

IMMIGRATION ENFORCEMENT PROGRAMS

What are the different kinds of enforcement programs, and who enforces them?

In the past decade, the United States has deported more people than in the preceding century.¹ Expenditures on immigration enforcement have also swelled, eclipsing the budgets of all other federal law enforcement agencies combined.² The Department of Homeland Security has various programs, many in conjunction with state and local law enforcement agencies, to identify and remove non-citizens from the United States.

287(g) Established by the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), 287(g) allows ICE to enter into agreements with state and local law enforcement agencies whereby ICE would train and supervise local officers to carry out immigration law functions, and interrogate non-citizens arrested on local or state charges. While 287(g) agreements are now only between ICE and jails, deputized officers continue to interrogate and place detainers on noncitizens in jails through this program.³

Consequence Delivery System A series of border and immigration enforcement programs designed to increase the penalties associated with unauthorized migration in order to persuade people not to return to the U.S. This includes a wide amalgamation of programs, including **Operation Streamline**—targeting and convicting individuals who re-enter without authorization—the **Alien Transfer and Exit Program (ATEP)**, repatriating migrants to locations far from where they entered the U.S. (**Mexican Interior Repatriation Program (MIRP)**), and **Operation against Smugglers Initiative on Safety and Security (OASISS)**.⁴

Controlled Application Review and Resolution Program (CARRP) A USCIS program intended to screen applicants for naturalization for national security threats. Arab, Middle Eastern, Muslim, and South Asian applicants are more likely to face delays and denials under the program.⁵

Criminal Alien Program (CAP) Created in 1998, CAP allows federal immigration officers to screen inmates in federal, state and local prisons and jails across the country, to identify individuals who may be deportable from the United States.⁶

Criminal Alien Removal Initiative (CARI) Launched in 2012, ICE created this program with the help of local law enforcement agencies to target individuals with criminal records, including individuals with immigration status violations, in several pilot jurisdictions, such as New Orleans.

1 A Decade of Rising Immigration Enforcement, IMMIGRATION POLICY CENTER – AMERICAN IMMIGRATION COUNCIL at n.2 (Jan. 2013), <http://www.immigrationpolicy.org/sites/default/files/docs/enforcementstatsfactsheet.pdf>

2 More than \$18 billion is spent on immigration enforcement annually. Immigration Enforcement in the United States, MIGRATION POLICY INSTITUTE at 12 (Jan. 2013), <http://www.migrationpolicy.org/pubs/pillars-reportinbrief.pdf>.

3 The 287(g) Program: A Flawed and Obsolete Method of Immigration Enforcement, IMMIGRATION POLICY CENTER – AMERICAN IMMIGRATION COUNCIL (Nov. 29, 2012), <http://www.immigrationpolicy.org/just-facts/287g-program-flawed-and-obsolete-method-immigration-enforcement>.

4 Jeremy Slack, et. al, In Harm's Way: Family Separation, Immigration Enforcement Programs and Security on the US-Mexico Border, JOURNAL OF MIGRATION AND HUMAN SECURITY 109-128 (2015), <http://jmhs.cmsny.org/index.php/jmhs/article/view/46>.

5 Jennie Pasquarella, Muslims Need Not Apply, American Civil Liberties Union – Southern California (Aug. 2013), <https://www.aclusocal.org/CARRP/>.

6 The Criminal Alien Program, IMMIGRATION POLICY CENTER – AMERICAN IMMIGRATION COUNCIL (Sep. 26, 2013), <http://www.legalaction-center.org/litigation/criminal-alien-program-cap>

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E-Verify An internet-based system run by USCIS that allows public and private employers to verify whether employees are authorized to work in the United States. While its usage remains voluntary throughout the country, nine states—Alabama, Arizona, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Utah—require E-Verify for all employers.⁸ In 2011, E-Verify added the capacity to verify the authenticity of state driver's licenses though only a few states participate in this new program.

Fugitive Operations Program (FOP) FOP is an ICE Enforcement and Removal Operations (ERO) program to locate and remove individuals with final orders of removal who have failed to leave the United States, or individuals who have re-entered the country after a final order of removal. As of 2014, there were 129 FOP teams.

Priority Enforcement Program (PEP) The Department of Homeland Security Secretary announced the PEP program in November 2014 as a new program to replace Secure Communities.⁹ As opposed to Secure Communities, under PEP, ICE will make requests for notification for when an individual is about to be released from custody. Under the new program, ICE is supposed to take enforcement actions only against those individuals convicted of specific crimes such as individuals convicted of a federal felony or persons engaged in terrorism and espionage. While participation in the new program is voluntary, jurisdictions not complying with the notification system are likely to face more stringent and insidious methods of enforcement by ICE.

Secure Communities (S-COMM) Established in 2008, S-COMM was an information sharing program between local law enforcement, ICE and the FBI. When an individual was arrested and booked, the local arresting agency sent the individual's fingerprints to the FBI and ICE to check for criminal and immigration violations. If there was a match, ICE would issue a detainer requesting that the arresting agency notify ICE before it released the non-citizen so that ICE could take the individual into custody for detention and removal. In November 2014, the program was terminated through executive action, though remnants of it remains in place through PEP.

⁷ The Criminal Alien Removal Initiative in New Orleans, NEW ORLEANS CENTER FOR RACIAL JUSTICE (Dec. 2013), <http://www.ushrnetwork.org/sites/ushrnetwork.org/files/cari-report-final.pdf>.

⁸ National Conference of State Legislatures, State E-verify Action, Sept. 1. 2014, <http://www.ncsl.org/research/immigration/state-e-verify-action.aspx>.

⁹ Memorandum on Secure Communities from Jeh Johnson, Sec'y, Dep't of Homeland Sec., to Thomas S. Winkowski, Acting Dir., U.S. Immigration and Customs Enforcement, et al. (Nov. 20, 2014), available at http://www.dhs.gov/sites/default/files/publications/14_1120_memo_secure_communities.pdf.