



THREE OMISSIONS AND AN UNDERSTATEMENT
*Inadequacies in the Department of Homeland Security
Office of the Inspector General (OIG) Reports on Secure Communities*

On April 6, 2012, the OIG issued two reports about the controversial Immigration and Custom Enforcement (ICE) program Secure Communities. The reports were written in response to an April 2011 request from Representative Zoe Lofgren. Unfortunately, despite taking nearly a year in its investigation, the OIG fails to address fundamental problems with S-Comm's design and roll out.

Omission #1: PUBLIC SAFETY, PROFILING, VULNERABLE GROUPS. The OIG acknowledges stakeholders' primary concerns about S-Comm – its broad scope, the damage it causes to community-police relations, its facilitation of racial profiling, and the wrongful detention of individuals, including U.S. citizens, victims, and witnesses, who pose no security risk. But it wholly ignores these criticisms in its evaluation of S-Comm. In fact, the OIG notes that at least 88 U.S. citizens were flagged by S-Comm in one 723-person sample but fails to comment on or question the database errors that led citizens to be identified.

Omission #2: DRAGNET. The OIG fails to address how ICE has “moved the goal posts” by re-defining its enforcement priorities under S-Comm. S-Comm's stated mission was to target people convicted of serious crimes, not serve as a general dragnet. Under ICE's reformulated priorities, however, any non-citizen who has been convicted of any criminal offense, no matter how minor, is deemed “Priority 1.” Moreover, ICE classifies people who have never been convicted of a crime as “Priority 2” or “Priority 3” if they have had any civil immigration violations. The OIG unquestioningly accepts ICE's maneuver in its evaluation.

Omission #3: COST TO STATES AND LOCALITIES. In its appraisal of the cost that S-Comm imposes on states and localities, the OIG fails to account for the substantial burden caused by ICE holds, also known as immigration detainer requests. Jurisdictions such as Cook County, Illinois, have cited the cost of holding individuals that they would otherwise release as a reason for limiting their compliance with ICE holds, which ICE relies upon in all of its state and local jail-based enforcement programs.

The Understatement: MISREPRESENTATION ABOUT OPT OUT. The OIG catalogs ICE's flip flops about local and state participation in S-Comm, selecting from information already in the public domain, including documents obtained through Freedom of Information Act litigation by CCR, Cardozo, and NDLON. It describes ICE's use of at least seven different definitions for participation over a 14-month period, the failings of the agency's senior leadership, and its thin, hastily assembled legal support for mandating participation. However, the OIG glosses over ICE's misleading statements to states, localities, and Congress, and lets the agency off the hook by recommending that ICE compile a “lessons learned” document instead of permitting jurisdictions to opt out.

THE KEY QUESTION: As a result of these omissions and understatements, the OIG leaves the key question unaddressed: Does S-Comm make our communities safer? As documented by the Uncover the Truth campaign, the answer is a resounding no. With its shifting goals, mixed messages, and total disregard for the real-world impact of S-Comm, ICE cannot be entrusted with the task of policing itself. The only answer is to end Secure Communities.