

Texas Sheriffs, Jails on Immigration Front Line



Photo by Martin do Nascimento

The badge of Captain Jaime Magaña in Webb County Jail in Laredo, TX, on Nov. 5, 2015. Photo by Martin do Nascimento



*The Texas Tribune is taking a yearlong look at the issues of border security and immigration, reporting on the reality and rhetoric around these topics. [Sign up to get](#) story alerts.*Correction appended* With a \$6 billion budget and more than 20,000 employees, [U.S. Immigration and Customs Enforcement](#) stands poised to seize and deport immigrants — undocumented or not — who commit serious crimes in the United States. Provided someone else catches them.

The behemoth agency at the center of the nation's immigration enforcement efforts has no proactive way — watch lists, data mining or the like — to systematically search for dangerous undocumented immigrants, including those who have returned to the United States after being deported for committing crimes.

Instead, if an immigrant criminal is caught and thrown out of the country, the process most likely begins when a local police officer or sheriff's deputy pulls them over for a traffic stop or arrests them as part of a criminal investigation.

The success of federal deportation policy in Texas and nationwide depends for the most part on a heads up from county sheriffs. They run the jails where people are taken when arrested and where the culling of criminal immigrants begins.

Being at the bottom of the enforcement pyramid places tremendous pressure on them — political, legal and otherwise — sheriffs say, and with federal policy increasingly targeting serious, repeat criminal offenders, their role in the process has grown.

"When some of these sheriffs talk about bringing in an undocumented, it may be one a month," said Dallas County Sheriff Lupe Valdez. "With us, it's several a day."

The legal tool federal authorities use to take custody of immigrants they want is [the detainer](#). Around in some form or fashion since the 1950s, detainers are notices sent to jails asking them to hold on to an immigrant once local authorities are done with them so federal agents can come by and get them.

In its [latest incarnation](#), the detainer is reserved for the most serious convicted immigrant criminals. This new, narrower restriction, imposed in November 2014, has caused the number of detainers [to drop](#). As of October 2015, the latest monthly figure available, [7,117 detainers](#) were issued. That's down from an all-time monthly high of [27,755 in August 2011](#), according to voluminous Freedom of Information Act requests made by the [Transactional Records Access Clearinghouse](#) at Syracuse University.

Texas is central to the federal agency's deportation efforts. Nationwide, only eight jails received more than 1,000 detainer requests in the last year, according to clearinghouse data. Four were in Texas — Harris, Travis, Dallas and Hidalgo counties.

A [report](#) last year on the federal agency's enforcement operations shows it plucked 139,368 people from the nation's jails and prisons during the fiscal year ending Sept. 30, 2015. That accounted for about 59 percent of the total number of people ICE removed from the country that year for a variety of reasons.

Many came from Texas, screened out of state prisons or found among the approximately 71,000 people who are booked into local Texas jails each month, according to the Texas Department of Public Safety. On average, 3,724 undocumented immigrants were detained in Texas jails each month in 2015, according to a Texas Tribune analysis of immigration detainer reports from the Texas Commission on Jail Standards.

Between December 2012 and October 2015, undocumented immigrants who sat in Texas county jails cost taxpayers a total of \$210.6 million, according to reports filed with the Texas Commission on Jail Standards that were released to The Texas Tribune.

In 2015, the federal government provided about [\\$12 million](#) to Texas to care for incarcerated undocumented immigrants. Most of that - more than \$8 million - went to the Texas prison system, not jails.

Yet for all the statistics, no federal, state or local agency can claim it has a handle on the number of "criminal aliens" — the government's term for foreigners who commit crimes in the U.S. — who are currently in the country, how many crimes they are responsible for and what share the system catches.

Local options

In Harris, the state's most populous county, 135,000 inmates each year come through the jailhouse doors. It and the city of Carrollton are the only two Texas jurisdictions that contract with the federal government to have immigration agents stationed at its jail helping pinpoint criminal immigrants. Nine federal officers and nine Harris County deputies schooled in federal procedures comb booking documents and interview inmates suspected of being in the country illegally.



A guard inside the Webb County Jail in Lareco, TX, on Nov. 5, 2015.

By contrast, in Brewster County, the state's geographically largest — as in, bigger than some states — things work a bit differently. About 9,200 people live in the West Texas county, and its jail in Alpine has no official policy for handling undocumented immigrants.

How does it strive to alert federal authorities when a criminal immigrant is arrested? “We’ve got a sign on the wall,” jail administrator Lora Nussbaum told the Tribune, referring to a torn ICE flier taped on a jail wall that lists the agency's phone number.

County jails may be the front line of efforts to keep undocumented immigrants who commit serious crimes from slipping through the cracks, but the state of Texas has no uniform method of going about that task, or measuring the scope of the problem.

To gain a better picture of crimes committed by undocumented immigrants and how counties handle them, the Tribune asked for booking data and immigration procedure policies from 26 Texas counties, including the state's 10 most populous.

Almost none would provide it. Some, like Montgomery and Presidio counties, insisted that providing booking information, including an inmate's date of birth, violated the inmate's right to privacy. Harris County claimed that releasing a list of noncitizens was essentially creating new information — something the Texas Public Information Act does not require a governmental body to do.

Some counties argued that that federal law specifically prohibits releasing information about immigrants.

Attorney General [Ken Paxton](#)'s office upheld most of the counties' arguments, saying state open records laws don't compel release of the information.

The Dallas County Sheriff's Office went a step further and insisted that booking records are court records and, as such, are not subject to the state's open records law. The attorney general's office agreed, blocking their release.

Five counties responded to the Tribune's request for booking data: Brewster, Nueces, Fort Bend, Travis and Tarrant. Of those, only Travis responded with enough detailed information to analyze.

