

**SECURE COMMUNITIES (S-COMM) DOCUMENTS
INDEX OF RECORDS RELEASED NOVEMBER 10, 2011¹**

FBI IGNORES LOCAL PARTNERS AND PUSHES FOR MANDATORY S-COMM

Bates	Document Date(s)	Document Type/Subject	Description
FBI-SC-FPL-00487-488	May 10, 2011	Email chain between Deputy Assistant Director of Criminal Justice Information Services' (CJIS) Operations Branch, Jerome Pender, CJIS Assistant Director, Daniel Roberts, Deputy Assistant Director, Stephen Morris, and other Federal Bureau of Investigation (FBI) officials	Jerome Pender describes the FBI's position in the opt out controversy as "being stuck in the middle of a nuclear war," and asserts that he did not "see how [CJIS] can use the data in a way the owner explicitly bans. This could cause the whole CJIS model [of information sharing between the FBI and states and localities] to implode." Another official concurs, stating that "[a]ny way we go will contradict one of our partners." A third official also concurs, noting that "DHS Sec has publicly stated there is no 'opt out', but we have never heard from the AG if DOJ will take the same stance," and that "[t]here are some other nuances we can discuss in person."
ICE FOIA 10-2674.0003544-3547	Aug. 27, 2010 to Sept. 7, 2010	Email Chain between Secure Communities officials discussing the response to Email from Minnesota Bureau of Criminal	Minnesota's CJIS Deputy Director sent an email to the FBI stating that "we expect that no use of Minnesota fingerprint submissions will be used by [U.S. Immigration and Customs Enforcement (ICE)] /FBI for

¹All documents referenced here were obtained through the *NDLON v. ICE*, 10-cv-3488 (SAS) lawsuit. To learn more, go to www.ccrjustice.org/secure-communities.

		Apprehension's CJIS Deputy Director Robert Johnson	Secure Communities without the express permission of [Minnesota criminal agencies]. The data collected by Minnesota belongs to the state and the use of that information from a data practices/data privacy standpoint is the responsibility of the state."
FBI-SC-FPL-00099-102	May 25, 2011	Email chain involving FBI Acting Special Agent in Charge, Robert Rudge and other redacted CJIS officials, Subject: DHS QFRS re DHS Oversight	FBI official indicates that DHS responses to Congressional Questions for the Record were "accurate from a high-level," when those responses stated that S-Comm was mandatory because fingerprints sent to the FBI would be checked against DHS's biometric system and states could not send fingerprints only for criminal history checks or demand that identifications not be shared with local ICE field offices
FBI-SC-FPL-00534	May 11, 2011 to May 12, 2011	Email chain between Daniel Roberts, Louis Grever, Stephen Morris, Jerome Pender, and other officials	FBI officials discuss opt out by Illinois Governor, state that there was no "offer to cut the connection or change the flow of prints at this time" and that "[a]lthough DHS Secretary Napolitano has said there can be no 'Opting Out' of Secure Communities, we frankly need the AG to tell us that."
FBI-SC-FPL-1360-1371	May 12, 2011 to May 16, 2011	Email chain between John Carlin, Louis Grever, Daniel Roberts, and other FBI officials	Discusses the opt out controversy, and notes that S-Comm is "quickly becoming a hotly debated effort"
FBI-SC-FPL-00226-227	May 11, 2011	Email from [redacted] sender to [redacted] recipients, Subject: Grever Talking Points	Documents that Secretary of DHS, Janet Napolitano, stated that participation in S-Comm was mandatory and indicates that regardless of S-Comm, DOJ and DHS are required to develop interoperability between IAFIS and IDENT
FBI-SC-FPL-00966-982	edited March 7, 2011	Draft Frequently Asked Questions, Interoperability between US-Visit's IDENT and the FBI's IAFIS	States in relation to IDENT-IAFIS interoperability that "[f]or the DOJ, retention or use of fingerprints must comport with State statutes"
FBI-SC-FPL-	May 25, 2011	Email chain involving Jerome	FBI officials deflect accountability for S-Comm and the

00353-356	to May 26, 2011	Pender, Stephen Morris, Daniel Roberts, Robert Rudge, and other officials	Next Generation Identification program (NGI) by deciding to only point a requester of information to publicly available information
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FBI COLLECTS MASSIVE AMOUNT OF BIOMETRIC INFO

