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July 27, 2010

The Honorable Janet Napolitano
Secretary of Homeland Security
U.S. Department of Homeland Security
Washington, D.C. 20528

The Honorable Eric H. Holder, Jr.
Attorney General of the United States
U.S. Department of Justice
Washington, D.C. 20530

Dear Secretary Napolitano and Attorney General Holder:

I am writing to follow up on recent conversations that I have had with each of you regarding the current deployment of ICE's Secure Communities program. As we discussed, Secure Communities is a voluntary program that relies upon the resources of both of your agencies in order to provide State, local, and federal law enforcement agencies with information related to the immigration status of persons booked into our nation's jails and prisons. I am aware that some local law enforcement agencies have expressed concern that participating in Secure Communities will present a barrier to their community policing efforts and will make it more difficult for them to implement a law enforcement strategy that meets their community's public safety needs.

There appears to be significant confusion about how local law enforcement agencies may "opt out" of participating in Secure Communities, such that fingerprints submitted by them to State Identification Bureaus (SIBs) in order to be checked by the Federal Bureau of Investigations (FBI) Criminal Justice Information Services Division (CJIS) Integrated Automated Fingerprint Identification System (IAFIS) will not also be checked against databases or identification systems maintained by the U.S. Department of Homeland Security for purposes of determining immigration status. Staff from the Subcommittee on Immigration, Citizenship, Border Security, Refugees, and International Law were briefed on this program by ICE and were informed that localities could opt out simply by making such a request to ICE. Subsequent conversations with ICE and FBI CJIS have added to the confusion by suggesting that this might not be so.

Please provide me with a clear explanation of how local law enforcement agencies may opt out of Secure Communities by having the fingerprints they collect and submit to the SIBs checked against criminal, but not immigration, databases.

Thank you in advance for your cooperation in this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Zoe Lofgren", written over a horizontal line.

The Honorable Zoe Lofgren
Chairwoman
Subcommittee on Immigration, Citizenship,
Refugees, Border Security and International Law