“We don't want to be in a position where somebody loses their life because of something we didn't do that was

— Maj. Wes Priddy, chief administrator for Travis County jails

The numbers show that Travis County booked about 20,000 inmates with federal immigration detainers between 2008 and 2015, facing charges that were roughly evenly divided between felonies and misdemeanors. More than 7,000 of those inmates faced drunk driving charges, the most common charge by far. That was followed by family violence-related assault charges, which about 1,900 inmates faced. An estimated 2,400 of the total inmates were repeat offenders.

Maj. Wes Priddy, chief administrator for Travis County jails, said local law enforcement's primary concern was public safety, not investigating immigration status. But he said that part of keeping dangerous people off the streets involved close cooperation with federal authorities.

"We don't want to be in a position where somebody loses their life because of something we didn't do that was legal for us to do," Priddy said.

After arresting someone, the Department of Public Safety, county sheriffs, and even the Texas Department of Criminal Justice — the nation's largest prison system — all have to rely on the federal government to inform them who is in the United States illegally.

"What our obligation is, is to provide ICE with the population information," said Tarrant County Sheriff Dee Anderson. "They go through it. They determine who they're going to put a hold on and who they're not, and our people don't really have a way to further investigate are they truly here legally or not."

That typically happens during the booking process, when a suspect's fingerprints are sent to the Federal Bureau of Investigation, a procedure used for every new inmate. If the fingerprints match a profile in the federal database of non-U.S. citizens with previous criminal histories, ICE can decide to ask for a detainer. Texas jail officers do ask arrestees to name their country of birth as a part of the booking process, but an arrested immigrant's answer is written down without being verified.

The same holds true for inmates in Texas prison. As of Nov. 30, 2015, three-fourths of the 9,135 inmates in the Texas prison system with ICE detainers were in the United States illegally. The remainder include those serving time for crimes who had legal immigration status.

"Ultimately, ICE will make the determination whether that person is in country illegally," said Texas prisons spokesman Jason Clark. In 2010, the agency began asking for ICE help verifying those among the system's 148,000 inmates who were illegally in the country.

But the federal tracking system of verifying what law enforcement refers to as "criminal aliens" is less than precise. It relies on someone's fingerprints being in the system because they have been arrested before. If an undocumented immigrant has never encountered law enforcement, the federal tracking system might not notice their first arrest.

Jumbled numbers

There is no definitive data showing that undocumented immigrants commit crimes at a higher rate than the

The Pew Research Center estimates undocumented immigrants comprise about seven percent of the Texas population. On average, 3,724 undocumented immigrants were detained in Texas jails each month in 2015, according to a Texas Tribune analysis of immigration detainer reports from the Texas Commission on Jail Standards.

Of the 148,000 inmates held in 100 Texas prison units, about 9,135 inmates have federal detainers asking that they be handed to federal officials when their sentences are complete. Not all were in the country illegally when arrested. Those that were illegal account for about 4.6 percent of the prison population.

Nationwide, almost 60 percent of immigrants who are deported had some previous criminal charges, according to 2015 numbers from ICE.



photo by: Martin do Nascimento

A group of undocumented Mexican nationals who were convicted of crimes in the U.S. enter Mexico at the US-Mexico border crossing at Brownsville/Matamoros after being deported from the United States on Nov 4, 2015. The Pew Center, relying on 2012 U.S. Census numbers, estimated that Texas has 1.7 million undocumented immigrants, ranking second in the nation. What portion of that 1.7 million is responsible for crimes is a tougher calculus.

Estimates from the Texas Department of Public Safety, which gets the information from jails, are considered inaccurate because there's no uniform requirement to verify citizenship during the jail booking process.

In 2014, then-Gov. [Rick Perry](#) was criticized for relying on DPS' first attempts to calculate the impact of crimes committed by immigrants. That year, Perry repeated the department's claim that "criminal aliens" had committed more than 642,000 crimes in Texas since 2008. It was [later revealed](#) that "criminal aliens" referred to all foreign-born immigrants in Texas, not just those in the state illegally, and the "crimes" counted included charges, not convictions, some dating back decades.

One year later, DPS tried to clarify the numbers, but even director Steve McCraw, appearing before the Texas House Committee on State Affairs in December, tried to lower expectations about the "criminal alien statistic" his agency featured on its website.

"It's an undercount," McCraw testified on Dec 10. "We acknowledge it woefully undercounts the amount, but it

The DPS statistics continue to confuse both the public and lawmakers.

ICE officials consider a foreign national — here legally or otherwise — a "criminal alien" if they've been convicted of a crime. DPS broadens the definition to include foreign nationals who have only been arrested.

"Criminal alien is a foreign national with a criminal record," explained DPS Assistant Director Skylor Hearn, who oversees the agency's law enforcement support division, which includes the state's crime records. "There was probable cause to arrest them for something, and it would apply to the rest of us as well, generally speaking. If you've been arrested, you have a criminal record; you are not a criminal, but you have a criminal record."

By DPS's count, 177,060 foreign-born individuals were charged with crimes from 2011 through Jan. 31. That's a much larger number than those foreign nationals actually convicted during the same time frame in Texas: 84,182 non-U.S. citizens. Of those, 58,128 were determined to be in the United States unlawfully.

State Rep. Cesar Blanco, D-El Paso, says the DPS numbers on "criminal aliens" are artificially pumped up by counting the number of criminal charges filed against undocumented immigrants instead of actual convictions. Charges are routinely dismissed for lack of evidence or other reasons, he noted.

But by hyping the number of charges, the agency bolsters the argument for more border security money. Last year, the Texas Legislature approved an additional \$800 million for border security.

"When crime rates were higher in this state, did the legislature move this much money?" Blanco asked.

Adding to the mathematical murkiness, immigration status can be fluid. A foreign-born Texas jail inmate could be legally in the country at the time of one arrest but have an expired visa by the next arrest and be undocumented the second time around, further bedeviling Texas' attempts at measuring unauthorized immigrants' impact on the state's criminal justice system. Attempts by DPS to connect criminal aliens to their crimes also fall short.

