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Justice Cancelled for Immigrant Women



What Advocates and Communities Should Know About the New Law Enforcement Immigration Policies and their Effects on Victims of Violence Against Women and Children.

Update: On August 18, 2011, in response to mounting protests, the Obama administration announced adjustments to the nation's law enforcement immigration programs. While these adjustments will likely bring some relief to select groups of persons arrested for minor offenses, they will likely do little to resolve the

problems being experienced by immigrant victims of violence against women. In addition, the promised changes do nothing to dismantle the Secure Communities program itself, or to bring a halt to its inherent violations of civil rights. We hope this text helps you evaluate and respond to these law enforcement immigration practices in your community, especially as they affect victims of violence against women.

In the last three years, an onslaught of new law enforcement immigration policies has steamrolled across U.S. immigrant communities, trampling rights, and leaving families and communities traumatized and torn asunder. The premier among these policies is the federal immigration program known as 'Secure Communities' which is being steadfastly installed in jails around the country.

Despite widespread outcry against many of the injustices, the harms being suffered by immigrant victims of violence against women have been largely hidden and unexamined. The impacts have nonetheless been devastating! Victims are being summarily denied justice, blocked from access to critical protections, and abandoned to dangerous isolation. Progress on gender based violence in the immigrant communities is being set back by decades.

The following Q&A aims to give advocates, service providers, and community members

an overview of these new law enforcement immigration policies, the commonly voiced critiques, and the specific hidden injustices to victims of violence against women and children. It also provides tips for helping individual immigrant victims, as well as tips for responding to the roots of the injustices.

No matter where you stand on immigration issues, the scale of social disruption and trauma resulting from these law enforcement immigration policies should be of urgent concern to anyone who values justice, safety, and truly secure communities. For immigrant women and children, your voice is more needed than ever.



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1. What is 'Secure Communities'?

'Secure Communities' is a federal immigration program being installed in jails around the country. Under 'Secure Communities', information on all arrested persons is immediately shared with the federal immigration authorities (ICE). Undocumented arrestees are then turned over to ICE, usually within a day or two of their arrests. They are then deported, prior to any determination of their guilt or innocence regarding the crime for which they were arrested. In the first two and a half years of 'Secure Communities' it's

estimated that at least a million individuals have been deported under this program.

Note: Secure Communities is not the only problem!

'Secure communities' is emblematic, and just one of many other recently enhanced law enforcement/immigration practices that are trampling the rights of immigrants, and devastating families and communities. Arizona and Alabama are examples of states that have passed laws even more severe than 'Secure Communities'. But even in states and jurisdictions that have not passed new laws, 'Secure Communities' has given a nationwide green light to biased law enforcement officials everywhere who want to disregard immigrants' rights and sweep them off the street with impunity.

Even if your community has not yet been enrolled in the 'Secure Communities' program, and has not yet passed enhanced enforcement/immigration laws, it is not uncommon in the current climate for local law enforcement to voluntarily engage in seeking out, arresting, and turning over undocumented arrestees to ICE immediately after arrest.

And the worst is on the horizon. In jurisdictions where local officials have stated they will not cooperate with the federal program, federal documents recently obtained in FOIA requests make clear that ICE and FBI programs in the works will soon make it impossible for individual jurisdictions to opt out of these programs.

See **FBI intends to trawl controversial ICE program**

<http://uncoverthetruth.org/press/fbi-intends-to-trawl-controversial-ice-program/>

2. How did law enforcement deal with undocumented suspects and defendants prior to the new law enforcement/immigration policies?

Going back five years, different jurisdictions varied in their response to undocumented suspects and defendants. But a typical response was as follows:

All suspects and defendants, documented or undocumented, would go through the standard criminal justice process up to and including serving out their sentences. In other words, justice was served irrespective of immigration status.

Following completion of sentence, in general, most non-documented individuals convicted

of misdemeanor offenses would be released back into the community. Non-documented individuals convicted of felonies would, in general, be turned over to federal immigration officials and deported.

