal officials lied about program targeting immigrant inmates*, Los Angeles Times, April 23, 2011

<sup>17</sup> See, e.g., Editorial, *Too Little, Too Late*, NY Times, June 19, 2011; Editorial, *Mission Creep*, Chicago Tribune, April 1, 2011; Editorial, *How to improve an immigration status check*, Washington Post, March 20, 2011.

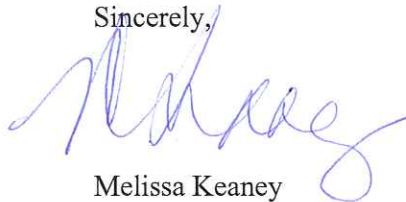
June 30, 2011 advocates, including requesters, protested at LASD headquarters to announce a lawsuit against Los Angeles County Sheriff Baca demanding information about his collaboration with ICE pursuant to the California Public Records Act; and over the course of the past year the Los Angeles Times editorial board has repeatedly featured Secure Communities on its editorial page.<sup>18</sup> The information requested herein is essential to informing and enhancing this ongoing public debate.

**Certification**

The Requesters certify that the above information is true and correct to the best of the Requesters' knowledge. 6 C.F.R. § 5.5(d)(3).

If you have any questions while processing this request, you may direct them to Melissa Keaney, National Immigration Law Center, (213) 674-2820. Please furnish all records to Melissa Keaney, National Immigration Law Center, 3435 Wilshire Blvd., Suite 2850, Los Angeles, CA 90010.

Sincerely,



Melissa Keaney  
Attorney  
National Immigration Law Center

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<sup>18</sup> See, e.g., Editorial, *Let police pursue criminals, not immigrants*, Los Angeles Times, March 11, 2011; Editorial, *Secure Communities program: A flawed deportation tool*, Los Angeles Times, May 23, 2011.