Bates	Document Dates	Document Type/Subject	Description
SC-FBI-FPL-1143-1159	December 2010	Interoperability Initiatives Unit, FBI CJIS Draft Report	Report provides that the "FBI recognizes a need to collect as much biometric data as possible . . . and to make this information accessible to all levels of law enforcement, including International agencies." Accordingly, it "continues to work aggressively to build biometric databases that are comprehensive and international in scope."
SC-FBI-FPL-1038-1043	March 24, 2011	"Response to White House Domestic Policy Council," FBI CJIS, Global Operations Section, Interoperability Initiatives Unit	Discusses 7 increments in NGI's implementation schedule to develop NGI's capabilities to collect, store, and share such biometrics as direct and latent palmprints, scars, marks, and tattoos, iris scans, and facial measurement, and notes that CJIS had run a "Latent Fingerprint and Palmprint Trade Study" and report, already collected more than 1 million palm prints, and scheduled an "Iris Pilot."
SC-FBI-FPL-1058-1064	Apr. 14, 2011	Staff Paper, "CJIS Advisory Policy Board (APB), Identification Services (IS) Subcommittee	Discusses NGI systems enhancement prioritization levels
FBI-SC-FPL-00458-461	Nov. 24, 2010	IIU Report, Biometric Interoperability	Documents that DHS approved searches of IDENT from "FBI Mobile" devices located domestically in December 2009, and that those devices began receiving a full identification response from IDENT in

			September 2010. Asserts that for the FBI Mobile users, the “additional data from IDENT can be used as “traction” by FBI Agents during criminal investigations.”
FBI-SC-1392-1400	Fall 2010	CJIS Advisory Policy Board Identification Services Subcommittee, Staff Paper	Notes ICE approval for “FBI Mobile” users to have the capability to generate Immigration Alien Queries (IAQs) – a request for immigration information from the Law Enforcement Support Center (LESC), and domestic deployment of FBI Mobile devices to Crime Against Children Units and Border and Drug Interdiction Units

EXTENDING DATABASE ACCESS

Bates	Document Dates	Document Type/Subject	Description
SC-FBI-FPL-1135-38	May 5, 2011 to May 11, 2011	Interoperability Initiatives Unit, Weekly Status Report	Discusses “new user process” for IDENT/IAFIS interoperability, including the interest expressed by the Nuclear Regulatory Commission for access to search IDENT
SC-FBI-FPL-1081-1092	Spring 2011	“Biometrics Information Sharing Update,” FBI CJIS Identification Services Subcommittee Meetings Issue Paper	Documents that as of March 2011, through its Global Initiatives Unit (GIU)’s Foreign Biometrics Exchange (FBE), CJIS had information sharing relationships with 77 countries. Also, ICE and the FBI have a draft agreement related to the sharing of information on deportees with the countries to which they are deported, and DHS has entered into agreements with foreign governments to provide such information on deportees upon repatriation
SC-FBI-FPL-1113-1134	Dec. 1, 2010	FBI Integrity and Compliance Program, Program Managers Semi-Annual Report,	Discusses the drafting of a Biometric Exchange Policy that is being utilized prior to final approval that aims to “provide a standardized approach to biometric

		Interoperability Initiatives Unit	information sharing with domestic and international agencies”
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QUESTIONABLE DATA PROTECTION

Bates	Document Dates	Document Type/Subject	Description
ICE 2010FOIA2674.0 023172-23238	March 2010	Secure Communities Report: Background, Process and Technology, Policy, Resources, Key Contacts	Indicates that as of March 2010, civil submissions from the Office of Personnel Management had already been approved to search against IDENT, and further access to other agencies for noncriminal justice purposes was then under review
FBI-SC-FPL- 00387-390	May 23, 2011 to Aug. 1, 2011	Email chain between CJIS Officials, Subject: Final DRAFT CA Response – RE: Secure Communities and “non-arrests”	Officials indicate that civil fingerprint transactions could be sent to DHS for a search of IDENT if the SIB or state agency submits such a request and the request is authorized by DHS US-VISIT. Officials also note it is technically possible for the FBI to avoid sending a transaction to DHS when a locality indicates that a particular transaction was for an individual not being arrested. Also states that civil applicant fingerprint submissions may be retained regardless of the submitting agency’s preferences if IAFIS makes a criminal identification from the submission”
ICE FOIA 10- 2674.0011160- 11161	Undated	Draft undated, redacted document, “Individual LEA/ORI Deployment”	Indicates that a game and fish department may be on a validated ORI list
FBI-SC-FPL- 00495	Mar. 3, 2011	DHS/DOJ Interoperability IPT Meeting Minutes	Notes that "DHS is taking a stronger stance on approved uses for non-arrest encounter data in order to set a precedent for future transactions."

