



## **Monitoring and Addressing Civil Rights Complaints and Concerns Arising from Transfers to ICE from State or Local Law Enforcement**

- On November 20, 2014, Secretary of Homeland Security Johnson issued a memorandum entitled *Secure Communities*, directing U.S. Immigration and Customs Enforcement (ICE) to discontinue the Secure Communities program and to put in its place the Priority Enforcement Program (PEP).
- PEP relies on fingerprint-based biometric data, submitted during bookings by state and local law enforcement agencies (LEAs) to the Federal Bureau of Investigation, to identify priority aliens in LEA custody for potential enforcement action. PEP and the DHS enforcement priorities serve to significantly limit the potential for civil rights and civil liberties abuses in the identification of individuals in LEA custody for transfer to ICE for potential civil immigration enforcement.
- LEAs may cooperate in the transfer of priority aliens outside the PEP framework as well, as recognized in the *Secure Communities* memorandum. Recognizing the need to support community policing and maintain community trust, Secretary Johnson directed that DHS, pursuant to a plan developed by the Office for Civil Rights and Civil Liberties (CRCL), monitor these activities, including through the collection and analysis of data, to detect inappropriate use to support or engage in biased policing, and to establish effective remedial measures to stop any such misuses.
- CRCL has authority to investigate whether federal immigration enforcement activities, including those initiated based upon criminal arrests by state and local LEAs, may serve as a conduit for improper policing activities by those LEAs. CRCL investigates, identifies, and reports on areas of concern to develop relevant facts and, where necessary, to establish effective remedial measures, with respect to aliens who are transferred to ICE custody following an arrest by an LEA.

### **Identification of Concerns and Monitoring Transfers**

- Civil rights concerns regarding the use of transfers to ICE by state or local LEAs to support or engage in biased policing may come to the attention of ICE or CRCL through several channels, including:

- *Notification of individual complaints:* Allegations of improper LEA conduct that led to an individual’s criminal arrest and subsequent transfer to ICE custody, such as profiling on the basis of race, ethnicity, or limited English proficiency;
  - *Community and public concerns:* External stakeholders, including nongovernmental organizations, advocates, or media representatives, may provide reliable information indicating improper LEA practices; and
  - *Statistical monitoring:* CRCL’s analysis of information routinely collected by ICE may identify patterns or trends consistent with improper police practices, warranting additional review.
- Allegations by the public of this nature should be directed to CRCL’s Compliance Branch (information on filing complaints is at [www.dhs.gov/file-civil-rights-complaint](http://www.dhs.gov/file-civil-rights-complaint)). Where ICE receives an allegation of improper LEA conduct, or identifies information suggesting improper police practices, ICE will refer that information to CRCL.
  - CRCL will regularly monitor (both PEP and non-PEP) transfers from LEAs to ICE for civil immigration enforcement through statistical modeling. CRCL will use information including biometric submission and match data through PEP as well as other ICE data on prioritization of aliens encountered and enforcement actions taken.

### **Assessing and Responding to Civil Rights Concerns**

- CRCL will regularly assess civil rights concerns at the state, county, and individual law enforcement agency levels, using all available and lawful means to identify when concerns arise from allegations of biased policing, misuse of federal information systems, or any other allegation of improper LEA practices that may impact federal immigration enforcement. However, CRCL’s legal and practical authority to investigate the activities of LEAs (as distinct from entities within DHS) is limited.
- Where CRCL develops a concern about transfers by a jurisdiction’s LEAs, it will meet with ICE to consider the basis for the concern and appropriate adaptive or remedial action. The Deputy Secretary of Homeland Security, ICE, and CRCL will collaborate on appropriate responses to significant concerns, with public outreach and engagement wherever feasible.
- If CRCL assesses or develops a good-faith basis to conclude that an LEA participating in transfers to ICE may be in violation of federal civil rights law, including but not limited to 42 U.S.C. § 14141, it will notify the U.S. Department of Justice, Civil Rights Division. CRCL may also communicate similar concerns to state attorneys general or other entities with appropriate jurisdiction.