The agency's data, obtained by the Tribune, shows that 177,060 non-U.S. citizens arrested from 2011 through Jan. 31 were charged with 252,083 offenses during that time. This is less than what DPS [reports on its own website](#) because the agency counts crimes committed over a U.S. citizen's lifetime, outside the five-year span.

DPS officials insist that its criminal alien counts, based on federal immigration data, are not an attempt to construe that foreign-born criminals are a greater threat than U.S. citizens.

"The department has not made that statement and does not have information to support that statement," DPS spokeswoman Summer Blackwell said in a statement. "The Department of Public Safety believes any individual who has committed a violent crime or is party to criminal activities — no matter their citizenship status or country of origin — is considered a potential threat to public safety and the security of Texas."

Just say no

Even when federal immigration authorities decide they want to take immigrants from the state criminal justice system into custody, there can be obstacles.

Federal records obtained by the Tribune show that in more than 18,000 cases over the past two years, local jails across the country failed to hand over deportable immigrants to federal authorities. Jurisdictions in many states, including Pennsylvania, California and Colorado, have become reluctant to honor the detainers [after facing a series of lawsuits](#) from inmates challenging the constitutional legitimacy of the extended detention.

Further information about the outcomes in cases where local officials declined to detain someone — whether those inmates, many with previous criminal histories, had been released to the public — proved difficult to come by, even in Texas, where there were only 146 such cases.

Of the 11 state jails contacted by the Tribune, only one could provide definitive answers about what had happened with declined detainers in its jurisdiction.

In Collin County north of Dallas, where agency records show two declined detainers, one for an inmate with a criminal history, a spokesman for the sheriff's office said it "would literally be too manpower-intensive and potentially impossible to locate the reasons they were released."

The Texas county with the most declined detainers — Travis, which had 72 instances, including 33 on inmates with a prior criminal history — referred all questions about the records to the federal government.

"I do not know how ICE came up with those numbers and we do not keep stats for ICE," Travis County Sheriff's office spokesman Roger Wade said in an email. "You will have to ask ICE how they arrived at those numbers and what their definition is of declining detainers."

The federal agency itself could not verify further details about the cases. An ICE official, who lacked authorization to comment and thus spoke on condition of anonymity, said a small number of the cases could be a result of administrative errors at the federal or local level.

But beyond that, the official said it would be "resource-prohibitive" to determine what exactly happened in the individual circumstances.

Step away from the direct cost to jails to house undocumented immigrants — and the troubling lack of standardized record keeping — and there's the added pressure of keeping up with the federal government's ever-shifting parameters of who in local jails is eligible for deportation.

On [Nov. 20, 2014](#), ICE's parent, the U.S. Department of Homeland Security, discontinued a policy known as Secure Communities in favor of a new plan called the Priority Enforcement Program. Secure Communities — which targeted anyone in the United States illegally — had faced fierce pushback from local officials across the country who feared legal liability under the program.

With the new program, the federal agency decided to focus its deportation efforts on undocumented immigrants who committed the most serious crimes.

In congressional testimony and internal documents detailing the new policy's implementation, ICE officials have stressed the importance of local cooperation. A 2015 memo from the federal immigration agency describes "expansive efforts to encourage state and local law enforcement partners" to collaborate with the agency.

The program was developed to “bring back on board those state and local jurisdictions that had concerns with, or legal obstacles to, assisting us,” said ICE Director Sarah Saldaña in July testimony before a congressional committee.

But the federal agency has opposed requiring local authorities to honor immigration detainers. Homeland Security Secretary Jeh Johnson told members of the House Judiciary Committee in July that it would a “huge setback” to mandate compliance with immigration policy.

“I do not believe that mandating through federal legislation the conduct of sheriffs and police chiefs is the way to go,” he said. “I think it will be hugely controversial. I think it will have problems with the Constitution. I want to see us work cooperatively with state and local law enforcement, and I believe they are poised to do that.”

The voluntary guidelines from federal authorities can leave local officials in a politically precarious position — often, no matter what decision they make will land them in hot water.

Jurisdictions in Democratically controlled urban areas face intense pressure from activists critical of federal immigration policy to cease any cooperation with ICE.

“Our ideal situation would be for there to be no ICE collaboration whatsoever,” said Carolina Canizales, the San Antonio-based deportation defense director of United We Dream, a national immigrant rights organization, which regularly stages protests at jails in the state, in an October interview. “I think they shouldn’t condemn thousands of undocumented immigrants for one crime that has been committed.”

At the same time, state lawmakers are on the watch for any sign that county sheriffs are failing to hold unauthorized immigrants singled out by ICE for deportation until federal ICE officers can pick them up and return them to their home country.

Take the case of Dallas County Sheriff Valdez, who throughout her time in office has most often found herself in the crosshairs of immigrant rights activists. She currently faces a lawsuit alleging her jail has held immigrants for unconstitutionally long periods of time even after they received bond.

But recently, she has become better known for the harsh [public denunciation](#) she received from Gov. [Greg Abbott](#), who wrote her a letter saying that what he viewed as lacking enforcement of federal immigration policy posed a “serious danger to Texans.”

Abbott’s letter came after Valdez told reporters in October she would review federal detainers placed on inmates in her jail on a case-by-case basis and would not hold immigrants arrested for minor crimes for up to 48 hours for ICE officers.

Her comments seemed to mirror ICE’s changed focus on the most serious immigrant criminals — but before she had a chance to clarify, Abbott blasted her stance and threatened to cut off grants to any sheriff’s office choosing to not abide by federal immigration detainers.

Valdez said late last year that her statement was taken out of context.

“What I said was, when there’s a disagreement (over whether a jail inmate was undocumented or not) we look

Case 3:15-cv-03481-S Document 80 Filed 06/16/17 Page 248 of 390 PageID.1887 Ex. C
at it case-by-case," Valdez told the Tribune in December. "But in this whole time we haven't had a disagreement
... The feds and I are great. ICE and I are fine."

This story is part of The Texas Tribune's yearlong [Bordering on Insecurity](#) project.

[Becca Aaronson](#) contributed data analysis and reporting to this story.