USAGE OF “NO MATCH” RECORDS

Bates	Document Dates	Document Type/Subject	Description
FBI-SC-FPL-00500-525	Oct. 28, 2010 to Nov. 3, 2010	Interoperability Initiatives Unit, Weekly Status Report	Discusses the deployment of a technology that “will allow biographic IAQs to be sent to the LESC when there is a no match in IDENT but the submission indicates a foreign or unknown place of birth.” Also discusses use of “FBI Mobile” to support searches of IDENT, ABIS, and IAFIS by the U.S. Coast Guard. Additionally provides weekly report of the Special Identities Unit, a unit for which there is little publicly available information and whose mission is to “reduce terrorist and criminal activity by protecting all records associated with trusted individuals and revealing the identities of those individuals who may pose serious risk.”
FBI-SC-FPL-00603-609	Mar. 8, 2011 to Mar. 9, 2011	Email chain between Randi Greenberg and redacted senders and recipients, Subject: Hot One: Need APB Meeting Minutes, with attachment: CJIS APB IS Subcommittee Staff Paper, Oct. 22, 2008	Notes that ICE requested CJIS to send IAQs to LESC based on foreign or unknown place of birth. Also discusses a decision to send “non-retains” to search against IDENT after discussion between ICE, US-VISIT, and CJIS, and references the June 2009 APB passage of a motion stating that “[f]or record linking/maintenance purposes, a search/record update will be sent to [IDENT] regardless of the CJIS Division stakeholder’s request for an IDENT search
ICE FOIA 10-2674.0011165-11171	Aug. 5, 2010	Draft Secure Communities Public Affairs Guidance	Comment on draft suggests the need to be careful with messaging because “there is a large foreign-born no match issue that we know about and need to message accordingly.” Also indicates confusion over the opt out controversy, and Randi Greenberg, S-Comm

			communications and outreach chief, expresses frustration with ongoing contradictions in statements made about the mandatory or voluntary nature of S-Comm.
FBI-SC-16700-16704	Nov. 5, 2009 to Nov. 12, 2009	IIU Weekly Status Report	Indicates that ICE will not be ready for CJIS sending IAQ on all S-Comm CAR transactions with a foreign POB with a no match in IDENT until summer 2010.
FBI-SC-FPL-1-8	May 31, 2011	Power Point presentation	Instructs that ICE “[i]n cases of a fingerprint ‘no match’ where the inmate claims to be a foreign national, or other articulable facts exist to suspect that the inmate is an alien, ICE may conduct interviews and perform other investigative or system checks.”

FBI ALWAYS PUSHED FOR MANDATORY INTEROPERABILITY

Bates	Document Dates	Document Type/Subject	Description
ICE FOIA 10-2674.0002378	Sept. 23, 2010	Email from CJIS official to “Vince”	Indicates that with the deployment of NGL, interoperability will be fully deployed to every law enforcement agency
FBI-SC-FPL-00176-178	Sept. 21, 2010 to Sept. 22, 2010	Email chain between Marc Rapp, CJIS officials, ICE officials, and others	CJIS official states that it “has always agreed that Interoperability should be deployed to every law enforcement agency and with the deployment of NGL this will be the case.”
FBI-SC-FPL-00162	Aug. 30, 2010	Secure Communities Internal Meeting	Provides CJIS’s stated position as being that “ICE’s Secure Communities can delay or defer, and CJIS will follow the deployment plan, but in 2013, Interoperability will happen”

FINGERPRINT SUBMISSIONS FROM STATES/LOCALITIES

Bates	Document Dates	Document Type/Subject	Description
FBI-SC-FPL-00906-907	Feb. 16, 2011	Email chain between CJIS IIU Management and Program Analysts, Subject: Final paper with attachment: "Secure Communities Deployment Schedule"	CJIS paper expresses concern in that "jurisdictions [might] stop submitting arrest fingerprints for criminal background checks as a reaction to involuntary participation in SC."
FBI-SC-FPL-00631-37	Oct.4, 2010 to Oct. 5, 2010	Email Chain involving Robert Rudge, redacted officials from FBI/CJIS Global operations, and other redacted senders and recipients, Subject: HJC meeting with ICE and implications to CJIS	CJIS official expresses displeasure with questions from the House Judiciary Committee regarding the running of Secure Communities and interoperability in states without MOAs, the elimination of "opt out" in the sense of fingerprints being checked against FBI CJIS and not ICE, and the assertion that "if we want counties to get out of information sharing at the federal level, we should place our energy on interoperability." Also indicates that interoperability was running in some states without MOAs and that in DC at the time, while prints were shared with IAFIS, ORIs were not activated and there was an agreement not to automate the IAFIS to IDENT checks
ICE FOIA 10-2674.0011082-83	May 18, 2010	Email exchange between Randi Greenberg, a redacted Secure Communities official, CJIS, and other redacted senders and recipients	Randi Greenberg asserts that the option for states to avoid submitting fingerprints to ICE by not submitting them to CJIS "is not a viable option" and that CJIS is "sensitive" about revealing that option