

The Washington Times

Secure Communities program confusing to FBI

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The Washington Times

Thursday, November 10, 2011

A controversial federal initiative aimed at cracking down on illegal immigrants prompted significant internal confusion among [FBI](#) officials and concern about information-sharing relationships between federal, state, and local governments, emails released Thursday show.

A senior-level [FBI](#) official expressed concerns that the Secure Communities initiative, in which localities share with the [FBI](#) the fingerprints of individuals booked into jails to determine their immigration status, could jeopardize partnerships with local law-enforcement agencies, according to emails obtained through the Freedom of Information Act by a coalition of civil rights groups.

[FBI](#) officials also were concerned about directions regarding the program from the Department of Homeland Security and suggested a review by the U.S. attorney general.

“Whatever else should happen we are stuck in the middle of a nuclear war,” wrote [Jerome M. Pender](#), assistant director of the [FBI](#)’s Criminal Justice Information Services division, in an email dated May 11. “I don’t think we need [Homeland Security] direction, I think we need [attorney general] direction. If we have to decide, I don’t see how we can use the data in a way the owner explicitly bans.”

Locally, jurisdictions have been mixed on their reception to the program, scheduled for nationwide implementation in 2013. All Virginia jurisdictions are participating as are all Maryland jurisdictions with the exception of Montgomery County and Baltimore. The District also has not implemented Secure Communities.

Arlington County experienced confusion last year with the program and adopted a resolution in September 2010 expressing its desire to withdraw. It was told by Immigration and Customs Enforcement, however, that activated communities cannot withhold information but can choose to not learn results of immigration queries.

In the District, police Chief [Cathy L. Lanier](#) has defended the program, though Mayor [Vincent C. Gray](#) last month signed a measure reiterating the city’s policy for officers not to enforce federal immigration laws.

Earlier this year, Montgomery County was weighing potential legal options to block the program from being implemented but eventually adopted a resolution saying that it would comply with the federal government when it decides to implement.

ICE has clarified its policy to say that states and localities cannot opt out of participating, though they can decline to receive the identifications that result from processing fingerprints. The federal government has deported more than 104,000 criminal illegal immigrants identified through the program since 2008.

But Alan Kraut, an American University professor who specializes in the history of immigration, said that such confusion illustrates the lack of a cohesive policy on the part of the federal government.

“When it comes to using people’s identification when there’s not an actual criminal act, it’s about local jurisdictions trying to preserve their autonomy from the federal government. Many communities just don’t want to be used that way.”

[Mr. Pender](#), too, expressed concern about the notion of localities “opting out” of the program, writing that the situation could cause the federal-local information sharing model to “implode.”

Another email suggested that the program would present the division with a dilemma.

An email dated May 10 and addressed to [Mr. Pender](#) and other [FBI](#) officials says the Department of Homeland Security secretary “has publicly stated there is no ‘opt out,’ but we have never heard [if the Department of Justice] will take the same stance.”

“I agree,” replied the [FBI](#)’s Stephen L. Morris. “Any way we go will contradict one of our partners.”

“This is a tough one,” reads another email in the chain from Daniel D. Roberts. “I assume that we need to support ICE that states can’t opt out of secure communities.”

The emails were released in response to a Freedom of Information Act lawsuit filed by the Center for Constitutional Rights, the National Day Laborer Organization Network and the Cardozo Immigration Justice Clinic.

In another email, dated May 11, discussing Illinois Gov. Pat Quinn’s attempt to opt out of the program, a message addressed to [Mr. Pender](#) says the governor likely would have to call Attorney General Eric H. Holder Jr. to clarify the options.

“[W]e will let the political process play out,” the email said. “Although DHS Secretary [Janet A. Napolitano] has said there can be no ‘Opting Out’ of Secure Communities, we frankly need the AG to tell us that.”

A spokeswoman for the Department of Justice did not respond to a request for comment Thursday.

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