Correction: A previous version of this story incorrectly stated the percentage of the Texas prison population that is undocumented. The correct number is 4.6 percent.

The New York Times |

U.S.

Despite Opposition, Immigration Agency to Expand Fingerprint Program

By JULIA PRESTON MAY 11, 2012

Obama administration officials have announced that a contentious fingerprinting program to identify illegal immigrants will be extended across Massachusetts and New York next week, expanding federal enforcement efforts despite opposition from the governors and immigrant groups in those states.

In blunt e-mails sent Tuesday to officials and the police in the two states, Immigration and Customs Enforcement officials said the program, Secure Communities, would be activated “in all remaining jurisdictions” this Tuesday.

Last June, Gov. Deval Patrick of Massachusetts declined to sign an agreement with the immigration agency to expand Secure Communities beyond a pilot program in the Boston area since 2006. Gov. Andrew Cuomo of New York said he wanted to suspend the program, which had already been initiated in a number of counties.

Opponents argued that it was an overly wide dragnet that was deporting many illegal immigrants with no criminal histories who were arrested for minor offenses and that it encouraged racial profiling and eroded trust in law enforcement among immigrants.

Governors Patrick and Cuomo are Democrats and close allies of President

Obama. They made the uncomfortable choice to challenge him on a centerpiece of his immigration policy because of pressure from immigrant and Latino organizations and some local law enforcement officials. The mayor of Boston, Thomas Menino, also a Democrat, became an especially outspoken critic.

The governors were caught in a tangle of confusion about states' role in the program that officials from the immigration agency, known as ICE, have since acknowledged they created. After Secure Communities was formally started in 2008, ICE officials gave many states the understanding that participation was voluntary.

Last year, officials at the agency said they had determined that they did not require consent from states to start the program. Citing antiterrorism legislation that Congress passed in 2002, the officials canceled agreements they had signed in 40 states and said they would extend the program nationwide by 2013.

Under Secure Communities, fingerprints of anyone booked by the local or state police are sent through the F.B.I. to be checked in databases of the Department of Homeland Security which include immigration records. If there is a match, officials at the immigration agency decide whether to issue a detainer, asking the police to hold the person to be picked up by federal agents.

ICE officials said that they made changes to respond to state officials' concerns and to focus the program on deporting serious criminals.

They said they revised the detainers to clarify that suspected illegal immigrants could be held for only 48 hours. They provided civil rights training for the police in places where the program was started, officials said.

A recent change in arrest procedures would decrease detentions of illegal immigrants stopped for speeding or driving without a license, the officials said.

"Secure Communities has proven to be the single most valuable tool in allowing the agency to eliminate the ad hoc approach of the past and focus on criminal aliens and repeat immigration law violators," Barbara Gonzalez, a spokeswoman for ICE, said Friday.

ICE officials said they had spoken with officials in New York and Massachusetts,

but did not consult on when to expand the program.

“At the end of the day, this is a federal program,” a Department of Homeland Security official said. “We have to make our own decisions based on our law enforcement operational needs.”

Both governors had measured reactions to the news that the administration had taken a politically fraught decision off their hands.

In New York, a spokesman for Mr. Cuomo said he remained opposed to the program. “We are monitoring the situation,” the spokesman said.

In Massachusetts, after a young motorcyclist was killed last fall in an accident that the police said was caused by an illegal immigrant driving drunk, Governor Patrick came under fire from county sheriffs and state lawmakers for blocking the program.

On Thursday, Mr. Patrick minimized the practical effect of the program’s expansion, saying the state already shares arrest information with federal authorities. He said changes in the program had addressed some of his concerns.

But, he added, “It is very important to me that people not see this as a license to profile.”

In an interview Friday, Mayor Menino said he remained staunchly opposed. “It’s dangerous to target immigrants when you are trying to build a community,” he said. “The information gets put into a computer and sent to Washington and the wrong person gets deported.

“I want to make this city work,” he said, “and to have the feds come in and tell me you have to do this or to do that is just wrong.”

Kirk Semple contributed reporting.

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Police use of federal databases to ID illegal immigrants after arrests raises profiling concerns

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Arizona's law aimed at removing illegal immigrants has grabbed headlines, but quietly this year the number of cities and counties nationwide joining a federal program targeting illegal immigrants convicted of serious crimes has more than doubled.

More than half of Texas counties are now part of the program known as Secure Communities. The program relies on an FBI database and a fingerprint database of anyone who has had contact with federal immigration authorities.

Dallas County was the second county in the nation to sign up for the U.S. Immigration and Customs Enforcement program.

The program targets "the worst of the worst" and has taken criminals off the streets, ICE said.

Critics say Secure Communities spreads racial profiling - an accusation the federal government denies. ICE officials say the use of fingerprints makes the effort colorblind.

The use of Secure Communities has jumped as cities and counties balance conflicting political pressures. Some want to crack down on illegal immigrants. Others want illegal immigrants to report crimes or give witness statements without deportation fears.

The growth of the program comes as Arizona plans to start enforcing its anti-illegal-immigration law Thursday - unless a court intervenes.

Secure Communities seeks those charged with such crimes as murder, rape and drug offenses with a sentence of more than one year. But only 15 percent of those who've been targeted by the program have fallen into what it calls "Level 1" offenses, according to the federal government's criteria and its data in the program's first 18 months of operation.

About 35,000 people were identified nationally as charged or convicted of Level 1 offenses. And nearly 9,000 nationally were deported with Level 1 convictions.

In Dallas County, 886 immigrants were charged or convicted of Level 1 offenses, and 354 with Level 1 convictions were deported.

"We've processed for removal really bad guys that we have taken off the streets to keep the community safe," said Nuria T. Prendes, field office director for ICE's Office of Enforcement and Removal Operations in Dallas.

In a case last August, the Dallas County Jail booked a Guatemala-born man and checked records through the

two federal databases. They found he'd been convicted already of aggravated assault with a deadly weapon.