As such, four important societal goals were met. Justice was served. Families and neighborhoods with minor offenders were not torn apart. Minor offenders were given a second chance. And serious felons were ultimately deported.

3. What are the commonly voiced critiques of Secure Communities?

Civil libertarians, human rights groups, as well as many local law enforcement and public officials have protested loudly against the new law enforcement immigration policies for the following reasons: (This list does not include the severe problems suffered by victims of violence against women and children which we detail in the next section.)



Secure Communities,

- * has resulted in the sudden deportation of close to a million immigrants, a large percentage of whom have not been convicted of any crime, and another large percentage who have been arrested for minor crimes such as traffic violations. In California, for example, over 50% of those deported had not been convicted of any crime and/or have been arrested for minor offenses only.
- * constitutes mass violations of detained persons' fundamental rights, such as the right to be considered innocent until proven guilty, and the rights to due process.
- * has resulted in racial profiling and sweeps by biased law enforcement officials who easily exploit the program as a way to get rid of unwanted immigrants,
- * has broken the trust and cooperation between local law enforcement and immigrant communities, an essential trust many local law enforcement agencies and communities have worked hard to create.
- * has created a police state environment throughout entire immigrant communities, due to the sudden and widespread 'disappearances' of family members, neighbors, co-workers and friends, and due to the intense and globalized fears of any possible contact with police, including an unwillingness of victims and witnesses to deal with police. Many in immigrant communities now fear police more than they fear the criminals.
- * has been put in place in many jurisdictions where local police and public officials have adamantly expressed that they do not want to be part of the program, and sometimes before local officials are even aware the program has been installed,
- * has been a secretive, arbitrary process, with refusal by both federal and local authorities to reveal the terms of their agreements, the factors which determine who is deported and at which point in the process, the make-up of the decision making chain of command, and general and widespread refusals to answer any formal public information requests regarding

the program.

* A June 2011 memo by ICE announcing corrections to the secure communities program has been highly criticized by civil rights groups as mere window dressing, resulting in little, if any, improvement to the problems. The Obama administration's August 19th adjustments may bring some relief to select low level arrestees. But it's important to remember that the Secure Communities program remains fully intact, and continues to be expanded throughout the country.



4. What are the hidden impacts and injustices affecting immigrant victims of violence against women and children?

Many advocates and service providers are already aware of immigrant women's increased fears of reporting violence. The fears are extreme, but they are only one of many other devastating consequences of these law enforcement policies to immigrant victims of violence against women.

These consequences may vary according to differences in how the policies are implemented in your community. Also, as you'll see, some of these consequences occur because the victim is undocumented, some because the perpetrator is undocumented, and, of course, as frequently occurs in the immigrant community, these consequences often take place because both the victim and perpetrator are undocumented.

a. Fear of calling police. Victims and witnesses are more fearful than ever of calling or dealing with police. It does not matter that most police have ongoing policies of not deporting undocumented victims and witnesses. Nor does it matter how much we implore victims to come forward.



The sheer numbers of deportations, and the unpredictability of the deportations, has created such intense globalized traumas, fears, and distrust of law enforcement that immigrant victims of violence against women have been driven back into an extremely dangerous state of absolute silence and isolation. Additionally, because many immigrants do not understand exactly how the system works, and who plays what role, many immigrants have become so fearful, they will not call advocates, crisis centers, and hotlines.

It's critical for advocates and communities to understand that just because you don't see this problem, doesn't mean it doesn't exist in your community. It does exist. As you can see from the nature of the problem, one of its most dangerous aspects is that the worse it gets, the more invisible it becomes.

(For more on how to determine the extent of the problem in your community, see the **section # 5 ~ How widespread are these denials of justice to immigrant women?**)

b. Even if victims do call police, their access to justice is usually abolished. This is because even if the victim does call police, the undocumented suspect/abuser is often deported within one or two days of the arrest, prior to any justice system processing of the cases. (It is unlikely these deportations will be diminished with Obama's proposed August 19, 2011 mitigations, because as suspects of violence, they will be considered a threat to public safety, and hence deportable.)

