

Immigration Priorities: Politics or Public Safety

By Sheriff Terry Maketa

At 8:46 a.m., September 11, 2001, our lives and country changed forever when American Airlines, Flight 11, crashed into the North Tower of the World Trade Center. People watched in horror as another commercial jet, United Airlines, Flight 175, crashed into the South Tower. Within an hour, two more planes had been hijacked and turned into deadly weapons: American Airlines, Flight 77, crashed into the Pentagon and United Airlines, Flight 93, crashed into a field in Pennsylvania. In total, 2,976 innocent victims were murdered and another 6,000 plus were injured. Americans were shocked, but their pride and patriotism persevered and as of that day, we made a vow that this would never happen to our homelands again.

With the 9th Anniversary of September 11th only weeks away, our Government, through the 911 Commission, has implemented numerous initiatives to protect our borders and citizens against terrorist and criminal aliens to impede our right to life, liberty and the pursuit of happiness. One of these important initiatives is Secure Communities, which was initiated by President George Bush in December of 2007, and in September of 2009, President Barack Obama signed the Congressional Appropriation into law, which provided \$1.4 billion in funding for Secure Communities for FY 2008, 2009 and 2010. Secure Communities is a strategy to improve and modernize the Immigration and Customs Enforcement's (ICE) approach in identifying and removing dangerous criminal aliens in an accurate and efficient manner. Once a person is booked into custody, biometric technology, in the form of fingerprints, is used to check interoperable databases that include the FBI's Criminal Justice Information System (CJIS) Division and the Department of Homeland Security's (DHS) biometric databases. By including the two DHS databases, law enforcement will have access to over 108 million records and 95% of those records include photos according to DHS. Prior to Secure Communities an electronic search of these 108 million records was not available for local law enforcement.

Following the electronic submission of an arrestee's fingerprints, and if a positive identification is confirmed, ICE is notified and within a few hours they can inform the law enforcement agency whether immigration enforcement action is required. This technology is so important due to the number of aliases used by criminals, as well as the increasing efforts by criminals to forge social security numbers, birth dates, and birth locations. Secure Communities is specifically designed to assist local law enforcement in completing an integrated criminal records check and immigration status check through the use of fingerprints. This initiative is an effort to reduce the opportunity of another 911 attack and keep our citizens and their freedom protected.

Currently, 448 jurisdictions in 25 states are using the biometric information, i.e. finger print sharing technology. This includes all 67 jurisdictions in Florida, 135 out of 260 jurisdictions in Texas, 7 out of 15 jurisdictions in Arizona, 21 out of 58 jurisdictions in California and, in Colorado, **zero** out of 64 jurisdictions. Now why is that? It could be because Governor Bill Ritter has elected to allow politics to interfere with the safety of our citizens. It could be because he is more concerned with offending criminals than protecting law abiding citizens and supporting local law enforcement.

Secure Communities was actually available to Colorado in late 2009, but I was told in confidence, by an insider, that Governor Ritter wanted Denver or Boulder to be the first to go live and they weren't too interested. In February of this year, I was finally contacted by ICE officials to attend a meeting with them, Colorado Bureau of Investigations (CBI) and Arapahoe County Sheriff Grayson Robinson concerning the Secure Communities Initiative. During that meeting, it was discussed that the Governor had to sign the Memorandum of Agreement (MOA) with the Department of Homeland Security and then CBI, which is the State's gateway to Federal Criminal Database Systems, could flip a switch to go live.

I was informed Governor Ritter requested agencies desiring to participate in the Secure Communities Initiative hold a couple public meetings with non-government organizations and solicit feedback as well as obtain letters of support from the Board of County Commissioners (BoCC). Since I sit on the Federal Criminal Justice Information System Advisory Policy Board, I have been exposed to the development, testing and implementation of this system. I am familiar with its capabilities and the challenges it was intended to address. Furthermore, being the only Sheriff's Office in the State with Federal Immigration Enforcement authority, it made perfect sense that the El Paso County Sheriff's Office be among the first agencies in the State to go live with this system. I composed a letter, held three public meetings, received overwhelming support from citizens, and the BOCC unanimously endorsed this effort in writing as well. I was told Governor Ritter would be satisfied that public input was achieved and would sign the MOA allowing the El Paso County Sheriff's Office to go live with this technological initiative. I met all the stated conditions and forwarded the information as requested to the Director of Public Safety, Peter Weir within three weeks. I was told within weeks following my submission, the MOA would be signed and we would go live and actively be sending the fingerprints of nearly all arrestees booked into the El Paso County jail not only to the Colorado Bureau of Investigation and the FBI which is traditional, but also to the ICE IDENT System and the Border Patrol USVISIT System fingerprint database.