He also had previous arrests on drug possession and had been deported. ICE prosecuted him with a fresh criminal charge of re-entry into the U.S.

Checking fingerprints

Under the program, fingerprints at a jail booking are linked simultaneously to a federal criminal history database of the Justice Department and a Homeland Security Department database. The check determines whether an arrested person has ever had contact with immigration officials. The Homeland Security's database now contains more than 100 million fingerprints.

Not all of those identified under Secure Communities are illegal immigrants. The program has identified naturalized citizens and legal permanent residents. Legal residents can be deported if they are charged with some felonies.

Critics say that the link to local law enforcement can allow for racial profiling.

"They overlook that the program operates at the point of booking and arrest," said Sarahi Uribe, an organizer with the National Day Laborer Organizing Network.

A police officer has only to arrest a person, and it can spin into a deportation, Uribe said. The "vast majority" of people picked up have committed minor offenses, she said.

Her organization sued ICE earlier this year to get more information on the program's scope and its arrests.

Secure Communities is marketed as a "kinder, gentler" approach to tougher immigration enforcement, said Stephen Yale-Lower, a Cornell Law School professor of immigration law.

But some critics argue that any fused efforts between local police and federal immigration agents undermine working relationships needed in immigrant communities by making illegal immigrants fearful of reporting crimes or acting as witnesses.

Nearly a fifth of the population in the Dallas-Fort Worth area is foreign-born. In cities such as Dallas, Irving, Carrollton and Plano, it is nearly a quarter or more of the population.

"Everyone's public safety is hurt when trust is replaced by fear," Uribe said.

Secure Communities has helped ICE meet its target of increasing deportations to 400,000 this year, as outlined in a June memo on civil and criminal enforcement.

But that increases the potential for due-process violations under the U.S. Constitution, said Jacki Esposito, policy coordinator for Detention Watch Network, an advocacy group for detained immigrants.

"Secure Communities is a fast track to detention and deportation," she said. "And we have concern about people's due process in an expedited process."

Over the 18-month period ending in April, Secure Communities identified about 24,000 U.S. citizens, according

ICE officials said most cases are believed to be naturalized immigrants who showed up in the Homeland Security fingerprint database.

Critics of the program say racial and ethnic profiling is a problem, but ICE officials say that doesn't occur at the federal level, because only fingerprints are used in identifying criminal offenders.

"We are not responsible for the local law enforcement agency," said Prendes of ICE. "They do their job. We do our job."

At Dallas County, which operates the nation's seventh-largest jail system, spokeswoman Kim Leach denied profiling problems.

"We don't go through and say, 'You need to flag this person or that person,' " Leach said.

What's different

Secure Communities differs from the ICE's 287(g) program, which takes its name from its placement in federal immigration law. Under that program, selected members of local law enforcement agencies, from jailers to detectives, are trained to enforce certain sections of federal immigration law.

In North Texas, Carrollton and Farmers Branch have 287(g) pacts.

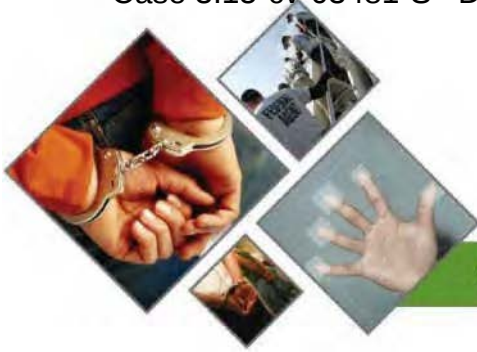
In March, the inspector general of the Department of Homeland Security issued a report criticizing the 287(g) program and calling for additional oversight of such pacts by ICE. It also urged even closer review in areas where there has been a history of racial profiling.

Secure Communities also differs from the ICE's Criminal Alien Program. Both programs target criminal aliens, and both programs are in use in Irving, where a third of the population is foreign-born and several protests, pro and con, were held over tougher enforcement by local police.

Irving Mayor Herbert Gears defended Secure Communities, although he said that the Homeland Security database doesn't identify every immigrant in the U.S. unlawfully.

"It is certainly an appropriate addition to processes in our jail," Gears said. "It falls short of the criminal alien program. If you come in illegally and haven't been in the system, you won't be identified."





SECURE COMMUNITIES FACT SHEET

Secure Communities: Mission

Secure Communities is a comprehensive Department of Homeland Security (DHS) initiative to modernize the criminal alien enforcement process. It supports public safety by strengthening efforts to identify and remove the most dangerous criminal aliens from the United States. Congress appropriated \$1.4 billion to U.S. Immigration and Customs Enforcement (ICE) for criminal alien enforcement efforts.

Secure Communities is built on **three** pillars that address the frequent challenges associated with accurately identifying and successfully removing criminal aliens from the United States.



IDENTIFY The Challenge:

Arrestees often use aliases and furnish other false biographic data, which can make it difficult to properly determine their immigration status. Relying on this biographic data alone slows federal officials' ability to accurately and efficiently identify the immigration history of criminals booked into local custody, and on probation and parole.

The Solution: Modernize Criminal Alien Identification Using Biometrics

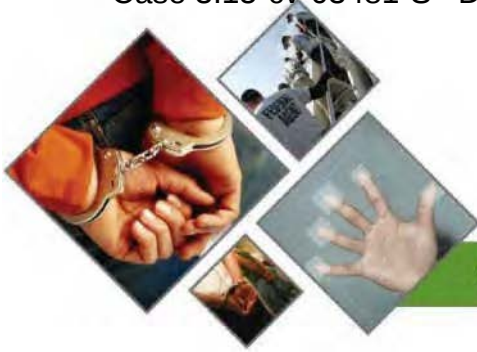
New technology being deployed across the country enables the criminal alien's fingerprints to be checked against DHS's biometric database. This technology and the use of biometrics helps to more accurately and efficiently confirm a suspect's identity because, unlike a name or date of birth, biometrics are almost impossible to forge.

