

Microsoft Outlook

From: (b)(6), (b)(7)(C)

Sent: Tuesday, August 03, 2010 5:58 PM

To: Greenberg, Randi L

Cc: (b)(6), (b)(7)(C)

Subject: RE: SC assistance needed

Dear Randi,

(b)(5) AC, DP

Please let me know if you have any questions. Thank you.

(b)(6), (b)(7)(C)

Associate Legal Advisor
Enforcement Law Division
Office of the Principal Legal Advisor
U.S. Immigration & Customs Enforcement
U.S. Department of Homeland Security

(b)(6), (b)(7)(C)

(Email)

(Office)

(Blackberry)

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From: Greenberg, Randi L
Sent: Monday, August 02, 2010 2:41 PM
To: (b)(6), (b)(7)(C)
Subject: SC assistance needed
Importance: High

(b)(6), (b)(7)(C)

Secure Communities has a meeting on **Wednesday (8/4/10)** with some Representatives from California on the ability to “opt out” of SC participation. As we continue to do refine our implementation strategy, Mr. Venturella has asked us to look into a legal mandate, provision, law, etc. that would allow ICE/DHS to request fingerprint information from the FBI for law enforcement and/or criminal justice purposes, regardless of whether states and locals can opt in or out. SC did some research on this topic months ago, though we never went anywhere with it. We’re hoping that OPLA might now be able to weigh in and provide legal references and/or a legal interpretation of the references listed below. My guess is there is additional legislation out there that we don’t know about but are hoping that you do!

References:

- 8 U.S.C. § 1373:

(a) In general

Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

(b) Additional authority of government entities

12/31/2010

ICE FOIA 10-2674.0011150

Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

(1) Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.

(2) Maintaining such information.

(3) Exchanging such information with any other Federal, State, or local government entity.

(c) Obligation to respond to inquiries

The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.

- 28 U.S.C. § 534. Acquisition, preservation, and exchange of identification records and information; appointment of officials
 - U.S. Attorney General is authorized to collect criminal identification information, including fingerprints
 - Federal government has information sharing agreements with states and locals through a series of compacts
- 42 U.S.C. § 14615. Enforcement and implementation
 - The federal government can enforce compact agreements
- 42 U.S.C. § 14616. National Crime Prevention and Privacy Compact and 42 U.S.C. § 14611. Findings
 - There are reasons above and beyond “traditional” criminal justice information sharing needs, such as need to know immigrants status, that may necessitate information sharing between federal, state, and local entities

Any help is appreciated, feel free to call me if you need some additional background.

Thanks!

Randi Greenberg

Branch Chief, Communications & Outreach

Secure Communities

[REDACTED] (Desk)

[REDACTED] (BB)

[REDACTED]