Here we are in August, exactly where we were in February and where we stood on 9-11-2001, because our Governor is playing politics with our safety and intentionally blocking local law enforcement from access to records that can identify dangerous criminal aliens. Months later after meeting the requirements set by our Governor, and not the Federal authorities, I am still being stalled and delayed. Recently, I was advised by members of CBI that the Governor's Office has completed his public input sessions and now wants more information. I think this is a glaring example of politics overriding public safety and a lack of leadership to not do what is in the best interest of the citizens of Colorado.

According to DHS, Secure Communities is built on three pillars, **identify** criminal aliens through modern technology, **prioritize** enforcement actions to ensure the apprehension and removal of DANGEROUS criminal aliens, and finally, to **transform** criminal alien enforcement processes and systems to achieve lasting long term results. These are very commonsense approaches and certainly do not target innocent un-documented aliens. However, our Governor disagrees and has bought into the many myths being circulated that are just not true. Imagine the limitation on law enforcement if past Governors played politics with criminal justice systems like the National Crime Information Center (NICIC), the FBI's Integrated Automated Finger-Print System (IAFIS) or the Combined DNA Index System, (CODIS), all of which have been

monumental in aiding local law enforcement in arresting criminals. We should all be asking our Governor this very question.

There are many myths about Secure Communities; the first that it is part of the 287(g) Program, which allows the local Police and Sheriff's office to enforce Federal immigration law. Secure Communities is not part of the 287(g) Program. Secure Communities is simply a tool using biometric technology (fingerprints) to allow local law enforcement to identify criminal aliens that have a history of criminal activities. It is a technology that simply overcame the interoperability of 2 different methods of collecting fingerprints available for an automated electronic search and comparison. That is it and it is something we should have been doing since the inception of searchable electronic fingerprints. If a positive identification has been made, ICE is informed and ICE **will** determine what actions, if any, need to be taken.

Another myth is that Secure Communities opens the door for racial profiling and targets aliens in general. This is completely untrue and unfounded. If anything, Secure Communities reduces the risk of profiling because *anyone* who is booked into the county jail, whether you are White, African American, Mexican, Asian etc., your fingerprints are **automatically checked** against the fingerprint data systems. ICE will be notified only if you have a positive identification. Not all positive identifications have a negative effect. The systems include non-adverse data such as visa applications, asylum and refugee data. If a person only has these non-adverse data hits, then the individual is not considered a criminal alien and will continue on with the normal booking process. The main goal for ICE with Secure Communities is to focus on the Level 1 criminal aliens; the aliens that commit or have committed previous violent crimes including sex offenses, homicide, kidnapping and terrorist activities.

The next myth is that it will create a culture of under-reporting among certain crimes. I would challenge those to prove this theory and compare it to under-reporting that already exists with the victims that are law abiding citizens. The fact is sexual assault is one of the most under-reported crimes due to hesitancy to report by the victim. I believe law enforcement needs the tools that are available, at no local cost, to identify dangerous criminals. We cannot ignore certain acts of crime because it may offend someone or create a perceived situation where a small number of undocumented alien victims would be inclined to not report certain crimes. Whatever happened to doing what's right and in the best interest of the law abiding majority? Secure Communities is a step in the right direction to ensure our community, our basic rights as human beings and Americans are protected against people who have come to this great country and who have in the past and/or who are currently committing malicious crimes against innocent people and communities. We need to make sure another September 11th does not happen again. This starts with working together as a Nation to ensure dangerous previously convicted *criminal* aliens and known terrorists are not allowed to stay in our country.

Secure Communities empowers local law enforcement to work with State and Federal authorities to identify these criminals and to allow the proper authority to remove them in a legal, quick and efficient manner. America needs Secure Communities. Colorado needs Secure Communities. President Obama approved this initiative and our Federal government made a costly investment into this technology. Why can't our Governor give law enforcement the tools it needs to protect you? Should a political lack of prowess override your safety?