ICE, along with the FBI and DHS's US-VISIT Program provide the technology to help local law enforcement agencies (LEAs) complete an **integrated records check** to determine both the criminal history and immigration status of individuals in their custody.

A single submission of fingerprints as part of the normal criminal booking process automatically checks for information in both the Integrated Automated Fingerprint Identification System (IAFIS) of the FBI's Criminal Justice Information Services (CJIS) Division and the Automated Biometric Identification System (IDENT) of DHS's US-VISIT Program.

The LEA continues to be notified when there is a positive identification within IAFIS. Now, both ICE and the LEA can be notified when a match occurs in IDENT.

ICE evaluates each case to determine the individual's immigration status and communicate their findings to local law enforcement **within a few hours**.



SECURE COMMUNITIES FACT SHEET



PRIORITIZE The Challenge:

The size, location, and characteristics of the nation's criminal alien population are based on estimates, making it difficult to strategically assess operational needs and deploy resources to identify and remove criminal aliens.

The Solution: Prioritize Enforcement Actions

Secure Communities is using a **risk-based approach** to prioritize enforcement actions involving criminal aliens. ICE is focusing efforts first and foremost on the most dangerous criminal aliens currently charged with, or previously convicted of, the most serious criminal offenses. ICE will give priority to those offenses including, crimes involving national security, homicide, kidnapping, assault, robbery, sex offenses, and narcotics violations carrying sentences of more than one year.

By prioritizing the removal of the most dangerous criminals, Secure Communities enables ICE to heighten public safety while reducing disruption to communities and law-abiding immigrant families.

Deployment Strategy:

Beginning in October 2008, ICE prioritized deployment of biometric identification capability to high-risk jurisdictions. Continued deployment plans project nationwide coverage by 2013. For more information including current status and recent successes, please visit our website at: www.ICE.gov/Secure_Communities



TRANSFORM The Challenge:

The deployment of biometric identification capability to more than 30,000 local jails and booking locations nationwide will dramatically increase the number of dangerous criminal aliens coming into ICE custody. That means ICE must boost its capabilities to arrest, process, detain, and ultimately remove aliens from the United States. Finding solutions to identify, locate, and detain criminal aliens currently considered at-large is a high priority.

The Solution: Transform ICE Business Processes and Systems

To meet these demands, ICE is working to **optimize capacity** by modernizing and expanding detention space, transportation resources, and staff. Automated systems and greater **process efficiency** will speed the removal of criminal aliens from the United States, reducing the amount of time they spend in ICE custody. Some of the modernization and process enhancements include:

- Video conferencing to conduct interviews and immigration hearings
- Computer technology to track the use of detention beds and transportation systems
- Integrated case and detainee management systems
- Working groups to address identifying, locating and detaining criminal aliens who are currently at-large

These enhancements to the processes and systems ICE uses to manage its criminal alien caseload are designed to **strengthen ICE capabilities** to:

- Assess future needs for detention beds, transportation, and staffing
- Optimize ICE's overall operating efficiency

Electronic Arrest Reporting (EAR) and Livescan

Ex. G

Loann Garcia
Livescan Coordinator



Secure Communities



Secure Communities

- Secure Communities is a program that relies on the sharing national and local immigration and law enforcement data through a technology and process called IAFIS/IDENT Interoperability
 - IAFIS is FBI's fingerprint database (now IAFIS/NGI)
 - IDENT is Homeland Security's fingerprint database
- Secure Communities' first goal is to identify all criminal aliens held in jails and prisons
- The process works as follows
 - Local officers take and submit prints of all persons booked to the DPS
 - After being processed at DPS, prints will be checked automatically against IAFIS/NGI (FBI) and IDENT (DHS) for potential matches
 - ICE will take enforcement action on removable aliens being charged with or who have been previously convicted of a violent or major drug crime

Secure Communities

Entry (CBP)
 Asylum (USCIS)
 Refugee (USCIS)
 Immigration Benefits (USCIS)
 Visa Applications (DOS)
 Border Crossing Card
 Applications (DOS)
 Registered Traveler (CBP)

IDENT Watch List

Known or Suspected Terrorists
 DoD Military Operations
 Wanted Persons
 Deported Felons
 International Criminals
 Sexual Registrants

Lookouts

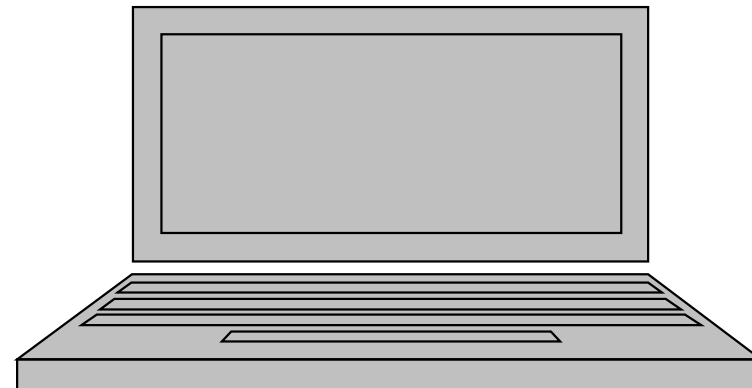
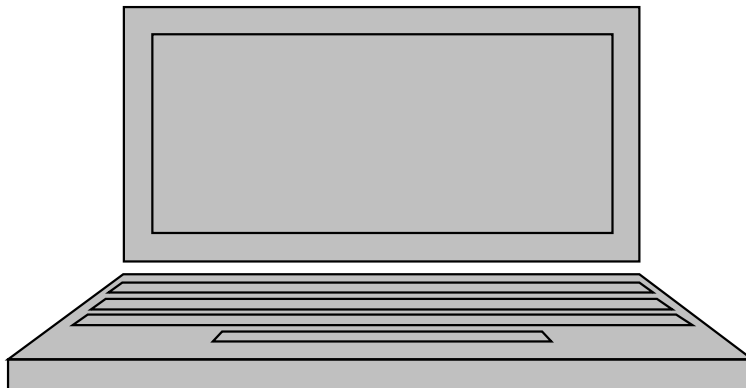
Aliens/Criminal History
 Select State/Local Criminals
 Gangs
 Expedited Removals
 Visa Denials
 Recidivists/Alerts
 POE Adverse Actions



Identity Information



Identity Information





Immigration screening still used in Texas as other agencies withdraw

More than 250 law enforcement agencies across the country have pulled back on a jail screening program for immigrants first piloted six years ago in Harris County, where it continues to be used despite nationwide criticism that it may be unconstitutional.

