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Deciphering the Numbers on E-Verify's Accuracy

The Department of Homeland Security (DHS) has released various sets of data regarding the accuracy and error rates of the E-Verify employment-verification system. Although the numbers change often depending on the time period, the number of employers using the system, and the number of queries to the system, DHS generally claims that E-Verify is highly accurate and efficient. However, it is important to understand exactly what the DHS numbers mean in order to have a clear picture of how well E-Verify is performing. Most importantly, E-Verify is not simply an immigration-enforcement tool. If it were to become a mandatory, nation-wide program, it would affect every single person who works in the United States, including U.S. citizens. Even tiny error rates would mean big problems for large numbers of citizens and other legal workers. Under mandatory E-Verify, 60 million new hires would have to be verified annually, and up to 3 million U.S. workers per year would have to navigate government bureaucracy to fix database errors.

Examining the Accuracy and Error Rates

There are two types of potential errors in E-Verify: **false positives** and **false negatives**. A false positive occurs when a person who is not authorized to work in the United States is confirmed by E-Verify as employment-authorized. A false negative is when a person who is legally authorized to work in the United States is not confirmed by E-Verify as employment-authorized.

False Positives: E-Verify does not effectively root out undocumented workers.

- **Some undocumented workers will be erroneously confirmed as authorized to work.** E-Verify cannot identify counterfeit, stolen, or borrowed identity documents. A worker may present "good" documents that check out through E-Verify, but E-Verify cannot confirm that the document belongs to the person presenting them.

About E-Verify

E-Verify is a federal, web-based program through which U.S. businesses can attempt to verify the work authorization of new hires. As of February 2009, E-Verify is a voluntary system, except where state laws require businesses to register to use E-Verify, as well as a few other exceptions in which the federal government has made E-Verify mandatory. Approximately 100,000 employers are currently registered for E-Verify, and approximately half of these employers use it regularly.

Employers transmit identity information through E-Verify, where it is electronically checked against both Social Security Administration (SSA) and Department of Homeland Security (DHS) databases. The system then either confirms to the employer that the worker is employment-authorized or it issues a "tentative nonconfirmation" (TNC) notice indicating that the databases cannot immediately confirm that the worker is employment-authorized. If the employer receives a TNC, the worker then has eight federal working days from the issuance of the TNC to contest the finding with SSA or DHS. If the worker does not contest the finding, the TNC becomes final and the employer must terminate the worker or risk being found in violation of immigration laws.

E-Verify is an extremely controversial program because of the high probability for database errors, misuse of the system by employers, and its impact on the SSA.

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- **Expanding E-Verify will likely result in increased identity theft and an expanded underground economy.** Unauthorized workers may no longer be able to make up Social Security numbers or buy fake documents, but we will likely see an upsurge in the black market for documents that contain the real information of real persons that will be confirmed through E-Verify. Those workers who cannot obtain good documents and those employers who want to hire undocumented workers will go around E-Verify and work in the underground economy.

False Negatives: E-Verify will erroneously report U.S. citizens and legal workers as unauthorized.

