

**REPORT OF THE  
CHIEF LEGISLATIVE ANALYST**

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DATE: June 7, 2011

TO: Honorable Members of the Information Technology & Government Affairs  
Committee

FROM: Gerry F. Miller *G. Miller for* Council File: 11-0002-S92  
Chief Legislative Analyst Assignment No.: 11-05-0487

SUBJECT: Resolution (Parks – Perry) to SUPPORT state legislation that enables local governments to opt-out of participation in the United States Department of Homeland Security’s Secure Communities program

CLA RECOMMENDATION: Adopt Resolution (Parks – Perry) to include in the City’s 2011-2012 State Legislative Program SUPPORT for legislation to ensure that the U.S. Department of Homeland Security’s Secure Communities program is provided to local governments on a voluntary basis and that local governments may unilaterally opt-out of the Secure Communities program at the discretion of their local legislative bodies; and that the program does not impair the ability of victims to report crimes and concentrates its efforts on truly dangerous criminals that are in the United States illegally.

SUMMARY

On May 24, 2011, Resolution (Parks – Perry) was introduced stating the following:

- The federal government initiated the Secure Communities program in 2008 as a means to identify and deport undocumented immigrants who have been convicted of violent crimes.
- The State of California joined this effort to require police to submit fingerprints of all arrestees for review with federal databases of criminal convictions and deportation orders.
- This once voluntary partnership with the Department of Homeland Security is now, however, embroiled in controversy.
- The State of Washington, State of Pennsylvania, and Washington, D.C. have all refused to enter in a memorandum of agreement with the Department of Homeland Security for the Secure Communities program because the program undermines community policing, public safety and protections against racial profiling.
- Under this program, federal officials have claimed authority to use state and local law enforcement resources for the purpose of channeling individuals into federal civil immigration enforcement based on minimal contact with law enforcement.

- Various police departments have expressed concern that continued participation in the program will have a chilling effect on immigrant willingness to report crimes or provide useful information.
- Secure Communities appears to directly contradict Special Order 40 of the Los Angeles Police Department (LAPD) and the LAPD's relationship with immigrant communities.
- Some jurisdictions have expressed concern that the Secure Communities program has been implemented without adequate notice and without their consultation or consent.

The Resolution, therefore, seeks modifications to the agreement between the State of California and the U.S. Department of Homeland Security regarding implementation of the Secure Communities program that would enable voluntary participation by local jurisdictions and the ability to opt-out of the Secure Communities program at their discretion.

### BACKGROUND

In April 2009, the California Department of Justice entered into a memorandum of agreement with Immigration and Customs Enforcement (ICE) to implement the Secure Communities Program in California counties.

The existing Secured Communities program as developed by the U.S. Department of Homeland Security and ICE requires participating local law enforcement agencies to submit arrestees' fingerprints to ICE and FBI databases: the U.S. Visitor and Immigrant Status Indicator Technology Program (US-VISIT) and the Automated Biometric Identification System (IDENT). The program allows these federal agencies to access arrestees' documented criminal and immigration history. According to ICE, the Secure Communities Program is intended to target dangerous criminals that pose a threat to public safety.

During implementation of the program, however, concerns have emerged based on the impacts to communities that have large immigrant populations. Some of these concerns are that the Secure Communities program:


- Automatically leads to investigation of the immigration background of every individual, citizen or non-citizen, at the time of arrest;
- Has resulted in over 70 percent of deportations under the program of individuals that had no convictions or were accused of minor offenses;
- Erodes the trust between immigrants and local law enforcement because immigrant residents who are victims or witnesses to a crime now fear cooperating with police since any contact can now result in separation from their families and deportation; and
- Unfairly impacts innocent people, victims of crime, and those requesting police assistance in domestic violence incidents.

The LAPD has indicated that it is supportive of Secure Communities to the extent that it takes violent criminals off the streets but if it targets other individuals then the program may serve as an impediment to effective policing.

Based on the above concerns and potential impacts to policing, legislation is necessary to provide municipalities the ability to participate in Secure Communities on a voluntary basis. Further, the Secure Communities program should provide sufficient ability for all crime victims to report crimes to law enforcement without fear or hesitation. This will ensure that the appropriate safeguards are provided for the public to cooperate with law enforcement. It is therefore recommended that the Council adopt the Resolution (Parks – Perry) for inclusion in the City’s Legislative Program.

DEPARTMENTS NOTIFIED

Police Department



Jonathan R. Dearing  
Analyst

GFM:JWG:jrd

Attachment: Resolution (Parks – Perry)

11-0002-592

MAY 24 2011

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and,

WHEREAS, the federal government initiated the Secure Communities program in 2008 as an important tool in the identification and deportation of illegal immigrants who had been convicted of violent crimes; and,

WHEREAS, California joined in this effort where police would submit fingerprints of all arrestees to be reviewed against federal data bases of criminal convictions and deportation orders; and,

WHEREAS, this once voluntary partnership with the Department of Homeland Security is now, however, embroiled in controversy; and,

WHEREAS, Washington, Pennsylvania and Washington, D.C. have all refused to enter in a memorandum of agreement with the Department of Homeland Security regarding the Secure Communities program because the program undermines community policing, public safety and protections against racial profiling; and,

WHEREAS, under this program, federal officials have claimed the authority to use state and local law enforcement resources for the purpose of channeling individuals into federal civil immigration enforcement based on minimal contact with law enforcement; and,

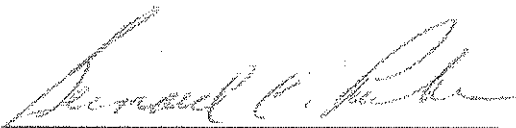
WHEREAS, various police departments have voiced their concern that continued participation in the program will have a chilling effect on immigrant willingness to report crimes or provide useful information; and,

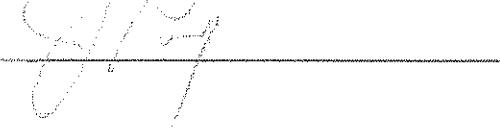
WHEREAS, the Secure Communities program appears to be in direct contradiction with the intent of the LAPD's Special Rule 40 and the Police Departments relationship to the immigrant community; and,

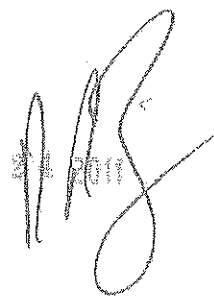
WHEREAS, some jurisdictions have expressed concern that the Secure Communities program has been deployed without adequate notice and without their consultation or consent; and,

WHEREAS, it is incumbent on localities seek to modifications to the agreement between the State of California and the U.S. Department of Homeland Security relative to the implementation of the Secure Communities program to ensure voluntary participation and to provide localities with the ability to opt-out of the Secure Communities program at their discretion;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2011-12 State Legislative Program SUPPORT for legislation to ensure that the U.S. Department of Homeland Security's Secure Communities program is provided to local governments on a voluntary basis and that local governments may unilaterally opt-out of the Secure Communities program at the discretion of their local legislative bodies; and that the program does not impair the ability of victims to report crimes and concentrates its efforts on the truly dangerous criminals that are in the United States illegally.

PRESENTED BY:   
BERNARD C. PARKS  
Councilmember, 8<sup>th</sup> District

SECONDED BY: 

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MAY 24 2011  


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