Under the program, known as Secure Communities, jailers submit the fingerprints of everyone booked into jail to the Department of Homeland Security to run through a huge immigration database. Upon a match, Immigration and Customs Enforcement officials can file "detainer requests" with local law enforcement agencies, asking them to hold suspects in jail for up to 48 hours until they can be transferred to federal custody for deportation proceedings.

The program has been ICE's signature immigration enforcement initiative, hailed as the "single best tool" to target dangerous criminals, turning local jails into tiny immigration outposts. Harris County has deported 24,161 immigrants through Secure Communities since 2008, the largest number in the state, with the Houston region removing the fourth-most immigrants in the nation, according to ICE figures through August.

It's been controversial since it was unveiled in 2008. Critics charge it unfairly targets Latinos and deports illegal immigrants caught for minor crimes rather than focusing ICE's limited resources on violent offenders. Still, it wasn't until a spate of court rulings this spring that agency after agency began either ignoring detainer requests for immigrants or restricting in which cases they would continue to hold suspects, pending transfer to federal authorities.

Needs 'a fresh start'

In March, the 3rd U.S. Circuit Court of Appeals in Pennsylvania ruled that states and local agencies don't have to honor detainer requests because they don't amount to the probable cause required by the Constitution to keep someone in jail. In April a federal judge in Oregon ruled Clackamas County officials had illegally held a woman for 19 hours - even though she was otherwise eligible for release - while waiting for ICE agents to collect her. Other judges have followed suit, and in May Homeland Security Secretary Jeh Johnson called the program "very controversial" and in need of "a fresh start."

Bucking the nationwide trend is Texas, in which every county jail continues to comply with ICE detainer requests by holding suspects whose fingerprints match the immigration database. Adrian Garcia, Harris County's first Hispanic sheriff who has pushed for immigration reform and is considered a mayoral front-runner to succeed Annise Parker next year, defended his agency's continued compliance with detainer requests. Because ICE operates within the jail, he said inmates are almost "instantaneously" transferred to the agency's custody, so there's little lag time between when they've been arraigned on their charges and are turned over to ICE.

But across the country, states, cities and even Fulton County in conservative Georgia are limiting how and when they'll cooperate with ICE, with some choosing to ignore detainer requests all together. This month, New York City is poised to pass the country's most extensive legislation yet limiting the program. Under it, police and

prison officials could only honor ICE requests to hold a suspect for 48 hours if he or she has been convicted of a "violent or serious" crime and is the subject of a federal warrant.

"Agencies fear they'll be liable for unconstitutional detention," said Lena Graber, an attorney specializing on the issue for the Immigrant Legal Resource Center, a nonprofit focused on immigrant rights. The center has tracked around 255 agencies that have restricted the use of detainers, while ICE tallied 157 through the end of August, though many have curtailed it in just the past few weeks.

"In some cases," Graber said, "they're just seeing this as bad policy, because having local law enforcement be the gateway to deportation really undermines the community's relationship with police and the ability to report crimes."

In a statement, ICE said the program remains necessary because it ensures "dangerous criminals" aren't released into communities and said it would continue enforcing its priorities of deporting "convicted criminals and other public safety threats."

But whether the program actually does that is a matter of debate.

According to a 2011 University of California at Berkeley Law School analysis of a random sampling of federal data, just more than a quarter of those deported through Secure Communities were convicted of the most serious crimes such as aggravated felonies. But nearly the same amount faced only misdemeanors, including traffic offenses like driving drunk or with a suspended license. Another 40 percent weren't given a *Secure Communities offense level*, suggesting they faced no charges other than being in the U.S. illegally.

Facing widespread criticism, ICE has curtailed the scope of Secure Communities. In 2010, the agency announced it would focus on deporting immigrants who threaten public safety, return after having been deported, or are recent arrivals at the border. Since then, sheriff's office spokesman Alan Bernstein said the number of ICE detainers placed on Harris County inmates fell from about 1,000 to 300 a month. This year, he said an average of 25 people detained through Secure Communities have been deported each month.

Crime data

Overall, ICE data shows that 31 percent of all those deported through Harris County were convicted of the most serious crimes of aggravated felonies; 38 percent were convicted of misdemeanors.

Garcia said many of those deported after being charged with a misdemeanor likely also faced an immigration crime such as re-entering after being previously removed. Such immigration crimes made up nearly one-fifth of all criminal deportations between 2003-2013, according to an analysis of federal data by the Migration Policy Institute, a nonprofit studying immigration policy.

Harris County, Garcia said, rarely receives ICE detainers for people charged with the least serious offenses such as driving with a suspended license. Such Class C misdemeanors typically don't include jail time.

After sheriff's officials noted with concern earlier this year that many deportees were charged with Class B misdemeanors such as marijuana possession and shoplifting, Garcia said he asked ICE for more information on the immigration history of deported inmates.

According to the report ICE sent Harris County, three-quarters of all those deported through the program during the first eight months of this year had previously been removed. Of the remainder, many had either opted to leave the U.S. voluntarily and failed to do so, or ignored a judge's order to return to court. More than half were men younger than 35, and 85 percent were Mexican.

Garcia said he'd be open to discussing limiting the types of crimes for which the agency honors ICE detainers. But, he added, "It's trying to find the right perspective on those offenses that may not sound heinous and terrible but could be those things that could destroy a family," such as drunk driving, domestic violence, and unlawfully carrying a weapon, all misdemeanors.

