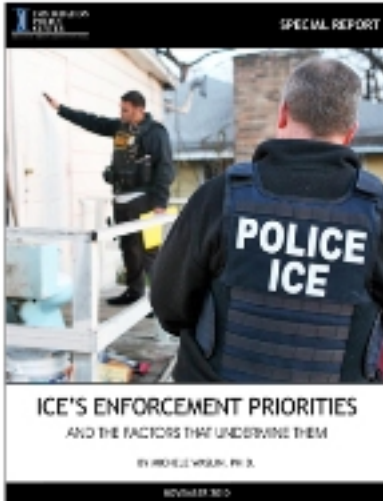


ICE'S Enforcement Priorities and the Factors that Undermine Them



[1]As part of its strategy to gain support for comprehensive immigration reform, the administration has continually touted its enforcement accomplishments. In fact, over the last two years, the Obama administration has committed itself to a full-court press to demonstrate how committed the administration is to removing criminals and others who remain in the country without proper documentation. They have continued to use the enforcement programs of the previous administration, including partnering with state and local law enforcement agencies to identify, detain, and deport immigrants. However, in doing so, they have lost the ability to fully control their own enforcement priorities and enforcement outcomes, and the results have demonstrated that the state and local partners are not necessarily committed to the same priorities.

At an October 6, 2010, press conference, Secretary of Homeland Security Janet Napolitano announced that the Department of Homeland Security (DHS) had removed more than 392,000 individuals in Fiscal Year (FY) 2010, and presented other “record-breaking immigration enforcement statistics achieved under the Obama administration.” In addition to record-breaking overall numbers, Napolitano also announced the “unprecedented numbers of convicted criminal alien removals” in FY 2010. Of the 392,000 removals in FY 2010, more than 195,000 were classified as “convicted criminal aliens,” which was 81,000 more criminal removals than in FY 2008.

U.S. Immigration and Customs Enforcement (ICE) has stated that budget realities make it impossible to remove everyone who is in the country illegally or who is otherwise deportable, and has released a series of memos designed to prioritize the “worst of the worst.” Overall, this prioritization represents an effort to bring order to the increasingly complex world of immigration enforcement. ICE has prioritized the identification, arrest, detention, and removal of immigrants who pose a threat to public safety and national security. At the same time, however, other enforcement-related decisions—particularly the growing emphasis on state and local law enforcement—stand to undermine ICE’s priorities.

In recent years, ICE has grown more and more dependant on the 287(g) program and the expanding Secure Communities program, which are partnerships with state and local police agencies to identify immigrants for deportation. ICE has, in effect, outsourced the identification of immigrants for enforcement actions to local police agencies and jails. However, programs such as Secure Communities and 287(g) undermine ICE’s priorities because they are designed in such a way that leads to the deportation of immigrants with minor criminal offenses or no criminal history at all.

Not only do these new partnerships take the initial identification and arrest outside of ICE’s control, they exacerbate the potential for profiling and pretextual arrests, which in turn take the focus off of

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serious criminals and lead to the arrest of large numbers of people for minor offenses. Other factors at the state and local level also remove ICE from the decision-making process at the critical early stages. Laws such as Arizona's SB1070 attempt to impose enforcement priorities on ICE and determine where and how ICE should use its limited resources, regardless of ICE's own stated objectives.

Ultimately, quality and quantity are intertwined. If ICE truly wishes to focus on the "quality" of the immigrants deported as opposed to the sheer quantity of persons deported, it must look more closely at its partnerships with states and localities. This paper reviews the steps that ICE has taken in recent months to clarify its enforcement priorities and how those priorities are playing out nationally and in local communities.

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