- **Some U.S. citizens and other legal workers will not be confirmed and will not be allowed to work.** Due to errors in the Social Security Administration (SSA) and DHS databases, some citizens and legal workers will receive tentative nonconfirmations (TNCs), or even final nonconfirmations, and will not be able to resolve the discrepancy or may not even know about the problem. They will be denied employment and paychecks.
- **A final nonconfirmation does not mean the worker is undocumented.** A relatively small number (around 5%) of workers who are queried through E-Verify receive a TNC. Of those who contest the TNC, only a small percentage are able to resolve the discrepancy. Those who do not resolve the problem (approximately 3.5% of workers) receive a final nonconfirmation, meaning they are not authorized to work and they must be fired. Some observers have concluded incorrectly that there is only a tiny error rate in E-Verify because only a small number of errors are caught. But some of those final nonconfirmations are erroneous, and they are not all unauthorized workers. In fact, an independent [Westat](#) evaluation of E-Verify states that, in many cases, misidentified employees failed to contest the TNC because they quit their jobs for reasons unrelated to E-Verify, or never received a notice of a TNC from their employer. Certainly substantial proportions of the workers who receive a final nonconfirmation are U.S. citizens or otherwise authorized to work.
- **Employers do not always inform workers if they receive a tentative nonconfirmation or give them sufficient opportunity to identify and fix the error.** The [Westat](#) evaluation of E-Verify found substantial self-reported employer misuse of the system that would prevent U.S. citizens and other authorized workers from contesting a TNC. This means that workers do not have the opportunity to fix errors—and these errors are not included in the official “error rate.”
 - 9.4% of employers did not notify workers of a TNC notice.
 - 47% of employers use E-Verify to pre-screen job applicants and then do not hire applicants who receive a TNC. This means that applicants who receive a TNC are never notified of it, and are therefore unable to contest it, resulting in an erroneous final nonconfirmation.

Errors May be More Numerous than DHS Reports

- **Businesses that use E-Verify report large numbers of erroneous results.**
 - Queries submitted to E-Verify by Intel Corporation in 2008 resulted in slightly over 12% of all workers receiving a tentative nonconfirmation, meaning that SSA and DHS could not immediately confirm their work authorization. All of these workers were eventually cleared by E-Verify as work-authorized, but “only after significant investment of time and money, lost productivity and, for our affected foreign national staff, many hours of confusion, worry, and upset.”¹
 - [MCL Enterprises](#), a company that owns 24 Burger King restaurants in Arizona, reports that over 14% of queries to E-Verify result in a tentative nonconfirmation, and the rate for foreign-born workers is 75%.

- Another large multinational employer reported that 15% of queries it submitted to E-Verify between January 1, 2008, and May 22, 2008, resulted in a TNC. Of the TNCs, approximately 80% required personal attention to resolve, at a great cost to the employer.²

The Number of Errors Will Increase if E-Verify is Expanded

- **Currently, E-Verify enrolls only a tiny fraction of U.S. employers.**
 - Currently, approximately 100,000 employers are registered for E-Verify—about 1% of all employers—and only half of these use the system. About 6.6 million queries were run through E-Verify in Fiscal Year 2008.
 - A mandatory employment-verification system would mean that the country's *7.4 million employers* would have to sign up for the program, and 60 million new hires would have to be verified annually.
 - If 5% of all 60 million new hires receive a TNC, up to 3 million U.S. workers per year would have to navigate government bureaucracy to fix an error.
 - If E-Verify were mandatory, **a 1% error rate (false negatives) could affect 600,000 workers—mostly U.S. citizens.**
- **SSA and DHS would have to handle large numbers of errors if E-Verify were expanded.**
 - If E-Verify were to become mandatory, SSA estimates 3.6 million Americans would have to visit an SSA field office each year in order to keep their jobs.³ Others would have to resolve errors with DHS. This puts an enormous burden on those workers who need to resolve errors, the employers who want to employ them, and the federal agencies charged with fixing the errors.
 - The [AARP](#) and [other organizations](#) are concerned that putting this additional burden on SSA to resolve errors will take away from SSA's main mission and prevent deserving Americans from receiving their retirement and disability benefits in a timely manner.

¹ Intel corporation, "Comments on Proposed Employment Eligibility Regulations Implementing Executive Order 12989 (as amended)," Aug. 8, 2008.

² American Council on International Personnel, "Comments on Proposed Rule Published at 73 Fed. Reg. 33374 (June 12, 2008)," Aug. 11, 2008.

³ "The Facts on Employment Verification: Current Proposals are Unworkable for SSA, Threaten Progress in Reducing Disability Claims Backlog." Letter from Representative Michael R. McNulty and Charles B. Rangel to Democratic Colleagues, March 27, 2008. On file with author.