Depending on which point in the process the suspect is deported, victims' cases may go unreviewed and uncharged by prosecutors, the perpetrator may never answer to charges, there may be no determination of guilt or innocence, no court protection of the victim, and no official validation of her victimization, and, of course, the crimes against her go unsentenced and unpunished. There is no justice!

Without full adjudication victims are often left with nothing; in fact they are left with worse than nothing; not justice, not protection, and with none of the court determinations and validations that are so essential to resolving her critical life issues, such as custody, child support, safety, immigration issues, housing and other victim assistance, regulating or maintaining the children's relationship with the father, separation and divorce, restraining orders, and more.

In other words, Secure Communities is resulting in massive denials of immigrant women's constitutional rights to equal protection of the laws.

c. Many, if not most, deported perpetrators continue their abuse from the home country with impunity. Deported perpetrators of violence against women frequently continue their abuse of the woman in their home country with impunity. They threaten, harass, and intimidate the victim through phone calls. They threaten, harass, and poison

relationships with the victim's family members and associates in their home town. And, as you can easily imagine, the perpetrators do not say they were arrested for violence, they just lament they were deported. They make it impossible for the victim to visit home. In short, the perpetrators easily continue their control and abuse of the victims from across the borders, this time far out of the reach of law.

d. Many deported perpetrators easily return to the U.S., now bolder and angrier than ever. Many, many undocumented perpetrators of violence against women quickly and easily return to the U.S. to hunt down their victims, and escalate the violence and revenge, or seek new victims, and escalate their crimes. These perpetrators are now emboldened by the knowledge that the worst that will ever happen to them is another free trip home compliments of law enforcement.

This problem is particularly rampant when Mexicans are deported from border states since it's so easy for them to return, and since the biggest proportion of deported persons are Mexican nationals to begin with. It is estimated that one out of three persons deported is being deported for the second time.



e. Unreported perpetrators are exploiting the law enforcement/immigration policies as another very effective weapon to use against the victims..

Abusers of immigrant women have always used threats of deportation as part of their system of control and coercion. Not only have all these threats and tactics intensified, the fear they generate in the victims has become more extreme.

Abusers have quickly exploited the new climate, telling women, "If you call police, you'll get deported." "Go ahead, call the police. I'll just tell police you're undocumented, and I'll get you deported."

Perpetrators have also intensified other immigration related tactics; refusing to petition for documents, forbidding victims from going out of the house, from driving, from meeting with teachers, going to church, again with the threats of deportation.

f. Perpetrators know the worst consequence for them is a free trip home. Perpetrators of violence against women who have not been arrested know that even if the victim calls police, the worst that will happen to them is that they'll get a free trip to the homeland, compliments of the police.

g. Police reports in these cases are sometimes worse than useless to victims. When immigrant victims do call police, the reports written by police are frequently sloppier and more inadequate than ever. The police know which perpetrators are likely to be whisked out of the country, and they know the criminal case isn't going anywhere. So many police in these cases aren't bothering to gather even the most minimal evidence.

These sloppy police reports wreak irrevocable havoc in the victims' lives. When perpetrators return they often use these reports as evidence in family court that there's no reason he shouldn't get custody of the kids....and more.

h. Many victims do get deported. Most of you know how sadly common it is for police to arrest the victim in domestic violence cases, whether through error, incompetence, or from pure sexist spite. You also probably know that once these cases get to the prosecutor, or into the court room, the evidence against the victim is usually so shoddy or non-existent that the victim gets released.

Not so now! If the arrested victim is an undocumented immigrant, she is whisked away in deportation along with the other arrestees, within a day or two of her arrest, without due process, and with no opportunity prove her innocence, and no possibility of proving she is the victim. This possibility is just one more reason immigrant women have become so increasingly fearful of calling police.