Still, Harris County and Texas may be outliers in the matter, according to Muzaffar Chishti, director of the Migration Policy Institute's New York office.

While Secure Communities has become the "most effective force multiplier" in immigration enforcement, Chishti said, "the trend is clearly going in the direction of less compliance with detainer requests, and eventually the federal government will have to adjust its policy to that."





**Homeland
Security**

IDENT Data Response (IDR)

Secure Communities: Removing Criminal Aliens from Communities through Biometric Information Sharing

The Department of Homeland Security's (DHS) Secure Communities initiative identifies and removes criminal aliens from your community with minimal impact to your resources.

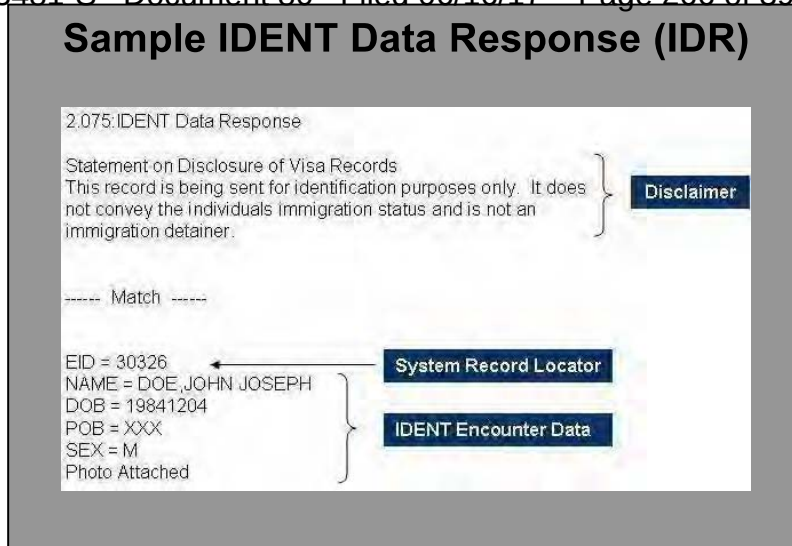
As a part of Secure Communities, DHS and the FBI have made their respective fingerprint systems— Automated Biometric Identification System (IDENT) and the Integrated Automated Fingerprint Identification System (IAFIS)—interoperable, enabling local law enforcement to receive additional identity and limited biographic information about individuals they book. Participating local law enforcement will receive this information automatically when they submit fingerprints to IAFIS via their State Identification Bureau (SIB); no additional steps are required. This additional information, when available, may be used to verify the criminal's identity or reveal aliases. Note that identity information within IDENT is generally collected directly from the individual and is not verified.

What's New?

When participating local law enforcement agencies (LEAs) submit fingerprints to IAFIS through their SIB, the fingerprints will also be searched against all IDENT data. The results of these searches will return the regular IAFIS response and up to two DHS responses—IDENT Data Response (IDR) and, if there is a match within IDENT, an Immigration Alien Response (IAR). IDENT integrates immigration and border management information collected by U.S. Customs and Border Protection, Immigration and Customs Enforcement (ICE), U.S. Coast Guard, U.S. Citizenship and Immigration Services, and the Department of State, among other sources.

If the submitted fingerprints do not result in a match to an IDENT record, LEAs will receive their IAFIS response as well as an IDR that says "No Match". However, if the fingerprints submitted result in a match to an IDENT record, LEAs will receive their IAFIS response and a combined IDR/IAR routed through their SIB.

IDR: Identity information—name, date of birth, place of birth, gender, system record locator, or Encounter ID (EID), and photo if available from the five most recent encounters within IDENT, if available. The IDR does not contain immigration status information, nor can the information be interpreted as derogatory. Most IDENT records are from legitimate immigration encounters, such as entry into the country or a visa application.



IAR: Immigration information, including immigration status. The IAR is not a detainer.

DHS responses contain Personally Identifiable Information (PII), including photographs, and must be treated as confidential and handled according to DHS privacy procedures*. At this time the only authorized use for IDRs is for criminal bookings by state or local law enforcement. No civil searches, such as background checks for employment (including law enforcement) are permitted.

Behind the Scenes of an IDENT Match

When fingerprints submitted by a LEA match an IDENT record, an IDR indicating the match is forwarded to FBI's Criminal Justice Information Services (CJIS) Division. FBI CJIS Division then populates and forwards an Immigration Alien Query (IAQ) to the ICE Law Enforcement Support Center (LESC). The LESC prepares and sends its response, in the form of an IAR, to FBI CJIS Division and ICE's Detention and Removal Office (DRO). FBI CJIS Division sends a second response containing only the IDR/IAR to the SIB in the form of an SRE, which forwards them to the submitting LEA.

The DRO will contact the LEA to interview a subject, if necessary, and, if appropriate, lodge a detainer with the LEA.

Guidelines for handling IDR information

An IDR should **not** be considered a derogatory response for an IDENT encounter. Many IDENT encounters reflect non-derogatory encounters such as:

- ☐ Visa applications
- ☐ Entry at a Point of Entry (POE)
- ☐ Immigration benefit application

The information in an IDR, including photographs, is Personally Identifiable Information (PII) and must be treated as confidential and handled according to DHS privacy procedures*.

Note: DHS does not guarantee the accuracy of the information that is returned in the IDR, as most DHS information is collected directly from the individual enrolled in IDENT.

Questions?

If you have questions about IDRs, please contact your local ICE office for more information. Be prepared to provide the Encounter Identification (EID) number when you call for assistance. Continue to direct questions about IAFIS responses to the FBI CJIS Division.

**As someone who receives data from DHS, it is your responsibility to protect information that has been entrusted to you. This includes PII. An important part of this duty is to exercise due care and ensure that you properly use, protect, and dispose of all forms of PII. Do not share, disclose, or use this information outside of scope for which you have received this data. Specific guidance for handling PII, and the handling of incidents of disclosure can be found on the DHS website for Privacy: www.dhs.gov/privacy*