

No opt-out for immigration enforcement

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Body

The Obama administration is making it virtually impossible for Arlington County, the District and other jurisdictions to refuse to participate in a controversial **immigration enforcement** program that uses fingerprints gathered by local law **enforcement** agencies to identify illegal immigrants.

Participation in the program, called Secure Communities, was widely believed to be voluntary - a perception reinforced by a Sept. 7 letter sent to Congress by Homeland Security Secretary Janet Napolitano. This week, Arlington joined the District, San Francisco and Santa Clara County, Calif., in voting to **opt out** of the program.

But the **Immigration** and Customs **Enforcement** agency now says that **opting out** of the program is not a realistic possibility - and never was.

Secure Communities, which operates in 32 states and will soon be running nationwide, relies on the fingerprints collected by local authorities when a person is charged with anything from a traffic violation to murder. The fingerprints are sent to state police, and then to the FBI, for criminal background checks.

Under the two-year-old program, ICE is able to access the information sent to the FBI. If the fingerprint matches that of someone known to be in the country illegally, ICE orders the immigrant detained as a first step toward deportation.

Tens of thousands of undocumented immigrants have been removed from the United States under the program, which the administration has made a centerpiece of its effort to focus **immigration enforcement** on criminals. But those deportees include many thousands who have committed minor offenses or **no** crimes at all, which has made the program a source of increasing concern to immigrant rights groups.

A senior ICE official, speaking on the condition of anonymity because he was not authorized to talk about the involuntary nature of the program, said: "Secure Communities is not based on state or local cooperation in federal law **enforcement**. The program's foundation is information sharing between FBI and ICE. State and local law **enforcement** agencies are going to continue to fingerprint people and those fingerprints are forwarded to FBI for criminal checks. ICE will take **immigration** action appropriately."

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The only way a local jurisdiction could opt out of the program is if a state refused to send fingerprints to the FBI. Since police and prosecutors need to know the criminal histories of people they arrest, it is not realistic for states to withhold fingerprints from the FBI - which means it is impossible to withhold them from ICE.

The revelation that the program is not really optional stunned Arlington County Board member J. Walter Tejada (D), who spearheaded a months-long effort to evaluate Secure Communities with residents, lawyers and county officials. "It is most frustrating," he said. "Communities were researching this. Attorneys looked at it pro bono. All of that could have been avoided. People spent all summer thinking about this."

Tejada pointed to Napolitano's recent letter to Congress, in which she wrote, "A local law enforcement agency that does not wish to participate in the Secure Communities deployment plan must formally notify the Assistant Director for the Secure Communities program, David Venturella." In a briefing paper, ICE also said that if a city or county did not want to participate, the agency was amenable to "removing the jurisdiction from the deployment plan."

The senior ICE official said local authorities could opt out of learning the specific reason why immigration authorities wanted someone detained. But they would still have to detain the individual.

"If what you say is true, it is extremely disappointing because it means the District of Columbia now has a blurred rather than a bright line between what the Metropolitan Police Department is doing and what immigration officers are doing," said D.C. Council member Jim Graham (D-Ward 1), who recently voted with the rest of the council to opt out of the program. "We had a bright line, and that has increased trust and confidence in our police among immigrant communities. That will now vanish."

Federal immigration authorities have argued that because Secure Communities does not require local police to probe anyone's immigration status, the program will not lead to racial profiling. But critics disagreed.

"It makes the local police department an arm of the federal immigration authority in a way that has not been true in the District of Columbia," Graham said. "It also distracts scarce police resources - they have to hold people until ICE can get to them. We want those resources devoted to crime-fighting."

While many law enforcement agencies across the country have embraced Secure Communities, Graham's concerns have been echoed by some sheriffs and police chiefs. They fear the program will make undocumented immigrants unwilling to report crimes.

"In a domestic violence case, it is not that unusual for police to arrive and arrest both parties and let the evidence get sorted out later" at the police station, said Eileen Hirst, chief of staff to San Francisco Sheriff Michael Hennessey, who has been fighting for months to get his county removed from Secure Communities.

Officers might fingerprint both parties to see whether they have criminal records, she said. If the domestic violence victim is an unauthorized immigrant, ICE can tell police to detain him or her.

"By the time the details get sorted out, he or she can be on an ICE detainer and on the way to a detention facility," Hirst said. "This can make people reluctant to call police when they should."

Secure Communities is primarily designed to target and deport violent criminals, but the immigration agency says the program also will identify people who crossed the border illegally in the past, visa violators and fugitives.

"They may not have a criminal history, but they are a priority for ICE as well," agency spokesman Richard Rocha said. "Those individuals are removable aliens. Secure Communities allows us to remove and prioritize aliens so we can remove the most egregious offenders first, but others as resources permit."

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