See Andrea's Story and Alicia's Story here, http://www.justicewomen.com/cj_calltoaction.html

5. How widespread are these denials of justice to immigrant women?

Until recently, we've only able to give our community case examples of these devastating impacts on immigrant victims of gender based violence. We'd been unable to get records, for example, on the number of domestic violence offenders who get deported versus those who don't.

It wasn't until a couple weeks ago, in a chance conversation with a colleague, that we could get a handle on just how widespread the damage is. As you'll see, we can now say with certainty that virtually 100% of victims of non-



Immigrant Rights Rally, Los Angeles, May 1, 2010

documented misdemeanor domestic violence abusers are being denied access to justice. (Misdemeanor domestic violence is the most common violence against women offense.)

Hopefully, you'll be able to use this same method, which we'll describe here, to make a determination in your community.

The colleague we spoke to, call her Andrea, is the only person in our county who gives batterer intervention classes to court ordered abusers in Spanish. Since virtually all persons convicted of misdemeanor domestic violence are required by law to attend these classes, the number of persons in Andrea's classes is a solid indicator of how many monolingual Spanish-speaking persons have been deported prior to completion of the justice system process.

In the period of about 10 years ago, Andrea had up to 8 classes running at a time, with an average of 14 individuals in each class, or a total of 112 convicted monolingual, Spanish-speaking domestic violence offenders.

Today, July 2011, after two years of 'Secure Communities' in our county, Andrea has only two classes of 10 persons each, or a total of 20 convicted Spanish-speaking domestic violence offenders.

All other things being equal, this represents an 82% reduction in the number of monolingual Spanish-speaking persons fulfilling a sentence for misdemeanor domestic violence.

According to Andrea, the few remaining persons in her classes are from the very small population of documented persons who are still monolingual Spanish-speaking. Her classes have been completely emptied of all non-documented persons convicted of domestic violence because they are being deported prior to completion of the justice system process.

We can't say exactly how many of these missing convictions are due to victims' increased fears of calling police in the first place, and how many are due to the immediate deportations following arrest. Nor can we pinpoint how many are being deported at which point in the process. What we can say with certainty is this: **Virtually 100% of these victims of non-documented abusers are being shut out of access to justice by 'secure communities' and other enhanced law enforcement immigration practices. It is mass denial of their constitutional 14th amendment rights to equal protection of the laws.**

Furthermore, the raw number of women this effects is actually much worse than the data above indicate when another factor is taken into account.

In the time 10 to 15 years ago when there were 112 persons in Andrea's classes, Latinos in Sonoma County made up 15% of the population. Today, Latinos in our county make up 25% of the population. (In that time there has been only a minimal increase in the population overall.)

Given this 66% increase in the Latino population in our county, the number of people in Andrea's classes should also have increased by 66%, and should currently be 185 persons, versus the 20 persons that currently attend.

So to make a determination in your community of how many women are being denied justice because of 'Secure Communities', just ask the person, or persons, in your community who give the court ordered batterer intervention classes to non-English speaking individuals. Ask how many attendees there are now versus how many there were five to ten years ago.

6. If the arrested persons are here illegally, why shouldn't law enforcement deport them?

The mass violations of people's justice rights we've already listed are more than sufficient to demand an end to these new law enforcement practices, and a return to prior practices.

But there are other universal principles of justice that are being violated when



undocumented suspects are summarily deported, as well as absurd contradictions in the policies themselves. It's worth understanding just how far these new immigration practices have gone in defying the spirit and core principles of American justice.

*** The worse the offense, the greater the demand for justice. 'Secure Communities' turns that principle upside down.**

Suppose you are mugged and robbed by a person smoking marijuana. Then suppose the justice system then charges that person with smoking marijuana and completely ignores the beating and robbery. You, and anyone, would be incensed by the obvious injustice.

The more severe crime, under all systems of justice, should receive priority processing over less severe crimes. Few things could be more obvious. Yet 'Secure Communities' has turned this principle upside down and made a policy of exactly the opposite. In fact, "unlawful presence" in the U.S., the violation with which undocumented persons are usually charged, is not even a crime. It's a violation of civil law. Yet, under 'Secure Communities' the more serious criminal offenses for which the individual is arrested are being ignored, while the violation of civil immigration law is given the priority response.

And in yet another twist, there is this contradiction. Secure Communities claims its purpose is to deport the most serious offenders. Yet, if an undocumented person is arrested for murder, that person will, in all likelihood, be first tried in a court of law for the murder. And, even more bazaar, if an undocumented murder suspect flees to Mexico, the U.S. will begin proceedings to have the suspect extradited back into the U.S.. There are absurdities at every turn. The arbitrariness, contradictions, and secrecy of how these decisions are made, and by whom, and by what policy, make a mockery of the rule of law.

*** When a criminal flees across the border to avoid justice, he or she is committing another crime of being a 'fugitive from justice'.** Furthermore, anyone who helps a criminal avoid justice by helping them cross the border is committing the crime of 'aiding and abetting a fugitive'. Now we have 'Secure Communities', which, without stretching reality, is a national policy of official 'aiding and abetting' presumed criminals flee across the border and avoid justice.

Many criminals must be laughing the whole expense paid trip home. And those innocent of the crimes for which they were arrested must taste bitter betrayal in the American promises of justice for all, innocent until proven guilty, and due process. And the victims whose perpetrators are deported can't help but see police as collaborators in the crime, and accessories after the fact. In short, Secure Communities is making a mockery of American justice.

*** When officials and communities fixate on the immigration status of their neighbors and community members they lose sight of the critical ways in which all community residents are interdependent irrespective of immigrant status.** For the same reason that all children in your child's school need to be vaccinated regardless of immigration status, all people in your community must have equal access to justice.

*** Criminals thrive where justice is denied.** By bypassing justice, 'Secure Communities' has

created entire sectors of your community where criminals can operate and escalate, knowing the worst that's likely to happen to them is a free trip home.

When a large segment of the community is either afraid of police or disgusted with police, while at the same time a violent criminal element is laughing at police, the effective rule of law in that community is all but suspended. Secure Communities and the other enhanced law enforcement immigration policies have created the exact opposite of what its deceptive name implies. These policies have created very unsafe, insecure communities.

So what's the real purpose of 'Secure Communities'? The real purpose of 'secure communities' is, 1. to save huge amounts of money by denying the entire justice system processes and protections to large segments of our communities, 2. saving even more money in our jails and prisons, and, 3. ridding the country of immigrants under cloak of a program that is made to play on people's fears of criminality. We will not be fooled!

** To see what local law enforcement officials themselves were saying in opposition to these law enforcement immigration policies when they were first being proposed, see page 2 of this document: <http://www.justicewomen.com/Arizona.pdf>

7. What can you do for individual immigrant victims?



The ultimate disaster of these law enforcement/immigration policies is that there is very little you can do to get protection and justice for immigrant victims. The law enforcement immigration policies have to be changed.

Nonetheless, it is tragically certain you will be receiving calls from desperate victims before these policies are changed. We provide the following tips with the confidence that you understand that they are generalizations, and that each case requires consideration of individual circumstances and individual victim's wishes.

When you are called by immigrant victims of violence against women,

1. Right from the beginning, explain your role honestly and clearly. Remember, most immigrants have only a limited understanding of how the justice system works here. They don't know where you fit in, if you're going to report them, or if you're going to take action without their permission.

The only way a woman can make a comfortable decision about how much to trust you is if you clearly and honestly explain your role at the outset.

2. Explain the current law enforcement/immigration policies as they are practiced in your community, again so the victim can make informed decisions. To do this, you need to know

the current policies and practices. Do not depend on police or other officials for this information. Actual practices are often very different from stated policies. The best place to get accurate information is from a local immigrant rights group in your community that is tracking the implementation of these new law enforcement/ immigration practices.

3. If 'Secure Communities' has been installed in your community, you can still feel pretty safe in telling victims they will not get deported if they report a crime against them to police - unless for some reason they end up getting arrested. The best way to prevent the victim from getting arrested is to accompany her in making the report to police.

However, you should also tell the victim that if the abuser is non-documented, the abuser will likely get deported. Again, you need to know how these policies are implemented in your community to best advise the victims.

4. Inform the victim that even though the abuser may get deported, there can be an advantage to making the police report anyway. A police report will likely be her only proof that she has been a victim of violence against women. This can be critical for future resolution of custody, child support, immigration, victim assistance, housing, restraining order, and so many other vital life issues. To be sure, a charging record, or a conviction would be a much stronger validation. But, given that a police report is likely the only thing she's going to get from the system, she should weigh her decision carefully about whether or not to report.

5. If the victim does report to the police, or has reported to the police, obtain a copy of the police report as soon as possible. Go over the police report with the victim to assure that all the evidence was collected, and that her statement was recorded accurately. Remember, when police suspect the perpetrator is likely to get deported, they often write up very shoddy reports. So make sure the police report is solid.

6. If the perpetrator has been arrested and deported, ask the victim if she is concerned about the abuse continuing in her home country? Ask if she is concerned the perpetrator will soon be returning to the U.S.? Offer to talk with family, friends, or officials in her home town to set the record straight, and to enlist support. Make safety plans for her and her children here.

8. What can you do for immigrant victims overall?

a) Be a voice for the victims who have been silenced. Educate your community on how this impacts the safety of everyone. Add your voice and join with your local immigrant rights groups in speaking out, educating, and protesting these new law enforcement immigration policies.

b) Educate the progressive and civil rights groups in your community to the specific injustices befalling immigrant women and children. There are many local and national civil rights groups that are protesting the injustices of new law enforcement immigration practices. But few of them are highlighting, or even aware of, the impacts on victims of violence against women.



c.) Educate law enforcement and other public officials. Many law enforcement officials understand how secure communities has broken the trust, and many themselves have objected to the policies. Some law enforcement officials have outright defied the pressure of federal immigration officials and refused to cooperate.

At the same time, as you can see from the examples we provided above, many more are going along with programs, often without questioning the deeper consequences. So sit down with your local police and district attorneys to detail the consequences of their policies in the immigrant community.

d) Try to get as much information as possible as to how many violence against women perpetrators are getting summarily deported following arrest. Without that information, officials will say it's just an individual case here and there, and community members won't know who or what to believe.

e) Always keep in mind that the worse this situation gets for immigrant victims of violence against women, the more invisible it gets. Your voice now is more important than ever for immigrant victims of violence against women and children.

f) Pressure your District Attorney, Sheriff, and Police Chiefs through public record requests for answers to these and other questions:

- * How many undocumented immigrant arrestees in your community have been turned over to ICE prior to adjudication? In what period of time?

- * How many in each of given crime categories?

- * How many have never been convicted of any crime?

- * Who makes the decisions in individual cases as to whether or not an undocumented arrestee is adjudicated and or turned over to ICE prior to adjudication?

- * What is the chain of command as to who makes these decisions?

- * What is written policy as to which undocumented arrestees in which crime categories are adjudicated and which deported prior to adjudication?

- * Are undocumented persons convicted of a crime required to serve out their sentences?

- * Are undocumented persons who are found 'not guilty' then turned over to ICE?

- * Since within 24 hours of an arrest all police crime reports are logged into the District Attorney's Office, what is the role of the District Attorney in deciding which non-documented arrestees are adjudicated and which turned over to ICE?

g) Share the responses to your public record requests with your local press and other outlets in your community.

h) Demand that domestic and sexual violence suspects should be adjudicated and sentences served prior to any deportation. In addition, local law enforcement immigration

policies should be written, predictable, and open to the public. These policies must assure that Latino victims, witnesses, and suspects are not denied justice, equal protection of the laws, and due process.

9. Updates to come...

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